

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE
SPECIAL LEGISLATIVE SESSION - 2005

The meeting was called to order by Chairman Dwayne Umbarger at 10:05 A.M. on June 20, 2005 in Room 123-S of the Capitol.

All members were present except:

Senator Jean Schodorf- excused
Senator Chris Steineger- excused

Committee staff present:

Norman Furse, Revisor of Statutes
Jill Wolters, Senior Assistant, Revisor of Statutes
Michael Corrigan, Assistant Revisor, Revisor of Statutes Office
Theresa Kiernan, Senior Assistant Revisor of Statutes Office
Mary Torrence, Senior Assistant, Revisor of Statutes Office
Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Chris Courtwright, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Carolyn Rampey, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Robert Waller, Kansas Legislative Research Department
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Barb Hinton, Executive Director, Legislative Post Auditor, Legislative Division of Post Audit

Others attending:

See attached list.

Chairman Umbarger welcomed everyone to the meeting. He opened the meeting to the following conceptual bill introductions that will be officially introduced in Senate Ways and Means Committee on June 22, 2005, when the Special Legislative Session opens:

Senator Emler moved, with a second by Senator Barone, to introduce a conceptual bill regarding appropriations for school financing. Motion carried on a voice vote.

Senator Barone moved, with a second by Senator Emler, to introduce a conceptual bill regarding five destination casino zone areas with a funding component for education. Motion carried on a voice vote.

Senator Barone moved, with a second by Senator Wysong, to introduce a conceptual bill regarding gaming authorizing two destination casino zones, one in Wyandotte County and the other zone in Southeast Kansas with a funding component. Motion carried on a voice vote.

Senator Barone moved, with a second by Senator Wysong, to introduce a conceptual bill regarding gaming. The bill would be a replica of **2005 HB 2481** where the people of the State of Kansas would vote first (there are two counties that have already voted) and the other 103 counties could have a vote and then and after the vote, it would then come before the Legislature to be considered for approval. Motion carried on a voice vote.

Senator Barone moved, with a second by Senator Emler, to introduce a conceptual bill using the blueprint of the bill that was passed out of committee during the 2005 Legislative Session regarding military insurance where the State would purchase it. Motion carried on a voice vote.

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Senator Emler moved, with a second by Senator Taddiken, to introduce a conceptual bill regarding the Office of the Attorney General. The U. S. Supreme Court is going to hear the Kansas death penalty appeal and the Attorney General needs more resources to defend the State's position with approximately \$200,000 requested. Motion carried on a voice vote.

The Chairman introduced Alan Conroy, Director, Kansas Legislative Research Department. Mr. Conroy provided a review of the State's current financial position. Mr. Conroy distributed information regarding State

General Fund Receipts, July through May, FY 2005 (Attachment 1). He noted that total receipts through May of FY 2005 were \$75.6 million, or 1.8 percent above the estimate. The component of total State General Fund receipts from taxes only was \$72.6 million, or 1.6 percent above the estimate.

A letter addressed to Governor Kathleen Sebelius and the Legislative Budget Committee from the Kansas Division of the Budget and the Kansas Legislative Research Department, regarding an Update to the State General Fund Memo for FY 2005 (Revised) and FY 2006 (Revised), was distributed by Mr. Conroy (Attachment 2). He explained that the Consensus Estimating Group met on June 14, 2005, at the request of the Governor and legislative leadership, to update informally the estimates for FY 2005 and FY 2006 which were made on April 18 (and subsequently adjusted for legislation enacted during the Veto Session). The meeting was held to analyze receipts since mid-April prior to the start of the Special Legislative Session. The update increased the estimates by \$86.0 million, or 1.8 percent, in each fiscal year. Mr. Conroy noted that the informal finding of the group is that the combined estimate for FY 2005 and FY 2006 needs to be increased by \$172.0 million.

Information regarding State General Fund Receipts, Expenditures and Balances as Projected FY 2005-FY 2008, In Millions, (Reflects FY 2005 and FY 2006 Expenditure Action by the Legislature and April Consensus Revenue Estimates and June Updated Consensus Revenue Estimates) was provided by Mr. Conroy (Attachment 3).

Mr. Conroy addressed State General Fund Receipts, Expenditures and Balances as Projected FY 2005 - FY 2008, In Millions, (Reflects FY 2005 and FY 2006 Expenditure Action by Legislature and April Consensus Revenue Estimates and June Updated Consensus Revenue Estimates, Plus Court Ordered Spending) which had been handed out to the Committee (Attachment 4). In closing, Mr. Conroy provided information regarding State General Fund Out Year Demands (Attachment 5). There was committee discussion.

