

HOUSE BILL No. 2571

By Committee on Appropriations

3-20

AN ACT establishing the public safety parity superfund; providing for certain amounts to be transferred to such fund; authorizing and directing certain salary increases for public safety officers and employees; prescribing certain powers, duties and functions for the governor and other state officers and employees; amending K.S.A. 75-3728e and 79-5211 and K.S.A. 2000 Supp. 60-4117 and 79-4803 and repealing the existing sections.

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

New Section 1. (a) There is hereby created the public safety parity superfund in the state treasury. All expenditures from the public safety parity superfund shall be made in accordance with the provisions of appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved as provided by law.

(b) Moneys credited to the public safety parity superfund shall be used, in addition to any other funds provided by law, to fund base salary increases for public safety officers and employees as prescribed by this section. The legislature shall allocate the moneys credited to the public safety parity superfund to public safety agencies to provide funding for base salary increases for public safety officers and employees as prescribed by this section.

(c) (1) The governor is hereby authorized and directed to modify the pay plan for fiscal year 2003 and each fiscal year thereafter in accordance with this subsection and to adopt such pay plan as so modified. The existing pay plan for the preceding fiscal year in each such case shall be modified to provide for a base salary increase by either (A) reassigning the position of each public safety officer or employee to a higher biweekly pay rate for the ensuing fiscal year which is equivalent to an increase of 5% or more in the biweekly pay rate for such position, or (B) otherwise providing for an increase of 5% or more in the biweekly pay rate in effect for the position of each public safety officer or employee under such pay plan. The pay plan adopted by the governor under this subsection shall be the pay plan for the classified service under the Kansas civil service act and shall be effective on the first day of the first biweekly payroll period which is chargeable to the ensuing fiscal year. Such pay plan shall

1 be subject to modification and approval as provided under K.S.A. 75-
2 2938 and amendments thereto and to any enactment of the legislature
3 applicable thereto.

4 (2) The governor is hereby authorized and directed to annually mod-
5 ify or authorize the modification of the salaries of all public safety officers
6 or employees of public safety agencies who are in the unclassified service
7 under the Kansas civil service act and whose salaries are subject to ap-
8 proval by the governor under K.S.A. 75-2935b or 75-2935c and amend-
9 ments thereto to provide for base salary increases which shall be effective
10 on the first day of the first biweekly payroll period which is chargeable
11 to the ensuing fiscal year, commencing with the fiscal year ending June
12 30, 2003, and for each fiscal year thereafter, and which shall be equal to
13 an increase of 5% or more in the base salaries of such public safety officers
14 or employees over the base salaries in effect for the preceding fiscal year.

15 (3) Public safety officers or employees of public safety agencies shall
16 be entitled to receive the base salary increases prescribed by this section.
17 All increases in compensation prescribed by this section shall be in ad-
18 dition to any pay plan adjustments or modifications for the purposes of
19 increases in the cost of living, shall be in addition to any step movement
20 or any other merit pay increases which public safety officers or employees
21 may be entitled to receive or which may be granted to such public safety
22 officers or employees, and shall be in addition to any longevity or other
23 salary bonus payments which public safety officer or employees may be
24 entitled to receive or which may be granted to such public safety officers
25 or employees.

26 (d) (1) Prior to July 1, 2002, and prior to each July thereafter, the
27 secretary of corrections shall certify an amount to be transferred from (A)
28 the state of Kansas — department of corrections inmate benefit fund, (B)
29 Topeka correctional facility — inmate benefit fund, (C) Hutchinson cor-
30 rectional facility — inmate benefit fund, (D) Lansing correctional facility
31 — inmate benefit fund, (E) Ellsworth correctional facility — inmate ben-
32 efit fund, (F) Winfield correctional facility — inmate benefit fund,
33 (G) Norton correctional facility — inmate benefit fund, (H) El Dorado
34 correctional facility — inmate benefit fund, (I) Larned correctional men-
35 tal health facility — inmate benefit fund, and (J) each inmate benefit fund
36 of the department of corrections or any correctional institution, as defined
37 by K.S.A. 75-5202 and amendments thereto, established on or after the
38 effective date of this act, to the public safety parity superfund in accord-
39 ance with this section. The aggregate of all such amounts certified shall
40 be equal to \$1,000,000. After receipt of each such certification from the
41 secretary of corrections, the director of accounts and reports shall transfer
42 on the next ensuing July 1, or as soon thereafter as moneys are available,
43 the amount certified for an inmate benefit fund from such inmate benefit

1 fund to the public safety parity superfund.

