

HOUSE BILL No. 2739

AN ACT concerning state finances; implementation of a program service inventory, performance based budgeting system and integrated budget fiscal process; creating a budget stabilization fund; relating to state general fund revenue and expenditures; review of risk-based practices by the legislative budget committee; amending K.S.A. 75-3722, as amended by section 61 of 2016 Senate Bill No. 367, and 75-6704, as amended by section 62 of 2016 Senate Bill No. 367, and K.S.A. 2015 Supp. 75-3721 and repealing the existing sections; also repealing K.S.A. 2015 Supp. 76-12a25.

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

New Section 1. (a) On or before January 14, 2019, the secretary of administration, in consultation with the division of the budget, the office of revisor of statutes and the Kansas legislative research department, shall implement a budget process that accomplishes the following objectives:

Performance Based Budgeting

(1) A program service inventory, to be complete on or before January 9, 2017. Such inventory shall include, but not be limited to, the following:

(A) Identification of agency programs and subprograms by objective, function and purpose;

(B) the state or federal statutory citation authorizing those programs, if any;

(C) identification of programs that are mandatory versus discretionary;

(D) a history of the programs, including interaction with other agency programs and objectives;

(E) state matching or other federal financial requirements;

(F) prioritization of the level of all programs and subprograms; and

(G) the consequence of not funding the program or subprogram.

(2) An integrated budget fiscal process, to be complete on or before January 6, 2018. Such process shall institute common accounting procedures consistent with budget development, budget approval, budget submission, through actual expenditures by fund.

(3) A performance based budgeting system, to be completed on or before January 14, 2019. Such budgeting system shall include, but not be limited to, the following:

(A) Incorporation of various outcome based performance measures, for state programs; and

(B) enhancement of the capability to compare program effectiveness across multiple state and political boundaries.

New Sec. 2. (a) On July 1, 2017, the budget stabilization fund is hereby established in the state treasury.

Budget Stabilization Fund

(b) On or before the 10th day of each month commencing July 1, 2017, the director of accounts and reports shall transfer from the state general fund to the budget stabilization fund interest earnings based on:

(1) The average daily balance of moneys in the budget stabilization fund, for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(c) On and after July 1, 2017, no moneys in the budget stabilization fund shall be expended pursuant to this subsection unless the expenditure either has been approved by an appropriation or other act of the legislature or has been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711(c), and amendments thereto.

(d) (1) During the 2016 interim between regular sessions of the legislature, the legislative budget committee shall study and review the policy concerning the balance of, transfers to and expenditures from the budget stabilization fund. The legislative budget committee study and review shall include, but not be limited to, the following:

(A) Risk-based budget stabilization fund practices utilized in other states.

(B) The appropriate number of years to review the state general fund:

(i) Revenue variances from projections; and

(ii) expenditure variances from budgets.

(C) The entity to certify the amount necessary in the budget stabilization fund to maintain the appropriate risk-based balance.

(D) Plan to fund the budget stabilization fund.

(E) Process and circumstances to reach the appropriate risk-based balance, including the amount of risk that is acceptable.

(F) Circumstances under which expenditures may be made from the fund.

(2) The legislative budget committee may make recommendations and introduce legislation as it deems necessary to implement such recommendations.

(3) Notwithstanding the provisions of sections 52 and 53 of chapter 104 of the 2015 Session Laws of Kansas, section 18 of 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016 regular session of the legislature, the legislative budget committee may meet not more than 10 days to study and review such policies as determined by the chairperson of the committee.

Sec. 3. K.S.A. 2015 Supp. 75-3721 is hereby amended to read as follows: 75-3721. (a) On or before the eighth calendar day of each regular legislative session, the governor shall submit the budget report to the legislature, except that in the case of the regular legislative session immediately following the election of a governor who was elected to the office of governor for the first time, that governor shall submit the budget report to the legislature on or before the 21st calendar day of that regular legislative session.

