

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson August Bogina at 11:00 a.m. on February 21, 1995 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Kathy Porter, Legislative Research Department  
Tim Colton, Legislative Research Department  
Michael Corrigan, Revisor of Statutes  
Judy Bromich, Administrative Assistant  
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Roger Rooker, Acting Director, Division of Accounts and Reports  
Art Griggs, Chief Attorney, Department of Administration  
Leo Vogel, Division of Purchases  
Jim Jones, Director of Operations, Department of Transportation

Others attending: See attached list

It was moved by Senator Karr and seconded by Senator Rock that the minutes of the February 9, 10, 16, and 17 meetings be approved as presented. The motion carried on a voice vote.

Senator Moran moved, Senator Kerr seconded, that bill draft 5 RS 1135 be introduced. The motion carried on a voice vote.

**SB 278: Open public records; copies; access to; fees**

Mr. Roger Rooker, Division of Accounts and Reports, appeared before the Committee in support of **SB 278** and reviewed his written testimony (Attachment 1). Mr. Rooker explained that **SB 278** provides for the elimination of the requirement that the Director of Accounts and Reports approve fees and allows agencies that collect fees to deposit them to the fund that incurred the expense of providing the records. It was noted that approximately \$48,508 was collected for providing copies of public records that could be deposited in agency fee funds rather than the State General Fund.

**SB 279: Purchase or sale of realty by state; appraisal**

Mr. Art Griggs, Department of Administration, testified as a proponent for **SB 279** and presented his written testimony which provided an explanation of sections 1 and 4 of the bill (Attachment 2). Mr. Griggs told members that Section 1 changes the number of required real estate appraisals from 3 to 1, primarily for cost savings. He noted that the language does not preclude an agency from requesting more than one appraisal. Section 4 of the bill provides for alternatives other than the sale or disposal of surplus property and those alternatives are listed in his written testimony. Mr. Griggs pointed out that his testimony included a table showing a summary of the potential savings regarding appraisals of past real estate purchases.

There was conversation regarding the current practice of obtaining appraisals. Mr. Griggs stated that three appraisers submit one report; if the three appraisers cannot agree, a minority report is filed. The Chairman inquired if this proposed legislation would affect the Department of Transportation in obtaining right of way. Mr. Jim Jones, the Director of Operations, KDOT, stated that the court appoints the reappraisers in such cases. In answer to Senator Petty, Mr. Griggs stated that appraisals do not fix the purchase price; if the state pays more or less than the appraisal amount, it is a matter of public record. In response to Senator Brady, Mr. Griggs concurred that the savings might be less than those suggested by the Department of Administration (Attachment 2-3) because a higher fee is paid to the appraiser who writes the report. The Chairman requested that Mr. Griggs report back to the Committee regarding whether "individuals" in line 11, page 6 of the bill

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at 11:00 a.m. on February 21, 1995.

could be interpreted to mean individual persons are eligible for participation in the federal surplus property program.

Mr. Leo Vogel, Acting Director of Purchases for the Department of Administration, appeared before the Committee to explain sections 2 and 3 of the bill and to provide his written testimony in support of **SB 279** (Attachment 3). Concern was expressed about agencies having to purchase items through the state contract at a higher cost than the open market price. It was stated that statewide contracts often guarantee prices over a period of time and specifications on particular items sometimes result in higher priced items. However, he stated that if an agency has need for an item for which the state contract appears expensive, the agency can call the Division of Purchases and the Division will obtain telephone bids for them. Mr. Vogel stated that he believes that not all agencies are aware of this and he plans to provide training for state purchasing personnel.

Senator Salisbury discussed concerns about the private sector's perception that agencies have their internal lists of vendors for telephone bid solicitations that exclude competition. Mr. Vogel stated that the agencies submit a list of recommended vendors, the procurement office selects approximately three additional vendors, and bids are posted on electronic bulletin boards within the Division of Purchases when telephone bids are taken.

In answer to Senator Petty's questions regarding sole source procurement, Mr. Vogel stated that agencies request that the Division of Purchases conduct a sole source determination. It is the responsibility of the Department to make the determination. If there is a doubt, the agency must go through negotiated procurement or the competitive bid process.

Mr. Vogel, in responding to Senator Moran, stated that if an agency has authority to purchase from another state agency, it is not necessary to take bids to determine that prices are competitive with the private sector.

