Approved Thursday, April 30, 1992
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Representative Kathleen Sebelius at
Chairperson

1:30 xa.m./p.m. on Thursday, January 30, 1992 in room 526-S of the Capitol.

All members were present except:

Representative J.C. Long - Excused
Representative Barbara Allen - Excused

Committee staff present:

Mary Torrence, Office of the Revisor of Statutes
Mary Galligan, Kansas Legislative Research Department
Lynne Holt, Kansas Legislative Research Department
Connie Craig, Secretary to the Committee

Conferees appearing before the committee:

Donna Whiteman, Secretary, Department of Social and Rehabilitation Services, State of Kansas
Gloria Timmer, Director, Division of the Budget, State of Kansas

Chair Sebelius began the meeting on federal mandates, and started with a staff briefing.

Lynne Holt presented a brief report on the effect of federal mandates on states, Attachment #1.

Secretary Donna Whiteman briefed the Committee on the S.R.S. budget and federal mandates, Attachment #2.

Questions from Committee members are as follows:
- Why are poor pregnant women considered a higher legal risk? Secretary Whiteman answered that many poor pregnant women put off seeking prenatal care, and then they are perceived by a doctor at higher risk, and making medical malpractice the legal risk.
- Is KANWORK working; are the statistics proving that it is working? Secretary Whiteman cited a recent study by Dr. Schneider, Wichita State University, on the KANWORK program, and the general recommendation is that it is working. She added there are still problems with the program, but statistics are that 50% to 60% of the participants were able to get jobs and retain them.

Gloria Timmer brought to the Committee a preliminary listing of various agencies and the items, programs, or funding sources that would, in some way, be attibutable to a federal mandate, Attachment #3.

Committee questions are as follows:
- Can you give us any kind of a ballpark figure of the state budget dollars driven by policies made in Washington as opposed to here? Ms. Timmer replied that 2 of the biggest programs in the State, S.R.S. and Dept. of Transportation, are driven by federal funds, which may tie more than 30% of the state's dollars to federal funds. - Are limited matching fund mandates on the increase?
- In the policy options outlined in Attachment #1, would any of these be helpful or give us a better policy handle than where we are now? Ms. Timmer replied that before the Legislature decides to put in place any kind of budget or committee process, the question to answer is whether mandates are all that bad or whether they provide funding for services that the State wants.
- Can we compare the total cost of mandated programs together with the amount of money we receive from the Federal Government to see how the two balance? Ms. Timmer answered that we don't have that right now.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:30 xa.m./p.m. on Thursday, January 30, 1992.

- Shouldn't mandates from the State to local units of government be included in the planning?
- On page 9 of Attachment #3 under the Department of Education/Special Ed and School Bus Safety, FY93 shows a drop in funds, although, all funds were to remain the same, what is happening? Ms. Timmer answered that this is because of the New Formula Change, and if that is not approved these figures will go back up.
- Would it be helpful to do a study on the fiscal impact of federal mandates?
- One Committee member stated that the estimates in Attachment #3 are costs to the State, but as indicated by other Committee members, many of these things are handed down to the local governments, businesses and individuals. Included in these are mandates with respect to workman's compensation, the Underground Storage Tank Act, the Water Quality Act; is there any way to get a handle on these costs?

Chair Sebelius adjourned the meeting.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 1-30-92

| (PLEASE PRINT) NAME | ADDRESS | WHO YOU REPRESENT |
|---|---|---|
| John T. Marshall | Topeka | Harris News Service |
| Cindy Kelly | Topeka | KASB |
| Nancy Kernick | 210 E. 5th Erie | visitor |
| Lois Carlson | R2 Box 6 Erie KS | Visitor |
| Mike Miller | Topeka | City of Topeka |
| Sydney Hardman | Lawrence | KS Action for Children |
| Doug Bowman | Topeka | Children & Youth Advisory Comm |
| [illegible] | Topeka | SRS |
| JOHN H. HOLMGREN | Topeka | Catholic Health Assn. |
| BOB GEERS | TOPEKA | ARC/KS |
| Lela Pasley | " | ARC/Ks |
| Jo Bestgen | Topeka | KARF |
| R. [illegible] | Topeka | AP |
| Paul Johnson | " | PACK |
| Darlene Stearns | Topeka | RCAR |

# MEMORANDUM

**Kansas Legislative Research Department**

Room 545-N -- Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

January 23, 1992

**To:** House Committee on Federal and State Affairs

**From:** Lynne Holt, Principal Analyst

**Re:** Effect of Federal Mandates on States

## The Problem

As of October, 1991, the 102nd Congress had introduced 119 bills that proposed federal mandates. The implications of this action are that states will probably have to pay more for mandated programs than in previous years. There are at least two reasons for this: First, due to the 1990 Omnibus Budget Reconciliation Act, Congress capped spending for each category of discretionary programs -- domestic, international, and defense -- as a means of reducing the federal deficit. Second, Congress added a "pay-as-you-go" provision for entitlement programs so that proposed program increases must be accompanied by a plan for payment.[1]

The proliferation of mandates started in the latter half of the 1980s -- years during which some states were economically strong but the federal government's deficit was exploding. As the deficit continues to grow, however, states and localities find themselves in the position of protecting themselves from mandates, regulatory actions, and preemptions.

For at least two reasons -- cost and political accountability -- unfunded federal mandates pose a concern for states and local units.[2] The cost of 20 additional federal mandates passed by the 101st Congress is expected to total at least $15 billion to all states over five years, according to the National Conference of State Legislatures (NCSL). NCSL also estimated that mandates in just seven of the 119 bills proposed in the 102nd Congress (one of which was subsequently enacted) could cost more than $1.6 billion in FFY 1992. (In Kansas, the fiscal note for compliance with mandates contained in six of the seven Congressional bills -- one is expected to have no fiscal impact on the

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[1] Martha A. Fabricius, "The 102nd's Multiplying Mandates," *State Legislatures*, January, 1992, page 17.

[2] A discussion of those reasons is found in Mark Pitsch, "Passing the Buck: Down and Out in D.C.," *State Government News*, November, 1991, page 22.

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state -- is estimated at $31.9 million for the federal fiscal year.[3]) Furthermore, the federal government, through the imposition of unfunded mandates, has shifted the cost of government services to state and local levels, thus focusing voter wrath on state and local officials instead of on federal officials.

Federal mandates do not necessarily constitute bad public policy. Sometimes they accelerate state or local action on issues that might be arguably in the nation's, states', and communities' best interests. However, federal mandates can force states and localities to fund programs that are not necessarily priorities for them, or that do not fit within their overall strategies.

What forms do federal mandates assume and what are examples of such mandates? There are three broad types of mandates: unfunded mandates, cooperative federal-state regulatory programs referred to as partial preemptions, and conditions of assistance.[4]

**I. Unfunded Mandates.** These mandates assume three forms: (1) direct mandates, (2) crosscutting requirements and, on rare occassions, (3) cross-over sanctions.

1. Direct mandates impose civil or criminal sanctions and do not make compliance contingent on the receipt of federal funds. An example is wastewater treatment standards promulgated under the Clean Water Act. Pursuant to K.S.A. 65-170d, civil penalties, in addition to criminal penalties, may be imposed on sewage treatment facilities for violations of conditions of sewage discharge permits, effluent and water quality standards, and other specified requirements. The state law was enacted to implement the federal law at the state level.

2. Crosscutting requirements are routinely imposed on not one but all relevant federally-funded programs. They typically regulate such areas as financial accounting practices, antidiscrimination, and minimum wage levels. Examples include Title VI of the Civil Rights Act of 1964, which bars discrimination in federally-assisted programs, and the Davis-Bacon Act, which sets minimum wage levels on federally-assisted construction projects.

3. Crossover sanctions impose penalties in one program area to force compliance in another. For example, the Highway Beautification Act of 1965 threatened to withhold highway construction funds if states did not comply with billboard control standards. A recent example is a provision in H.R. 2950, which requires enactment of state legislation by October, 1993, mandating motorcyclists to wear helmets. If a state fails to enact such legislation, it will lose a portion of its federal highway funding. In Kansas, helmets are currently mandatory only for persons under 18 years of age.

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[3] Martha A. Fabricius, "Fiscal Impact of Proposed Mandates from the 102nd Congress," *State-Federal Issue Brief*, Volume 4, Number 3, November, 1991. See Table 1.

[4] The discussion of types of mandates is taken from the introductory section of *Coping with Mandates: What are the Alternatives?*, ed. Michael Fix and Daphne A. Kenyon (Washington D.C.: the Urban Institute Press, 1990), pages 3-4.

**II. Partial Preemption Programs.** These are programs for which the federal government sets basic standards and can designate specific methods for their attainment. States that agree to meet minimum federal standards and demonstrate the capacity to do so are then delegated authority to administer programs on a day-to-day basis. States may exceed minimum federal standards but risk losing implementation authority if they fail to meet such standards. These mandates are considered partial preemptions since states lose some autonomy in complying with federal standards.

An example of a partial preemption program is the drinking water program resulting from the Safe Drinking Water Amendments of 1986. The federal government implemented drinking water quality standards and delegated implementation to the states. If a state or territory was unwilling or unable to undertake that role, the Environmental Protection Agency (EPA) implemented the program in that state or territory and directly regulated its public water supplies.