(b) The budget report of the governor shall be set up in three parts, the nature and contents of which shall include the following:

(1) Part one shall consist of a budget message by such governor, including the governor's recommendations with reference to the fiscal policy of the state government for the current fiscal year and the ensuing fiscal year, describing the important features of the budget plan for each of the fiscal years included, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income for the current fiscal year and the ensuing fiscal year, with the basis and factors upon which the estimates were made, and the means of financing the budget plan for each of the fiscal years included, compared with the corresponding figures for at least the last completed fiscal year, and the director of the budget shall prepare the figures for the governor for such comparisons.

(A) The budget plan shall not include: (i) Any proposed expenditures of anticipated income attributable to proposed legislation that would provide additional revenues from either current or new sources of revenue;; or (ii) any proposed expenditures of moneys in the ending balance in the state general fund required by K.S.A. 75-6702, and amendments thereto.

(B) The general budget summary may be supported by explanatory schedules or statements, classifying the expenditures contained therein by state agencies, objects, and funds, and the income by state agencies, funds, sources and types. The general budget summary shall include all special or fee funds as well as the state general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(2) Part two shall embrace the detailed budget estimates for each of the fiscal years included, both of expenditures and revenues, showing the requests of the state agencies, if any, and the governor's recommendations thereon, which shall include amounts for payments by the state board of regents pursuant to K.S.A. 75-4364, and amendments thereto. It shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the last completed fiscal year, and the estimated amount for the current fiscal year and for each of the ensuing fiscal years included, the debt authorized and unissued, and the condition of the sinking funds.

(3) Part three shall consist of a draft of a legislative measure or measures reflecting the governor's budget for all of the fiscal years included in the budget report.

(c) The division of the budget shall compile a children's budget document consisting of the information contained in agency budget estimates regarding programs that provide services for children and their families. Such document shall be provided to the Kansas children's cabinet established by K.S.A. 38-1901, and amendments thereto, and other persons or entities on request.

(d) The division of the budget, upon request, shall furnish the gov-

ernor or the legislature with any further information required concerning the budget.

(e) Nothing in this section shall be construed to restrict or limit the privilege of the governor to present supplemental budget messages or amendments to previous budget messages, which may include proposals for expenditure of new or increased sources of revenue derived from proposed legislation.

(f) The budget estimate for the judicial branch of state government as submitted to the director of the budget pursuant to K.S.A. 20-158, and amendments thereto, shall be included in the governor's budget report.

(g) The division of the budget shall compile a Kansas homeland security budget document consisting of the information contained in agency budget estimates under ~~subsection (a)(3) of~~ K.S.A. 75-3717(a)(3), and amendments thereto. Such document shall be provided to the house of representatives committee on appropriations, the senate committee on ways and means and such other committees upon request.

(h) *Commencing with fiscal year 2018, the ending balance in the state general fund in any fiscal year shall include the unexpended and unencumbered balances in the:*

- (1) *State general fund; and*
- (2) *budget stabilization fund, established in section 2, and amendments thereto.*

Sec. 4. K.S.A. 75-3722, as amended by section 61 of 2016 Senate Bill No. 367, is hereby amended to read as follows: 75-3722. (a) An allotment system will be applicable to the expenditure of the resources of any state agency, under rules and regulations established as provided in K.S.A. 75-3706, and amendments thereto, only if in the opinion of the secretary of administration on the advice of the director of the budget, the use of an allotment plan is necessary or beneficial to the state. In making this determination the secretary of administration shall take into consideration all pertinent factors including:

- (1) Available resources;
- (2) current spending rates;
- (3) work loads;
- (4) new activities, especially any proposed activities not covered in the agency's request to the governor and the legislature for appropriations;
- (5) the minimum current needs of each agency;
- (6) requests for deficiency appropriations in prior fiscal years;
- (7) unexpended and unencumbered balances; and
- (8) revenue collection rates and prospects.

