

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairperson Robin Jennison at 1:30 p.m. on March 19, 1996 in Room 514-S of the Capitol.

All members were present except: Rep. Gross, excused

Committee staff present: Alan Conroy, Russell Mills, Susan Wieggers, Legislative Research Department  
Jim Wilson, Revisor of Statutes; Mike Corrigan, Revisor  
Tim Kukula, Appropriations Secretary; Todd Fertig, Administrative Aide

Conferees appearing before the committee:

Others attending: See attached list

Chairman Jennison opened the meeting by recognizing Rep. Lowther to give the subcommittee reports and answer questions on **HB 2698** and **HB 2699**, bills concerning KPERS issues (Attachment 1).

A motion was made by Rep. Lowther, seconded by Rep. Cornfield, to adopt the subcommittee reports on **HB 2698** and **HB 2699**. The motion carried.

A motion was made by Rep. Lowther, seconded by Rep. Nichols to recommend **HB 2698** favorably for passage. The motion carried.

A motion was made by Rep. Lowther, seconded by Rep. Nichols to recommend **HB 2699** favorably for passage. The motion carried.

Chairman Jennison then recognized Rep. Neufeld to give the subcommittee reports and answer questions on **HB 3044**, and bill concerning the enactment of Families First Services for Children Act, and **HB 3047**, a bill concerning the transfer of long-term care from SRS to the Secretary of Aging. The subcommittee reports consisted of substitute bills and were distributed to the committee (Attachments 2 & 3).

It was decided that further discussion and action would come tomorrow so that members of the committee could have a chance to read the substitute bills thoroughly.

Chairman Jennison recognized Rep. Carmody to give the subcommittee report and answer questions on **HB 3048**, a bill concerning the privatization of alcohol and drug abuse rehabilitation. The subcommittee report carried a balloon amendment to the bill (Attachment 4).

A motion was made by Rep. Carmody, seconded by Rep. Lowther, to adopt the subcommittee report on **HB 3048** with the balloon. The motion carried.

A motion was made by Rep. Gatlin, seconded by Rep. Wilson, to recommend **HB 3048**, as amended favorably for passage. The motion carried.

A letter prepared by the Department of SRS was distributed to the committee as an explanation of **HB 3047** (Attachment 5).

Chairman Jennison appointed a subcommittee to further work **SB 507**. Rep. Kejr will chair the subcommittee and members will be Rep. Mollenkamp, Rep. Minor and Rep. Reinhardt.

Chairman Jennison appointed a subcommittee to further work on **SB 475** and **SB 476**. Rep. Edmonds will chair the subcommittee and members will be Rep. Carmody, Rep. Lowther, Rep. Hochhauser and Rep. Nichols.

The meeting adjourned at 11:00 a.m.

The next meeting is scheduled for Wednesday, March 20, 1996.



# HOUSE APPROPRIATIONS COMMITTEE

GUEST LIST

DATE: 3-19-96

HOUSE OF  
REPRESENTATIVES

NAME	ADDRESS	REPRESENTING
Jack Hauer	Ozarkia	KIPERS
Arlan Holmes	Topeka	DOR
Ella Pickelkowitz	Topeka	Assoc. of CMHCs
Thelma Hunter Dordon	Topeka	KNOA
Gayle Leonard	Topeka	KDOA
Janet Schelansky	Topeka	SRS
Ethene Davis	Hays	AAA NWKS.
Nanna J. Kidd	Topeka	AAA
JERRY WILLIAMS	Chanute	SEK-AAA
Feresa Markowitz	Topeka	SRS
Harold Fitts	Topeka	KCOA AARP
Sharon Duffman	Topeka	KCDC
Kelly Jennings	Topeka	KAPE
DAVID SCHROEDER	TOPEKA	PETE MCGILL & ASSOC
Steve Richards	Topeka	TILRC
Bruce Luko	Topeka	Children's Alliance
Susan Briggs	Topeka	TILRC



# HOUSE APPROPRIATIONS COMMITTEE

GUEST LIST

DATE: 3-19-96

HOUSE OF  
REPRESENTATIVES

NAME	ADDRESS	REPRESENTING
Don Miller	Topeka	SRS/ADAs
Karen Lowery	Topeka	<del>HAB</del>
Roger Franke	"	RGC
Jim Hamill	Topeka	CTC
Paul Johnson	Topeka	PACK
Mary Ella Simon	Topeka	W.G. of Women Voters
Jan Kuba		K&P
Sheryl Diehl	Topeka	KAPS
Anne Kimmel	Topeka	AARP
Linda Ramirez	Topeka	KDHR
Paul Shelby	Topeka	QJA
Jerry Sloan	"	"
Melissa Ness	Topeka	Ks. Children's Serv. League
Sister Therese Banzett	Topeka	Mainstream
Tracy Woul	Topeka	KDHE

**Subcommittee on KPERS Issues  
House Appropriations Committee**

March 18, 1996

**Subcommittee Report On:**

H.B. 2698 Actuarial Evaluation of Early Retirement Incentive Programs  
H.B. 2699 Payment of Actuarial Services by Local Retirement Systems

The Subcommittee recommends:

1. **H.B. 2698** be passed as amended by the attached balloon.
2. **H.B. 2699** be passed.

  
\_\_\_\_\_  
Representative Jim Lowther  
Subcommittee Chairperson

  
\_\_\_\_\_  
Representative Darlene Cornfield

  
\_\_\_\_\_  
Representative George Dean

  
\_\_\_\_\_  
Representative Fred Gatlin

  
\_\_\_\_\_  
Representative Rocky Nichols

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Attachment

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## School District Early Retirement Incentive Programs

The Joint Committee on Pensions, Investments and Benefits has monitored these school district early retirement programs which are supplemental to KPERs retirement benefits for the past two year.

During the 1994 Interim, the Joint Committee heard survey results from a Kansas Association of School Board questionnaire which identified 123 school districts with some types of early retirement incentive options. In summary, the survey found that 915 retirees are receiving annual benefits in excess of \$9.7 million which would be in addition to regular KPERs-School retirement payments.

During the 1995 Interim, the Legislative Division of Post Audit undertook a study of this situation. Post Audit staff presented the results of a performance audit review focusing on early retirement incentive programs (ERIPs) in Kansas schools. From FY 1990 to FY 1995, those Kansas school districts with ERIPs reported spending more than \$50 million to pay for benefits. Post Audit estimates that if half of those persons eligible in the 152 school districts which currently have ERIPs (and none of the other school districts add ERIPs) actually elect to retire early, then the cost to districts would be \$90 to \$100 million. If additional school districts add ERIPs and more than half of eligible employees in districts elect to retire, then the costs will be higher than estimated. Another factor may increase the costs due to the current situation in which some school district employees have retired early, but have not started drawing ERIP benefits since they must be age 60 to receive the enhancements.

Post Audit determined that nine of the ten school districts reviewed for the audit had achieved cost savings in FY 1995 by replacing higher salaried retirees with lower paid staff. The review was based on a sample of ten school districts, a sample of retirees in the two largest districts, and savings based on an estimate computed by Post Audit. Other units of government in Kansas also have instituted ERIPs. Community colleges are authorized to use ERIPs and 14 of the colleges have implemented such programs. Three cities and one county have offered ERIPs, according to the Post Audit report.

KPERs staff pointed out that the Legislature has no comprehensive information about the long-term unfunded liabilities of the school districts resulting from their ERIPs. It was noted that local police and fire retirement systems of the 1970s had significant unfunded liabilities and that the Legislature mandated a reporting requirement, based on an actuarial evaluation of unfunded liabilities, in order to find out the extent of that problem. The only actuarial valuation performed recently that was cited for the Committee was one undertaken by U.S.D. 501 (Topeka) in which the unfunded liability for its ERIP is estimated at \$24 million.

**Committee Recommendation.** A statutory reporting requirement, coupled with an actuarial study of each school district's unfunded liability, should be implemented. The Committee recommended introduction of 1996 H.B. 2698 to require actuarial valuations of local ERIPs for school districts, area vocational school, and community colleges. The first studies would be required to be completed in calendar year 1996 in order for the 1997 Legislature to be apprised of the total outstanding liability of local ERIPs when it considers the school finance issue next session.