Senator Vancrum queried whether there were any other instances which would prohibit the Committee from including the three examples of sole source procurement in statute (Attachment 3-1). Mr. Vogel stated that he would have to compare last year's sole source procurements with the statements, but he believed that the circumstances mentioned would cover most of the aforementioned.

### **SB 281: State officers and employees; claims for certain expenses**

Mr. Roger Rooker appeared as a proponent for **SB 281** and reviewed his written testimony (Attachment 4). He stated that the Department of Transportation had established a pilot program that has worked very well which pays the lodging expenses of road crews. He stated that the transactions have been monitored closely to exclude entertainment, meals, etc.

Jim Jones, Director of Operations for the Department of Transportation, testified as a proponent for **SB 281** and reviewed his written testimony (Attachment 5). It was noted that though this legislation might be beneficial for the Department of Transportation, it would be applicable to all state employees.

The Chairman told members that **SB 278, SB 279 and SB 280** would be taken under advisement and turned the attention of the Committee to **SB 343**.

### **SB 343: Appropriations for FY 96, the department of social and rehabilitation services and state mental health and mental retardation institutions**

Senator Kerr reviewed the FY 95 and FY 96 subcommittee reports on the Community Mental Health Services of the Department of Social and Rehabilitation Services (Attachment 6). There was lengthy discussion regarding the subcommittee's position on "carve-out" for the mental health portion of the agency's Medicaid budget (item 2, (Attachment 6-4)). Some members did not support the concept of a carve-out and did not want the report to reflect that the Committee endorsed the plan. It was noted that another subcommittee considering the SRS budget did not have the same view as expressed in this subcommittee report.

In discussing the subcommittee's fourth recommendation (Attachment 6-4), it was recommended that the commission also study the potential use of institutions that might be closed. Though Senator Petty endorsed the establishment of a commission to study consolidation of services, she expressed concern about establishing separate commissions for each kind of institutional closing. She requested that "legislators" be included in the list of persons who must have unity of purpose (second paragraph, Attachment 6-5).

The Chairman adjourned the meeting at 12:20 P.M. The next meeting is scheduled for February 22, 1995.

# SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: FEBRUARY 21, 1995

NAME	REPRESENTING
Alicia Scullion Tidd	KDOT
Shannon Dr. Jones	SICKR
Leo Vogt	Dir of Purchases
Jim Jones	KDOT
Jane Adams	Rep. for Networking
Dodie Lacey	KCFE
Doug Bowman	Coordinating Council
Roger Rooker	D of A, A&R
Pat Higgins	DofA
Marty Vost	Ks Health Care Assn.
Art Griggs	Dept of Adm.
Beth Hudson	Crossroads of Leadership (visiting)
Ricki Goodman	KSNA
Erica Morgan	KSNA
Linda Kamari	KDHR
Belle Sutton	Crossroads of Leadership Junction City
Alison Stuenkel	Junction City
Pam Scott	Ks Funeral Directors Assn.
Judy Kinard	Ks Mental Health Coalition

# SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: FEBRUARY 21, 1995

NAME	REPRESENTING
Carole Byrne	Menninger
St. Scott	SRS
Don Jordan	SRS - MHAS
Frank J. Rogers	SAS - Pure Lumber
Kelly Jennings	KAPE
Sandy Strand	KINH
Greg Tugman	DOB
Pat Herron	Cross Roads to Leadership / Chamber
Dub Underhill	" "
Lisa J. Codd	Cross Roads to Leadership
Colleen K. Woodruff	Crossroads of Leadership J.C. Ks
Charley Young	SFRMC
Mary Ellen Conlee	SFRMC
Ron Hall	KDOT
Alvin	SK
Nancy Bogina	KDOT
John Federico	Pete McGill + Assoc
Joyce Rodriguez	Jackson City Crossroads Leadership Plan
Harlan Randall	Senator Karis Office



TESTIMONY REGARDING SENATE BILL 278  
SENATE WAYS AND MEANS COMMITTEE  
February 20, 1995

Presented by Roger C. Rooker  
Acting Director of Accounts and Reports

Mr. Chairman, Members of the Committee.

I am appearing today on behalf of the Department of Administration to testify in support of SB 278. Senate Bill 278 amends a portion of the Kansas Open Records Act, K.S.A. 45-219, as it relates to fees for accessing open records. The amendments are intended to eliminate bureaucracy and to encourage state agencies to recover costs of providing open records from users of these services.

