



**Kansas Legislative Research Department**

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April 23, 2020

**To:** Senate Committee on Ways and Means

**From:** J.G. Scott, Director

**Re:** Allotments and the \$100 Million Ending Balance Provision in Law

During the meeting on April 23, 2020, a request of this office was made to review recent times when the current year state revised was revised downward. In particular, the request concerned allotments that were made or other reductions that were made to meet a \$100 million ending balance. Below is a brief description of the allotment system, the \$100 million ending balance provision followed by recent history when each was used.

### **Allotment System**

The allotment system statutes (KSA 75-3722 through 3725) were enacted in 1953 as part of the law that created the Department of Administration. In response to a request from Governor Carlin, the Attorney General issued an opinion (No. 82-160) on July 26, 1982, which sets forth some of the things that can and cannot be done under the allotment system statutes.

With certain exceptions, noted below, the Governor (through the Secretary of Administration and Director of the Budget) has broad discretion in the application of allotments in order to avoid a situation where expenditures in a fiscal year would exceed the resources of the State General Fund (SGF) or a special revenue fund. Allotments need not be applied equally or on a pro rata basis to all appropriations from, for example, the SGF. Thus, the Governor may pick and choose “as long as such discretion is not abused.”

Demand transfers from the SGF to another fund are not subject to the allotment system because technically, appropriations are made from the other fund and not the SGF. Such transfers include those to the Local Ad Valorem Tax Reduction Fund, County and City Revenue Sharing Fund, City-County Highway Fund, State Highway Fund, State Water Plan Fund, and School District Capital Improvements Fund.

The allotment system cannot be used in any fiscal year for the purpose of increasing the year-ending balance of a fund nor for controlling cash shortages that might occur at any time within a fiscal year. Thus, if a “deficit” were to be projected at the end of the fiscal year, the allotment system could be used to restore the SGF balance to zero.

The Legislature and the Courts and their officers and employees and the Evidence Based Juvenile Programs Fund are exempt from the allotment system under KSA 75-3722.

## **The \$100 Million Balance Provision**

A provision in 1990 HB 2867 (KSA 75-6704) authorizes the Governor to issue an executive order or orders, with approval of the State Finance Council, to reduce SGF expenditures and demand transfers if the estimated year-end balance in the SGF is less than \$100 million. The Director of the Budget must continuously monitor receipts and expenditures and certify to the Governor the amount of reduction in expenditures and demand transfers that would be required to keep the year end balance from falling below \$100 million.

Debt service costs, the SGF contribution to school employees retirement (KPERS-School), the Evidence Based Juvenile Programs Fund, and the demand transfer to the School District Capital Improvements Fund created in 1992 are not subject to reduction.

If the Governor decides to make reductions, the reductions must be on a percentage basis applied equally to all items of appropriations and demand transfers (*i.e.*, across-the-board with no exceptions other than the four mentioned above). In contrast to the allotment system law, all demand transfers but one are subject to reduction.

## **FY 1983 Allotment—Governor Carlin/1983 Legislature**

Governor Carlin imposed an allotment of 4.0 percent against state operations and most local aid programs effective January 1, 1983. This included a reduction of \$51.0 million and included a 4.0 percent reduction in the State School Equalization Aid (state aid to school districts) appropriation.

## **FY 2002—Governor Graves—\$100 Million Minimum Balance**

In order to meet the \$100 million minimum balance, Governor Graves issued an Executive Directive in August 2001 with the approval of the State Finance Council to reduce all State General Fund expenditures by 1.0 percent. The only areas of expenditures not subject to the across-the-board reduction included KPERS-School, debt service payments, and the demand transfer to the School District Capital Improvement Fund (bonds). At the time of the State Finance Council action, the projected SGF ending balance was approximately \$76 million.

## **FY 2003 Allotments—Governor Graves**

Governor Graves issued two separate allotments against State General Fund-financed agencies (August and November 2002). The total reduction against selected agencies was a reduction of \$118.0 million from approved expenditures. Most State General Fund-financed agencies were reduced by a total of 5.9 percent. However, certain budgets were not reduced in the general 5.9 percent reduction:

- Department of Education was reduced 0.75 percent, which had the result of reducing Base State Aid Per Pupil by \$17 (from \$3,890 to \$3,863); and
- Board of Regents and institutions were reduced a total of 4.7 percent.

## **FY 2009 Allotments—Governor Sebelius**

Governor Sebelius issued an allotment in February 2009 reducing State General Fund expenditures by \$7.1 million in the Department of Education. She also eliminated the State General Fund transfer to the Health Care Stabilization Fund and limited the transfer to the Kansas Bioscience Authority to \$35.0 million.

## **FY 2010 Allotments—Governor Parkinson**

Governor Parkinson issued two separate allotments against State General Fund-financed agencies. The first allotment occurred in July 2009, and reduced expenditures by \$100.3 million. Most agencies were included in the reductions, but the major reductions occurred in the Department of Education (\$45.4 million), Board of Regents (\$15.3 million), and the Kansas Health Policy Authority (\$12.1 million). The second allotment occurred in November 2009 and totaled \$143.3 million. Again, many agencies' State General Fund expenditures were reduced, but the major reductions were in the Department of Education (\$98.4 million) and the Department of Social and Rehabilitation Services (\$12.3 million).