Kansas implements its own drinking water program. In FY 1992, the state received $535,000 in federal funds, matched with approximately $450,000 in state funds for this program. This match exceeded the 25 percent minimum required by the federal government. According to the Chief of the Water Supply Section, Kansas Department of Health and Environment, the EPA regulations are very prescriptive and are issued on an ongoing basis. There are 24 staff assigned to both this program and to water pollution control mandated by the Clean Water Act. Program operations include training, inspections, technical assistance, reviewing plans for water system and expansions, monitoring quality, compliance, and enforcement of over 80 standards adopted by the EPA. The 1,150 public water suppliers affected by the Act receive no direct federal or state funding and must pass on the costs to consumers to pay for compliance activities.

**III. Conditions of Assistance.** The great majority of mandates fall into this category. Conditions of assistance are directly related to implementing the legislative goals of the program to which they have been attached. If those conditions are not fulfilled, the federal government withholds federal support for that program. An example is the share of a municipality's bus fleet that must be accessible to the disabled to comply with federal law.

Another example of a mandate that falls under the category of "conditions of assistance" is Medicaid. Medicaid exacts a large portion of state funding in most states and that portion has been increasing rapidly. In general, the state share of Medicaid is increasing twice as fast as overall state spending. In 1970, Medicaid spending nationwide was 4 percent of all state spending. Now it consumes 14 percent. (In Kansas, it is approximately 9.3 percent of total state funds in FY 1992.)

**Medicaid.** Expansion of Medicaid programs is under consideration by the 102nd Congress in at least two bills. S.4 (Child Welfare and Preventive Services), which has a projected cost to states of $997 million in FFY 1992, would mandate, among other items, continuous Medicaid coverage of children under six years old for six months at a time, regardless of any changes to family income during that six-month period. That provision alone has an estimated cost to Kansas of $2.1 million in FFY 1992. Another bill, H.R. 290, would amend Title XIX of the Social Security Act with the goal of reducing infant mortality through improved coverage of services to pregnant women and to children. Under this bill, Medicaid coverage would be required for pregnant women and for children in families with incomes of up to 185 percent of federal poverty level. This provision would represent a fiscal impact of an additional $9 million to Kansas in FFY 1992.[5] Currently, states are

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[5] Same as Footnote Number 3.

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required to provide such coverage to pregnant women and to children in families with incomes of less than 150 percent of federal poverty level. The expansion to up to 185 percent of federal poverty level is currently a state option, which, to date, has not been exercised by Kansas.

Under Medicaid, initiatives are either federally mandated or left to state option. In both cases, the federal funding formula requires Kansas to come up with a state match of 41.2 percent of total costs in FY 1992 and 41.6 percent in FY 1993. Examples of state options have included, among others, certain preventive measures, such as optometry, dentistry, and community mental health services.

**Tennessee.** The State of Tennessee projected the cost of all federal mandates to the state from FY 1987 through FY 2002. Since 1986-1987, several major mandates were imposed by the federal government, including expanded services under the 1988 catastrophic health care law and the nursing home reform law, coverage of additional children under 1989 and 1990 laws, payment for premiums and deductibles for poor Medicare clients under a 1990 law, increase in the minimum wage for the nursing home program under a 1989 law, increases in the state's Medicaid match as the state's personal income increases, expansion of Medicaid eligibility under the 1988 welfare reform law, and drug purchasing reforms under a 1990 law. By FY 2002, when existing federal mandates will have been fully implemented, the Tennessee Budget Division estimates that Medicaid provisions imposed since FY 1987 will cost $178.6 million a year in recurring state appropriations from the General Fund. This projected expenditure is expected to comprise 79 percent of all state expenditures for federal mandates ($225.5 million) in FY 2002.[6]

What was the significance of Medicaid-related mandates and other federal mandates for Tennessee's budget? All federal mandates are estimated to cost the state $124.4 million in FY 1992. A presentation to NCSL (August, 1991) on the impact of Federal mandates on Tennessee noted that the state had to cut existing programs by a total of $286.2 million, including $119.5 million in K-12 education, in the FY 1992 budget. As noted in that presentation, the reduction was made to compensate for a shortfall in state tax revenues and to accommodate growth in expenditure requirements. It further noted that 43 percent of state budget cuts required in FY 1992 could have been avoided if federal mandates had not been imposed. What one cannot know from these statements is the extent to which services offered by federally-mandated programs would have been funded by the state, even if there had been no such mandates. No matter what position one takes concerning the merits of Medicaid or any other federally-mandated program, one would have to conclude that states lose some of their ability to set and control priorities when mandates dictate a large portion of their operations.

**Federal Preemptions.** Although not technically mandates, federal preemptions of state authority might be considered appropriate for this review. Like federal mandates, federal preemptions remove flexibility from states to develop their own policies and formulate solutions to identified problems. Examples of what are arguably federal preemptions assume usurpation by the federal government of areas that were historically in the state's domain and include such diverse activities as: prohibitions against the possession of "tommy guns"; a proposed prohibition against sports gambling in any state (1991 H.R. 74); requirements for employers to offer employees and their families the opportunity to pay for a temporary extension on their health coverage after that coverage

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[6] Information was taken from a section of Tennessee's budget document from FY 1991-1992 titled *Federal Mandate Costs and Federal Aid Trends*, pages A-33 through A-35. Obviously, if mandates are added or modified, these projections will likewise change.

has terminated; division of assets for purposes of medical assistance eligibility; labeling of artificial dairy products; and political preemptions, such as Congressional uses of what have been historically state revenue sources (cigarette, gasoline, liquor, and sales taxes) for federal purposes. Finally, the evolution from states' censuses to the federal census could be considered a type of preemption because multiple policy decisions, such as redistricting and funding allocations, have come to rely so extensively on federal census numbers. The result is that state censuses have become increasingly superfluous.

**Judicial Decisions.** The judicial branch has also contributed to a reduction of the states' policy flexibility in this area. For example, a 1985 decision by the U.S. Supreme Court (*Garcia v. San Antonio Metropolitan Transit Authority*) has had the effect of severely curtailing the ability of states and local entities to operate, without federal interference. In this case, the Metropolitan Transit Authority tried to use the Tenth Amendment to avoid paying certain wages and benefits to employees, bypassing provisions of the Fair Labor Standards Act.[7] In a sharply divided opinion, the Supreme Court held that the overtime and minimum wage requirements of the Fair Labor Standards Act could be imposed on a municipal entity without violating state sovereignty.

The issue of federal preemption underlies the decision of yet another U.S. Supreme Court decision -- *South Carolina v. Baker* (1988). South Carolina questioned the constitutionality of a section of the Tax Equity and Fiscal Responsibility Act of 1982, which conditions the exemption from federal income tax for municipal bonds on their registration. The Supreme Court held that the section did not violate the Tenth Amendment. By that decision the Supreme Court removed the Constitutional support for the exemption from federal income tax for municipal bonds.[8]

## Policy Questions

Local units of governments have concerns about state mandates similar to those of states about federal mandates. An interim report on intergovernmental mandates by the Virginia Joint Legislative Audit and Review Commission (JLARC; October 15, 1991) posed several policy questions which are directed primarily at state-local relationships but have been reformulated here to pertain to federal-state relationships. Policy questions under the "Issues" section below were not included in the JLARC interim report. Several questions which might be raised to assist a state in gauging the impact of federal mandates on its operations include:

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[7] The Tenth Amendment states: "The powers not delegated to the United State by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

[8] These two Supreme Court decisions were addressed by Senator W. Paul White, "Federalism and Creative Government, *Restoring Balance in the Federal System*, the Council of State Governments, 1989, pages 38-41. A chapter by Ralph Munro, "State Protection and the Tenth Amendment", in the same publication, notes that the type of "intrusion" exhibited by Congress in these cases is not prohibited by the Tenth Amendment. The author interpreted the Amendment as affirming the authority of Congress to act in such cases. See pages 30-32 for this discussion. Also see *Tax Administrators' News*, May 1988, p. 53 for a discussion of the *South Carolina v. Baker* decision.

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**Mandates**

1. What federal mandates are placed on the state government's activities?

2. To what extent do federal mandates impose a burden on the state government?

3. What process could be used to produce accurate fiscal impact estimates on the state government?

**State Resources**

1. What is the overall fiscal condition of the state?

2. Does the federal government provide adequate financial and technical assistance to the state government to enable it to meet service requirements of given mandates?

3. Does the state government have adequate resources to fund mandated services?

4. What are the implications for nonmandated state programs if the federal government fails to provide adequate support to the state for mandated programs?

**Issues**

1. Which federal mandates, if any, fit into the state's overall strategy, or correspond to the state's priorities?

2. For those mandates which neither fit into the state's overall strategy nor correspond to the state's priorities, what would the ramifications be for noncompliance?

3. If the ramifications for noncompliance are foregone federal revenues as well as foregone state matching funds, could the state still "come out ahead" if it creates its own program, which may be better suited to its particular needs?

## Solutions

Appendix I is an article titled "Mandate Strategies" (November, 1991), which describes several strategies currently implemented by legislatures across the country. These include: development of a budget tracking system (Tennessee); use of a special calendar to track and draw attention to federal mandates (Missouri House); assignment of mandate tracking and advocacy responsibilities to a specific legislative committee (Pennsylvania House Federal-State Relations Committee); issuing a newsletter to keep legislators informed about federal activities (Oklahoma

Senate); adoption of a resolution urging Congress to stop passing costs on to states (Oklahoma, Oregon, North Dakota, Maine, and New Hampshire); and having a study conducted on the effects of federal mandates on the state's budget (Maryland). A few of these strategies and others are discussed in greater detail below. These strategies need not be mutually exclusive.