2 (2) On July 1, 2002, and on each July 1 thereafter, or as soon after
3 each such date as moneys are available, the director of accounts and
4 reports shall transfer \$1,000,000 from the correctional institutions build-
5 ing fund to the public safety parity superfund.

6 (3) On July 1, 2002, and on each July 1 thereafter, or as soon after
7 each such date as moneys are available, the director of accounts and
8 reports shall transfer any unencumbered balance as of the immediately
9 preceding June 30 from the Kansas bureau of investigation state forfeiture
10 fund to the public safety parity superfund.

11 (4) On July 1, 2002, and on each July 1 thereafter, or as soon after
12 each such date as moneys are available, the director of accounts and
13 reports shall transfer any unencumbered balance as of the immediately
14 preceding June 30 from the Kansas highway patrol state forfeiture fund
15 to the public safety parity superfund.

16 (5) On July 1, 2002, and on each July 1 thereafter, or as soon after
17 each such date as moneys are available, the director of accounts and
18 reports shall transfer \$2,500,000 from the state general fund to the public
19 safety parity superfund, except that, if the aggregate net income earned
20 and credited to the state general fund during the immediately preceding
21 fiscal year pursuant to K.S.A. 2000 Supp. 75-2263 and amendments
22 thereto is less than \$2,500,000, then the director of accounts and reports
23 shall transfer the amount of the aggregate net income from the state
24 general fund to the public safety parity superfund. As used in this para-
25 graph, "aggregate net income" means the aggregate interest and other
26 income earned and credited to the state general fund during the imme-
27 diately preceding fiscal year pursuant to K.S.A. 2000 Supp. 75-2263, and
28 amendments thereto, from the investment and reinvestment by the board
29 of trustees of the Kansas public employees retirement system of that
30 portion of state moneys that is certified by the state treasurer as being
31 equivalent to the aggregate net amount received for unclaimed property,
32 less the aggregate of all bond or interest payments during such fiscal year
33 for bonds issued under K.S.A. 2000 Supp. 75-2262, and amendments
34 thereto, for the construction, equipping, furnishing, renovation, recon-
35 struction and repair of the state capitol.

36 (6) On July 1, 2002, and on each July thereafter, or as soon thereafter
37 as information is available, the director of the budget and the director of
38 the legislative research department shall determine jointly the amount, if
39 any, by which the ending balance in the state general fund as of the end
40 of the immediately preceding fiscal year exceeds the amount equal to 7.5
41 % of the total amount authorized to be expended or transferred by de-
42 mand transfer from the state general fund in such preceding fiscal year,
43 and shall certify such jointly determined amount to the director of ac-

1 counts and reports. Upon receipt of such certification, or as soon there-
2 after as moneys are available, the director of accounts and reports shall
3 transfer the amount certified from the state general fund to the public
4 safety parity superfund, except that no such transfer from the state gen-
5 eral fund to the public safety parity superfund during any fiscal year shall
6 exceed \$3,000,000.

7 (e) As used in this section, (1) “public safety agency” means and in-
8 cludes (A) the department of corrections, (B) any correctional institution,
9 as defined by K.S.A. 75-5202 and amendments thereto, (C) the juvenile
10 justice authority, (D) any institution, as defined by K.S.A. 38-1602 and
11 amendments thereto, (E) the Kansas highway patrol, including the capitol
12 area security patrol and motor carrier inspection personnel, (F) the Kan-
13 sas bureau of investigation, (G) the Osawatomie state hospital, (H) Rain-
14 bow mental health facility, and (I) Larned state hospital; and

15 (2) “public safety officer or employee” means (A) any uniformed cor-
16 rectional officer of the department of corrections or any correctional in-
17 stitution as defined by K.S.A. 75-5202 and amendments thereto, (B) any
18 juvenile correctional officer or security officer of any institution as defined
19 by K.S.A. 38-1602 and amendments thereto, (C) any uniformed trooper,
20 uniformed member of the capitol area security patrol or uniformed motor
21 carrier inspector of the Kansas highway patrol, (D) any agent of the Kan-
22 sas bureau of investigation, and (E) any mental health aide, any mental
23 health trainee and any licensed mental health technician of Osawatomie
24 state hospital, Rainbow mental health facility or Larned state hospital.

