

Approved: May 9, 2012

(Date)

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:30 AM on Monday, February 6, 2012 in 548-S of the Capitol.

All members were present.

Committee staff present:

Jan Lunn, Committee Assistant
Melinda Gaul, Chief of Staff, Senator McGinn's Office
Eli Johns, Intern, Senator McGinn's Office
Alan Conroy, Director, Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Legislative Research Department
Michael Steiner, Senior Analyst, Legislative Research Department
Bobbi Mariani, Fiscal Analyst, Legislative Research Department
Jill Wolters, Office of the Revisor of Statutes
David Wiese, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes

Conferees appearing before the Committee:

Mike Scott, Legislative Director, AT&T Kansas
John Idoux, Kansas Governmental Affairs, CenturyLink
Patrick Fucik, Director of State Government Affairs, Sprint
Dina Fisk, Verizon
Adjutant General Lee Tapanelli

Others in attendance:

See attached list.

There were no bill introductions.

Hearing on SB 336—Adjutant general; funding for disasters; creating the disaster reimbursement fund; insurance fees and premium taxes; KUSF

Jill Wolters, Revisor of Statutes Office, briefed committee members on **SB 336**, which creates a disaster reimbursement fund to be used by the Adjutant General (TAG). The bill transfers \$10 million annually (\$833,334 monthly) from the Kansas Universal Service Fund (KUSF); transfers \$12 million, from the State General Fund (SGF); caps the fund at \$40 million; and provides that interest from the Disaster Reimbursement Fund be transferred to the Kansas Emergency Management and Homeland Security Fund to be

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used by the TAG for operating expenditures of the office related to emergency management and homeland security. (Attachment 1)

Major General Lee Tapanelli spoke in support of **SB 336**, noting the fund would accomplish three critical goals:

- Create a stable state funding source for disaster management;
- Help protect the state's reserves and cash flow position; and
- Allow for the state to take proactive measures in certain situations by pre-staging resources in anticipation of a disaster or to mitigate the potential effects of a disaster.

He described the process and sources of funding; he also distributed a balloon amendment that inserts language from **SB 337-Adjutant general authority to fix, charge and collect fees; vulnerability assessments; hazardous materials; creating the Kansas emergency management and homeland security fund.** Major General Tapanelli encouraged favorable passage of **SB 336**. (Attachment 2)

Questions and comments were heard from committee members as follows:

- With respect to the \$10 million from the KUSF, a committee member inquired why the funding source selected was not the SGF rather than the KUSF. Major General Tapanelli indicated there was no reason not to use SGF; and upon further questioning, he clarified that the earmarking of KUSF revenue would be considered a revenue transfer (off-budget item).
- When asked what the current balance is in the KUSF, Major General Tapanelli indicated that information would be provided at a later time.
- A committee member asked which of the two revenue sources (KUSF or SGF) would be transferred to the disaster reimbursement fund first. Major General Tapanelli responded that transfers would occur until the \$40 million cap was reached; at that time, transfers would cease until the fund goes below \$40 million. The committee member suggested that with KUSF being transferred monthly, and the \$12 million revenue source being transferred annually, the potential exists to use the KUSF revenue funding first. Ms. Wolters clarified that the TAG office is required to review the balance of the disaster fund annually and on a date certain. Based on that annual review, funding will be determined and monies from KUSF and SGF would be transferred into the Disaster Reimbursement Fund.

In response to a committee member's question, Major General Tapanelli indicated the Governor supports **SB 336**.

Terri Smith, Director of the Douglas County Emergency Management and President, of the Kansas Emergency Management Association spoke in support of **SB 336** (Attachment

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3). She indicated that **SB 336** would protect life and property, rebuild local economies, restore essential services and provide financial support to local governments.

Chuck Magaha, Director, Leavenworth County Emergency Management Office, encouraged favorable passage of **SB 336**. He provided examples of Leavenworth's experience with disaster reimbursement resulting from the 2011 flooding and 2010 blizzard damages. Mr. Magaha emphasized the critical nature of funding during disaster management. (Attachment 4)

Mike Scott, Legislative Director for AT&T Kansas, indicated he had no objection to the creation of a disaster reimbursement fund, but he did object to the utilization of KUSF as a revenue source. (Attachment 5) He reported the KUSF was designed to support telecommunications services (1996 Federal Communications Act) and no unrelated programs; a recent Federal Communications Commission (FCC) order has triggered a state-level review of KUSF; **SB 336** would increase customers' monthly bills; and the use of KUSF funds could be construed as a "hidden tax increase."