1. **Budget Tracking System.** With the exception of the Tennessee Budget Division, budget divisions in all states, including Kansas, apparently do not disaggregate and monitor federal expenditures related to mandates as part of the ongoing budget process. The Legislature could consider amending statutes governing the Kansas Division of Budget's operations to require that this be done as an integral part of the process. A possible model is the procedure used by Tennessee. As part of its instructions for budget submittal, the Kansas Division of Budget could ask state agencies to submit data on mandated expenditures in a disaggregated format. This sounds easier than it most likely is because instructions to agencies need to be specific about what is meant by "federal mandate." For example, some programs were established years ago in response to federal mandates with corresponding federal support. However, over time the federal support was replaced by state funding. Would this still be considered a federally-mandated program? Should state moneys exceeding minimum federal mandate requirements be included in expenditures identified by state agencies? What federally-mandated expenditures have been shifted by states to local governments? The objective should be to receive data from state agencies which respond to the same set of definitional criteria.

2. **Study of Fiscal Impacts on Mandates.** An analysis of the fiscal impact of federal mandates on the state's budget could be undertaken by a legislative interim committee or by a university (as was done in Maryland). The Maryland study reviewed federal legislative and judicial actions which affected state operations and undermined state flexibility in raising revenues.[9] For example, federal court decisions on prison overcrowding and foster care staffing affect state expenditures. Congressional actions taken in 1990 to increase taxes for gasoline, alcohol, and cigarettes reduce state revenues ($3.6 billion over the next five years) and make it more difficult for states to tap into those revenue sources.

The Maryland study also analyzed the state's fiscal constraints and its FY 1992 budget from the perspective of federal entitlements and increased federal mandates and set forth recommendations. The study noted that federal mandates comprised approximately 10.5 percent of total expenditures; with the two major entitlements (Medicaid and welfare) federal mandates would comprise 24.2 percent of the State General Fund.

3. **Resolutions Appealing to Congress.** A resolution could be adopted to urge Congress to stop passing costs on to the states as was done in Oklahoma, Oregon, North Dakota, Maine, and New Hampshire. State legislators might also monitor various bills and resolutions introduced in Congress to eliminate or

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[9] Maryland's study is titled *Maryland's Declining Budget Options*, by Catherine I. Riley, prepared for the Conference on Maryland Tax Policy: Who Pays and Who Benefits, and sponsored by the Bureau of Governmental Research, University of Maryland, May 6, 1991.

restrict unfunded federal mandates. For example, 1991 House Concurrent Resolution No. 141 would express Congressional intent to make the adoption of new mandates contingent on the financial ability of state and local governments to implement the mandates. Other examples are 1991 H.R. 2260 and 1991 H.R. 1547, which would require federal government agencies to reimburse state and local governments for additional direct costs incurred by such governments in complying with federal mandates (excludes federal assistance programs).

4. **Intergovernmental Bill of Rights.** The Legislature could consider a bill or resolution which would: (a) express the idea that governments should regard each other as partners and not as special interests or lobbyists; (b) encourage governmental opposition to the enactment or imposition of unfunded mandates and support for the regulating entity to provide funding for its desired social and economic purposes; (c) include provisions for an intergovernmental financial impact statement for proposed mandates; and (d) express the intent of giving local governments discretion and authority to solve their problems locally. (The same criticism levied by states against the federal government -- that regulations by the federal government are too prescriptive -- is likewise offered by local governments against states.)[10]

5. **Mandate Tracking by Committee.** The Legislature might consider assigning the standing Federal and State Committees or other legislative committees the responsibilities of monitoring federal mandates and their implications and formulating recommendations with positions on those mandates which could be imparted by the Legislature to the Kansas Congressional delegation. In Pennsylvania, the House Federal-State Relations Committee is not assigned very much legislation but is delegated the authority by legislative rules to monitor federal mandates and develop a position on those mandates to relay to the Pennsylvania Congressional delegation. The Committee used to have its own federal mandate tracking system. It now relies, however, on a monthly report issued by NCSL which identifies mandates, lists bill sponsors, provides explanations of bills, and notes bill status. According to staff of the Committee, the Committee in the past took a reactive position to federal mandates but is currently making an effort to anticipate mandates and take a prospective position. "Prospective" in this context means developing fiscal impacts of proposed mandates on the state and working to make proposed federal legislation more flexible for states. In addition to federal mandates, the Committee staff reported growing interest in federal preemptions of states' rights, citing as an example a bill introduced in Congress prohibiting sports lottery.

6. **Changing One's Thinking About Governmental Roles.** Underlying all discussion about federal mandates and preemptions is the need to define the proper role of the federal and state governments and to communicate one's understanding of those roles to federal policymakers. One might argue that the role of federal government is to focus on global issues and the establishment of national goals

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[10] The idea of an "Intergovernmental Bill of Rights" was suggested by D. Michael Stewart, "Federalism: Again at Risk, "*Restoring Balance in the Federal System*, the Council of State Governments, 1989, pages 59-61.

to protect the environment, promote and protect the health and welfare of citizens, and others. Under this scenario, states should implement strategies to reach those goals. Consistent with this line of reasoning, the federal government should allow states the greatest flexibility in realizing federally-defined goals. With a proper understanding of federal and state roles, policymakers in Congress and in state legislatures will be better positioned to discuss and evaluate the implications of proposed legislation involving intergovernmental activities.

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# Mandate Stratagems

A few states are getting a handle on just how much federal mandates are costing them.

Martha A. Fabricius

The influx of federal mandates has Indiana fiscal officers "swearing under our breath, and in some cases right out loud," says Joe Loftus, the Republican fiscal analyst with the House Ways and Means Committee. He speaks for lawmakers in every state as they struggle with tight budgets made even tighter by federal dictates.

Experts agree that federal mandates have contributed to the present state budget crunch. It's expected to get worse. A recent NCSL report estimated that in 38 states the cost of just seven federal bills likely to pass in this session will be more than $1.6 billion.

Last year's federal budget agreement established new rules to help cut the national deficit. A "pay-as-you-go" requirement forces congressmen to come up with a specific pot of money to pay for any new program. So the temptation for federal lawmakers to pass on the expense to state and local governments is stronger than ever.

State lawmakers aren't taking this quietly. They want the public to know what federal mandates cost them, and they want their Washington counterparts to know that they're spreading the word. Their tactics include tracking systems, calendars, newsletters, resolutions and trips to Washington, D.C.

Tennessee has had one of the most involved approaches to tackling federal mandates. The state budget office analyzes every bill introduced in Congress. If a mandate shows up, the appropriate state agency determines the cost to the state. The information is catalogued and updated regularly. Once a bill passes, Tennessee officials continue to monitor its effect on the state budget. They know, for example, that by FY 2002, when legislation imposed since 1986 will be fully implemented, federal mandates will cost $225.5 million a year in recurring state appropriations from the general fund. Of the current expenditures, 79 percent or $178.6 million are for Medicaid.

The Missouri House uses a special calendar to track and draw attention to federal mandates. Every time the House votes on a bill because of a mandate, it goes on the calendar. Speaker Bob Griffin says the House started the calendar in January hoping to "put federal lawmakers on notice every time the state is forced to vote on something as a direct result of a federal requirement." It also helps the legislature get around its own bill limitation requirement.

In Pennsylvania, a federal-state relations committee analyzes federal mandates. Committee members have lobbied Congress on Pennsylvania's behalf and have made trips to Washington to voice concerns about Medicaid eligibility requirements, the new federal transportation bill and back-claim payments for foster care programs. Representative Italo Cappabianca, who chairs the committee, says, "The states are sort of like drug addicts. The federal government starts a program and states get addicted to the additional money and then the feds stop funding their share but require the states to continue running the program." When Congress mandates a program, federal funding should follow. If Congress drops support, states should be allowed to cancel the program, says Cappabianca.

The Oklahoma Senate has a 10-year-old weekly newsletter that keeps legislators up to date on federal activities. Editor Tom Clapper writes about pending federal legislation and proposed rules and regulations as well as proposed and enacted federal mandates. He says the newsletter was started under Senate President Pro Tem Marvin York "who was afraid of getting blindsided by the federal government."

Maine Speaker John Martin says that states have to keep hammering at their congressional delegations to consider the economy and state budgets when they vote on programs with a price tag. Oklahoma, Oregon, North Dakota, Maine and New Hampshire all passed resolutions this year urging Congress to stop passing costs on to the states.

Other states have sent members to Washington, D.C., to meet face-to-face with their congressmen. When the congressional Sunbelt Caucus met recently, state legislators from 17 Southern states came along to discuss federal mandates and health, transportation and environmental concerns as well as the recently proposed new block grant. Mississippi Speaker Tim Ford calls the meeting a "first step in slowing down the infiltration of federal mandates on state budgets." It was also worthwhile, he says, "because now legislators realize that their congressional delegations are willing to listen to their concerns and do recognize the impact of congressional decisions on the state."

Unfortunately, most states don't keep official count of how much their budgets are affected by federal mandates. Former Maryland Senator Catherine Riley was asked by the University of Maryland to conduct a study on the effect of federal mandates on the state's budget. "I assumed that I would go to the library and look up the information and write a paper," she said. But the figures weren't there. Riley spent three months poring over the state budget and found that 24.2 percent of Maryland's $6.5 billion budget is spent on programs mandated by Congress. Again, Medicaid is the biggest culprit, growing at a 12.5 percent rate during each of the last three years. The trend of placing the responsibility for funding costly federal programs in the hands of the states is not going to stop until state lawmakers become aggressive in heading it off, says Tennessee Senator Douglas Henry. As of early September, more than 115 bills had been introduced in Congress that would make the states pay for programs designed at the federal level. "Only through creative actions can states begin to defend themselves," Henry says.