Under the **existing** provisions of K.S.A. 45-219, public agencies are permitted to charge reasonable fees for access to open records or for copies of the records. The fees charged by state agencies are currently subject to approval by the director of accounts and reports, except that no approval is required if the fee for a copy is equal to or less than \$.25 per page. In order to obtain approval of the director, the agency must provide an analysis of the actual costs of furnishing copies. This approval process is a rather cumbersome process which must be repeated regularly as costs change from year to year.

In order to reduce the bureaucracy associated with this aspect of the Open Records Act, SB 278 removes the requirement that the director of accounts and reports approve fees and permits the agency head to establish reasonable fees. This amendment also includes a safety mechanism to ensure that the fees for open records are reasonable. Any person requesting records may appeal to the Secretary of Administration the reasonableness of the fee established by an agency head.

A second amendment to K.S.A. 45-219 is intended to encourage state agencies to recover their costs for providing open records from those individuals or organizations requesting records. Currently, under provisions of K.S.A. 75-~~2215~~<sup>3008</sup>, moneys collected by state agencies must be deposited to the state general fund unless otherwise specified by law. The amendment would permit agencies to deposit fees collected under the Open Records Act to the fund that incurred the expense of providing the requested records. The amendment would not effect those agencies required by other statutes to deposit the fees in the state general fund. However, for other state agencies, the ability to select the fund into which fees will be deposited may provide an incentive to collect fees from those persons **using** their services, rather than subsidizing those costs from the agencies' budgets.

Thank you for the opportunity to appear on behalf of Senate Bill 278. I would be happy to answer any questions the Committee may have.

SWAM  
February 21, 1995  
Attachment 1

TESTIMONY REGARDING SB 279 (SECTIONS 1 and 4)  
SENATE WAYS AND MEANS COMMITTEE  
February 20, 1995

Presented by Art Griggs  
Chief Attorney, Department of Administration

Mr. Chairman, Members of the Committee:

I am appearing today to testify on behalf of the Department of Administration in support of SB 279. My testimony will address Sections 1 and 4 of the bill. Mr. Leo Vogel, Acting Director of Purchases will discuss the remainder of the bill.

Appraisals.

Section 1 of this bill amends K.S.A. 75-3043a, which requires the state to obtain three appraisals before it buys, sells or otherwise disposes of any real estate. The proposed amendment reduces that requirement to one appraisal.

The purpose of this amendment is to avoid unnecessary expenditures associated with purchase and disposal of real estate.

--Appraisal fees can be substantial, as reflected in the attached chart. The cost for an appraisal may vary depending on the type and size of the real estate involved. If the State buys or sells large complexes of property, the cost for three appraisals would be significant. Requiring only one appraisal cuts the cost by two-thirds.

--It is not unusual for the three appraisers to reach the same value or to collaborate in conducting the appraisal.

--Use of three appraisals is not common in the private sector.

--These appraisals do not determine or set the purchase or sale price for real estate, but simply provide a gauge of fair market value.

For these reasons, eliminating two of three appraisals would reduce costs while providing an objective assessment of the fair market value of real estate.

Surplus Property.

Section 4 of SB 279 amends K.S.A. 75-3740 to provide additional alternatives for disposition of surplus property. Currently, the statute permits either sale of surplus property or its disposal. For example, when a state correctional institution chose to eliminate free standing weights from its facility, the institution's managers wished to give the weights to

SWAM  
February 21, 1995  
Attachment 2

local schools. Current law would prohibit such a donation, but would require disposal of the weights if there was no interested, eligible buyer. Proposed amendments would permit state agencies with local authority to dispose of surplus property with a current value of \$500 or less to:

- sell the property to a junkyard;
- give the property to a not-for-profit organization; or
- give the property to individuals or entities eligible for participation in the federal surplus property program.

Transferring the property in one of these ways is a reasonable alternative to throwing away items of limited value or selling them to entities eligible for participation in the federal surplus property program. Such transfers are consistent with the purposes of the surplus property program and would promote cooperation among state agencies, not-for-profit organizations, and other entities eligible to participate in the federal surplus property program.

Thank you for the opportunity to testify in support of SB 279. I would be glad to address any questions you may have regarding Sections 1 and 4 of the bill.