25 Sec. 2. K.S.A. 2000 Supp. 60-4117 is hereby amended to read as
26 follows: 60-4117. Except as provided in K.S.A. 2000 Supp. 65-7014, and
27 amendments thereto: (a) When property is forfeited under this act, the
28 law enforcement agency may:

29 (1) Retain such property for official use or transfer the custody or
30 ownership to any local, state or federal agency, subject to any lien pre-
31 served by the court;

32 (2) destroy or use for investigative or training purposes, any illegal or
33 controlled substances and equipment or other contraband, provided that
34 materials necessary as evidence shall be preserved;

35 (3) sell property which is not required by law to be destroyed and
36 which is not harmful to the public:

37 (A) All property, except real property, designated by the seizing
38 agency to be sold shall be sold at public sale to the highest bidder for
39 cash without appraisal. The seizing agency shall first cause notice of the
40 sale to be made by publication at least once in an official county news-
41 paper as defined by K.S.A. 64-101, and amendments thereto. Such notice
42 shall include the time, place, and conditions of the sale and description
43 of the property to be sold. Nothing in this subsection shall prevent a state

1 agency from using the state surplus property system and such system's
2 procedures shall be sufficient to meet the requirements of this subsection.

3 (B) Real property may be sold pursuant to subsection (A), or the
4 seizing agency may contract with a real estate company, licensed in this
5 state, to list, advertise and sell such real property in a commercially rea-
6 sonable manner.

7 (C) No employee or public official of any agency involved in the in-
8 vestigation, seizure or forfeiture of seized property may purchase or at-
9 tempt to purchase such property; or

10 (4) salvage the property, subject to any lien preserved by the court.

11 (b) When firearms are forfeited under this act, the firearms in the
12 discretion of the seizing agency, shall be destroyed, used within the seiz-
13 ing agency for official purposes, traded to another law enforcement
14 agency for use within such agency or given to the Kansas bureau of in-
15 vestigation for law enforcement, testing, comparison or destruction by
16 the Kansas bureau of investigation forensic laboratory.

17 (c) The proceeds of any sale shall be distributed in the following order
18 of priority:

19 (1) For satisfaction of any court preserved security interest or lien;

20 (2) thereafter, for payment of all proper expenses of the proceedings
21 for forfeiture and disposition, including expenses of seizure, inventory,
22 appraisal, maintenance of custody, preservation of availability, advertising,
23 service of process, sale and court costs;

24 (3) reasonable attorney fees:

25 (A) If the plaintiff's attorney is a county or district attorney, an assis-
26 tant, or another governmental agency's attorney, fees shall not exceed
27 15% of the total proceeds, less the amounts of subsection (c)(1) and (2),
28 in an uncontested forfeiture nor 20% of the total proceeds, less the
29 amounts of subsection (c)(1) and (2), in a contested forfeiture. Such fees
30 shall be deposited in the county or city treasury and credited to the special
31 prosecutor's trust fund. Moneys in such fund shall not be considered a
32 source of revenue to meet normal operating expenditures, including sal-
33 ary enhancement. Such fund shall be expended by the county or district
34 attorney, or other governmental agency's attorney through the normal
35 county or city appropriation system and shall be used for such additional
36 law enforcement and prosecutorial purposes as the county or district at-
37 torney or other governmental agency's attorney deems appropriate, in-
38 cluding educational purposes. All moneys derived from past or pending
39 forfeitures shall be expended pursuant to this act. The board of county
40 commissioners shall provide adequate funding to the county or district
41 attorney's office to enable such office to enforce this act. Neither future
42 forfeitures nor the proceeds therefrom shall be used in planning or adopt-
43 ing a county or district attorney's budget; or

1 (B) if the plaintiff's attorney is a private attorney, such reasonable
2 fees shall be negotiated by the employing law enforcement agency;

3 (4) repayment of law enforcement funds expended in purchasing of
4 contraband or controlled substances, subject to any interagency
5 agreement.