Martha A. Fabricius tracks federal mandates for NCSL. She is editor of the *Hall of the States Mandate Monitor*, which is available from NCSL's Marketing Department, 303/830-2200.

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Kansas Department of Social and Rehabilitation Services

Legislative Testimony on Federal Mandates
January 30, 1992

Prepared for House, Federal and State Affairs Committee

Secretary Donna Whiteman

I want to thank the Committee for the opportunity to speak to the issue of federal legislative mandates. Such mandates have had a pronounced impact on the benefits and operation of our Department in recent years.

I have attached a list of the major federal mandates imposed upon SRS programs over the last six years. As you can quickly see, the Medicaid program has been the principle focus of Congressional mandates. Within Medicaid the one mandate that stands head and shoulders above the rest is the requirement that younger children and pregnant women receive Medicaid coverage if their families are below specific percents of the federal poverty level. Also attached is a profile of the evolution of this mandated coverage. Note that the first liberalization of Kansas policy in this area came one year prior to Congressional passage of the mandate.

Many of the other mandates listed under Regular Medical Assistance were also created to directly or indirectly address the national focus on improving our infant mortality and early childhood development picture. The United States infant mortality and low birth weight situation is among the worst when compared to other industrialized nations. Item #2 on the attached list was created to insure that when a physician diagnosed early health problems in a child he or she was not impeded by state Medicaid coverage policies in ordering appropriate remedial treatment. Item #4 was an attempt to insure that each state's payment rates for Obstetric and Pediatric care was competitive with rates of other third party payors and covered the physicians cost of doing business. This is especially critical in the Obstetrics area where poor pregnant women are often considered higher legal risks and more difficult patients because of patterns of behavior adversly affecting birth outcomes.

The Adult Care Home mandates of the last 6 years have naturally focused on improved patient care. These include more active involvement of staff in the care of the mentally retarded, better trained health care aides, and a greater presence of professional nursing staff. Also among these mandates are several eligibility related matters, including #16, the highly publicized Division of Assets law. I should note that in this case too, Kansas enacted its own Division of Assets legislation one year in advance of Congressional action.

In the area of welfare assistance, the major federal initiative was

House Federal and State Affairs
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Attachment #2

the enactment of the Job Opportunities and Basic Skills (JOBS) program in 1989. Once again Kansas had already begun a nearly identical work and training program for cash assistance recipients in select counties a year earlier.

Child Support Enforcement legislation has been on the front burner in Congress for over a decade. Many of the mandates imposed upon states are in keeping with the goals of the states and are often self-funding. Our main problem with these mandates is that they have often taken away our freedom to set our own child support priorities.

While the goals of most of these mandates are difficult to argue, they have often required reallocation of static revenue, human resources, and technology. Recent proposals to severely restrict the General Assistance and MediKan programs are more than casually related to the fiscal demands of these mandates. It seems now that the price of these mounting mandates will be covered by the receipt of substantial amounts of disproportionate share funds. However, due to recent actions by Congress this revenue will not rise further. We are capped at our present level of reimbursement. Other revenue sources to maintain the rising cost of Medical care and job program efforts will need to be developed for FY 1994 and beyond or other SRS programs will be adversely affected.

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# Estimated Present Cost of Major Federal Mandates Created Since 1986

**Kansas Department of Social and Rehabilitation Services**

***Division of Management Services***

| | FY When Begun: | Program—Issue | Estimated Present Cost State | Federal | All Funds |
|---|---|---|---|---|---|
| | | Medical—Regular Assistance | | | |
| 1 | 1989 | Expanded Coverage of Pregnant Women and Children | $19,800,000 | $28,200,000 | $48,000,000 |
| 2 | 1990 | No Coverage Limits on Kan Be Healthy Children | 3,500,000 | 5,000,000 | 8,500,000 |
| 3 | 1991 | Open Formulary in Medicaid Pharmacy Coverage | 3,300,000 | 4,700,000 | 8,000,000 |
| 4 | 1990 | Minimum OB and Pediatric Rates | 3,300,000 | 4,700,000 | 8,000,000 |
| 5 | 1990 | 12 Months Med Asst to AFDC Client Obtaining Employment | 2,800,000 | 4,000,000 | 6,800,000 |
| 6 | 1988 | Disproportionate Share Payments to General Hospitals | 650,000 | 950,000 | 1,600,000 |
| 7 | 1989 | Qualified Medicare Beneficiary Coverage (QMB) | 600,000 | 900,000 | 1,500,000 |
| 8 | 1990 | Continuous Eligibility for Pregnant Women & Infants | 550,000 | 750,000 | 1,300,000 |
| 9 | 1991 | On-site Eligibility Staff required in Certain General Hospitals | 250,000 | 300,000 | 550,000 |
| 10 | 1989 | Various Medicare-related Changes Affecting Medicaid | 200,000 | 300,000 | 500,000 |
| 11 | 1988 | Emergency Medical Services to Illegal Aliens | <40,000 | <60,000 | <100,000 |
| 12 | 1990 | Continued M'Caid to Formerly SSA/SSI Disabled (QWD) | <40,000 | <60,000 | <100,000 |
| 13 | 1988 | Limited Medical Services to Illegal Aleins in Amnesty Prgm | <40,000 | <60,000 | <100,000 |
| | | Total, Reg Med | $35,070,000 | $49,980,000 | $85,050,000 |
| | | Medical—Adult Care Homes (ACH) | | | |
| 14 | 1986 | Reimbursement of ICF-MR for Active Treatment | $2,500,000 | $2,500,000 | $5,000,000 |
| 15 | 1989 | 24 Hour Nursing Coverage in Nursing Facilities (NF) | 2,100,000 | 1,500,000 | 3,600,000 |
| 16 | 1989 | Division of Income/Assets for Well Spouse/Dependent | 1,500,000 | 1,500,000 | 3,000,000 |
| 17 | 1990 | Shift of VA Nursing Home residents to Medicaid | 1,100,000 | 1,100,000 | 2,200,000 |
| 18 | 1986 | Account for Re-Evaluation of NF's/ICF'sH Assets in Rate Setting | 1,000,000 | 1,000,000 | 2,000,000 |
| 19 | 1989 | Expanded Training of Adult Care Home Nurse Aides | 700,000 | 800,000 | 1,500,000 |
| 20 | 1988 | Combining SNFs and ICFs for Aged into "Nursing Facilies" | 500,000 | 600,000 | 1,100,000 |
| 21 | 1989 | Medical Director/Social Worker Required in Nursing Facilities | 400,000 | 400,000 | 800,000 |
| 22 | 1989 | Mandated Increase in ACH Personal Needs Allowance to $30 | 400,000 | 340,000 | 740,000 |
| 23 | 1989 | Standardized Patient Assessments in Adult Care Homes | 250,000 | 250,000 | 500,000 |
| | | Total, ACH | $10,450,000 | $9,990,000 | $20,440,000 |
| | | Cash Assistance and Related Work Programs | | | |
| 26 | 1989 | KanWork and Other Federally-Mandated Work Activities | $7,100,000 | $11,100,000 | $18,200,000 |
| 27 | 1989 | Increased Earnings Disregard for Working AFDC Clients | 350,000 | 450,000 | 800,000 |
| 28 | 1990 | Eliminate Ks Penalty for AFDC Client Voluntarily Quitting Job | 300,000 | 400,000 | 700,000 |
| 29 | 1989 | Eliminate Earned Income Credit in AFDC Grant Calculation | 180,000 | 220,000 | 400,000 |
| | | Total, Cash/Work Prgms | $7,930,000 | $12,170,000 | $20,100,000 |
| | | Child Support Enforcement | | | |
| 30 | 1992 | Mandated Changes to Collection Processing/Distribution System | $1,000,000 | $1,000,000 | $2,000,000 |
| 31 | 1986 | Expansion of Legal Collection Avenues | 600,000 | 1,100,000 | 1,700,000 |
| 32 | 1986 | Pass Thru First $50 of AFDC Collections to Family | 750,000 | 750,000 | 1,500,000 |
| 33 | 1989 | Expanded Requirements on Collection of Medical Costs | 200,000 | 500,000 | 700,000 |
| 34 | 1992 | Modification of Support Orders when Circumstances Change | 250,000 | 250,000 | 500,000 |
| | | Total, CSE | $2,800,000 | $3,600,000 | $6,400,000 |
| | | Social Services | | | |
| 35 | <1986 | Prohibition on Juveniles in Adult Jails | $1,300,000 | $0 | $1,300,000 |
| 36 | 1992 | No FFP for FC/AS Rate Increases in Certain Years | 430,000 | 0 | 430,000 |
| 37 | 1992 | Increased Med/Education Documentation in FC Case Record | 120,000 | 180,000 | 300,000 |
| | | Total, Soc Serv | $1,850,000 | $180,000 | $2,030,000 |
| | | Administrative Costs | | | |
| 38 | 1993 | Americans with Disabilities Act | $100,000 | $100,000 | $200,000 |
| XX | NA | 10% of Above for Staff, Contractors, Systems, etc | 9,327,000 | 12,600,000 | 21,927,000 |
| | | | $9,427,000 | $12,700,000 | $22,127,000 |
| | | | $67,527,000 | $88,620,000 | $156,147,000 |

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# GROWTH OF SPECIAL PREGNANT WOMEN/CHILDREN MEDICAID COVERAGE

**Kansas Department of Social and Rehabilitation Services**
***Division of Management Services***

## Fiscal Year 1989

| | Persons | Expenditures |
|---|---|---|
| JUL 88 | 677 | $1,694 |
| AUG 88 | 1,076 | 72,874 |
| SEP 88 | 1,351 | 205,537 |
| OCT 88 | 1,425 | 288,490 |
| NOV 88 | 1,405 | 278,240 |
| DEC 88 | 1,388 | 287,881 |
| JAN 89 | 1,310 | 294,389 |
| FEB 89 | 1,187 | 269,294 |
| MAR 89 | 1,347 | 418,547 |
| APR 89 | 1,614 | 347,853 |
| MAY 89 | 1,884 | 378,472 |
| JUN 89 | 2,147 | 401,114 |
| | 16,811 | $3,244,385 |

*Kansas began voluntary coverage of pregnant women and children THRU age 1 whose family income was below 100% of the federal poverty level.