APPRAISAL FEES - HISTORICAL DATA

Property	Three Appraisals - Total Fee	Potential Savings
Marymount College	\$21,000	\$14,000
Insurance Department Building	\$ 5,500	\$ 3,667
KBI Building	\$ 7,500	\$ 5,000
KPL Steam Plant (now a parking lot at 7th & Van Buren)	\$ 4,000	\$ 2,667
Victory Life Insurance Building	\$ 4,500	\$ 3,000
Olathe Travel Information Center (unimproved land)	\$ 3,000	\$ 2,000
Surplus Property - Youth Center at Topeka	\$ 2,250	\$ 1,500
Parking Lot - Emporia Human Resources Office	\$ 375	\$ 250
Kansas City, Kansas Human Resources Office (sale)	\$ 8,250	\$ 5,500
<b>Total</b>	<b>\$56,375</b>	<b>\$37,584</b>



DEPARTMENT OF ADMINISTRATION  
Division of Purchases

BILL GRAVES,  
Governor  
LEO E. VOGEL,  
Acting Director of Purchases

Landon State Office Building  
900 Jackson, Room 102 N  
Topeka, Kansas 66612-1286  
(913) 296-2376

**TESTIMONY REGARDING SB 279**  
**SENATE WAYS AND MEANS COMMITTEE**  
**February 20, 1995**

Presented by Leo E. Vogel  
Acting Director of Purchases

Mr. Chairman, members of the committee, ladies and gentlemen. I am testifying today on behalf of the Department of Administration in support of SB 279. I will be addressing Section No. 2 and 3.

Section No. 2:

The purpose of this section is to amend the competitive bid statute to allow the Division of Purchases to be more responsive to the needs of state agencies and the vendor community.

Section 2(a) will allow a state agency and the state to obtain services, supplies, materials or equipment without competitive bids in the event the Director of Purchases and the agency determine it is in the best interest of the state. Sole source procurements may be appropriate in a number of circumstances.

Among them are:

1. Equipment for which there is no comparable competitive product such as an oscilloscope or other equipment available from only one supplier.
2. A component or replacement part for which there is no commercially available substitute.

*SWAM*  
*February 21, 1995*  
*Attachment 3*

3. An item where compatibility is the overriding consideration, such as computer operating software.

All sole source procurements would be reported quarterly to the chairperson of this committee, the chairperson of the House Appropriations Committee, and the Legislative Coordinating Council.

Section 2(b) amends the statute to require that all bids over \$10,000 be posted for ten days on a bulletin board in the Division of Purchases, in addition to being listed in the Kansas Register and solicited by mail.

This allows vendors visiting the office to obtain copies of bids as well as allowing the Division of Purchases to provide the information to vendors statewide through the Kansas Information Network.

Section 2(c) allows the division to take telephone bids up to \$10,000 and by means of telephone facsimile. Telephone bids have been fixed at \$5,000 for a number of years. This amendment will improve service to all state agencies by allowing the division to solicit bids in a more timely manner.

Section 2(d) requires all agencies that have local delegated purchasing authority to have the same reporting requirements, such as when no competitive bids are taken, as the Director of Purchases. In addition, it gives the Director of Purchases authority to perform audits at agencies to determine compliance with local delegated purchasing authority guidelines and to report the findings to the chairperson of this committee, chairperson of the House Appropriations Committee, and the Legislative Coordinating Council.

Section 2(g) eliminates the Director of Purchases approval for state agencies to contract directly with other state agencies, or with federal agencies, political

subdivisions of Kansas, agencies of other states, or private nonprofit educational institutions, without competitive bids. Recent examples of such acquisitions are:

1. Contract with Department of Housing and Urban Development to provide technical assistance to local jurisdiction for the Community Development Block Grant Program.
2. Contract with the Kansas Geological Survey to develop and provide a complete computer simulation.
3. Contract with University of Kansas for comprehensive public awareness media campaign.

During my twelve years at the Division of Purchases, none of these have ever been disapproved, and I don't see the need for my approval. This change will eliminate unnecessary paperwork and save time and money for the agencies.

#### Section 3:

Section 3 adds language to reflect current law and practices. It allows the inspection of bid files as provided under the Kansas Open Records Act. It also deletes the clause that requires new bids be taken when all competitive bids are rejected. Presently, many bids are rejected because of a lack of funding, no bids, etc., and are never rebid.

None of the changes listed above have a fiscal impact on the Division of Purchases, but it will allow the division to operate in a more efficient manner.

I am a proponent of the bill, and stand for any questions from the committee.