HOUSE BILL No. 2698

By Joint Committee on Pensions, Investments and Benefits

1-22

9 AN ACT concerning retirement; relating to early retirement incentive  
10 programs; actuarial evaluation; amending K.S.A. 1995 Supp. 71-212  
11 and 72-5395 and repealing the existing sections.  
12

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

14 Section 1. K.S.A. 1995 Supp. 71-212 is hereby amended to read as  
15 follows: 71-212. The board of trustees of any community college may  
16 establish an early retirement incentive program for the benefit of the  
17 employees of the community college for the purpose of reducing, in  
18 whole or in part, the penalty under the federal insurance contributions  
19 act or the Kansas public employees retirement system, or both, for re-  
20 tirement of employees prior to the normal retirement age of 65 years. As  
21 used in this act, an "early retirement incentive program" is a program  
22 that provides cash payments, either in the form of a lump-sum payment  
23 at the beginning of the fiscal year, or in regular payments during the fiscal  
24 year. No payment pursuant to an early retirement incentive program as  
25 provided in this section shall be made prior to the retirement under the  
26 provisions of the Kansas public employees retirement system of any such  
27 employee of the community college. *Commencing in the fiscal year that*  
28 *commenced in calendar year 1996 and at least once every three years*  
29 *thereafter, each board that establishes an early retirement incentive pro-*  
30 *gram as provided in this section shall employ and pay an actuary* ~~or firm~~  
31 ~~of actuaries~~ *to conduct an actuarial evaluation of the liabilities of the*  
32 *program. Each actuarial evaluation required by this section shall be re-*  
33 *ported to the legislature by such board.*

34 Sec. 2. K.S.A. 1995 Supp. 72-5395 is hereby amended to read as  
35 follows: 72-5395. The board of education of any school district may es-  
36 tablish an early retirement incentive program for the benefit of the em-  
37 ployees of the district for the purpose of reducing, in whole or in part,  
38 the penalty under the federal insurance contributions act or the Kansas  
39 public employees retirement system, or both, for retirement prior to the  
40 normal retirement age of 65 years. As used in this act, an "early retirement  
41 incentive program" is a program that provides cash payments, either in  
42 the form of a lump-sum payment at the beginning of the fiscal year, or  
43 in regular payments during the fiscal year. No payment pursuant to an

has established or

who is a member of the American academy of actuaries and the society of actuaries and is an enrolled actuary under the employees retirement income security act

, except that the initial 1996 actuarial evaluation shall not be required as provided in this section of any board that has conducted such an actuarial evaluation of its early retirement incentive program within the preceding 18 months of the effective date of this act. Any early retirement incentive program established as provided in this section after the effective date of this act shall conduct the actuarial evaluation as required in this section within six months of such establishment and at least once every three years thereafter

joint committee on pensions, investments and benefits

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1 early retirement incentive program as provided in this section shall be  
 2 made prior to the retirement under the provisions of the Kansas public  
 3 employees retirement system for any employee of the district. *Com-*  
 4 *mencing in the fiscal year that commenced in calendar year 1996 and at*  
 5 *least once every three years thereafter, each board that establishes an*  
 6 *early retirement incentive program as provided in this section shall em-*  
 7 *ploy and pay an actuary ~~or firm of actuaries~~ to conduct an actuarial*  
 8 *evaluation of the liabilities of the program. Each actuarial evaluation re-*  
 9 *quired by this section shall be reported to the ~~legislature~~ by such board.*

10 Sec. 3. K.S.A. 1995 Supp. 71-212 and 72-5395 are hereby repealed.

11 Sec. 4. This act shall take effect and be in force from and after its  
 12 publication in the statute book.

has established or

who is a member of the American academy of actuaries and the society of actuaries and is an enrolled actuary under the employees retirement income security act

, except that the initial 1996 actuarial evaluation shall not be required as provided in this section of any board that has conducted such an actuarial evaluation of its early retirement incentive program within the preceding 18 months of the effective date of this act. Any early retirement incentive program established as provided in this section after the effective date of this act shall conduct the actuarial evaluation as required in this section within six months of such establishment and at least once every three years thereafter

joint committee on pensions, investments and benefits

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## SUBSTITUTE FOR HOUSE BILL NO. 3044

By Committee on Appropriations

AN ACT concerning goals for children and families of this state; abolishing the corporation for change; transferring functions; amending K.S.A. 38-1808 and 38-1812 and repealing the existing sections; also repealing K.S.A. 38-1801, 38-1802, 38-1803, 38-1805, 38-1806, 38-1809, 38-1810 and 38-1811 and K.S.A. 1995 Supp. 38-1804, 38-1807 and 38-1813.

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

New Section 1. The following are the goals of this state for families and children in the state and potential performance indicators for measuring progress toward the goals:

(a) Healthy births, measured in: (1) A reduction in the infant mortality rate; (2) a lower rate of pregnancy among school-aged youths; (3) a lower rate of babies having low birth weights; (4) a decrease in the rate of childbearing women and babies who test positive for HIV (human immunodeficiency virus); and (5) a reduction in the rate of congenital disabilities.

(b) Safe children and stable families, measured in: (1) Lower rates of reported and confirmed incidents of child abuse and neglect; (2) lower rates of reported and confirmed incidents of domestic violence; (3) a reduction in the rate of out-of-home placements of children; (4) a reduction in the number of children in institutional and congregate care; (5) a reduction in the number of children served outside of their families; (6) a decrease in the average length of stay in out-of-home placements of children; (7) a decrease in the number of disruptions in placement; (8) a lower rate of homeless families; (9) an increase in rates of child support payments; (10) an increase in the number of child care facilities that meet established basic standards; and (11) a decrease in reported crimes against persons or property.

(c) Children ready for school, measured in: (1) An increase

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in the rate of children with immunizations completed by age two; (2) an increase in the number of children living in their own family or in stable foster care; and (3) an increase in the number of children entering kindergarten who meet specific developmental standards for their age in physical well being, literacy and cognitive and language skills.

(d) Children living in families that are economically self-sufficient, measured in: (1) A reduction in the number of families with incomes below 150% of the federal poverty level; and (2) a reduction in the number of families meeting eligibility standards for AFDC (aid to families with dependent children), free or reduced cost school lunches, food stamps and medicaid.

(e) Children avoiding high-risk behavior, measured in: (1) A reduction in the rate of pregnancy among school-aged youths; (2) a reduction in the rate of substance abuse among youths; (3) a reduced rate of sexually transmitted diseases, HIV (human immunodeficiency virus) and AIDS (acquired immune deficiency syndrome) among youths; and (4) a decrease in youth involvement in violence, determined by lower rates of crimes involving youths, suicide among youths, youth homicide death, homicide arrests and convictions of youths, and incidents of violent crime involving youth.

(f) Children succeeding in elementary and secondary school, measured by: (1) Academic achievement measures demonstrating competency over challenging subject matter; (2) a lower rate of truancy and school dropouts; (3) a lower rate of behaviors which may lead to student suspensions; (4) a higher high school graduation rate; and (5) a higher rate of students continuing in postsecondary education or training.

New Sec. 2. (a) The corporation for change created by K.S.A. 38-1801 et seq. and amendments thereto is hereby abolished on July 1, 1996. As used in this section and section 3, "secretary" means the secretary of health and environment.

(b) All powers, duties, functions, property and records of the existing board of directors created by K.S.A. 38-1803 and

amendments thereto and the executive director provided for by K.S.A. 38-1804 and amendments thereto are hereby transferred to and conferred upon the secretary.

(c) The secretary shall be the successor in every way to powers, duties, functions, property and records of such board of directors and executive director in which the same were vested prior to the effective date of this act. Every act of the secretary shall be deemed to have the same force and effect as if performed by such board of directors or executive director.

(d) Whenever the corporation for change or words of like effect is referred to or designated by a statute, contract or other document such reference or designation shall be deemed to apply to the secretary.

New Sec. 3. On July 1, 1996, all officers and employees who were engaged immediately prior to such date in the performance of powers, duties and functions of the corporation for change and who, in the opinion of the secretary, are necessary to perform the powers, duties and functions transferred to the secretary under this act shall become officers and employees of the secretary. Any such officer or employee shall retain all retirement benefits and rights of civil service which had accrued to or vested in such officer or employee prior to July 1, 1996, and the services of each such officer or employee so transferred shall be deemed to have been continuous. All transfers and any abolishments of positions of personnel in the classified civil service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder.

New Sec. 4. (a) When any conflict arises as to the disposition of any power, duty or function or the unexpended balance of any appropriation as a result of any abolishment or transfer made by this act, or under authority of this act, such conflict shall be resolved by the governor, and the decision of the governor shall be final.

(b) When any conflict arises as to the proper disposition of

any property or records as a result of any abolishment or transfer made under this act, or under authority of this act, such conflict shall be resolved by the governor, and the decision of the governor shall be final.

New Sec. 5. The secretary of health and environment shall cooperate with the office of judicial administrator of the courts in regard to grants to local citizen review boards and court appointed special advocate programs.

Sec. 6. K.S.A. 38-1808 is hereby amended to read as follows: 38-1808. (a) There is hereby established in the state treasury the family and children investment fund, to be administered by the ~~board-of-directors-of-the-corporation-for-change~~ secretary of health and environment.

(b) (1) Moneys in the family and children investment fund shall be expended for: (A) Furthering the purposes of the ~~corporation-for-change~~ this act; (B) review and evaluation of progress in implementing the blueprint for investment in Kansas children and their families of 1991 special committee on children's initiatives; (C) purposes which further implementation of a comprehensive, coordinated strategy for investment in Kansas children and their families; and (D) such other purposes as provided by law.

(2) There shall be credited to such fund appropriations, gifts, grants, contributions, matching funds and participant payments.

(3) All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~chairperson-of-the-board-of-directors-of-the-corporation--for change~~ secretary of health and environment or a person designated by the chairperson.

(c) (1) There is hereby created the family and children trust account in the family and children investment fund.

(2) Moneys credited to the family and children trust account shall be used for the following purposes: (A) Matching federal

moneys to purchase services relating to community-based programs for the broad range of child abuse and neglect prevention activities; (B) providing start-up or expansion grants for community-based prevention projects for the broad range of child abuse and neglect prevention activities; (C) studying and evaluating community-based prevention projects for the broad range of child abuse and neglect prevention activities; (D) preparing, publishing, purchasing and disseminating educational material dealing with the broad range of child abuse and neglect prevention activities; (E) payment of the salary and actual and necessary travel expenses of ~~the-coordinator~~ employees employed by the ~~corporation-for-change~~ secretary of health and environment for the children and youth advocacy committee; and (F) payment of administrative costs of the family and children trust account and of the children and youth advocacy committee, ~~including amounts provided by subsection (c) of K.S.A. 38-1805 and amendments thereto.~~ No moneys in the family and children trust account shall be used for the purpose of providing services for the voluntary termination of pregnancy.