## Fiscal Year 1990

| | Persons | Expenditures |
|---|---|---|
| JUL 89 | 3,166 | $583,791 |
| AUG 89 | 3,705 | 552,376 |
| SEP 89 | 4,478 | 1,282,299 |
| OCT 89 | 4,815 | 1,170,717 |
| NOV 89 | 4,942 | 1,348,738 |
| DEC 89 | 5,035 | 1,402,625 |
| JAN 90 | 5,397 | 1,495,843 |
| FEB 90 | 5,365 | 1,917,055 |
| MAR 90 | 6,416 | 2,915,318 |
| APR 90 | 7,493 | 2,064,056 |
| MAY 90 | 8,209 | 2,222,673 |
| JUN 90 | 8,860 | 1,248,811 |
| | 67,881 | $18,204,302 |

*Kansas raised it's coverage limits to the following effective July, 1 1991. These limits were at or above the initial federally–mandated levels :

Pregnant Women if family income below 150% of FPL.
Children UNDER age 1 if family income below 150% of FPL.
Children age 1 THRU age 4 if family income below 100% of FPL.

*To conform with amended federal legislation coverage changed to the following effective April 1, 1990 :

Pregnant Women if family income below 150% of FPL.
Children UNDER age 1 if family income below 150% of FPL.
Children age 1 THRU 5 if family below 133% of FPL.

## Fiscal Year 1991

| | Persons | Expenditures |
|---|---|---|
| JUL 90 | 9,045 | $3,624,540 |
| AUG 90 | 9,527 | 2,889,081 |
| SEP 90 | 9,689 | 2,192,091 |
| OCT 90 | 9,885 | 2,269,437 |
| NOV 90 | 10,556 | 2,918,838 |
| DEC 90 | 10,688 | 1,965,832 |
| JAN 91 | 9,588 | 1,815,362 |
| FEB 91 | 10,588 | 2,959,905 |
| MAR 91 | 11,143 | 2,554,804 |
| APR 91 | 13,306 | 2,715,342 |
| MAY 91 | 13,375 | 3,713,460 |
| JUN 91 | 13,696 | 2,527,181 |
| | 131,086 | $32,145,873 |

* Only change in FY 91 was update to federal poverty levels effective April 1, 1991.

## Fiscal Year 1992

| | Persons | Expenditures |
|---|---|---|
| JUL 91 | 13,560 | $2,394,896 |
| AUG 91 | 14,768 | 3,325,643 |
| SEP 91 | 15,238 | 2,777,736 |
| OCT 91 | 15,670 | 3,377,123 |
| NOV 91 | 16,658 | 3,954,736 |
| DEC 91 | 16,594 | 3,120,388 |
| JAN 92 | 17,728 | 3,711,653 |
| FEB 92 | | |
| MAR 92 | | |
| APR 92 | | |
| MAY 92 | | |
| JUN 92 | | |

*To conform with federal legislation coverage changed to the following effective July 1, 1991:

Pregnant Women if family income below 150% of FPL.
Children UNDER age 1 if family income below 150% of FPL.
Children age 1 THRU 5 if family below 133% of FPL.
Children age 6 THRU 18, IF BORN AFTER 10/1/83,
if family income is below 100% of FPL.

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STATE OF KANSAS

DIVISION OF THE BUDGET
Room 152-E
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# MEMORANDUM

TO: Representative Kathleen Sebelius, Chairperson
House Committee on Federal and State Affairs

FROM: Gloria M. Timmer, Director of the Budget

DATE: January 23, 1992

SUBJECT: Federal Mandates

Attached is a preliminary draft of a memorandum providing essential information on mandates imposed on the State of Kansas by the federal government. Included is a brief description of the provisions of the mandate for applicable programs within each state agency, including actual or estimated federal funds and matching state funds. This memo represents only an initial effort to identify federal mandates and describe their budgetary effect for the state. As the memo develops, others may be added, and revisions will be made so that, ultimately, a complete accounting will be made of federal mandates.

Your comments and suggestions to enhance the usefulness of this document are welcome.

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**Department of Social and Rehabilitation Services**

The Department of Social and Rehabilitation Services administers a variety of programs funded by the federal government. Most of these programs require state financial participation as a condition of participation. Also, specified client groups must be served and certain services must be provided. The broad scope and growth of these welfare and health programs require large expenditures over which the state has little control.

| | FY 1992 | | FY 1993 | |
|---|---|---|---|---|
| | State Funds | Fed. Funds | State Funds | Fed. Funds |
| Medicaid | | | | |
| Regular | $125,348,176 | $172,077,481 | $143,081,536 | $200,450,811 |
| Nursing Homes | 92,616,973 | 122,577,801 | 100,570,764 | 131,762,521 |
| AFDC | 48,538,089 | 68,211,911 | 52,034,412 | 72,915,588 |
| Matched Admin. | 21,367,415 | 30,444,940 | 22,348,565 | 31,425,653 |
| AFDC Foster Care | 6,182,095 | 10,231,022 | 7,375,646 | 10,402,174 |
| Job Prep. Serv. | 8,274,248 | 22,314,068 | 14,094,965 | 27,688,256 |
| Vocational Rehab | 3,779,452 | 15,047,295 | 3,931,385 | 15,343,084 |
| Food Stamp Admin | 669,527 | 6,295,740 | 740,816 | 6,667,343 |
| Total | $306,775,975 | $447,200,258 | $344,178,089 | $496,655,430 |

**Medicaid Regular Medical.** The acceptance of Medicaid funding requires states to provide matching funds and cover specified clients and services.

**Medicaid Nursing Homes.** Most of the clients covered in Kansas are in an optional medically needy group. Matching funds are required.

**AFDC.** Federal funding is contingent on a state match and on the coverage of specified income eligible clients.

**Matched Administration.** Funding for the administration of Medicaid and AFDC comes from state and federal sources. The funding includes mandated Child Support Enforcement activities.

**AFDC Foster Care.** A state match is required for foster care placement of eligible children.

**Job Preparation Services.** Federal mandates require the state to participate in provisions of federal welfare reform legislation. AFDC and Food Stamp funding is contingent on this participation.

**Vocational Rehabilitation.** State participation is contingent on matching funds.

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**State Mental Health Hospitals**

Although participation in federal Medicare and Medicaid programs is optional, receipt of Title XIX funds by the state hospitals requires prior certification from the Joint Commission on the Accreditation of Hospitals and the Health Care Financing Authority (HCFA). Private insurance companies also require HCFA certification and Joint Commission accreditation before providing reimbursement for hospital services. It could be assumed that the hospitals meet the minimum staffing requirements to retain certification and accreditation, so that the State General Fund portion is the state share provided to participate in federal programs. The following details the Governor's recommendation by fund for the four state mental hospitals.

FY 1992:

| | SGF | Title XIX | General Fees |
|---|---|---|---|
| Larned | $20,900,953 | $7,995,357 | $1,406,384 |
| Osawatomie | 12,052,145 | 7,047,097 | 1,951,610 |
| Rainbow | 1,617,418 | 2,877,105 | 305,820 |
| Topeka | 8,823,594 | 7,759,714 | 4,658,481 |

FY 1993:

| | SGF | Title XIX | General Fees |
|---|---|---|---|
| Larned | $20,481,786 | $8,688,362 | $1,384,700 |
| Osawatomie | 10,256,640 | 7,047,097 | 1,555,964 |
| Rainbow | 1,641,984 | 3,001,339 | 234,115 |
| Topeka | 8,087,827 | 8,620,298 | 5,544,374 |

**State Mental Retardation Hospitals**

In order for the mental retardation (MR) hospitals to receive federal reimbursement, the hospital must meet Health Care Financing Authority (HCFA) requirements based on inspections conducted by the Kansas Department of Health and Environment. The hospitals receive a per client reimbursement based on costs from the previous year. The federal government reimburses the state for its costs at a rate of approximately 59 percent of costs. The state bears the other 41 percent. The state is not mandated by federal law to offer these services to the mentally retarded; however, if the state wished to received federal monies, its services must meet federal requirements.

| | FY 1992 Gov Rec | FY 1993 Gov Rec |
|---|---|---|
| KNI: | | |
| Medicaid Title XIX | $12,231,942 | $12,580,480 |
| State General Fund | 11,416,969 | 11,104,943 |

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| | | |
|---|---|---|
| Parsons: | | |
| Medicaid Title XIX | $9,491,442 | $9,817,044 |
| State General Fund | 7,518,484 | 7,420,257 |
| Winfield: | | |
| Medicaid Title XIX | $15,030,162 | $14,972,598 |
| State General Fund | 13,484,179 | 13,535,210 |

**Human Rights Commission**

The Kansas Human Rights Commission is required by state law (not federal law) to investigate all complaints filed with the commission. If state laws are found to be substantially equivalent to federal law, then the federal government relinquishes jurisdiction to the state. In this situation, the state is able to contract with the federal government to handle these cases. The federal government reimburses the state on a fixed dollar amount per case with the amount and number of cases stipulated in the contract. The contract, of course, requires that the state follow certain procedures in its investigation of the complaint. These contracts are reviewed and renewed annually.