**TESTIMONY REGARDING SENATE BILL 281**  
**SENATE WAYS AND MEANS COMMITTEE**  
**February 20, 1995**

Presented by Roger C. Rooker  
Acting Director of Accounts and Reports

Mr. Chairman, Members of the Committee:

I am testifying today on behalf of the Department of Administration in support of SB 281. Senate Bill 281 addresses three distinct aspects of claims made by state employees -- direct payment of lodging expenses, reimbursement of moving and recruitment expenses, and penalties for false claims filed by state employees.

Lodging Expenses.

Section 2 of SB 281 amends K.S.A. 75-3207a to permit the Secretary of Administration to provide for direct payment of actual costs incurred for lodging expenses to the lodging establishment. State agencies would continue to reimburse employees for other subsistence expenses (such as meal allowances). Addition of the option for direct payment of lodging will help alleviate some of the financial hardship on certain employee groups that must travel on official state business.

--Under current law, state employees who must travel on official state business must pay all subsistence related travel costs and then submit claims for these expenses upon their return. This method can cause financial hardship for certain state employees, particularly if the travel is for extended periods or the employee is not highly compensated. Many employees either choose not to use credit cards or are unable to qualify for a credit card, thereby increasing the financial burden of paying travel expenses and waiting for reimbursement vouchers to be processed. Direct payment of lodging expenses to the hotel or motel eliminates the largest element of out-of-pocket travel expenses for those state employees.

--When employees personally pay for lodging expenses and are then reimbursed, the lodging establishment charges sales tax to the employees. Therefore, the sales tax is part of the lodging expense reimbursed by the State. However, with direct payment of lodging expenses, the State is the "customer," and no sales tax would be charged as the State is exempt from paying such taxes. Assuming that all employee lodging expenses were paid directly to the lodging establishment, which is very unlikely, avoiding the sales tax would reduce agency expenditures by approximately \$350,000 annually, thereby allowing state agencies to stretch limited resources for necessary travel on official state business. However, sales tax revenues to the state would be reduced by an estimated \$250,000 and tax revenues to local units of government would be reduced by an estimated \$105,000.

New Section 4, relating to moving expenses, also permits direct payment to a firm providing moving services. As costs of moving can be substantial, this provision would provide similar benefits.

#### Recruitment and Moving Expenses.

SB 281 amends or repeals several statutes related to interview and moving expenses in order to eliminate disparities in the treatment of in-state and out-of-state applicants for professional, technical, and managerial positions. Current law permits payment of interview and moving expenses for out-of-state applicants only. As a result, a state agency may not offer reimbursement of interview and moving expenses to an applicant who is a Kansas resident. State agencies may, however, pay such expenses for any applicant who resides outside of Kansas. SB 281 provides greater flexibility to state agencies in recruiting qualified Kansas residents, particularly for cabinet level and other professional positions, and eliminates inequities of recruitment based on residence.

It should be noted that the existing requirement for approval by the Governor of interview and moving expense reimbursement for out-of-state employees is retained. In addition, SB 281 removes the current 12,000-pound limit on movement of household goods. The amount to be paid for moving expenses is limited to the amount of the actual moving expenses, as verified by receipts. Finally, it should also be noted that separate provisions regarding payment of interview and moving expenses for employees of Regents institutions and the Board of Regents are retained.

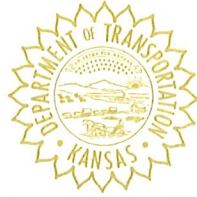
#### Penalties for False Claims Against the State.

SB 281 repeals K.S.A. 75-3202 in order to eliminate a disparity between state employees and the general public in the severity of penalties for false claims. This statute, which was originally enacted in 1931, provides penalties for presenting a false claim by state employees. Under the statute, a false claim is considered a misdemeanor, regardless of amount, and can result in a fine not to exceed \$1,000 or imprisonment in the county jail for no more than six months or both.

Under K.S.A. 1994 Supp. 21-3904, which applies to the general public, presentment of a false claim of at least \$500 is a nonperson felony, while a false claim of less than \$500 is a class A misdemeanor.

Repeal of K.S.A. 75-3202 would eliminate this disparity and provide the same penalties for state employees as are provided for other individuals.

Thank you for the opportunity to appear on behalf of Senate Bill 281. I would be happy to answer any questions the Committee may have.



**KANSAS DEPARTMENT OF TRANSPORTATION**

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*Secretary of Transportation*

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FAX (913) 296-1095*

Bill Graves  
*Governor of Kansas*

**TESTIMONY BEFORE THE  
SENATE WAYS AND MEANS COMMITTEE  
REGARDING S.B. 281**

**February 20, 1995**

Mr. Chairman and Committee Members:

I am here today to testify on behalf of the Department of Transportation in support of S.B. 281.