In response to a committee member's question as to where the state should obtain funding for the creation of a Disaster Reimbursement Fund, Mr. Scott indicated the appropriate source would be the SGF.

During the 2010 blizzard, Mr. Scott indicated that while KUSF is allowed for supplemental funding of telecommunications rebuilding/repairing, it was not used to assist with rebuilding telecommunication lines; the rebuilding efforts were funded through AT&T's basic budget.

Mr. Scott indicated, at the current time, KUSF is approximately \$60 million. The fund is used to provide telecommunications to "high cost" service areas. There are areas that, due to their location, would otherwise make the cost of providing service prohibitively expensive for both the provider and end-user. KUSF also supports telecommunications services such as Lifeline, equipment for the disabled, and funds the Kan-ed network for delivering video conferencing and distance learning.

John Idoux, CenturyLink, spoke in opposition to SB 336 (Attachment 6). He provided a brief history of his organization and indicated his reasons for opposing **SB 336**:

- Creating a hidden tax;
- Taxing telecommunications customers for disaster relief; and
- Reforming KUSF by the FCC has the potential to shift millions of dollars in higher fees to Kansans.

Mr. Idoux indicated funding for disaster reimbursement should come from the SGF.

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When asked how CenturyLink rebuilds telecommunications services following a disaster, Mr. Idoux commented that CenturyLink either self-funds or relies on insurance to rebuild infrastructure.

Patrick Fucik, Director of State Government Affairs for Sprint, indicated Sprint's opposition is based on the proposal to transfer \$10 million annually from the KUSF. (Attachment 7) Mr. Fucik commented that the appropriate revenue source for creating a disaster reimbursement fund is from the SGF.

Dina Fisk, speaking on behalf of Verizon, indicated that Verizon supports a Disaster Reimbursement Fund but disagrees with **SB 336** provisions, which draw upon funding from KUSF (Attachment 8). Ms. Fisk commented that high KUSF rates in Kansas have resulted in Kansas being the third largest state telecommunications fund in the nation. She indicated that the establishment of a disaster relief reimbursement fund is a public need that should be funded from the SGF.

In response to a committee member's question whether or not to use the 911 fund as an appropriate funding source, Ms. Fisk suggested that to single out one specific entity or industry to fund public policy is inappropriate, even though the majority of Kansans utilize either a landline or a wireless device; she recommended using the SGF for funding the Disaster Reimbursement Fund.

A committee member inquired whether individuals with both a wireless device and landline should pay twice as much as people who use one or the other. Ms. Fisk indicated that would be the result if all telecommunications customers were taxed, a pyramid of taxation would occur.

Written testimony in opposition to **SB 336** was submitted by:
Ernest Kutzley, Advocacy Director for AARP Kansas (Attachment 9)

Written testimony from a neutral position to **SB 336** was submitted by:
Dave Holthaus, Kansas Electric Cooperatives, Kansas Electric Power Cooperatives and Sunflower Electric Power Corporation (Attachment 10)

A committee member inquired whether Major General Tafanelli had presented an overview of monies spent on disaster relief on monies spent within the past five years. Major General Tafanelli responded that since 2007, over \$7 billion (including federal support) has been spent. A spreadsheet was requested to reflect state expenditures on disaster projects from 2006 to the present including the revenue sources and amounts funded. In addition, a committee member asked to include for what purpose the funds

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were spent and whether they were used for rebuilding investments built on property tax (schools, roads, etc.).

A committee member asked whether there was discussion to transfer the \$40 million from KUSF instead of creating two funding sources when the bill was drafted. Major General Tapanelli indicated that was not discussed; the purpose of the bill is to provide a stable funding source for matching federal funds when a disaster occurs in Kansas. He indicated in the past several years, the SGF (during the economic downturn) and budget processes presented challenges in funding relief.

A committee member requested follow-up from the Kansas Corporation Commission concerning the FCC's review of the KUSF.

Major General Tapanelli reminded committee members that part of the Disaster Reimbursement Relief Fund includes funding for preventive measures to decrease or mitigate the impact of a pending disaster, which is different from current practice. Major General Tapanelli offered that the cost of disaster relief has risen significantly since 2007; he indicated that from a Federal Emergency Management Association (FEMA) perspective between 2010 and 2013, states will see a 75 percent reduction in federal funding for disaster relief. When the legislature has appropriated disaster funding in the past, there is a fund within the Adjutant General's budget to receive those monies; the balance at this time is \$10 million, all of which is encumbered against 14 open disasters. **SB 336** would establish a permanent fund; the existing fund would be eliminated.