(3) The children and youth advocacy committee ~~of the corporation-for-change~~ shall advise the ~~board-of-directors~~ secretary of health and environment in detail on the expenditures of moneys in the family and children trust account.

(d) (1) There is hereby created the permanent families account in the family and children investment fund.

(2) Moneys credited to the permanent families account shall be used for the following purposes: (A) Not more than 12% of the amount credited to the account during the fiscal year may be used to provide technical assistance to district courts or local groups wanting to establish a local citizen review board or a court-appointed special advocate program, including but not limited to such staff as necessary to provide such assistance, and to provide services necessary for the administration of such board or program, including but not limited to grants administration, accounting, data collection, report writing and

training of local citizen review board staff; (B) grants to court-appointed special advocate programs, upon application approved by the administrative judge of the judicial district where the program is located; and (C) grants to district courts, upon application of the administrative judge of the judicial district, for expenses of establishment, operation and evaluation of local citizen review boards in the judicial district, including costs of: (i) Employing local citizen review board coordinators and clerical staff; (ii) telephone, photocopying and office equipment and supplies for which there are shown to be no local funds available; (iii) mileage of staff and board members; and (iv) training staff and board members.

(e) On the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the family and children investment fund, the amount of money certified by the pooled money investment board in accordance with this subsection. Prior to the 10th of each month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding period of time specified under this subsection, pursuant to K.S.A. 75-4210a and amendments thereto that is attributable to money in the family and children investment fund. Such amount of money shall be determined by the pooled money investment board based on:

(1) The average daily balance of moneys in the family and children investment fund during the period of time specified under this subsection as certified to the board by the director of accounts and reports; and

(2) the average interest rate on repurchase agreements of less than 30 days duration entered into by the pooled money investment board for that period of time. On or before the fifth day of the month for the preceding month, the director of accounts and reports shall certify to the pooled money investment board the average daily balance of moneys in the family and

children investment fund for the period of time specified under this subsection.

Sec. 7. K.S.A. 38-1812 is hereby amended to read as follows: 38-1812. (a) Subject to the availability of funds in the permanent families account of the family and children investment fund created by K.S.A. 38-1808 and amendments thereto for citizen review boards, and subject to a request from a judicial district, there shall be local citizen review boards in judicial districts, or portions of such districts.

(b) The administrative judge of the judicial district, or such judge's designation of another judge, shall appoint three to seven citizens from the community to serve on each local citizen review board. Such members shall represent the various socioeconomic and ethnic groups of the judicial district, and shall have a special interest in children. Such judge may also appoint alternates when necessary.

(c) The term of appointment shall be two years and members may be reappointed.

(d) Members shall serve without compensation but may be reimbursed for mileage for out-of-county reviews.

(e) Each local citizen review board shall meet quarterly and may meet monthly if the number of cases to review requires such meetings.

(f) Members and alternates appointed to local citizen review boards shall receive at least six hours of training before reviewing a case.

Sec. 8. K.S.A. 38-1801, 38-1802, 38-1803, 38-1805, 38-1806, 38-1808, 38-1809, 38-1810, 38-1811 and 38-1812 and K.S.A. 1995 Supp. 38-1804, 38-1807 and 38-1813 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

## SUBSTITUTE FOR HOUSE BILL NO. 3047

By Committee on Appropriations

AN ACT concerning long-term care programs; department on aging; department of social and rehabilitation services; oversight; amending K.S.A. 39-7,100, 75-5310 and 75-5910 and repealing the existing sections; also repealing K.S.A. 75-5302, 75-5304a, 75-5304b, 75-5304c, 75-5306a, 75-5306b, 75-5306c, 75-5306d, 75-5306e, 75-5306f, 75-5308a, 75-5308b, 75-5308c, 75-5316, 75-5318, 75-5323, 75-5324, 75-5327, 75-5329, 75-5330, 75-5332, 75-5333, 75-5334, 75-5335, 75-5336, 75-5337 and 75-5339.

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

New Section 1. The secretary of social and rehabilitation services shall take necessary actions to transfer the administration of certain long-term care programs and services to the secretary of aging. The programs shall include the nursing facility services payment program, the home and community based nursing facility waiver program and the income eligible (home care) program. Excluding nursing facility programs, the programs to be transferred shall not include long-term care programs for individuals under the age of 65 with mental illness, mental retardation, other mental disabilities or physical disabilities. All such transfers shall be made only in accordance with federal grant requirements related to such programs.

New Sec. 2. The secretary of aging shall administer the long-term care programs and services transferred in this act. All powers granted in this act are to be interpreted and administered in conformity with federal grant requirements as applicable to programs transferred, even if such powers are limited or excluded:

(a) The secretary of aging shall develop state plans or state plan amendments or portions of state plans or state plan

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amendments in consultation with the secretary of social and rehabilitation services relating to long-term care programs as provided under the federal social security act. The secretary of aging shall not develop any state plan amendment in duplication of or contrary to any state plan otherwise developed by the secretary of social and rehabilitation services. The secretary of aging may cooperate with the federal government on any other program providing federal financial assistance and long-term care services not otherwise inconsistent with this act. The secretary of aging is not required to develop a state plan for participation or cooperation in all federal social security act programs or other federal programs that are available for long-term care services. The secretary of aging may develop a state plan in regard to long-term care services in which the federal government does not participate.

(b) The secretary of aging, in consultation with the secretary of social and rehabilitation services, may determine the general policies relating to all forms of long-term care programs which are administered or supervised by the secretary of aging and to adopt the rules and regulations therefor.

(c) The secretary of aging shall adopt rules and regulations necessary to protect the confidentiality of all client information as required by federal and state statutes and regulations.

(d) The secretary of aging shall provide that all officers and employees of the department of social and rehabilitation services who are engaged in the exercise and performance of the powers, duties and functions of the programs transferred in this act and are determined by the secretary to be necessary to perform such functions are transferred to the department on aging. Officers and employees of the department of social and rehabilitation services shall retain all retirement benefits and leave rights which had accrued or vested prior to each date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. All

transfers, layoffs and abolition of classified service positions under the Kansas civil service act which may result from program transfers shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. The secretary of aging may appoint attorneys as are necessary to effectively carry out the mission of the department and the programs transferred by this act. The attorneys appointed shall be in the unclassified service under the Kansas civil service act, shall serve at the pleasure of the secretary, and shall receive an annual salary fixed by the secretary and approved by the governor. Nothing in this act shall affect the classified status of any transferred person employed as an attorney by the department of social and rehabilitation services prior to the date of transfer and the unclassified status shall apply only to persons appointed to such attorney positions on or after the effective date of this act.

(e) The secretary of aging shall establish an adequate system of financial records. The secretary of aging and the secretary of social and rehabilitation services shall execute agreements for the department of social and rehabilitation services and the department on aging to share data systems necessary to maximize the efficiency of program operations and to ensure that federal grant requirements are met. The secretary of aging shall make annual reports to the governor and shall make any reports required by federal agencies.

(f) The secretary of aging may receive, have custody of, protect, administer, disburse, dispose of and account for federal or private equipment, supplies and property which is given, granted, loaned or advanced to the state of Kansas for long-term care programs after the transfer of such programs pursuant to this act.

(g) The secretary of aging may assist other departments, agencies and institutions of the state and federal government and of other states under interstate agreements, when so requested, by performing services in conformity with the purpose of this

act.

(h) The secretary of aging may lease real and personal property whenever the property is not available through the state or a political subdivision of the state for performing the functions required by this act.

(i) All contracts shall be made in the name of "secretary of aging" and in that name the secretary may sue and be sued on such contracts. The grant of authority under this subsection shall not be construed to be a waiver of any rights retained by the state under the 11th amendment to the United States constitution and shall be subject to and shall not supersede the provisions of any appropriations act of this state.

(j) The secretary of aging, except as set forth in the Kansas administrative procedure act and paragraphs 5 and 6, shall provide a fair hearing for any person who is an applicant, client or other interested person who appeals from the decision or final action of any agent or employee of the secretary. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act and the requirements of any applicable federal grant programs.

(1) The secretary of aging may investigate (A) any claims and vouchers and persons, businesses and other entities who provide services to the secretary of aging or to clients served by long-term care programs under the administration of the secretary, and (B) the eligibility of persons to receive services under long-term care programs under the administration of the secretary, and (C) the eligibility of providers of services.

(2) When conducting investigations, the secretary of aging may issue subpoenas; compel the attendance of witnesses at any place in this state; compel the production of any records, books, papers or other documents considered necessary; administer oaths; take testimony; and render decisions. If a person refuses to comply with any subpoena issued under this section or to testify to any matter regarding which the person may lawfully be questioned, the district court of any county, on application of

the secretary, may issue an order requiring the person to comply with the subpoena and to testify. Failure to obey the order of the court may be punished by the court as a contempt of court. Unless incapacitated, the person placing a claim or defending a privilege before the secretary shall appear in person or by authorized representative and may not be excused from answering questions and supplying information, except in accordance with the person's constitutional rights and lawful privileges.

(3) The presiding officer may close any portion of a hearing conducted under the Kansas administrative procedure act when matters made confidential, pursuant to federal or state law or regulation are under consideration.

(4) Except as provided in subsection (d) of K.S.A. 77-511 and amendments thereto and notwithstanding the other provisions of the Kansas administrative procedure act, the secretary of aging may enforce any order prior to the disposition of a person's application for an adjudicative proceeding unless prohibited from such action by federal or state statute, regulation or court order.

(5) This appeals procedure shall not have jurisdiction to determine the facial validity of a state or federal statute, rule or regulation.