(b) Whenever for any fiscal year it appears that the resources of the general fund or any special revenue fund are likely to be insufficient to cover the appropriations made against such general fund or special revenue fund, the secretary of administration, on the advice of the director of the budget, shall, in such manner as ~~he or she~~ *the secretary* may determine, inaugurate the allotment system so as to assure that expenditures for any particular fiscal year will not exceed the available resources of the general fund or any special revenue fund for that fiscal year. *When reviewing the resources of the general fund or any special revenue fund for the purposes of issuing an allotment, the secretary shall not take into consideration the balance in the budget stabilization fund.*

(c) (1) The allotment system shall not apply to the legislature or to the courts or their officers and employees, or to payments made from the juvenile justice improvement fund, established in section 13, *of 2016 Senate Bill No. 367*, and amendments thereto, for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families. During the fiscal year ending June 30, 2017, the allotment system provided by this section shall not apply to any item of appropriation for employer contributions for the state of Kansas and participating employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto.

(2) Agencies affected by decisions of the secretary of administration under this section shall be notified in writing at least 30 days before such decisions may become effective and any affected agency may, by written

request addressed to the governor within 10 days after such notice, ask for a review of the decision by the finance council. The finance council shall hear appeals and render a decision within 20 days after the governor receives requests for such ~~hearings~~ review.

Sec. 5. K.S.A. 75-6704, as amended by section 62 of 2016 Senate Bill No. 367, is hereby amended to read as follows: 75-6704. (a) The director of the budget shall continuously monitor the status of the state general fund with regard to estimated and actual revenues and approved and actual expenditures and demand transfers. Periodically, the director of the budget shall estimate the amount of the unencumbered ending balance of moneys in the state general fund for the current fiscal year and the total amount of anticipated expenditures, demand transfers and encumbrances of moneys in the state general fund for the current fiscal year. If the amount of such unencumbered ending balance in the state general fund is less than \$100,000,000, the director of the budget shall certify to the governor the difference between \$100,000,000 and the amount of such unencumbered ending balance in the state general fund, after adjusting the estimates of the amounts of such demand transfers with regard to new estimates of revenues to the state general fund, where appropriate. *When estimating the amount of the unencumbered ending balance of moneys in the state general fund for the purposes of such certification, the director of the budget shall not take into consideration the balance in the budget stabilization fund.*

(b) Upon receipt of any such certification and subject to approval of the state finance council acting on this matter which is hereby declared to be a matter of legislative delegation and subject to the guidelines prescribed by K.S.A. 75-3711c(c), and amendments thereto, the governor may issue an executive order reducing, by applying a percentage reduction determined by the governor in accordance with this section: (1) The amount authorized to be expended from each appropriation from the state general fund for the current fiscal year, other than any item of appropriation for debt service for payments pursuant to contractual bond obligations or any item of appropriation for employer contributions for the employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto, or for payments made from the juvenile justice improvement fund for the development and implementation of evidence-based community programs and practices for juvenile offender and their families; and (2) the amount of each demand transfer from the state general fund for the current fiscal year, other than any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto.

(c) The reduction imposed by an executive order issued under this section shall be determined by the governor and may be equal to or less than the amount certified under subsection (a). Except as otherwise specifically provided by this section, the percentage reduction applied under subsection (b) shall be the same for each item of appropriation and each demand transfer and shall be imposed equally on all such items of appropriation and demand transfers without exception. No such percentage reduction and no provisions of any such executive order under this section shall apply or be construed to reduce any item of appropriation for debt service for payments pursuant to contractual bond obligations or any item of appropriation for employer contributions for the employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto, or any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto. The provisions of such executive order shall be effective for all state agencies of the executive, legislative and judicial branches of state government.

(d) If the governor issues an executive order under this section, the director of accounts and reports shall not issue any warrant for the payment of moneys in the state general fund or make any demand transfer of moneys in the state general fund for any state agency unless such warrant or demand transfer is in accordance with such executive order and such warrant or demand transfer does not exceed the amount of

money permitted to be expended or transferred from the state general fund.

(e) Nothing in this section shall be construed to: (1) Require the governor to issue an executive order under this section upon receipt of any such certification by the director of the budget; or (2) restrict the number of times that the director of the budget may make a certification under this section or that the governor may issue an executive order under this section.

Sec. 6. K.S.A. 75-3722, as amended by section 61 of 2016 Senate Bill No. 367, and 75-6704, as amended by section 62 of 2016 Senate Bill No. 367, and K.S.A. 2015 Supp. 75-3721 and 76-12a25 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.