Note that Kansas' law is broader in scope covering more types of discrimination than the federal law. For this reason, not all cases are reimbursable. There is no required State General Fund match. In theory, the Kansas Human Rights Commission could be abolished and the laws repealed without breaking any federal law. The only federal requirement that the state operates under is the annual contract.

| | FY 1992 Gov Rec | FY 1993 Gov Rec |
|---|---|---|
| Federal contracts | $ 447,814 | $ 493,788 |
| State General Fund | 1,056,294 | 1,050,686 |

**Department on Aging**

According to the Department on Aging, the Department is required by the Older Americans Act (OAA) to "develop a comprehensive and coordinated system of supportive services, including nutritional service and administer through an area plan on aging the following grant programs: congregate nutrition service, home-delivered nutrition service, supportive social service and senior centers, in-home services for frail elderly, and prevention of abuse, neglect and exploitation of older individuals." The Department goes on to indicate that the mandates of the OAA are intended to enhance the independence and dignity of older Americans.

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The Department outlines the various requirements in the following areas: social services and senior centers, Eldercare Volunteer Corps and Project Care, Job Training and Partnership Act (JTPA) and Senior Community Service Employment Program, legal assistance, information and referral, planning, disabilities, adult abuse, advocacy, mental health, equal employment opportunity, long term care, and long term care ombudsman.

The Kansas Department on Aging provides a variety of program and nutrition grants to area agencies on aging. The federal monies received for these programs carry various State General Fund match requirements.

| | FY 1992 Gov Rec | FY 1993 Gov Rec |
|---|---|---|
| Older Americans Act | $8,607,334 | $8,420,654 |
| JTPA-Older Workers | 213,383 | 213,383 |
| Sr. Comm. Employ. Prog. | 816,090 | 819,339 |
| State General Fund | 2,272,721 | 2,858,868 |

**Department of Human Resources**

Federally-mandated programs administered through the Kansas Department of Human Resources are discussed below. The actual funding structure of each program for FY 1992 and FY 1993 is broken down.

**Unemployment Insurance Program.** Federal authorizing statutes may be found in Titles III and IX of the Social Security Act and in the Federal Unemployment Tax Act. These statutes require that each state establish an unemployment insurance (UI) program which conforms to federal statutes, rules, and regulations. States that maintain conformity with federal statute ensure continued federal funding and employer off-set provisions for their unemployment insurance program.

Funds for administration of the Unemployment Insurance program at the state level are generated by the Federal Unemployment Tax Act (FUTA) collected from employers through the U.S. Internal Revenue Service. Federal funding for administrative costs are distributed to states in the form of Employment Security Grants.

Unemployment insurance benefits are paid out of each state's UI Trust Fund, the management of which is overseen by the U.S. Department of Labor. In the Kansas Department of Human Resources, the Director of Employment Security administers the collection of employer contributions (taxes) and payment of unemployment insurance benefits to and from the trust fund, as authorized in the Kansas Employment Security Law (KSA 44-701 et seq.). Federal grants to the Kansas UI Trust Fund represent 3.0 percent of the total benefit funding.

Special benefit programs passed by the federal government, such as extended unemployment insurance benefits, are often funded using state trust monies and then are reimbursed with federal grants. Fines, penalties, and interest levied by the state against delinquent, taxpaying employers are deposited into the Special Employment Security Fund, from which expenditures are not regulated by the federal government.

| | FY 1992 | FY 1993 |
|---|---|---|
| Operating Expenditures: | | |
| Spec. Empl. Security Fund | $ 55,000 | $ 55,000 |
| Federal Grants | 14,447,870 | 15,017,000 |
| Total | $ 14,502,870 | $ 15,072,000 |
| UI Benefits: | | |
| State UI Trust Funds | $187,000,000 | $187,000,000 |
| Federal Grants | 6,000,000 | 6,000,000 |
| Federal Reimbursement | 5,000,000 | -- |
| Total | $198,000,000 | $193,000,000 |

**Job Service.** The Wagner-Peyser Act of 1933, as amended by the Job Training Partnership Act (PL 97-300), requires states to provide job placement services for men, women, and youth with special priority given to veterans. Job Service is required to maintain a national network to clear employer job openings statewide and between states using a computerized job bank.

Federal funding for administration of the program is based two-thirds on the state's percentage of the national civilian labor force and one-third on the state's percentage of the national number of unemployed. A "hold harmless" provision allows no state to lose more than 10.0 percent of its previous year allocation.

| | FY 1992 | FY 1993 |
|---|---|---|
| Operating Expenditures: | | |
| State Funds | $ -- | $ -- |
| Federal Grants | 6,950,452 | 7,250,000 |
| Total | $ 6,950,452 | $ 7,250,000 |

**Job Training Partnership Act.** The Job Training Partnership Act (JTPA) of 1982 replaced the Comprehensive Employment and Training Act. Its purpose is to provide federal funds at the local level for the creation of effective job training programs. JTPA provides funds so that low income, unemployed youth, and adults can gain skills for use in the private sector.

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Under JTPA law, the Governor must appoint a Council on Employment and Training, which in turn recommends the size and layout of substate Service Delivery Areas (SDAs) to the Governor. Private Industry Councils (PICs) are appointed by local elected officials once the SDAs are established. The PICs oversee activities for their respective Service Delivery Area and work in partnership with the private sector to develop and implement job training services.

The Kansas Department of Human Resources acts as the coordinator and distributor of JTPA funds among the SDAs. State goals and priorities are set by the Governor; however, programs are designed and carried out locally.

| | FY 1992 | FY 1993 |
|---|---|---|
| Operating Expenditures: | | |
| State Funds | $ -- | $ -- |
| Federal Grants | 3,903,241 | 4,063,503 |
| Subtotal | $ 3,903,241 | $ 4,063,503 |
| Other Assistance: | | |
| State Funds | $ -- | $ -- |
| Federal Grants | 11,200,000 | 11,200,000 |
| Total | $ 15,103,241 | $ 15,263,503 |

**Occupational Safety and Health Administration (OSHA) Laws.** It is mandatory that OSHA laws be enforced; however, it is not mandatory for the state to act as the enforcement entity. The Kansas Department of Human Resources could choose not to renew its On-Site Consultation Contract and allow federal OSHA officials to take over inspection and enforcement duties, but the result would be higher costs and penalties for Kansas industries.

The federal government "encourages" states to assume oversight responsibilities through funding and regulation incentives. Most small employers cannot afford to hire consultants to evaluate their workplace for safety hazards. Therefore, the federal government makes funds available to the states to provide such a service at no cost to the employers. States that take part in the program are required to provide 10.0 percent of total funding.

Upon request from employers, the state provides inspection and consultation services. Under the federal-state contractual agreement, employers who request review by state inspectors will receive a one-year reprieve to correct any OSHA violations that are found before being subject to federal fines or penalties. Should the state drop its inspection and enforcement role, then any OSHA violations by employers would be immediately penalized upon discovery by federal inspectors.

| | FY 1992 | FY 1993 |
|---|---|---|
| Operating Expenditures: | | |
| State General Fund | $ 33,839 | $ 29,302 |
| Federal Grants | 338,392 | 293,024 |
| Subtotal | $ 372,231 | $ 322,326 |

**Department of Health and Environment**

The Department of Health and Environment administers several federally-mandated programs. In most cases, federal funding is contingent upon the appropriation of state match funding. In recent years, the number of programs mandated by the federal Environmental Protection Agency has increased, and this trend is expected to continue.

**Medicare.** The Department inspects health facilities and licenses certain health practitioners for compliance with Medicare standards. The Department is reimbursed for these services.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ -- | $ -- |
| Federal Funds | 1,366,674 | 1,429,393 |

**EPA Air Quality.** This federal fund and the required 25.0 percent state match provide most of the funding for the state's air quality program. In compliance with the federal Clean Air Act, the program issues permits to air pollution sources, monitors emissions, and enforces regulation compliance.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 236,449 | $ 239,621 |
| Federal Funds | 945,797 | 958,487 |

**EPA Water Supply.** To assist and monitor public water supplies' compliance with the federal Safe Drinking Water Act, the federal government provides grants with a 25.0 percent matching requirement.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 130,660 | $ 147,280 |
| Federal Funds | 522,639 | 589,118 |

**EPA Hazardous Waste.** In compliance with the federal Resource Conservation and Recovery Act, the state operates its hazardous waste program, which permits and inspects facilities storing, treating, or disposing of hazardous wastes. Receipt of federal funding is contingent upon a 25.0 percent state match.