(6) The secretary of aging shall not be required to provide a hearing if: (A) The appeals procedure lacks jurisdiction over the subject matter; (B) resolution of the matter does not require the secretary to issue an order that determines an applicant's or client's legal rights, duties, privileges, immunities or other legal interests; (C) the matter was not timely submitted for appeal pursuant to regulation or other provision of law; (D) the matter was not submitted in a form substantially complying with any applicable provision of law; or (E) the matter is under the prior or concurrent jurisdiction of the secretary of social and rehabilitation services pursuant to K.S.A. 75-3306 and amendments thereto.

(k) The secretary of aging may establish payment schedules

for each group of providers for the long-term care programs. The secretary shall consider budgetary constraints as a factor in establishing payment schedules so long as the result does not conflict with applicable federal law. The secretary shall not be required to make any payments under any federal grant program which do not meet the requirements for state and federal financial participation. The secretary shall not be required to make any payments under any federal grant program which do not meet the requirements for state and federal financial participation. The secretary shall not be required to establish or pay at rates which are in excess of the minimum necessary payment requirements regardless of excess costs incurred by a provider.

(l) The secretary of aging shall review all rules and regulations of the department on aging and shall amend and revoke the rules and regulations to conform to the purposes of this act.

(m) The secretary of aging may implement a program which would permit the value of any services provided by the area agencies on aging for the benefit of any long-term care programs administered by the secretary to be considered eligible for federal financial participation for such long-term care programs.

New Sec. 3. The secretary of aging may contract with public or private entities as selected by the secretary for the performance of certain functions of the transferred programs. Such contracts shall be only with independent contractors. All such contracts shall be subject to appropriations limitations. No such contracts shall provide for any indemnification of any independent contractor. All such contractors shall be subject to and limited by any applicable federal grant requirements. The secretary may, but is not required to, comply with the competitive bid requirements of K.S.A. 75-3739 and amendments thereto. The secretary of aging shall be required to adopt rules and regulations for the administration of such contracts. If necessary to comply with applicable federal grant requirements, such powers may be assumed by the secretary of social and

rehabilitation services.

New Sec. 4. The secretary of aging may contract for the services of persons to assist in the preparation of expert testimony for litigation and to act as expert witnesses in litigation. Any such contracts shall be exempt from the competitive bid requirements of K.S.A. 75-3739 and amendments thereto.

New Sec. 5. The program transfers shall be made pursuant to a transition plan and such transfers shall be made on or before July 1, 1997. Such transition plan shall be jointly developed by the secretary of social and rehabilitation services and the secretary of aging. Such transition plan shall be interpreted and administered to comply with applicable federal grant requirements. Such transition plan shall be developed, as practicable, to minimize confusion and disruptions to affected program consumers.

New Sec. 6. Pursuant to the transition plan provided for by section 5, the secretary of social and rehabilitation services shall transfer from the department of social and rehabilitation services to the department on aging all applicable appropriations, resources and obligations associated with these programs.

New Sec. 7. The secretary of aging shall be a continuation of the secretary of social and rehabilitation services as to the programs transferred in accordance with the transition plan provided for by section 5 and shall be the successor in every way to the powers, duties and functions of the secretary of social and rehabilitation services for such programs, except as otherwise provided. On and after the transfer date for each of the programs transferred, every act performed in the exercise of such powers, duties and functions by or under the authority of the secretary of aging shall be deemed to have the same force and effect as if performed by the secretary of social and rehabilitation services in whom such powers were vested prior to the transfer.

New Sec. 8. (a) No suit, action or other proceeding, judicial or administrative, which pertains to any of the transferred long-term care programs, and which is lawfully commenced, or could have been commenced, by or against the secretary of social and rehabilitation services in such secretary's official capacity or in relation to the discharge of such secretary's official duties, shall abate by reason of the transfer of such programs. The secretary of aging shall be named or substituted as the defendant in place of the secretary of social and rehabilitation services in any suit, action or other proceeding involving claims arising from facts or events first occurring either on or before the date the pertinent program is transferred or on any date thereafter.

(b) No suit, action or other proceeding, judicial or administrative, pertaining to the transferred long-term care programs which otherwise would have been dismissed or concluded shall continue to exist by reason of any transfer under this act.

(c) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

(d) Any final appeal decision of the department of social and rehabilitation services entered pursuant to K.S.A. 75-3306 and amendments thereto or the Kansas act for judicial review and civil enforcement of agency actions currently pertaining to any long-term care program transferred pursuant to this act shall be binding upon and applicable to the secretary of aging and the department on aging.

New Sec. 9. The secretary of social and rehabilitation services and the secretary of aging shall require their agents and employees to be equally available for preparation for and testimony in any administrative hearing of or judicial proceeding pertaining to the department of social and rehabilitation services or the department on aging and any program or service transferred under this act.

New Sec. 10. (a) If or when any conflict arises as to the



disposition of any power, duty or function or issues involving resources, appropriations and obligations as a result of a transfer made under the authority of this act, such conflict shall be resolved by the governor and the decision of the governor shall be final.

(b) If or when any conflict arises as to the succession to any property and records related to any transfer made under the authority of this act, such conflict shall be resolved by the governor and the decision of the governor shall be final.

New Sec. 11. Prior to December 31, 1996, the secretary of social and rehabilitation services and the secretary of aging shall report to the governor and the legislature on any known statutory changes required for the performance of the functions of this act.

New Sec. 12. If any word, phrase, sentence or provision of this act is determined to be invalid, such invalidity shall not affect the other provisions of this act and they shall be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 13. K.S.A. 39-7,100 is hereby amended to read as follows: 39-7,100. (a) As used in this section:

(1) "Home and community based services program programs" means mean the program programs established under the state medical assistance program under plans or waivers as defined in ~~title-XIX-of~~ the federal social security act in accordance with the ~~plan~~ plans or waivers adopted ~~under-subsection-(s)-of-K.S.A.-39-708c-and-amendments-thereto~~ by the secretary of social and rehabilitation services and the secretary of aging, either separately or jointly, to provide attendant care services to individuals in need of in-home care who would require admission to an institution if the attendant care services were not otherwise provided.

(2) "Secretary" means either the secretary of social and rehabilitation services or the secretary of aging.

(b) The secretary as part of the home and community based

services program programs, subject to social security act grant requirements, shall provide that:

(1) Priority recipients of attendant care services shall be those individuals in need of in-home care who are at the greatest risk of being placed in an institutional setting;

(2) individuals in need of in-home care who are recipients of attendant care services and the parents or guardians of individuals who are minors at least 16 years of age and who are in need of in-home care shall have the right to choose the option to make decisions about, direct the provisions of and control the attendant care services received by such individuals including, but not limited to, selecting, training, managing, paying and dismissing of an attendant;

(3) any proposals to provide attendant care services solicited by the secretary shall be selected based on service priorities developed by the secretary, except that priority shall be given to proposals that will serve those at greatest risk of being placed in an institution as determined by the secretary;

(4) providers, where appropriate, shall include individuals in need of in-home care in the planning, startup, delivery and administration of attendant care services and the training of personal care attendants; and

(5) within the limits of appropriations therefor, the home and community based services program programs shall serve eligible individuals in need of in-home care throughout this state.

(c) Within the limits of appropriations therefor, the secretary may initiate demonstration projects to test new ways of providing attendant care services and may conduct specific research into ways to best provide attendant care services in both urban and rural environments.

~~(d) On or before October 17, 1990, the secretary shall submit a written report to the governor and to the legislature, which report shall include a summary of attendant care services provided under the home and community based services program, a~~

~~description-of--the--service--models--utilized--as--part--of--the  
program,-the-costs-by-service-model-and-units-of-service-provided  
per-client,-client-demographics-and-such-other-information-as-the  
secretary-deems-appropriate-~~

Sec. 14. K.S.A. 75-5910 is hereby amended to read as follows: 75-5910. (a) Except as otherwise specifically provided by law, and subject to the Kansas civil service act, the secretary of aging shall appoint all subordinate officers and employees of the department and all such subordinate officers and employees shall be within the classified service under the Kansas civil service act.

(b) The secretary may appoint one public information officer, one chief attorney, one personal secretary and one special assistant who shall be in the unclassified service under the Kansas civil service act and shall receive compensation fixed by the secretary and approved by the governor. The secretary may appoint deputy secretaries and commissioners as determined necessary by the secretary to effectively carry out the mission of the department. All deputy secretaries and commissioners shall be in the unclassified service under the Kansas civil service act and shall receive compensation fixed by the secretary and approved by the governor.

(c) Nothing in subsection (b) shall affect the classified status of any person employed by the department on aging on the day immediately preceding the effective date of this act. The provisions of this subsection shall not be construed to limit the powers of the secretary pursuant to K.S.A. 75-5909 or 75-2948 and amendments thereto.

(d) Personnel of the department shall perform such duties and exercise such powers as the secretary may prescribe such duties and powers as are designated by law.

New Sec. 15. (a) As used in this section and section 16, "secretary" means the secretary of social and rehabilitation services.

(b) Subject to the limitations of this section, the

secretary of social and rehabilitation services may organize the department of social and rehabilitation services in the manner the secretary determines most efficient. Commission heads, division heads and employees of the department of social and rehabilitation services not within a particular commission or division shall perform such duties and exercise such powers as are prescribed by law and such other duties as the secretary may prescribe. Such commission heads, division heads and employees shall act for, and exercise the powers of, the secretary to the extent authority to do so is delegated by the secretary.