Chairman Umbarger acknowledged Chris Courtwright, Principal Economist, Kansas Legislative Research Department, who reviewed tax options to address the court-ordered funding for elementary and secondary education expenditure increases (Attachment 6). Mr. Courtwright explained that regarding sales tax, the streamlined sales tax agreement requires that all sales tax increases must begin at the start of a new quarter which would delay the effective date of any sales tax increases until October 1, 2005. He explained that an argument could possibly be made that the effective date could be accelerated to August 1, 2005, since the action would be taken to address a court order, but July 1, 2005, was not an option because the Kansas Department of Revenue would not have enough time to comply.

Chairman Umbarger acknowledged J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department, who provided a long history of the State General Fund going back to 1966. He also addressed All Funds, Kansas Personal Income and the CPI - Urban. Mr. Scott distributed and reviewed the following information:

- Expenditures From All Funds and State General Fund, Fiscal Years 1966 - 2006 in Thousands of Dollars (Attachment 7)
- State General Fund Expenditures by Program or Agency (In Thousands) (Attachment 8)
- Where An FY 2006 State General Fund Dollar Will Be Spent (Attachment 9)
- FY 2006 State General Fund Expenditures by Function of Government (In Millions) (Attachment 10)

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- FY 2006 State General Fund Expenditures By Major Purpose of Expenditure (In Millions) (Attachment 11)
- Where Each FY 2006 State General Fund Dollar Comes From (Attachment 12)
- FY 2006 Full-Time Equivalent (FTE) Positions By Function of Government (Attachment 13)
- State Debt Comparisons, 2002-2003 (Attachment 14), Mr. Scott noted that these were Census Bureau figures.

Committee discussion followed.

Chairman Umbarger noted that if the Committee would be interested, there is information available during discussion for the Committee to consider making agency cuts to fund \$143,000,000. For the full funding of the Augenblick & Myer study, it could be 33.7 percent cut and the funding of the \$143,000,000 would be approximately a 6 or 7 percent across the board cut, which would be excluding education and any debt service. The Chairman wanted the Committee to think about this information just as a reality check.

The Chairman called the Committee's attention to discussion of National Guard death benefits in regard to the conceptual bill introduction made at the start of the meeting. Staff explained that the original **2005 SB 211** when introduced on the Senate side basically called for \$250,000 of death benefit life insurance. Essentially the State per \$1,000 would pay \$16.25 or yearly \$390,000 per year to provide death benefit life insurance to Kansas members of the National Guard. On the House side the bill went from a life insurance policy to a death benefit payment which was passed in **2005 HB 2518**. In that bill a \$250,000 death benefit payment was approved so that when a member dies, \$250,000 would be proposed to the beneficiaries. Now a bill will be proposed that will revert to a death benefit life insurance policy for which the cost of the premium is estimated to be \$390,000. Staff explained that in addition, \$150,000 of life insurance is now paid for by the federal government and when added to the \$250,000 would make a total life insurance benefit of \$400,000. Chairman Umbarger noted that it was his intent to continue the \$250,000 death benefit in the bill until such time that the new statute is in place regarding the life insurance and grandfather-in the three deceased members of the National Guard that have died in action.

The Committee discussed procedures prior to and during the Special Legislative Session. The meeting recessed at 12:15 p.m. and reconvened at 1:45 p.m.

Chairman Umbarger welcomed Barb Hinton, Legislative Post Auditor, Division of Legislative Post Audit. Ms. Hinton reviewed the Scope Statement that the Legislative Post Audit Committee authorized which operationalizes the law that was passed in **2005 HB 2247** (Attachment 15). She addressed the Issues Relating to the Cost Study Analysis Required Under **2005 HB 2247** (Attachment 16).

Ms. Hinton explained that **2005 HB 2247** requires Legislative Post Audit to "conduct a professional cost study analysis to determine the costs of delivering the kindergarten and grades one through twelve curriculum, related services and other programs mandated by state statute in accredited schools." She noted that this language can be read as incorporating two distinctly different (and incompatible) interpretations of the costs to be included in the cost study and listed them in two scenarios:

- **Scenario 1** - Only the cost of those resources needed to fund what's mandated by State statute in schools that are accredited by the Board of Education (all schools currently are accredited), with additional costs added for special needs students.
- **Scenario 2** - The cost of those resources needed to achieve certain outcomes adopted by the Board of Education in its school accreditation standards, which schools are required to meet to be accredited.

