

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chair Melvin Neufeld at 9:00 a.m. on January 24, 2003, in Room 514-S of the Capitol.

All members were present except: Representative Larry Campbell - excused
Representative JoAnn Pottorff - excused

Committee staff present: Alan Conroy, Legislative Research Department
J.G. Scott, Legislative Research Department
Becky Krahl, Legislative Research Department
Amy Deckard, Legislative Research Department
Julian Efird, Legislative Research Department
Leah Robinson, Legislative Research Department
Nicoletta Buonasera, Legislative Research Department
Melissa Calderwood, Legislative Research Department
Martha Dorsey, Legislative Research Department
Debra Hollon, Legislative Research Department
Amy VanHouse, Legislative Research Department
Audrey Nogle, Legislative Research Department
Carolyn, Rampey, Legislative Research Department
Robert Waller, Legislative Research Department
Paul West, Legislative Research Department
Jim Wilson, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Administrative Analyst
Sue Fowler, Committee Secretary

Conferees appearing before the committee: Pat Scalia, State Board of Indigents Defense
Sandy Praeger, Commissioner of Kansas Insurance
Don Moler, League of Kansas Municipalities
Juan Sexton, Tank Management Services
Pat Hurley, Economic Life Line
Randall Allen, Kansas Association of Counties
Woody Moses, Kansas Aggregate Producers Association and
Kansas Redi-Mix Contractors Association

Others attending: See Attached

Representative Nichols moved for the introduction of legislation for establishing the Independent Living Council. Motion was seconded by Representative Ballard. Motion carried.

Hearing on HB 2026-Appropriations for FY 2003; supplemental appropriations for various state agencies.

Alan Conroy, Legislative Research Department, presented an overview of **HB 2026** outlining proposed supplementals for FY 2003 (Attachment 1).

Pat Scalia, State Board of Indigent Defense Services, presented testimony to convey the Board's support for the FY 2003 Emergency Supplemental Funding for the State Board of Indigents' Defense Services (Attachment 2).

Sandy Praeger, Commissioner of Insurance, provided testimony in opposition of the transfer of \$7.0 million from the Insurance Department's Workers Compensation Fund to the State General Fund. (Attachment 3). Chairman Neufeld requested the General Government and Commerce Budget Committee carefully review the status of the fund with supporting documentation of the assumptions being provided by the Commissioner of Insurance.

Don Moler, Executive Director for League of Kansas Municipalities, presented testimony in opposition to Sections 40, 41 and 42 of **HB 2026**. These sections eliminate the second half of the FY 2003 demand

CONTINUATION SHEET

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE at 9:00 a.m. on January 24, 2003 in Room 514-S of the Capitol.

transfers to local governments which amounts to a \$48 million loss of revenue which cities and counties are unable to replace in the current budget year. Mr. Moler urged the Committee to remove these sections from this bill, and if the Committee feels compelled to enact them, to do it at the end of the session rather than at the beginning of the session (Attachment 4).

The Committee discussed that there is currently a law suit due to be heard by the Kansas Supreme Court regarding the cities and counties claiming that the governor did not have the authority to stop payments from the Local AdValorem Tax Reduction Fund (LAVTRD) and the County and City Revenue Sharing fund. By delaying the elimination of the second half of the FY 2003 demand transfers to local government until later in the session, there is the chance that the Division of Accounts and Reports would write the checks automatically and if these moneys were not budgeted, the budget passed by the Legislature would create a \$48 million deficit. Representatives Neufeld, Nichols, and Schultz discussed writing the Chief Justice of the Supreme Court asking her not to render this issue moot regardless of what action the Legislature takes.

Mr. Moler assured the Committee that only the \$48 million appropriated by the Legislature is being requested in the lawsuit. Attorney's fees and other costs are being absorbed by the cities and counties by the use of in-house counsel.