(c) Subject to the provisions of subsection (b), personnel of each commission and division of the department of social and rehabilitation services shall perform such duties and shall exercise such powers as the head of the commission or division may prescribe and shall perform such duties and shall exercise powers as are prescribed by law. Personnel of each commission and division shall act for, and exercise the powers of, their commission or division head to the extent the authority to do so is delegated by the commission or division head.

Sec. 16. K.S.A. 75-5310 is hereby amended to read as follows: 75-5310. The secretary of social and rehabilitation services may appoint a chief attorney and other attorneys for the department of social and rehabilitation services. The chief attorney shall serve at the pleasure of the secretary, shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of ~~social--and-rehabilitation-services~~ and approved by the governor. The secretary ~~of-social--and--rehabilitation--services~~ may also appoint staff assistants. Such staff assistants and attorneys other than the chief attorney shall be in the classified service under the Kansas civil service act. The secretary ~~of-social-and-rehabilitation--services~~ may appoint one public information officer, one personal secretary and one special assistant who shall serve at the pleasure of the secretary, shall be in the unclassified service under the Kansas civil service act and shall

receive annual salaries fixed by the secretary ~~of-social-and-rehabilitation--services~~ and approved by the governor. The secretary ~~of-social-and-rehabilitation--services~~ may appoint a ~~commissioner--of--administrative--services~~ deputy secretary who shall serve at the pleasure of the secretary, be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary ~~of--social--and-rehabilitation-services~~ and approved by the governor.

The secretary may appoint commissioners and deputy commissioners as determined necessary by the secretary to effectively carry out the mission of the department. All commissioners and deputy commissioners shall serve at the pleasure of the secretary, shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary and approved by the governor. The secretary may also appoint a director for each of the department's management areas. Each area director shall serve at the pleasure of the secretary, be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary and approved by the governor. Nothing in this act shall affect the classified status of any person employed as a deputy commissioner or area director on the day immediately preceding the effective date of the act and the unclassified status shall apply only to persons appointed to such positions on or after the effective date of the act.

New Sec. 17. The secretary of social and rehabilitation services shall apply for appropriate waivers to applicable federal medicaid provisions to permit an expansion of home and community based services to include the services provided under the Kansas senior care act and to obtain medicaid funding therefor.

New Sec. 18. The secretary of aging shall ensure statewide service access is available in a timely manner and shall adopt an application procedure for long-term care services which presumes the eligibility of persons applying for long-term care services

from the date of application.

New Sec. 19. The secretary of aging may contract for long-term care services with area agencies on aging or other community based entities designated by the secretary of aging. If an area agency on aging fails or is unable to provide services and local administration of the system, the secretary of aging shall enter into contracts for services with qualified local not-for-profit and other service providers to perform such services. All contracts made under this section, and all renewal contracts, shall provide that the contract is subject to successfully meeting performance standards set by the secretary of aging.

New Sec. 20. (a) There is hereby created the long-term care oversight committee which shall consist of 16 members as follows:

(1) Five members appointed by the chairperson of the house appropriations committee;

(2) five members appointed by the chairperson of the senate ways and means committee;

(3) the chairperson and ranking minority members of the house and senate committees on public health and welfare; and

(4) the chairperson and ranking minority member of the health care reform legislative oversight committee.

(b) The chairperson of the house appropriations committee shall appoint the chairperson of the oversight committee for the first year, ending on June 30, and the chairperson of the senate ways and means committee shall appoint the chairperson of the oversight committee for the second year of its existence. The long-term care oversight committee is hereby abolished on July 1, 1998.

(c) the oversight committee shall meet on call of the chairperson as authorized by the legislative coordinating council. All such meetings shall be held in Topeka unless authorized to be held in a different place by the legislative coordinating council. Members of the oversight committee shall receive compensation and travel expenses and subsistence expenses

or allowances as provided in K.S.A. 75-3212 and amendments thereto, when attending meetings of such committee.

(d) The oversight committee shall monitor implementation of the transfer of long-term care programs from the secretary of social and rehabilitation services to the secretary of aging. The committee shall specifically examine transfer cost neutrality and the need for additional funding to finance transition costs. The oversight committee shall ensure that the transfer of the long-term care programs does not lead to a loss of services by consumers.

Sec. 21. K.S.A. 39-7,100, 75-5302, 75-5304a, 75-5304b, 75-5304c, 75-5306a, 75-5306b, 75-5306c, 75-5306d, 75-5306e, 75-5306f, 75-5308a, 75-5308b, 75-5308c, 75-5310, 75-5316, 75-5318, 75-5323, 75-5324, 75-5327, 75-5329, 75-5330, 75-5332, 75-5333, 75-5334, 75-5335, 75-5336, 75-5337, 75-5339 and 75-5910 are hereby repealed.

Sec. 22. This act shall take effect and be in force from and after its publication in the statute book.



# HOUSE BILL No. 3048

By Committee on Appropriations

2-16

9 AN ACT relating to care and treatment of drug and alcohol abusers; local  
 10 care and treatment; amending K.S.A. 65-4003, 65-4012, 65-4013, 65-  
 11 4014, 65-4015, 65-4017, 65-4018, 65-4024, 65-4025, 65-4026, 65-4027,  
 12 65-4028, 65-4030, 65-4031, 65-4032, 65-4033, 65-4035, 65-4036, 65-  
 13 4037, 65-4038, 65-4040, 65-4041, 65-4042, 65-4044, 65-4045, 65-4048,  
 14 65-4049, 65-4050, 65-4054, 65-4056, 65-4601, 65-4602, 65-4603, 65-  
 15 4605, 65-4609, 65-5201, 65-5202, 65-5204, 65-5205, 65-5206, 65-5208,  
 16 65-5210, 65-5211, 65-5212, 65-5213, 65-5215, 65-5216, 65-5217, 65-  
 17 5219, 65-5220, 65-5223, 65-5224, 65-5225 and 65-5229 and K.S.A.  
 18 1995 Supp. 65-4016, 65-4043 and 65-5218 and repealing the existing  
 19 sections.

20  
21 *Be it enacted by the Legislature of the State of Kansas:*

22 New Section 1. (a) As used in sections 1 to 5, inclusive:

23 (1) "Secretary" means the secretary of social and rehabilitation serv-  
24 ices;

25 (2) "department" means the department of social and rehabilitation  
26 services; and

27 (3) "institution" means any institution within the department.

28 (b) Unless the context requires otherwise, terms defined in K.S.A.  
29 65-4003, 65-4602 and 65-5201 and amendments thereto shall have the  
30 same meaning when used in sections 1 to 5, inclusive, as is specified in  
31 such sections.

32 New Sec. 2. From and after [July]1, 1996, no institution shall admit [October  
 33 any individual for care or treatment of alcohol abuse or drug abuse with  
 34 the exception [of] Larned state hospital and Osawatomie state hospital, for [that  
 35 detoxification services. From and after [July]1, 1996, public treatment [may admit an individual  
 36 facilities and other treatment facilities licensed under K.S.A. 65-4001 et [October  
 37 seq., 65-4601 et seq. or [65-460] et seq. and amendments thereto as spec- [as clinically indicated  
 38 ified or directed by the secretary or a district court shall admit and give [65-5201  
 39 appropriate care and treatment to alcohol and drug abusers.

40 New Sec. 3. The secretary shall develop care and treatment pro-  
41 grams to enlist, by agreement, public and private treatment facilities li-  
42 censed under K.S.A. 65-4001 et seq., 65-4601 et seq. and 65-5201 et seq.  
43 and amendments thereto to receive any or only certain, alcohol or drug

Attachment  
4

House Appropriations

3-19-96

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1 abusers as provided in each such agreement.

2 New Sec. 4. The secretary shall adopt rules and regulations appli-  
3 cable to the programs specified in sections 2, 3 and 4 and to any matters  
4 requiring regulation to make the transition contemplated by sections 2,  
5 3 and 4 including the making of provisions for transfer from any institution  
6 operated by the secretary to an appropriate facility which has agreed to  
7 accept individuals to be so transferred and to give appropriate care and  
8 treatment to such individuals.

9 New Sec. 5. On ~~July~~ October 1, 1996, when an individual is located in an  
10 institution by the order of a court, the secretary shall cause appropriate  
11 application to be made to such court for transfer of such individual from  
12 such institution to a facility licensed as provided in section ~~11~~ 9. The court  
13 to which such an application is made shall cause to be issued its order to  
14 make such transfer as it deems reasonable as to both time and place. Such  
15 court shall cause to be given notice, as it deems appropriate, to interested  
16 parties of any hearing the court chooses to hold before making such an  
17 order.