The proposed legislation would provide state agencies with statutory authorization to reimburse lodging establishments directly for costs incurred by their personnel. Because of job-related responsibilities such as surveying or traffic counting, some of our employees are in travel status on a regular basis or for extended periods of time. In response to those employees' concerns about the financial demands of that travel, we have been involved in a pilot program with the Department of Administration to test direct payment procedures for lodging reimbursement. This test has demonstrated that providing direct reimbursement for lodging is both administratively feasible and very helpful to our employees. We appreciate the Department of Administration's cooperation in carrying out the pilot program, and we strongly support that portion of the proposed legislation.

We also support the provision of S.B. 281 that would provide more flexibility when interviewing and hiring instate applicants, and we think that provision could be somewhat helpful in obtaining the best candidate for some positions. However, we believe it would be more helpful to reverse the changes in

*SWAM  
February 21, 1995  
Attachment 5*

moving expense reimbursement that were made last year. Near the end of the 1994 Legislative Session, K.S.A. 75-3219 and 75-3224 were amended to prohibit state agencies from reimbursing employees for moving expenses that are not considered "qualified moving expenses" under the federal IRS code, thereby limiting the state's reimbursement to nontaxable items. This new restriction is also found in New Section 4 (d) of S.B. 281. The Department believes that this restriction is a barrier to hiring and promoting the best qualified candidates, because it limits both the number of employees who are eligible for the reimbursement of moving expenses and the types of expenses that can be reimbursed.

In order to qualify as a moving expense under section 132 of the federal internal revenue code of 1986, an employee's new workplace must be at least 50 miles farther from the employee's old home than the employee's old home was from the employee's old workplace. Moving expenses that are no longer considered "qualified" under the IRS code include meals while moving to a new residence; travel expenses, meals, and lodging for pre-moving house-hunting trips; and meals and lodging while occupying temporary quarters in the area of the new work place.

These limitations have a particularly negative effect on Department of Transportation employees. We require certain employees to live in close proximity to their offices so that we can respond quickly to weather conditions and other emergencies. The current requirements, in combination with the way our area and subarea maintenance offices are arranged geographically, mean that the most obvious candidates for promotion are the ones affected by the restrictions.

Because of our concerns about the changes that were made last year, we plan to request legislation during this legislative session that would reverse them. Our proposed legislation would remove language similar to that included in New Section 4(d) of S.B. 281 from K.S.A. 75-3219 and 75-3224. The Committee may wish to consider removing that language from S.B. 281 as well.



Subcommittee Report

Department of Social and  
Rehabilitation Services--  
Community Mental Health Services

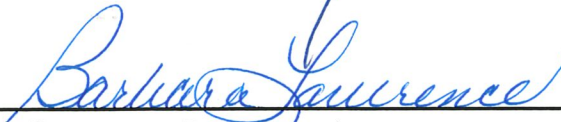
1995 Senate Bill 343  
§ 1



\_\_\_\_\_  
Senator Dave Kerr, Chairman



\_\_\_\_\_  
Senator Bill Brady



\_\_\_\_\_  
Senator Barbara Lawrence

SWAM  
February 21, 1995  
Attachment 6

**SUBCOMMITTEE REPORT**

**Agency:** SRS -- Community Mental Health Services

**Bill No.** 236

**Bill Sec.** 6

**Analyst:** Colton

**Analysis Pg. No.** 899

**Budget Page No.** 485

<u>Expenditure Summary</u>	<u>Agency Estimate FY 95</u>	<u>Governor's Recommendation FY 95</u>	<u>Senate Subcommittee Adjustments</u>
<b>Mental Health Services</b>			
Mental Health Administration	\$ 1,387,905	\$ 1,369,377	\$ 0
State Aid	10,032,644	10,032,644	0
Mental Health Reform	15,455,010	15,455,010	0
Mental Health Grants	8,115,467	9,106,381	0
Federal Special Projects	1,285,411	1,287,013	0
Court-Ordered Evaluations	41,691	41,691	0
Total--All Funds	<u>\$ 36,318,128</u>	<u>\$ 37,292,116</u>	<u>\$ 0</u>
Total--SGF	<u>\$ 30,721,887</u>	<u>\$ 31,734,949</u>	<u>\$ 0</u>
<b>Medical Assistance</b>			
NF-MH Program -- All Funds	\$ 14,885,116	\$ 14,885,116	\$ 0
State General Fund	6,516,500	6,117,783	0
Total -- All Funds	\$ 51,203,244	\$ 52,177,232	\$ 0
Total -- SGF	\$ 37,238,387	\$ 37,852,732	\$ 0
FTE Positions	10.0	10.0	--