6 (d) Any proceeds remaining shall be credited as follows, subject to
7 any interagency agreement:

8 (1) If the law enforcement agency is a state agency, the entire amount
9 shall be deposited in the state treasury and credited to such agency's state
10 forfeiture fund. There is hereby established in the state treasury the fol-
11 lowing state funds: Kansas bureau of investigation state forfeiture fund,
12 Kansas highway patrol state forfeiture fund, Kansas department of cor-
13 rections state forfeiture fund and Kansas national guard counter drug
14 state forfeiture fund. Expenditures from the Kansas bureau of investi-
15 gation state forfeiture fund shall be made upon warrants of the director
16 of accounts and reports issued pursuant to vouchers approved by the
17 attorney general or by a person or persons designated by the attorney
18 general. Expenditures from the Kansas highway patrol state forfeiture
19 fund shall be made upon warrants of the director of accounts and reports
20 issued pursuant to vouchers approved by the superintendent of the high-
21 way patrol or by a person or persons designated by the superintendent.
22 Expenditures from the Kansas department of corrections state forfeiture
23 fund shall be made upon warrants of the director of accounts and reports
24 issued pursuant to vouchers approved by the secretary of the department
25 of corrections or by a person or persons designated by the secretary.
26 Expenditures from the Kansas national guard counter drug state forfei-
27 ture fund shall be made upon warrants of the director of accounts and
28 reports issued pursuant to vouchers approved by the adjutant general of
29 Kansas or by a person or persons designated by the adjutant general. Each
30 agency shall compile and submit a forfeiture fund report to the legislature
31 on or before February 1 of each year. Such report shall include, but not
32 be limited to: (A) The fund balance on December 1; (B) the deposits and
33 expenditures for the previous 12-month period ending December 1.
34 Upon the effective date of this act, the director of accounts and reports
35 is directed to transfer each agency's balance in the state special asset
36 forfeiture fund to the agency's new, state forfeiture fund. All liabilities of
37 the state special asset forfeiture fund existing prior to such date are hereby
38 imposed on the Kansas bureau of investigation state forfeiture fund, Kan-
39 sas highway patrol state forfeiture fund and the Kansas department of
40 corrections state forfeiture fund. The state special asset forfeiture fund is
41 hereby abolished.

42 (2) If the law enforcement agency is a city or county agency, the
43 entire amount shall be deposited in such city or county treasury and cred-

1 ited to a special law enforcement trust fund. Each agency shall compile
2 and submit annually a special law enforcement trust fund report to the
3 entity which has budgetary authority over such agency and such report
4 shall specify, for such period, the type and approximate value of the for-
5 feited property received, the amount of any forfeiture proceeds received,
6 and how any of those proceeds were expended.

7 (3) Moneys in the ~~Kansas bureau of investigation state forfeiture~~
8 ~~fund, Kansas highway patrol state forfeiture fund, Kansas department of~~
9 ~~corrections state forfeiture fund, the special law enforcement trust funds~~
10 ~~and the Kansas national guard counter drug state forfeiture fund shall not~~
11 ~~be considered a source of revenue to meet normal operating expenses.~~
12 ~~Such funds shall be expended by the agencies or departments through~~
13 ~~the normal city, county or state appropriation system and shall be used~~
14 ~~for such special, additional law enforcement purposes as the law enforce-~~
15 ~~ment agency head deems appropriate. Neither future forfeitures nor the~~
16 ~~proceeds from such forfeitures shall be used in planning or adopting a~~
17 ~~law enforcement agency's budget. *Moneys in the Kansas bureau of in-*~~
18 ~~*vestigation state forfeiture fund and the Kansas highway patrol state for-*~~
19 ~~*feiture fund shall be transferred to the public safety parity superfund as*~~
20 ~~*provided in section 1, and amendments thereto.*~~

21 Sec. 3. K.S.A. 75-3728e is hereby amended to read as follows: 75-
22 3728e. As used in this act, unless the context otherwise requires:

23 (a) "Canteen" means a retail store which offers for sale items of ne-
24 cessity, comfort and morale which are not otherwise accessible to persons
25 in the environment of a state institution.

26 (b) "Canteen fund" means the moneys and other assets used for op-
27 eration of a canteen.

28 (c) "Benefit fund" means the moneys and other assets available: (1)
29 To provide property, services or entertainment for persons in a state in-
30 stitution or in the legal custody of the secretary of corrections; (2) to
31 provide incentives for program and work participation and performance
32 and other activities related to offender management for persons in the
33 legal custody of the secretary of corrections; or (3) for other purposes
34 that benefit persons in a state institution or in the legal custody of the
35 secretary of corrections, *including transfers to the public safety parity*
36 *superfund for salary increases for public safety officers or employees as*
37 *provided in section 1, and amendments thereto.*

38 (d) "Work therapy project" means a sheltered workshop or other sim-
39 ilar vocational training activity whether on or off campus at a state
40 institution.