18 Sec. 6. K.S.A. 65-4003 is hereby amended to read as follows: 65-  
19 4003. For the purposes of this act:

20 (1) "Alcoholic" means an individual who habitually lacks self-control  
21 as to the use of alcoholic beverages or uses alcoholic beverages to the  
22 extent that the individual's health is substantially impaired or endangered  
23 or the individual's social or economic function is substantially disrupted;

24 (2) "private treatment facility" means a private agency providing fa-  
25 cilities for the care or lodging of alcoholics meeting the standards pre-  
26 scribed in K.S.A. 65-4013 and amendments thereto, and licensed under  
27 K.S.A. 65-4014 and amendments thereto, for the treatment of alcoholics  
28 or intoxicated individuals or individuals incapacitated by alcohol;

29 (3) "public treatment facility" means a treatment facility owned and  
30 operated by ~~the state of Kansas or any political subdivision thereof of the~~  
31 *state of Kansas* and licensed by the secretary under K.S.A. 65-4014 and  
32 amendments thereto, as an appropriate place for the care and treatment  
33 of alcoholic or intoxicated individuals or individuals incapacitated by al-  
34 cohool;

35 (4) "treatment facility" means a public or private treatment facility,  
36 but such term shall not include a licensed medical care facility, a licensed  
37 adult care home, a facility licensed under K.S.A. 75-3307b and amend-  
38 ments thereto, a community-based alcohol and drug safety action pro-  
39 gram certified under K.S.A. 8-1008 and amendments thereto and per-  
40 forming only those functions for which the program is certified to perform  
41 under K.S.A. 8-1008 and amendments thereto ~~for a psychologist or phy-~~  
42 *sician who treats in the usual course of the psychologist's or physician's*  
43 *professional practice alcoholics or intoxicated individuals or individuals*

or a psychologist or physician who treats in  
the usual course of the psychologist's or  
physician's professional practice alcoholics  
or intoxicated individuals or individuals

1 [incapacitated by alcohol and are not exclusively engaged in the usual  
2 course of the individual's professional practice in treating such individuals]  
3 or a state institution [for detoxification services];

incapacitated by alcohol and are not exclusively engaged in the usual course of the individual's professional practice in treating such individuals

4-3

4 (5) "committee" means the Kansas citizens' committee on alcohol  
5 and other drug abuse;

[even if detoxification services may have been obtained at a state institution

6 (6) "department" means the department of social and rehabilitation  
7 services;

8 (7) "emergency service patrol" means a patrol established under  
9 K.S.A. 65-4056 and amendments thereto;

10 (8) "incapacitated by alcohol" means that an individual, as the result  
11 of the use of alcohol, is unconscious or has impaired judgment so that (a)  
12 such individual is incapable of realizing and making a rational decision  
13 with respect to such individual's need for treatment; or (b) such individual  
14 lacks sufficient understanding or capacity to make or communicate re-  
15 sponsible decisions concerning either such individual's well-being or es-  
16 tate;

17 (9) "disabled individual" means an individual who has been adjudi-  
18 cated disabled pursuant to K.S.A. 59-3002 *et seq.*, and amendments  
19 thereto;

20 (10) "intoxicated individual" means an individual whose mental or  
21 physical functioning is substantially impaired as a result of the use of  
22 alcohol;

23 (11) "treatment" means the broad range of emergency, outpatient,  
24 intermediate and inpatient services and care, including diagnostic evalu-  
25 ation, medical, psychiatric, psychological, and social service care, voca-  
26 tional rehabilitation and career counseling, which may be extended to  
27 alcoholics and intoxicated individuals;

28 (12) "patient" means an individual who is a voluntary patient, a pro-  
29 posed patient or an involuntary patient;

30 (13) "voluntary patient" means an individual who is voluntarily re-  
31 ceiving care or treatment at a treatment facility other than by order of  
32 any court;

33 (14) "proposed patient" means an individual for whom an application  
34 pursuant to K.S.A. 65-4032 and amendments thereto has been filed;

35 (15) "involuntary patient" means an alcoholic or an individual inca-  
36 pacitated by alcohol who is receiving care or treatment under an order  
37 of a district court;

38 (16) "other facilities for care or treatment" means any mental health  
39 clinic, medical care facility, nursing home, physician or any other insti-  
40 tution or individual authorized or licensed by law to give care or treatment  
41 to any patient;

42 (17) "physician" means an individual licensed to practice medicine  
43 and surgery as provided by the Kansas healing arts act;

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1 (18) "head of the treatment facility" means the administrative direc-  
2 tor of a treatment facility;

3 (19) "care or treatment" means such necessary services as are in the  
4 best interests of the physical and mental health of the patient;

5 (20) "discharge" means the final and complete release from care or  
6 treatment, by either an order of a district court pursuant to K.S.A. 65-  
7 4042 and amendments thereto or a treatment facility;

8 (21) "convalescent" describes the status of any patient who has not  
9 been discharged, but who is permitted by the head of the treatment  
10 facility to live apart from a treatment facility;

11 (22) (21) the various terms defined in K.S.A. 59-3002 and amend-  
12 ments thereto for obtaining a guardian or conservator, or both, mean the  
13 same herein as they do in that act;

14 (23) (22) "law enforcement officer" means any individual who by vir-  
15 tue of office or public employment is vested by law with a duty to maintain  
16 public order or to make arrests for crimes, whether that duty extends to  
17 all crimes or is limited to specific crimes;

18 (24) (23) "person" means any individual, firm, partnership, corpora-  
19 tion, company, association, or joint stock association, and the legal suc-  
20 cessor thereof;

21 (25) (24) "governmental unit" means the state, or any county, mu-  
22 nicipality or other political subdivision thereof of the state; or any de-  
23 partment, division, board or other agency of any of the foregoing;

24 (26) (25) "secretary" means the secretary of social and rehabilitation  
25 services;

26 (27) (26) "state institution" means ~~any institution within the depart-~~  
27 ~~ment of social and rehabilitation services which~~ offers alcoholism treat-  
28 ment detoxification programs; and

29 (28) (27) "psychologist" means an individual authorized to practice  
30 psychology as provided by the licensure of psychologists act of the state  
31 of Kansas;

32 (28) "designated state funded assessment center" or "assessment cen-  
33 ter" means a treatment facility designated by the secretary; and

34 (29) "counselor" means a state certified alcohol and drug abuse coun-  
35 selor.

36 Sec. 7. K.S.A. 65-4012 is hereby amended to read as follows: 65-  
37 4012. On and after July 1, 1973, No person or governmental unit acting  
38 severally or jointly with any other person or governmental unit shall es-  
39 tablish, conduct or maintain a public or private treatment facility in this  
40 state without a license under this law.

41 Sec. 8. K.S.A. 65-4013 is hereby amended to read as follows: 65-  
42 4013. (a) An application for a license to establish, conduct, manage or  
43 operate a treatment facility for alcoholics shall be made to the secretary

[Larned state hospital and Osawatomie state  
hospital to the extent that either facility

4-5

1 65-4607 and amendments thereto for the treatment of drug abusers or  
2 persons incapacitated by drugs;

3 (b) "approved public treatment facility" means a treatment facility  
4 owned and operated by the state of Kansas or any political subdivision  
5 thereof of the state of Kansas and approved by the secretary, pursuant to  
6 K.S.A. 65-4603 and amendments thereto and K.S.A. 65-4607 and amend-  
7 ments thereto;

8 (c) "treatment facility" means an approved public or private treat-  
9 ment facility, but such term shall not include a licensed medical care  
10 facility, a licensed adult care home or a facility licensed under the pro-  
11 visions of K.S.A. 75-3307b and amendments thereto, or a licensed psy-  
12 chologist or a person licensed to practice medicine or surgery if such  
13 psychologist or person licensed to practice medicine or surgery treats in  
14 the usual course of their professional practice drug abusers or persons  
15 incapacitated by drugs and are not exclusively engaged in the usual course  
16 of their professional practice in treating such persons, or ~~any state insti-~~  
17 ~~tution~~;

[ a

even if detoxification services may have been  
obtained at such state institution

18 (d) "committee" means the Kansas citizens' committee on alcohol  
19 and other drug abuse;

20 (e) "department" means the department of social and rehabilitation  
21 services;

22 (f) "disabled person" means a person who has been adjudicated dis-  
23 abled pursuant to K.S.A. 59-3002 *et seq.*, and amendments thereto;

24 (g) "intoxicated person" means a person whose mental or physical  
25 functioning is substantially impaired as a result of the use of drugs;

26 (h) "treatment" means the broad range of emergency, outpatient,  
27 intermediate, and inpatient services and care, including diagnostic eval-  
28 uation, medical, psychiatric, psychological, and social service care, voca-  
29 tional rehabilitation and career counseling, which may be extended to  
30 drug abusers and intoxicated persons;

31 (i) "patient" means a person who is a voluntary patient, a proposed  
32 patient, or an involuntary patient;

33 (j) "voluntary patient" means a person who is voluntarily receiving  
34 care or treatment at a treatment facility other than by order of any court;

35 (k) "proposed patient" means a person for whom an application pur-  
36 suant to K.S.A. 65-5207 and amendments thereto has been filed;

37 (l) "involuntary patient" means a person incapacitated by drugs who  
38 is receiving care or treatment under an order of a district court;

39 (m) "other facilities for care or treatment" means any mental health  
40 clinic, medical care facility, nursing home, physician or any other insti-  
41 tution or individual authorized or licensed by law to give care or treatment  
42 to any patient;

43 (n) "physician" means a person licensed to practice medicine and



KANSAS DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

ROCHELLE CHRONISTER, SECRETARY

March 19, 1996

Representative Robin Jennison  
Chairman, House Appropriations Committee

Chairman Jennison and Members of the Appropriations Committee:

There were many questions surrounding the SRS Reorganization legislation which we attempted to pass through the House Chamber in February. As an agency, we failed to lay the necessary groundwork to ensure the passage of my reorganization bill and we didn't hear or address the concerns of some House members. First, I will address your concerns:

**1) Why didn't the Governor and the Agency just submit an Executive Reorganization Order (ERO)?**

Yes, we could have used an ERO. However, since an ERO cannot change statute and SRS is established by statute, a series of trailer bills would have followed. HB2696 seemed to be the best course of action.

**2) Why are you changing some positions to unclassified positions?**

SRS is an extremely large agency where a lot of people are in a position to make policy, with or without the Secretary. Currently, the Secretary, Deputy Secretary, Commissioners, Superintendents and a few others are the only unclassified positions currently in the agency. I felt that anyone who implements policy, makes policy or supervises over 200 people should serve at the discretion of the Secretary. None of these changes would affect anyone currently serving in their present position.