**Agency Estimate/Governor's Recommendation**

The agency estimates expenditures of \$36.3 million, of which \$30.7 million is from the State General Fund. The Governor recommends \$37.3 million (\$31.7 million from the State General Fund), or approximately \$1 million more than the agency estimate. The Governor's recommendation will allow the agency to spend a federal grant to create a family-focused system of mental health care for children in rural areas. Also, funding of \$788,874 is included in the Division's budget to allow it to implement the civil commitment of sexually violent predators.

**Senate Subcommittee Recommendation**

Concur.

**SUBCOMMITTEE REPORT**

**Agency:** SRS -- Community Mental Health Services

**Bill No.** 343

**Bill Sec.** 1

**Analyst:** Colton

**Analysis Pg. No.** 899

**Budget Page No.** 485

<u>Expenditure Summary</u>	<u>Agency Request FY 96</u>	<u>Governor's Recommendation FY 96</u>	<u>Senate Subcommittee Adjustments</u>
<b>Mental Health Services</b>			
Mental Health Administration	\$ 1,535,428	\$ 1,510,506	\$ (123,247)
State Aid	10,032,644	10,032,644	0
Mental Health Reform	17,825,952	17,825,952	0
Mental Health Grants	9,835,467	11,171,755	50,000
Federal Special Projects	1,286,282	1,287,340	0
Court-Ordered Evaluations	43,150	43,150	0
Total--All Funds	<u>\$ 40,558,923</u>	<u>\$ 41,871,347</u>	<u>\$ (73,247)</u>
 Total--SGF	 <u>\$ 35,216,690</u>	 <u>\$ 34,558,751</u>	 <u>\$ (29,810)</u>
<b>Medical Assistance</b>			
NF-MH Program -- All Funds	\$ 15,557,320	\$ 14,357,893	\$ 0
State General Fund	6,801,169	5,901,094	0
 Total -- All Funds	 \$ 56,116,243	 \$ 41,871,347	 \$ (73,247)
 Total -- SGF	 \$ 42,017,859	 \$ 40,459,845	 \$ (29,810)
 FTE Positions	 10.0	 10.0	 --

**Agency Request/Governor's Recommendation**

The agency requests FY 1996 funding of \$40.6 million (\$35.2 million SGF). Included in the request is \$926,742 for the treatment of sexually-violent predators, \$1.82 million in expansions for mental retardation grants, and \$17.8 million for mental health reform.

The Governor recommends FY 1996 funding for community mental health services of \$41.9 million (\$34.6 million SGF). The amount recommended by the Governor is greater than the amount requested by the agency because of the inclusion of funding from a federal grant that was received after submission of the agency's FY 1996 budget request. The Governor does not recommend the new initiatives that the agency requested, but does concur in the requested funding for the treatment of sexually-violent predators and for mental health reform.

### Senate Subcommittee Recommendation (Community Mental Health)

1. Add \$50,000 from the State General Fund to increase the state match for federal vocational rehabilitation funds for employment training for people with mental illness. The added funding will leverage approximately \$177,000 in federal funding for vocational training.
2. During the 1994 Session, \$2.0 million (\$810,200 State General Fund) was deleted from the budget of the Department of Social and Rehabilitation Services based upon projected savings from the recommended implementation of a capitated managed-care plan for the mental health portion of the agency's Medicaid budget. The recommendation to implement such a plan, known colloquially as a "carve-out" for mental health services, was never followed by the former Secretary of SRS, despite strong support from consumers and many sectors of the State Legislature.

The Subcommittee continues to support the concept of a carve-out. Studies have shown that states that have carried out such a plan have experienced initial savings of three to 10 percent through carve-outs, with the escalation of costs in subsequent years being held down. The Subcommittee is disappointed that SRS ignored the wishes of the Legislature as expressed during the 1994 Session to proceed with the setting up of a carve-out. The former Secretary of SRS attempted to create a carve-in for mental-health services under Medicaid managed care, ignoring the fact that primary-care physicians are generally unable to assess and treat the mental-health needs of individuals with mental illness. Attempts by consumers and service providers to discuss this issue with the former Secretary after the 1994 Session were ignored.