41 (e) "Work therapy fund" means the moneys and other assets used to
42 operate a work therapy project for persons in a state institution.

43 Sec. 4. K.S.A. 2000 Supp. 79-4803 is hereby amended to read as

1 follows: 79-4803. (a) After the transfer of moneys pursuant to K.S.A. 2000
2 Supp. 79-4806, and amendments thereto:

3 (1) An amount equal to 10% of the balance of all moneys credited to
4 the state gaming revenues fund shall be transferred and credited to the
5 correctional institutions building fund created pursuant to K.S.A. 76-6b09
6 and amendments thereto, to be appropriated by the legislature for the
7 use and benefit of state correctional institutions as provided in K.S.A. 76-
8 6b09 and amendments thereto *and for transfers to the public safety parity*
9 *superfund as provided in section 1 and amendments thereto*; and

10 (2) an amount equal to 5% of the balance of all moneys credited to
11 the state gaming revenues fund shall be transferred and credited to the
12 juvenile detention facilities fund.

13 (b) There is hereby created in the state treasury the juvenile deten-
14 tion facilities fund which shall be administered by the commissioner of
15 juvenile justice. The Kansas advisory group on juvenile justice and delin-
16 quency prevention shall review and make recommendations concerning
17 the administration of the fund. All expenditures from the juvenile deten-
18 tion facilities fund shall be for the retirement of debt of facilities for the
19 detention of juveniles; or for the construction, renovation, remodeling or
20 operational costs of facilities for the detention of juveniles in accordance
21 with a grant program which shall be established with grant criteria de-
22 signed to facilitate the expeditious award and payment of grants for the
23 purposes for which the moneys are intended. "Operational costs" shall
24 not be limited to any per capita reimbursement by the commissioner of
25 juvenile justice for juveniles under the supervision and custody of the
26 commissioner but shall include payments to counties as and for their costs
27 of operating the facility. The commissioner of juvenile justice shall make
28 grants of the moneys credited to the juvenile detention facilities fund for
29 such purposes to counties in accordance with such grant program. All
30 expenditures from the juvenile detention facilities fund shall be made in
31 accordance with appropriation acts upon warrants of the director of ac-
32 counts and reports issued pursuant to vouchers approved by the com-
33 missioner of juvenile justice or the commissioner's designee.

34 Sec. 5. K.S.A. 79-5211 is hereby amended to read as follows: 79-
35 5211. All moneys received from the collection of taxes imposed under the
36 provisions of K.S.A. 79-5201 *et seq.*, and amendments thereto, and 25%
37 of all moneys collected from assessments of delinquent taxes and penalties
38 imposed thereunder, shall be remitted to the state treasurer who shall
39 deposit the entire amount thereof in the state treasury and credit the
40 same to the state general fund. The director of taxation shall remit 75%
41 of all moneys received from the collection of assessments of delinquent
42 taxes and penalties imposed pursuant to the provisions of K.S.A. 79-5201
43 *et seq.*, and amendments thereto, as follows: (a) If the law enforcement

1 agency which conducted the investigation is a county agency, the entire
2 amount shall be deposited in the county treasury and credited to a special
3 law enforcement trust fund for use solely for law enforcement and crim-
4 inal prosecution purposes; (b) if the law enforcement agency which con-
5 ducted the investigation is a city agency, the entire amount shall be de-
6 posited in the city treasury and credited to a special law enforcement
7 trust fund for use solely for law enforcement and criminal prosecution
8 purposes; and (c) if more than one law enforcement agency is substantially
9 involved in the investigative process, the amount shall be distributed
10 equally among the city, county and state law enforcement agencies in-
11 volved and credited to the appropriate county and city special law en-
12 forcement trust funds and state law enforcement agency funds unless an
13 alternate distribution is mutually agreed upon by the law enforcement
14 agencies involved and submitted in writing to the director of taxation.
15 Funds received by city and county treasurers shall not be considered to
16 be a source of revenue to meet normal operating expenses of law enforce-
17 ment agencies. *Funds distributed to the Kansas bureau of investigation*
18 *state forfeiture fund or to the Kansas highway patrol state forfeiture fund*
19 *shall be transferred to the public safety parity superfund as provided in*
20 *section 1, and amendments thereto.*

21 Sec. 6. K.S.A. 75-3728e and 79-5211 and K.S.A. 2000 Supp. 60-4117
22 and 79-4803 are hereby repealed.

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

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