Ms. Hinton noted that she was before the Senate Ways and Means Committee, in part, to get clarification about what the Legislature wants her to do. Questions and discussion by the Committee followed. Ms.

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Hinton mentioned that it would be her intention to report any input from the Senate Ways and Means Committee back to the Legislative Post Audit Committee which would be helpful to them. She also explained that in order for them to produce something that is credible, defensible and valid to the Legislature, and the Court, it would be helpful for them to hire an expert to aid in some of the sophisticated outcomes-based statistical analysis information. Senator Morris explained that the Legislature trusts Legislative Post Audit and it would be in the best interest of the Legislature to request that Legislative Post Audit do both input and output statistics. If the Legislature needs to provide more resources, it would be valuable to have a full fledged input and output audit. Ms. Hinton mentioned that it would be best if the Legislature would clarify what to focus on even if it was to do both an input and output audit. It will obviously be an issue of focus in the 2006 Legislative Session and the Legislature, not Legislative Post Audit, is making the decision of the scope of the Audit.

Chairman Umbarger recognized Theresa Kiernan, Senior Assistant Revisor of Statutes, who presented highlights of certain provisions contained in the most recent rulings of the Kansas Supreme Court relating to school finance and gave the history and rationale of the Court decision (Attachment 17).

The Chairman recognized Carolyn Rampey, Principal Analyst, Kansas Legislative Research Department, who provided the following information:

- Kansas Legislative Research Department memorandum, Kansas Supreme Court Supplemental Opinion in *Montoy, et al. v. State of Kansas, et al.* (Attachment 18)
- Kansas Supreme Court Summary of *Montoy v. State*, June 3, 2005 (Attachment 19)
- In the Supreme Court of the State of Kansas, No. 92,032, *Ryan Montoy, et al.*, Supplemental Opinion (Attachment 20)

Ms. Rampey explained that what the Court has talked about is a lack of empirical data on which the legislation is based and whatever the Legislature does, it cannot exacerbate any funding discrepancies that already exist. She further explained that when the Legislature adjourned and the Court looked at **2005 HB 2247**, it found that the bill that was passed fell short. The Court cited continuing a lack of constitutionally adequate funding and inequity producing local property tax measures. Ms. Rampey detailed additional information found in her memorandum.

Chairman Umbarger called the Committee's attention to discussion of the issue relating to the death benefit for the military and the issue regarding the request of the Attorney General's Office on the \$200,000 expenditures for preparation to defend the state's death penalty law before the U. S. Supreme Court. The Chairman noted that officially, due to the meeting being prior to the opening of the special legislative session on Wednesday, June 22, 2005, only recommendations, directions and requests could be made to staff until the bills are introduced and read in to the Senate.

Senator Barone requested written information from the Attorney General's Office regarding the \$200,000 to aid in any decision the Committee may make. Senator Morris requested that someone from the Attorney General's Office come to the meeting to discuss that request.

Chairman Umbarger recognized Jill Wolters, Senior Assistant, Revisor of Statutes Office, who reviewed the action taken on **2005 HB 2518** during the 2005 Legislative Session regarding the National Guard death benefit for those who have died in action. Senator Morris requested that someone from the Adjutant General's Office come to the meeting to help clarify what action should be taken regarding the death benefit and purchase of insurance. He also requested that staff check with other states to inquire if there is any available information on how this is handled in any other states. Questions and discussion followed.

The Chairman welcomed Eric Rucker of the Attorney General's Office who explained that there are two cases that will come before the U. S. Supreme Court in this session and that is very unusual. He noted that one is the Potawatomi Gas case before the high court as well as *State v. Marsh*, the death penalty appeal that was accepted and the Attorney General's Office is currently in the process of writing briefs. Their office has estimated that the total cost for both cases would be approximately \$200,000. Senator Betts requested

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information in writing from the Attorney General's Office regarding the two cases.

Chairman Umbarger recognized Mary Ann Torrence, Senior Assistant Revisor, who reviewed with the Committee the conceptual bills that were set to be introduced on Wednesday, June 22, 2005 (Attachment 21). The Revisor reviewed the following bill drafts with the committee: 5rs9043, 5rs9052 and 5rs9056. Committee questions and discussion followed. The Chairman noted that these three drafts would need to be sorted out and one re-drafted.

The meeting adjourned at 5:45 p.m. The next meeting was scheduled for June 21, 2005.