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| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 187,237 | $ 224,697 |
| Federal Funds | 748,948 | 898,787 |

**EPA Underground Injection Control.** The Bureau of Water permits and inspects all underground injection wells, except those used for oil and gas, for compliance with the standards set by the federal Safe Drinking Water Act. Included are underground injection wells used for liquid petroleum gas, hazardous waste, and salt solution mining. Federal funding requires a 25.0 percent state match.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 44,801 | $ 46,542 |
| Federal Funds | 179,202 | 186,168 |

**EPA 106 Water Pollution Control.** In compliance with the National Pollution Discharge Elimination System, the Department permits and monitors municipal and private sewage systems and industries which discharge into surface streams and rivers. The maintenance of effort required, which is based on a federal fiscal year, translates to approximately a 27.0 percent state match.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 250,790 | $ 301,492 |
| Federal Funds | 928,850 | 1,116,638 |

**Underground Storage Tank Regulation.** Underground storage tanks containing petroleum products and regulated chemicals are permitted and regulated by the Department. The Department's standards comply with those of the federal Resource Conservation and Recovery Act. Receipt of federal funding is contingent upon a 25.0 percent state match.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 46,382 | $ 46,455 |
| Federal Funds | 185,528 | 185,821 |

**PCB Compliance Inspection.** The federal Environmental Protection Agency, under the authority of the Resource Conservation and Recovery Act, provides grants to inspect facilities which store, treat, or dispose of polychlorinated biphenyls (PCB). A state match of 25.0 percent is required.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 28,875 | $ 27,186 |
| Federal Funds | 115,500 | 108,745 |

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**Surface Mining Control and Reclamation.** In compliance with the federal Mined-Land Conservation and Reclamation Act, the Department permits and inspects active surface coal mines. The state matching requirement is 50.0 percent.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 74,192 | $ 198,528 |
| Federal Funds | 148,383 | 397,056 |

**Abandoned Mine Reclamation.** Federal funding is provided for the remediation of environmental problems associated with past mining practices. Although a state match is not required, grant eligibility is contingent upon the state receiving a Surface Mining Control and Reclamation grant.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ -- | $ -- |
| Federal Funds | 2,603,298 | 2,463,187 |

**Department of Education**

Local schools are required to meet a significant number of safety, environmental, and accessibility mandates, many of which are not specifically reimbursed through state aid. These mandates, however, increase the cost of educating every school child in the state. Two mandates with specific state aid reimbursement are special education services and school bus safety requirements. The state cost estimates provided are based on the Governor's recommendation for per pupil weighting in FY 1993.

**Special Education.** Local school districts are mandated to provide free appropriate education to children with special needs as defined by the Education of the Handicapped Act. The state's reimbursement to the local schools is as follows.

| | FY 1992 | | FY 1993 | |
|---|---|---|---|---|
| | SGF | All Funds | SGF | All Funds |
| Special Education | $112,775,000 | $112,775,000 | $6,837,624 | $112,931,865 |

**School Bus Safety.** The federal government establishes specific safety requirements for busses, including a mandate to remove pre-1977 busses from operation. The estimate for the costs of these requirements reimbursed through state aid is shown below.

| | FY 1992 | | FY 1993 | |
|---|---|---|---|---|
| | SGF | All Funds | SGF | All Funds |
| Transportation Aid | $1,031,000 | $1,031,000 | $ 832,414 | $1,082,550 |

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## State Library

**Library Services and Construction Act Title I Funding.** Federal funding is designated for basic operating support to public libraries. Budgeted state funding represents the required maintenance of effort.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 877,118 | $ 877,118 |
| Federal Funds | 994,801 | 974,499 |

## Regents' Institutions

The state's universities must comply with the requirements of numerous federal laws. Meeting these requirements results in the expenditure of significant amounts of staff time. The following summarizes those laws with the most significant requirements. Several of these laws will also impact other state agencies.

**Immigration Control and Reform Act.** Employers are required to maintain evidence of legal work status for each employee.

**Drug-Free Work-Place Act.** Employers are required to provide employees with information about health risks associated with drugs and alcohol abuse. Employers must develop a drug policy and inform new employees that, as a condition of employment, they must abide by the terms of the policy.

**Fair Labor Standards Act.** The Act concerns minimum wage administration, child labor restrictions, overtime compensation, equal pay administration, and recordkeeping. The Act was extended to apply to institutions of higher education in 1987.

**Americans with Disabilities Act.** This Act requires reasonable accommodations to be made for students and employees with physical disabilities. This policy has required access modifications, employment of sign language interpreters, readers, note takers, and shuttle services. The cost for facility modification is limited to $35,000.

**Financial Aid.** Universities must provide entrance and exit interviews for students receiving federal student aid and must document the student's status. Several programs have matching requirements. The Supplemental Educational Opportunity Grant Program requires a match of 15.0 percent state funds. The Perkins Loan Program requires a 10.0 percent match. The College Workstudy Program requires a 30.0 percent match.

**Crime Statistics Reporting.** A recent federal act now requires universities to gather and report crime statistics.

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**Equal Employment Opportunity.** Universities must document to the Department of Labor that they are in compliance with federal equal opportunity requirements.

## Historical Society

**Historic Preservation.** The Historical Society receives federal funds through the National Historic Preservation Act. The amount received requires a 50/50 match with state funds for operating expenditures.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 158,537 | $ 161,789 |
| Federal Funds | 158,537 | 161,789 |

## Department of Commerce and Housing

**Community Development Block Grant Administrative Match Funding.** In the administration of the Community Development Block Grant Program, a state match of 50.0 percent is required on administrative expenditures beyond $100,000.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $ 226,127 | $ 217,860 |
| Federal Funds | 552,254 | 535,719 |

## Department of Revenue

The Commercial Driver License Program was mandated by the federal government to ensure a minimum level of competency in drivers of commercial tractor-trailers and to remove "bad" drivers from the road by creating a system for states to identify drivers requesting licenses who are also licensed in other states.

The communications network created by the federal program ensures that a commercial driver can have only one driver license. Previously, a driver could have several licenses, applying for them in each state the driver passed through. By placing tickets against the various licenses, the driver was able to receive many citations from law enforcement but still avoid the penalties that other drivers would have to face for the same violations under a single license.

| | FY 1992 | FY 1993 |
|---|---|---|
| Commercial Driver License: | | |
| Federal Funds | $ 231,321 | $ -- |
| State Vehicle Operating | 413,379 | 790,700 |
| Total | $ 644,700 | $ 790,700 |

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## Adjutant General

**Division of Emergency Preparedness (DEP) Administration.** Existence and operations are mandated by KSA 48-904 et seq. Federal funding is provided based on an agreement, and state matching of federal funding is not required if the state chooses not to accept federal funding.

**DEP-Hazardous Materials.** Mandated by KSA 48-904 et seq., federal funding is provided based on an agreement. There are several overlapping mandates from various federal agencies as well as the state. Specifically, some duties performed by this program relating to the Wolf Creek Nuclear Power Plant are mandated by several entities.

**DEP--Population Planning.** Mandated by KSA 48-904 et seq., federal funding is provided based on an agreement. State matching of federal funding is not required if the state chooses not to accept federal funding.

**Physical Plant Operations.** State acceptance of National Guard units is optional on the state's part. The Governor, as commander in chief, can accept or reject units. State support varies from 15.0 percent to 25.0 percent according to type of unit.

## Kansas Bureau of Investigation

**Narcotics Strike Force.** Formed in FY 1991, a grant is anticipated through FY 1994. Federal funds are available with a 25.0 percent state match. State participation is optional. The FY 1992 approved (and recommended) state match is with state asset forfeiture monies. In FY 1993, a small amount ($9,355) from the Evidence Purchase Fund is used as match money.

## Kansas Highway Patrol

**Motor Carrier Safety Assistance Program.** Formed in FY 1986, state participation is optional. Federal funds are contingent upon the state adopting numerous federal regulations regarding motor carrier safety and the transportation of hazardous materials. The 20 percent state match is financed with the Kansas Corporation Commission transferring to the Patrol amounts from the Motor Carrier License Fee Fund.

## Attorney General

**Crime Victims.** The Attorney General's Crime Victims Compensation Program receives federal funds contingent on total state funds paid to victims of crime. The federal award is 40 percent of state dollars spent. Receipts to the compensation program from subrogation claims are not counted as part of state funds for purposes of figuring the amount of the federal award.

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| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $1,716,016 | $2,077,240 |
| Federal Funds | 231,484 | 502,000 |

**State Correctional System**

**Special Education.** The program is necessary for compliance with the mandates of PL 94-142. The Department of Corrections must comply with the federal provisions concerning special education for all children (inmates) under the age of 22 or the state will lose federal funding for special education programs.

| | FY 1992 | FY 1993 |
|---|---|---|
| State General Fund | $ 472,500 | $ 595,000 |
| Federal Funds | 92,500 | 195,000 |
| All Funds | $ 565,000 | $ 790,000 |

**Federal Substance Abuse Grants.** The Department of Corrections must provide a 25.0 percent State General Fund match to federal monies received through the Governor's Office on Drug Abuse. The majority of the money is used to fund substance abuse programs in community corrections, with the remainder funding the Department's anti-drug abuse program.

| | FY 1992 | FY 1993 |
|---|---|---|
| State General Fund | $ 159,760 | $ 160,784 |
| Federal Funds | 479,281 | 482,353 |
| All Funds | $ 639,041 | $ 643,137 |

**Department of Wildlife and Parks**

**Wildlife Activities.** The Department of Wildlife and Parks receives federal funds based on a 50/50 match from state funding sources. The Department estimates that it will receive $200,000 in each of FY 1992 and FY 1993.