The Subcommittee believes that a carve-out would allow for the provision of more and better services to individuals with mental illness, with a savings of state dollars. The Governor did not restore the \$2.0 million in either FY 1995 or FY 1996. To the Subcommittee, this suggests that the Governor is also in favor of realizing the savings that could be achieved through the carve-out for Medicaid managed care. In light of this, the Subcommittee strongly recommends that the Acting Secretary proceed quickly with plans to create a carve-out, and to keep the Legislature--and specifically, the House Subcommittee examining this budget--informed of the progress of the carve-out during the Session.

4. The Subcommittee notes that the Governor's recommended budget provides full funding for mental health reform in FY 1996 (another payment of \$891,297 will be due in FY 1997, according to the mental health reform financing agreement). The table below shows the amount of funding provided for mental health reform in FY 1994, 1995 and 1996, and the cumulative bed closings that have occurred at the state's mental health hospitals.

	Actual FY 94	Gov. Rec. FY 95	Gov. Rec. FY 96
Mental Health Reform Funding	\$ 12,201,332	\$ 15,455,010	\$ 17,825,952
Beds Closed Through Mental Health Reform	142	202	269

The Subcommittee believes that, because of the progress that is being made in the care and treatment of persons with mental illness in the community, it is inevitable that the state will continue to require fewer beds in the state's mental health hospitals. The number of beds that will be required to meet the state's needs will continue to decline to such a point where it will no longer make financial sense to continue to maintain four mental health institutions, with their large fixed costs, which are a drain both on the state's budget and on funding for community services for people with mental illness.

The Subcommittee believes that the time has come to consolidate services at the state's MH institutions, and to close one of those institutions. The Subcommittee realizes that this is a difficult step for the state to take, and knows that if the consolidation and closure are to be successful, there must be unity of purpose among all involved, *i.e.*, consumers of mental health services, their family members, service providers, the Department of SRS, schools and local governments, law enforcement and the court system, and local hospitals.

Because unity of purpose will be essential in the consolidation and closure of an institution, and because support of the Executive Branch will be essential for the success of the closure process, the Subcommittee recommends that the Governor appoint an independent commission to design and recommend a plan for consolidation of hospital services for the mentally ill, and the closure of an MH institution to the Legislature. Such a commission would include members of the following groups:

◇Consumers of Mental Health Services	◇Family Members of Consumers, including Hospital Consumers	◇SRS
◇CMHCs	◇Schools	◇Local Governments
◇Local Hospitals	◇The Court System	◇Law Enforcement
◇Other Expertise available within State Government.		

The commission's charge would include, but would not be limited to:

- ◇ Examination of how other states have confronted the problem of consolidating services among state mental health hospitals, and the closure of such a hospital.

- ◇ Examine the ramifications that closing an institution would have upon clients, communities, schools, hospitals, the court system and law enforcement and the remaining institutions, and develop proposals to address those ramifications.
- ◇ Develop proposals for the improvement of mental health services to adolescents and young adults in all areas of the state. (The Subcommittee heard disturbing testimony from a parent about the lack of support, treatment and care resources that were available for her adolescent child. Although the Legislature is frequently told about the success of mental health reform, anecdotal evidence suggests that cases like the one about which the Subcommittee heard are not isolated phenomena. Such incidents tend to undermine confidence in mental health reform. The Subcommittee knows that until the problem of providing services to adolescents and young adults is addressed, it will be necessary to maintain the availability of youth hospital beds in all areas of the state.)
- ◇ Develop plans for addressing the impact of consolidation and closure upon state employees.
- ◇ Develop proposals for addressing the impact of consolidation and closure upon the affected communities.
- ◇ Choose an institution to be closed, and develop a timetable, beginning in FY 1996, for consolidating services among hospitals and closing the chosen hospital.

The commission could work with outside experts and consultants as necessary in developing its proposals, plans and timetable. The Governor may wish to consider proposing a modest plan for the financing of the commission's work to the Legislature at Omnibus time.

The commission would make its report to the Legislature by the beginning of the 1996 Legislative Session.

5. Put funding for the Governor's salary plan (\$123,247 all funds, \$79,810 SGF) in another bill. (N.B. These figures are MHRS divisionwide. They include both the Division's Mental Health *and* Mental Retardation programs.)