**3) Doesn't this legislation give the Secretary too much power?**

I didn't look at this as a 'power grab'. Actually, I was looking for the flexibility to react to changes at the federal level. We're still not sure when or if the Fed's will ever pass 'Welfare Reform', but I felt this legislation gave SRS the best possible chance to react and change as the Feds change. This agency has long been accused of waiting too long to react to change (I should know, I complained about this for 16 years); HB2696 gave me the authority to change with the

3-19-96

House Appropriations

Attachment  
5

times faster.

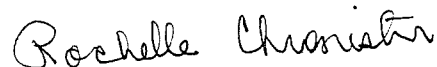
However, there are other important aspects to this legislation, so I recommend we strip 2c from HB2696. This is the provision that gives the Secretary the ability to create and abolish divisions of SRS with the Governor's approval.

After talking with House leadership, the Chairman of the House Appropriations Committee and the Chairman of the Subcommittee on Social Services, the decision was made to include the contents of HB2696 (the SRS Reorganization bill) into HB3047 with the following change: **Section 2c has been amended out.**

Enclosed is an Organization Chart so you can see what changes have already been made. Also, I have enclosed a list of all the repealers. The statutes that affect SRS have not been changed since the mid-1970's; the agency has. The repealers do away with the old commission names and allow the Secretary the ability to restructure commissions in the most effective and efficient way.

I hope you will be able to support the SRS Reorganization section of HB3047, as amended. I would also ask for your support of HB3047 in general. The transfer of long-term care to the Department of Aging will be much smoother with the passage of HB3047 this legislative session. If you have any questions or concerns please give Mike Hutfles or myself a call.

Sincerely,

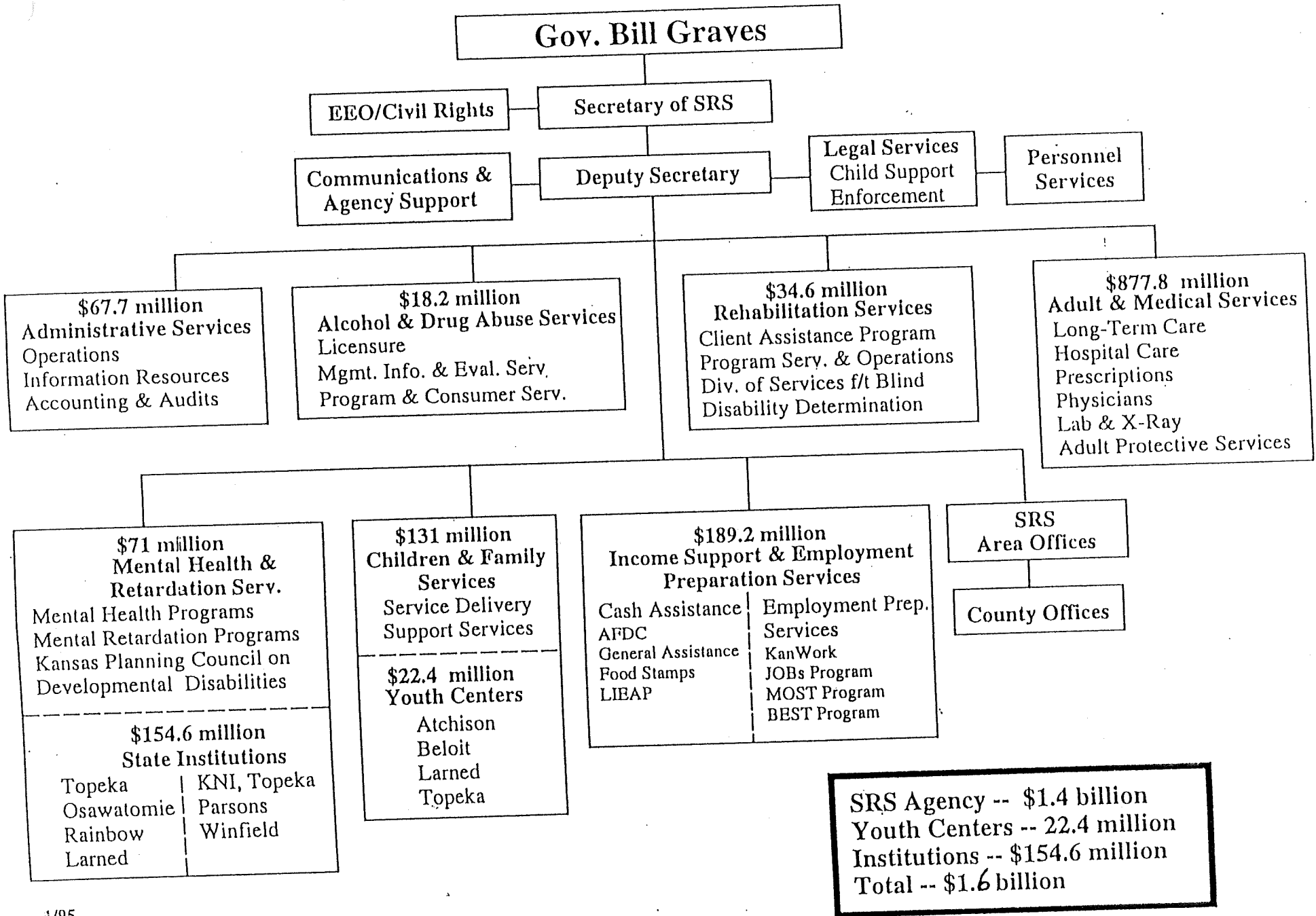


Rochelle Chronister  
Secretary of SRS



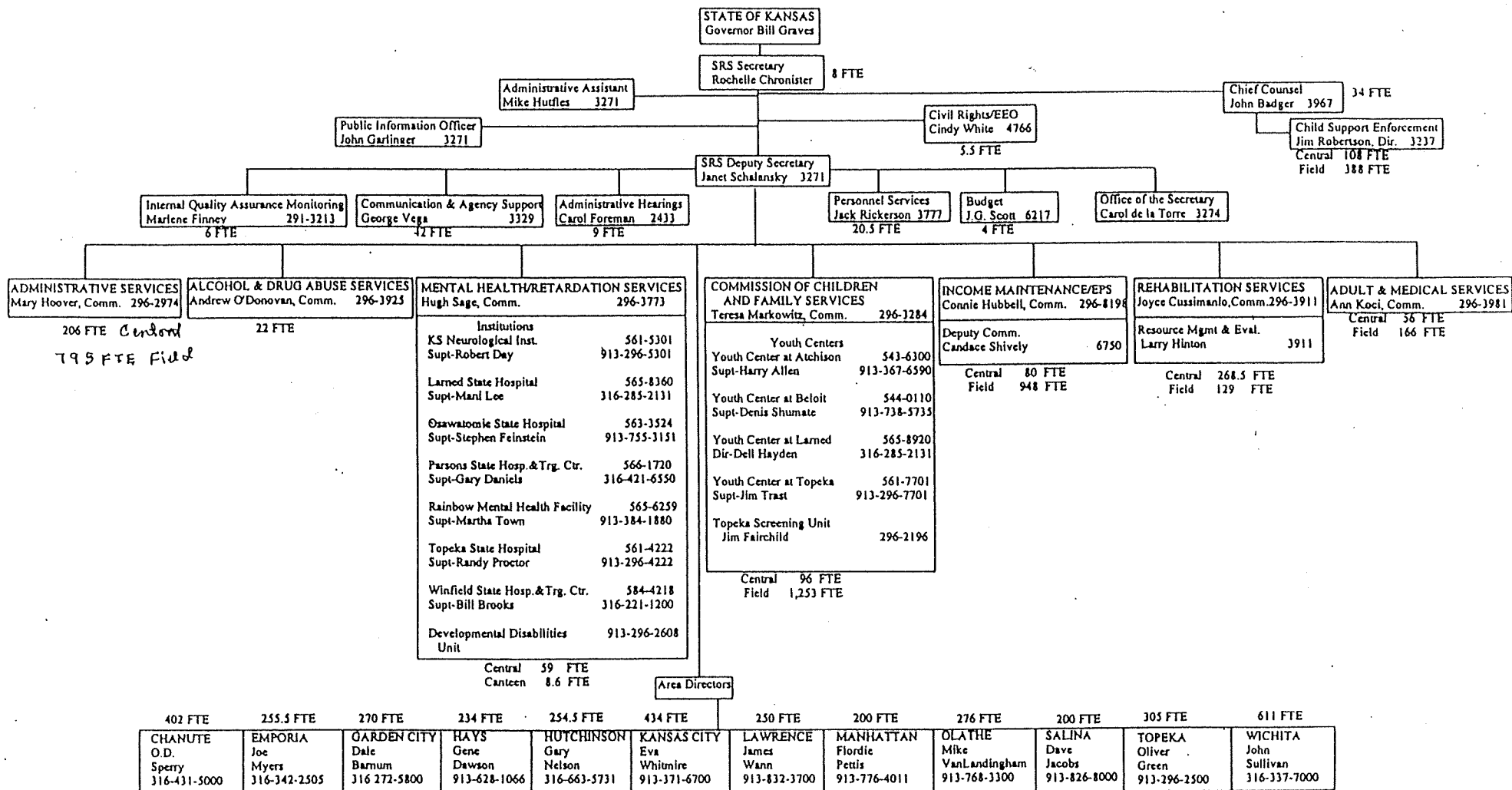
# SRS Organizational Chart and FY 1995 Actual Expenditures

5-3



SRS Central Office Organization Chart 11/95

5-4



## HOUSE BILL No. 2696

By Committee on Governmental Organization and Elections

1-22

9 AN ACT concerning the department of social and rehabilitation services;  
10 amending K.S.A. 75-5310 and repealing the existing section; also re-  
11 pealing K.S.A. 75-5302, 75-5304a, 75-5304b, 75-5304c, 75-5306a, 75-  
12 5306b, 75-5306c, 75-5306d, 75-5306e, 75-5306f, 75-5308a, 75-5308b,  
13 75-5308c, 75-5316, 75-5318, 75-5323, 75-5324, 75-5327, 75-5329,  
14 75-5330, 75-5332, 75-5333, 75-5334, 75-5335, 75-5336, 75-5337 and  
15 75-5339.