The Department of Wildlife and Parks receives funds from the federal government through the Dingell-Johnson (D-J) Sport Fish Restoration Act and the Pittman-Robert (P-R) Wildlife Restoration Act. Funding awarded to the state represents a 75.0 percent reimbursement to the Department for what it spends on wildlife-related activities. It is estimated that the Department will receive a total of $5.5 million in each of FY 1992 and FY 1993.

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**Cheyenne Bottoms.** The National Wetlands Council makes awards to states for conservation and wetland development efforts. The awards are a direct match. The Department of Wildlife and Parks estimates that it will receive federal matches of $2.5 million in FY 1992 and $1 million in FY 1993 for the renovation of Cheyenne Bottoms.

| | FY 1992 | FY 1993 |
|---|---|---|
| State Funds | $2,500,000 | $1,000,000 |
| Federal Funds | 2,500,000 | 1,000,000 |

**Department of Transportation**

Federal mandates which are tied to funding for transportation can be divided into two categories, those which provide penalties for failure to comply and programs which provide federal matching rates for state participation but are not necessarily mandatory.

Currently, the federal aid system provides between 75.0 and 90.0 percent matching rates for state participation. The federal government reimburses the state for expenses already incurred, so there is typically a delay between project completion and the receipt of federal monies. The following table outlines the estimated federal aid and the state matching share for FFY 1992 and FFY 1993. Estimates are provided in federal fiscal years in order to more accurately reflect federal apportionments.

| | FFY 1992 | |
|---|---|---|
| | Federal | State |
| Comprehensive Highway Program | $120,800,000 | $ 26,746,000 |
| Safety Requirements | 1,620,000 | 324,000 |
| Transportation Enhancements | 5,600,000 | 1,120,000 |
| Contingency Mitigation | 4,000,000 | 800,000 |
| Planning and Research | 3,600,000 | 720,000 |
| Demonstration Projects | 5,800,000 | 1,160,000 |
| Total | $141,420,000 | $ 30,870,000 |

| | FFY 1993 | |
|---|---|---|
| | Federal | State |
| Comprehensive Highway Program | $129,700,000 | $ 28,792,000 |
| Safety Requirements | 1,630,000 | 326,000 |
| Transportation Enhancements | 5,700,000 | 1,140,000 |
| Contingency Mitigation | 4,560,000 | 912,000 |
| Planning and Research | 3,900,000 | 780,000 |
| Demonstration Projects | 13,500,000 | 2,700,000 |
| Total | $158,990,000 | $ 34,650,000 |

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The state currently faces 15 different financial penalties under which it can lose from 5.0 percent to 100.0 percent of its federal highway funds for failure to comply with federal requirements, ranging from control of junkyards and outdoor advertising to national minimum drinking age laws.

The Kansas Department of Transportation currently monitors traffic statewide to ensure compliance with the 55 mph speed limit mandate. Mandates requiring statewide compliance with seat belt usage and commercial motor vehicle safety are also tied to the release of federal highway funds, but the Department of Revenue is generally responsible for administration and compliance. The most recent highway funding sanctions were included in the FFY 1991 transportation appropriations bill, which will require states to suspend the driver's licenses of all convicted drug offenders or risk losing part of their federal highway funds. States have up to two years to ensure compliance or risk losing 5.0 percent of their highway funds. The following details the mandates, of which vehicle size, vehicle weight, outdoor advertising, and junkyard enforcement were combined into two categories for brevity. Current federal requirements which have highway funding penalties follow:

**Commercial Motor Vehicle Width and Length Limits.** Failure to comply would result in a cessation of federal injunctive relief. Although no federal funding is provided for the mandate, current standards set by the state are above the federal minimum compliance requirements.

**Vehicle Width Limitations.** Failure to comply would result in a cessation of federal injunctive relief. Although no federal funding is provided for the mandate, current standards set by the state are above the federal minimum compliance requirements.

**Enforcement of Vehicle Size and Weights.** Failure to comply would result in the withholding of 10.0 percent of Interstate apportionments. Although no federal funding is provided for the mandate, the Governor recommends a transfer of $4,881,419 in FY 1992 and $5,961,788 in FY 1993 from the State Highway Fund to the Highway Patrol for operating costs for motor vehicle inspection activities. Because these operating costs also cover inspections to meet state requirements, the portion applied to meet only federal requirements is indeterminate.

**Registration and Proof of Heavy Vehicle Use Tax Payment.** Failure to comply could result in withholding of up to 25.0 percent of Interstate and 4R apportionments for which the federal government provides no direct reimbursements for costs. The Governor's recommendation includes a transfer of $22,491,896 in FY 1992 and $28,890,000 in FY 1993 from the State Highway Fund to the Department of Revenue's Vehicle Operating Fund for operating costs associated with the collection and administration of

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vehicle-related fees and revenues. Because the operating costs provided also help to administer state requirements, the portion of the transfer which would be used to meet only federal requirements is indeterminate.

**National Maximum Speed Limit.** Failure to comply would result in the cessation of all federal aid with no direct federal reimbursement for state costs. The state was already in compliance at the time of the requirement.

**National 55 mph Speed Limit Enforcement.** Failure to comply would result in the withholding of up to 10.0 percent of federal apportionments. The Governor recommends $28,000 in FY 1992 and FY 1993 to the Department of Transportation for this purpose. The federal government will provide an additional 20.0 percent match totaling $7,000.

**Control of Outdoor Advertising and Junkyards.** Failure to comply would result in the withholding of up to 10.0 percent of apportionments. The Governor recommends $242,754 in FY 1992 and $253,752 in FY 1993 to the Department of Transportation's Division of Beautification and Relocation whose primaryresponsibility is the enforcement of outdoor advertising andjunk yards. No federal matching monies are provided for this purpose.

**Maintenance of All Federal Aid Highway Program Construction Projects.** Failure to comply would result in the cessation of federal project approvals for the entire state. Road maintenance is primarily a state responsibility, although portions of the cost may be reimbursed through federal programs. The Governor's recommendation includes $70,844,000 in FY 1992 and $74,264,000 in FY 1993 for substantial maintenance on all state and federal highways. The portion to be used for federal roads is indeterminate.

**Air Quality Non-Attainment Areas.** Failure to comply could result in the cessation of federal project approvals for the designated non-attainment areas. Kansas City, Kansas was the only identified non-attainment area in the state and has met the necessary requirements within its own budget.

**Interstate System Resurfacing.** Failure to comply would result in the withholding of up to 10.0 percent of interstate system apportionments. A total of $32.9 million in federal aid was apportioned to Kansas for Interstate Maintenance in FY 1993 for which the state will provide a 10.0 percent matching amount. Other federal aid may also qualify for maintenance and require an average match of 20.0 percent.

**National Minimum Drinking Age.** Failure to comply would result in the withholding of 10.0 percent of all federal apportionments. Changes to the state statutes were necessary for compliance.

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**Commercial Drivers License.** Failure to comply would result in the withholding of up to 5.0 percent of Interstate and 4R apportionments. The Governor's recommendation includes a transfer of $22,491,896 in FY 1992 and $28,890,000 in FY 1993 from the State Highway Fund to the Department of Revenue's Vehicle Operating Fund for operating costs associated with the collection and administration of vehicle-related fees and revenues. The recommendation includes $644,700 in FY 1992 and $790,000 in FY 1993 for the commercial drivers license program.

**Revocation or Suspension of Drivers Licenses for Drug Offense Convictions.** Failure to comply would result in the withholding of up to 5.0 percent of Interstate and 4R apportionments. The above law was recently passed within the FFY 1991 appropriations bill and has an indeterminate fiscal impact. The Department of Revenue will be responsible for regulation and compliance.

**National Historic Preservation Act.** The Department of Transportation is required to file archeological and historic impact statements for certain construction projects as part of the requirements set but the National Historic Preservation Act. The State Historical Society contracts out the necessary labor for this purpose and the Governor's recommendation includes a $400,000 transfer from the Department to the Society for FY 1992 and FY 1993.

**Intermodal Surface Transportation Efficiency Act of FY 1991 (ISTEA) New Mandate Provisions.** The following provisions are contained in the recently authorized ISTEA, which became law in December 1991. All provisions contain potential costs to implement, but estimates and federal reimbursements are indeterminate pending the development of federal regulations.

The Department of Transportation will be required to reclassify all roads and streets functionally in the state. The Department will develop a management system for pavement, bridges, safety, traffic congestion, public transportation facilities and equipment, and intermodal transportation facilities and systems. The Department currently has pavement and bridge management systems in place, but it is not known if the systems will meet the new federal specifications. The Department will be required to create and fund a Bicycle and Pedestrian Coordinator position within the agency. Guidelines are included for a minimum percentage of rubberized asphalt to be used on federal aid projects. The following table outlines the minimum percentage and the federal penalty.

| Year | Minimum % | Penalty |
|---|---|---|
| 1994 | 5 | $ 6 million |
| 1995 | 10 | 12 million |
| 1996 | 15 | 16 million |
| 1997 | 20 | 21 million |

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The Department will be required to monitor compliance of speed limits on roadways signed for 65 mph in addition to the current 55 mph monitoring requirement. The agency will be required to develop a five-year Transportation Improvement Program to include all state and local projects for which federal dollars are spent. The Department will also be required to develop and implement a program of recreation trails. Federal law will also mandate the use of safety belts and motorcycle helmets, which will require changes in statutory law.

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