Juan Sexton, Tank Management Services, provided testimony in opposition to Sec. 21-C of **HB 2026**: which proposes the transfer \$10,000,000 from the Underground Storage Tank Release Trust Fund of the Department of Health and Environment to the State General Fund (Attachment 5).

Pat Hurley, Economic Lifelines, provided testimony in opposition to any reduction in funding of the Comprehensive Transportation Program (Attachment 6).

Randall Allen, Executive Director of the Kansas Association of Counties, provided testimony in opposition to Sections 40, 41 and 42 of the bill relating to the three demand or revenue transfers to local governments. He expressed concern about the timing of **HB 2026**, and its effect on bringing some clarity to the separation of powers question that is the crux of the legal action against various state officials (Attachment 7).

Edward R. Moses, Kansas Aggregate Producers Association and Kansas Redi-Mix Contractors Association, provided testimony in opposition to **HB 2026**, which would remove the requirement for the State General Fund to repay the \$94.6 million loan from the State Highway Fund on June 30, 2003. Approval of this bill will materially impair the ability of the Department of Transportation to complete the Comprehensive Transportation Program (CTP) overwhelmingly approved by this legislature in 1999 (Attachment 8).

Thomas M. Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas, presented written opposition to **HB 2026** on behalf of over 360 independent petroleum marketers and convenience stores throughout Kansas (Attachment 9).

Chairman Neufeld closed the hearing on **HB 2026**.

Representative Nichols moved to report favorably **HB 2026** with the necessary technical amendments. Motion was seconded by Representative Schultz. Motion was carried.

The meeting was adjourned at 10:10 a.m. The next meeting is scheduled for January 28, 2003.



Melvin Neufeld, Chair

APPROPRIATIONS COMMITTEE GUEST LIST

DATE: 1/24/03

NAME	REPRESENTING
Patricia	State Board of Indigents' Defense
Scott Anglemeyer	KDOCH
Donna Anawaris esq	Amnesty Internat'l
Bill Watts	KDOT
Wendy Williams	KAPA - KRMCA
Randall Miles	Ks. Association of Counties
Kevin Barone	Hern Law Firm
Jana El-Koubysi	SBIDS #328
Aaron Dunkel	DOB
Kath Bradshaw	DOB
Scott Brunner	DOB
STEVE KEARNEY	PMCA
Travis Sawyer	Rep. McCreary
Lois Weeks	SKS
Lynn Howard	SKS
Neyssa Thomas	DyA DFM
JUAN SEXTON	TANK MANAGEMENT SERVICES
Patrick Hurley	Economic Supplies
TOM PALACE	PMCA OF KANSAS

APPROPRIATIONS COMMITTEE GUEST LIST

DATE: 1/24/03 (Continued)

NAME	REPRESENTING
Tony Folsom	BOTA
Bud Burke	Hiway 69 Assn.
Mike Hutfles	Ks. Governmental Consulting
Teresa Schwab	KCSL
Rae Anne Davis	KDOCH
Don Moler	LKM

HOUSE BILL NO. 2026
Supplemental Appropriations for FY 2003
As Recommended by the Governor

House Bill No. 2026 contains appropriations for FY 2003, the current year, for a number of state agencies as recommended by the Governor. An overview of the Governor's recommended budget for FY 2003 is provided below. **Not all of the FY 2003 expenditure adjustments recommended by the Governor are reflected in this bill.** For example, expenditure changes recommended to special revenue funds with "no limit" expenditure limitations would not require any adjustment in the bill. In addition, some recommendations may not require any action in an appropriations bill, but may impact the amount of funding available for carryforward to FY 2004.