### ***Health Care Stabilization Fund***

As a result of the FY 2009 and FY 2010 allotments, transfers from the SGF to the Health Care Stabilization Fund Board of Governors for payments on behalf of the University of Kansas residents, faculty, and graduate medical education students were suspended. Attorney General Opinion 2009-16 addressed the legality of this allotment, stating in part, "the allotment system may be applied in any manner the Secretary of Administration determines to ensure expenditures do not outpace general or special fund resources. Nothing in the allotment system statute nor in the Health Care Provider Insurance Availability Act indicates that the statutory transfers of funds specified in K.S.A. 40-3403 are exempt from the allotment system."

SB 414 (2010) amended the Health Care Provider Insurance Availability Act to exempt transfers from the SGF to the Health Care Stabilization Fund as required by KSA 2009 Supp. 40-3403(b) from the allotment authority delegated to the Secretary of Administration. The legislation further prescribed a repayment methodology for the deferred SGF payments to the Fund for state Fiscal Years 2010, 2011, 2012, and 2013. Beginning on July 1, 2013 and on an annual basis through July 1, 2017, 20.0 percent of the deferred SGF transfers were transferred to the Fund.

## **FY 2011 Allotments—Governor Brownback**

Governor Brownback issued an allotment in April 2011 totaling \$7.2 million in State General Fund reductions. The primary adjustments were in the Department of Social and Rehabilitation Services (\$2.3 million) and in the Board of Regents (\$2.3 million).

## **FY 2015 Allotments—Governor Brownback**

Governor Brownback issued two SGF allotments in FY 2015. The first allotment was in January 2015 that totaled \$66.4 million. While several agencies received allotments, the largest reductions were in the budgets of the Department of Education (\$41.3 million), Larned State

Mental Health Hospital (\$5.8 million), and the Department for Children and Families (\$4.7 million). The second occurred in February 2015 that affected the budgets of the Department of Education (\$28.3 million) and the Board of Regents and institutions (\$16.2 million). This allotment totaled \$44.5 million.

### ***Medical Assistance Fee Fund***

Senate Sub. for HB 2281 (2015 law) created the Medical Assistance Fee Fund and increased privilege tax payments by Health Maintenance Organizations (HMOs) for a period of three fiscal years. The bill required, from July 1, 2015, through June 30, 2018, all moneys collected or received by the Commissioner of Insurance from HMOs (including the three KanCare Managed Care Organizations), be remitted and deposited to the credit of the Medical Assistance Fee Fund. The law further specified moneys in the Fund were to be expended for Medicaid medical assistance payments and for no other governmental purpose, and moneys in this fund were not subject to the allotments by the Governor, certificates of indebtedness, or transfers by the Secretary of Health and Environment.

### **FY 2016 Allotments—Governor Brownback**

In FY 2016 and FY 2017, the Governor was given expanded allotment authority by proviso allowing the Governor to allot SGF expenditures if the State General Fund projected ending balance was estimated to be below \$100 million. It also allowed the Governor to transfer revenue from special revenue funds to the State General Fund if the State General Fund projected ending balance was estimated to be below \$100 million. The Governor used this expanded authority four times that adjusted the FY 2016 revenue and expenditures. In August 2015, Governor Brownback increased transfers to the SGF by \$22.0 million and reduced expenditures by \$20.8 million. The reductions mainly impacted the Department of Education (\$7.5 million), Kansas Department of Health and Environment (\$4.4 million), Department of Corrections (\$2.3 million), and Kansas Department for Aging and Disability Services (\$1.7million).

In November 2015, Governor Brownback used the expanded allotment authority to increase transfers by \$56.9 million, including \$47.9 million from the State Highway Fund and \$9.0 million from the Department for Children and Families. Another \$52.7 million in State General Fund expenditures were reduced using the regular allotment authority. The reductions primarily occurred in the Department for Aging and Disability Services (\$16.0 million), Department of Health and Environment (\$15.8 million), and Department of Education (\$15.7 million).

In May 2016, Governor Brownback used the expanded allotment authority to make adjustment in both FY 2016 and FY 2017. The FY 2016 adjustment included \$70 million in transfers from the State Highway Fund to the State General Fund. Governor Brownback also included the authority that was given to delay \$95.1 million in State retirement contributions to the Kansas Public Employees Retirement System, which required repayment before the end of FY 2018 with 8.0 percent interest. The FY 2017 allotments are included in the FY 2017 section.

In June 2016, Governor Brownback used the expanded allotment authority to adjust the SGF by \$23.6 million. The Department of Corrections expenditures were reduced \$2.9 million and transfers to the State General Fund of \$20.0 million from the State Highway Fund and \$0.7 million from the Department of Education were included.

## **FY 2017 Allotments—Governor Brownback**

In May 2016, Governor Brownback used the expanded allotment authority to make adjustments for FY 2017. The FY 2017 adjustments included \$115.0 million in transfers from the State Highway Fund to the State General Fund. Governor Brownback also allotted State General Fund expenditures by \$97.0 million. These expenditure reductions included \$40.1 million in the Department of Education, \$23.6 million in the Board of Regents and Institutions, and \$17.5 million in the Department for Aging and Disability Services.

I hope this information is helpful. If you have any further questions, please do not hesitate to contact me.