16  
17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. As used in this act, "secretary" means secretary of  
19 social and rehabilitation services.

20 New Sec. 2. (a) Subject to the limitations of this section, the secre-  
21 tary of social and rehabilitation services may organize the department of  
22 social and rehabilitation services in the manner the secretary determines  
23 most efficient. Commission heads, division heads and employees of the  
24 department of social and rehabilitation services not within a particular  
25 commission or division shall perform such duties and exercise such pow-  
26 ers as are prescribed by law and such other duties as the secretary may  
27 prescribe. Such commission heads, division heads and employees shall  
28 act for, and exercise the powers of, the secretary to the extent authority  
29 to do so is delegated by the secretary.

30 (b) Subject to the provisions of subsections (a) and (c), personnel of  
31 each commission and division of the department of social and rehabili-  
32 tation services shall perform such duties and shall exercise such powers  
33 as the head of the commission or division may prescribe and shall perform  
34 such duties and shall exercise powers as are prescribed by law. Personnel  
35 of each commission and division shall act for, and exercise the powers of,  
36 their commission or division head to the extent the authority to do so is  
37 delegated by the commission or division head.

38 (c) Whenever any power, duty or function is designated by statute to  
39 be carried out by a particular organizational unit or employee within the  
40 department of social and rehabilitation services, the secretary is author-  
41 ized to transfer any such power, duty or function to any other organiza-  
42 tional unit or employee within the department. Included within the sec-  
43 retary's authority to reorganize the department is the authority to abolish

delete Section 2(c)  
lines 38-43

lines 1-3

1 organizational units and consolidate powers, duties and functions of such  
 2 organizational units. Transfers and reorganization pursuant to this sub-  
 3 section (c) shall be subject to the approval of the governor.

4 Sec. 3. K.S.A. 75-5310 is hereby amended to read as follows: 75-  
 5 5310. The secretary of social and rehabilitation services may appoint a  
 6 chief attorney and other attorneys for the department of social and re-  
 7 habilitation services. The chief attorney shall serve at the pleasure of the  
 8 secretary, shall be in the unclassified service under the Kansas civil service  
 9 act and shall receive an annual salary fixed by the secretary of ~~social and~~  
 10 ~~rehabilitation services~~ and approved by the governor. The secretary of  
 11 ~~social and rehabilitation services~~ may also appoint staff assistants. Such  
 12 staff assistants and attorneys other than the chief attorney shall be in the  
 13 classified service under the Kansas civil service act. The secretary of ~~social~~  
 14 ~~and rehabilitation services~~ may appoint one public information officer,  
 15 one personal secretary and one special assistant who *shall serve at the*  
 16 *pleasure of the secretary*, shall be in the unclassified service under the  
 17 Kansas civil service act and shall receive annual salaries fixed by the sec-  
 18 retary of ~~social and rehabilitation services~~ and approved by the governor.  
 19 The secretary of ~~social and rehabilitation services~~ may appoint a ~~com-~~  
 20 ~~missioner of administrative services~~ *deputy secretary* who shall *serve at*  
 21 *the pleasure of the secretary*, be in the unclassified service under the  
 22 Kansas civil service act and shall receive an annual salary fixed by the  
 23 secretary of ~~social and rehabilitation services~~ and approved by the gov-  
 24 ernor.

25 *The secretary may appoint commissioners and deputy commissioners*  
 26 *as determined necessary by the secretary to effectively carry out the mis-*  
 27 *sion of the department. All commissioners and deputy commissioners shall*  
 28 *serve at the pleasure of the secretary, shall be in the unclassified service*  
 29 *under the Kansas civil service act and shall receive an annual salary fixed*  
 30 *by the secretary and approved by the governor. The secretary may also*  
 31 *appoint a director for each of the department's management areas. Each*  
 32 *area director shall serve at the pleasure of the secretary, be in the un-*  
 33 *classified service under the Kansas civil service act and shall receive an*  
 34 *annual salary fixed by the secretary and approved by the governor. Noth-*  
 35 *ing in this act shall affect the classified status of any person employed as*  
 36 *a deputy commissioner or area director on the day immediately preceding*  
 37 *the effective date of the act and the unclassified status shall apply only to*  
 38 *persons appointed to such positions on or after the effective date of the*  
 39 *act.*

40 Sec. 4. K.S.A. 75-5302, 75-5304a, 75-5304b, 75-5304c, 75-5306a, 75-  
 41 5306b, 75-5306c, 75-5306d, 75-5306e, 75-5306f, 75-5308a, 75-5308b, 75-  
 42 5308c, 75-5310, 75-5316, 75-5318, 75-5323, 75-5324, 75-5327, 75-5329,  
 43 75-5330, 75-5332, 75-5333, 75-5334, 75-5335, 75-5336, 75-5337 and 75-

- 1 5339 are hereby repealed.
- 2 Sec. 5. This act shall take effect and be in force from and after its
- 3 publication in the statute book.

- 75-5302 Transfers of powers, duties, functions, etc., from the state board of social welfare to SRS. (1973)
- 75-5304a Abolishes the division of vocational rehabilitation and transferred powers, duties and functions to rehabilitation services under the supervision of the secretary of SRS. (1980)
- 75-5304b Establishes rehabilitation services and allows for the appointment of a commissioner by the secretary. Commissioner shall be unclassified position with salary set by the secretary and approved by the governor. (1980)
- 75-5304c Transfers powers, duties and functions of the division and director of vocational rehabilitation to rehabilitation services and the commissioner of rehab services. (1980)
- 75-5306a Abolishes the division of social services and the director of social services position. Transfers powers, duties and functions to the commissioner of social services established in 75-5306b. (1980)
- 75-5306b Establishes social services and allows the appointment of a commissioner of social services. Commissioner shall be unclassified position with salary set by the secretary with approval by the governor. Commissioner shall oversee the division of services to children and youth and oversee all programs for children, youth and adults. (1980)
- 75-5306c Transfers powers, duties and functions of the division and director of social services to the commissioner of social services. (1980)
- 75-5306d Transfers duties, powers and functions related to income maintenance and medical services from the division and director of social services to income maintenance and medical services. (1980)
- 75-5306e Establishes income maintenance and medical services and the appointment of a commissioner of income maintenance and medical services. The commissioner shall be an unclassified position with salary set by the secretary with approval from the governor. (1980)
- 75-5306f Transfers powers, duties and functions relating to income maintenance and medical services from the division and director of social services to the commissioner of income maintenance and medical services. (1980)

- 75-5308a Abolishes the division of mental health and retardation services and the position of director of MHRS. (1980)
- 75-5308b Establishes mental health and retardation services and the appointment of a commissioner of MHRS. The commissioner shall be an unclassified position with salary set by the secretary with approval by the governor. (1980)
- 75-5308c Transfers powers, duties and functions of the division and director of MHRS to the commissioner of MHRS. (1980)
- 75-5316 Grants power to the secretary of SRS to organize the department in the manner deemed most efficient. Allows for the delegation of authority to division heads and staff assistants. (1973)
- 75-5318 Allows any word, phrase or sentence in the order that is determined to be invalid to be severed without affecting the remaining provisions of the order. (1973)
- 75-5323 States that the principal function of the commissioner of youth services shall be to promote, safeguard and protect the social well-being and general welfare of children and youth by instituting certain programs. (1974, 1982)
- 75-5324 Designates the powers of the commissioner of youth services. (1974, 1982)
- 75-5327 States that statutes that have general application to the department of SRS also apply to the division of children and youth. (1974)
- 75-5329 Establishes alcohol and drug abuse services and the appointment of a commissioner of ADAS. Commissioner shall be unclassified with salary set by the secretary and approved by the governor. (1980)
- 75-5330 States that any pending legal action shall not be affected by reorganization. (1980)
- 75-5332 Abolishes the division of vocational rehabilitation, division of social services, division of MHRS and the positions of directors of voc rehab, social services and MHRS. (1980)
- 75-5333 Establishes youth services and the appointment of a commissioner of youth services. The commissioner shall be unclassified with salary set by the secretary and approved by the governor. (1982)

- 75-5334 Transfers powers, duties and functions relating to youth services and programs from the commissioner of social services and the commissioner of MHRS to the commissioner of youth services. (1982)
- 75-5335 Establishes adult services and the appointment of a commissioner of adult services. The commissioner shall be unclassified with salary set by the secretary with approval by the governor. (1982)
- 75-5336 Transfers powers, duties and functions relating to adult services from the commissioner of social services to the commissioner of adult services. (1982)
- 75-5337 States that any pending legal action will not be affected by reorganization. (1982)
- 75-5339 States that any conflict regarding disposition of property, personnel, etc. that arises during reorganization shall be resolved by the governor. (1982)