Subcommittee Report for the Citizens' Utility Ratepayer Board (CURB), Governmental Ethics Commission, Kansas Human Rights Commission, and the State Corporation Commission (Attachment 11)

Senator Emler reported that the Subcommittee concurred with the Governor's FY 2012 recommendation for CURB. For FY 2013, the Subcommittee concurred with the Governor's recommendation with the following adjustment:

- Add \$16,729, all from special revenue funds, to restore funding to the agency's base budget request, in view of current and expected increases in ratepayer cases.
- Add language continuing the reappropriation of the agency's unused balances in consulting fees from the previous year, which can only be used on contracts for consultants to fund the current and expected increase in the number of ratepayer cases.

Senator Emler reported that the Subcommittee concurred with the Governor's FY 2012 and FY 2013 recommendations for the Governmental Ethics Commission.

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Senator Emler reported that the Subcommittee concurred with the Governor's FY 2012 recommendation for the Kansas Human Rights Commission with the following adjustment:

- Add language to increase the limitation on the Annual Banquet Fund by \$125, from \$150 to \$275, to allow the agency to provide receptions for the new commissioners joining the agency and the commissioners retiring.

Senator Emler reported that the Subcommittee concurred with the Governor's FY 2013 recommendations for the Kansas Human Rights Commission with the following adjustments:

- Add \$13,281, from SGF, to contract with a temporary employment services agency to provide staffing on a part-time basis to assist the agency in keeping up with investigations.
- Add \$114,588, from SGF, and 2.0 FTE positions to fill two Special Investigator II positions to ensure timely investigation completion.

Senator Emler clarified the two Special Investigator II positions were unfilled positions, which has contributed to the backlog of investigations; to eliminate the positions would result in significant financial ramifications if these cases were not investigated and adjudicated in a timely manner. Therefore, the Subcommittee recommended filling these positions from the SGF.

Senator Emler reported that the Subcommittee concurred with the Governor's FY 2012 recommendations for the Kansas Corporation Commission (KCC). For FY 2013, the Subcommittee concurred with the Governor's FY 2013 recommendations for the KCC with the following adjustment:

- Add \$260,800, all from special revenue funds, to replace twelve vehicles with mileage significantly above the mileage thresholds established by the Department of Administration.
- Senator Emler reported that the Governmental Ethics Commission had requested an adjustment in the supplemental bill; if the supplemental bill is not worked, the Ethics Commission could suffer disastrous consequences. Senator Schmidt noted that there is a bill before Ethics and Elections Committee that could impact this report.

Chairperson McGinn announced approval on the CURB, Governmental Ethics Commission, Kansas Human Rights Commission, and KCC reports would be postponed until another day.

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SB 311—Supplemental appropriations for FY 2012 and FY 2013 for various state agencies

Chairperson McGinn returned to **SB 311** and the Department of Wildlife, Parks and Tourism agency's budget. She proposed to transfer \$30,000 from the Unaccounted Standardized Water Data Repository Fund in FY 2012, to transfer \$193,267 State Water Plan Fund ending balance for FY 2013, to transfer \$300,000 from the Rural Opportunity Zones Funds (EDIF) in FY 2012, and to transfer \$200,000 for Abandoned Oil and Gas Well Plugging to the Department of Wildlife, Parks and Tourism. The total funding transfer is \$723,267. (Attachment 12)

Secretary Robin Jennison, Department of Wildlife, Parks Tourism, spoke concerning the challenges the department faces. The bills currently in the legislature speak to the effort of the Department to generate revenue outside of the SGF. Secretary Jennison provided a brief overview of the proposed legislation to eliminate the senior exemption for hunting and fishing licenses. He indicated the revenue expectation resulting from the elimination of the senior exemption is between \$1 million and \$1.5 million.

Senator Teichman moved to transfer \$723,267 (as outlined by the Chairperson) to the Department of Wildlife, Parks and Tourism; Senator Umbarger seconded the motion, which passed on a voice vote.

Chairperson McGinn announced the committee would return to **SB 311** on February 7.

The meeting was adjourned at 12:05 p.m.