Governor's Recommended Changes to Estimated FY 2003 Expenditures

Based on actions of the 2002 Legislature, it was estimated by the Research Department that FY 2003 expenditures from **all funds** would total \$9.846 billion. The *Governor's Budget Report* revises the all funds FY 2003 budget to \$10.181 billion, **an increase of \$335.2 million** above the earlier estimate. Major differences from the session-end estimates and the current Governor's recommendation consist of: \$268.5 million in the budget of the Kansas Department of Transportation, primarily reflecting capital improvement expenditures carried forward from FY 2002 and the use of bond proceeds to offset reportable expenditures; \$99.2 million in the budget of the Department of Human Resources, primarily for increased expenditures for unemployment benefits; and \$70.1 million in the budgets of the Board of Regents and the Regents Institutions, largely reflecting capital improvements projects carried forward from FY 2003, and increased restricted use expenditures. These increases are partially offset by the effect of the two State General Fund allotments in August and November of 2002 which reduced State General Fund expenditures by a total of \$118.0 million.

At the close of the 2002 Session, FY 2003 expenditures from the **State General Fund** were estimated to be \$4.444 billion. The *Governor's Budget Report* revises the FY 2003 State General Fund budget to \$4.358 billion, **a reduction of \$86.2 million from the earlier estimate.** The \$118.0 million in allotment reductions is partially offset by recommended increases to fully fund school finance (\$26.6 million), and caseload estimates (\$21.7 million) for the Department of Social and Rehabilitation Services and the Department on Aging.

The following tabulation summarizes the changes to FY 2003 expenditures by major category as recommended by the Governor.

HOUSE APPROPRIATIONS

DATE 1-24-03
ATTACHMENT 1

FY 2003 Expenditures as Recommended by the Governor

	Millions	
	General Fund	All Funds
Original FY 2003 Estimates	\$ 4,444.5	\$ 9,845.9
Revisions:		
State Operations	(70.2)	(122.3)
Aid to Local Units	(14.5)	(89.3)
Other Assistance	(0.9)	117.0
Capital Improvements	(0.6)	429.8
Total Revisions	\$ (86.2)	\$ 335.2
Revised FY 2003 Estimates	<u>\$ 4,358.3</u>	<u>\$ 10,181.1</u>

The Governor's recommendations contained in this bill - House Bill No. 2026 - reflect additional State General Fund expenditures of \$19.8 million, and total additional funding of \$38.2 million.

The table and sections that follow detail **only the FY 2003 expenditure adjustments that are reflected in this appropriations bill.**

2003 House Bill No. 2026 - As Recommended by Governor

Sec.	Agency	State General Fund	All Funds
2	State Bank Commissioner	\$ -	\$ (161,045)
3	Board of Barbering	0	(19,124)
4	Board of Cosmetology	0	(74,543)
5	Department of Credit Unions	0	(46,066)
6	Board of Nursing	0	62,815
7	Board of Examiners in Optometry	0	21,472
8	Board of Pharmacy	0	10,176
9	Securities Commissioner	0	(20,196)
10	Lieutenant Governor	0	0
11	Insurance Department	0	0
12	Board of Indigents' Defense Services	1,252,934	1,252,934
13	Department of Administration	(42,625)	(42,575)
14	Kansas Public Employees Retirement System	(5,265,070)	(6,123,070)
15	Board of Tax Appeals	(100,000)	(100,000)
16	Department of Revenue	0	891,459
17	Racing and Gaming Commission	0	(157,729)
18	Department of Commerce and Housing	0	0
19	Kansas TechnologyEnterprise Corporation	0	(132,530)
20	Commission on Veterans Affairs	0	0
21	Department of Health and Environment	0	1,074,450
22	Department on Aging	0	0
23	Department of Social and Rehabilitation Services and Hospitals	6,016,375	15,489,069
24	Department of Education	26,381,079	26,381,079
25	State Historical Society	0	39,700
26	Emporia State University	0	0
27	Wichita State University	0	125,567
28	Board of Regents	(345,000)	0
29	Department of Corrections and Correctional Facilities	3,997,854	510,610
30	Juvenile Justice Authority	0	0
31	Adjutant General	(18,750)	(18,750)
32	Kansas HighwayPatrol	(12,085,011)	1,026,901
33	Department of Agriculture	0	22,199
34	State Fair Board	0	0
35	State Conservation Commission	0	(352,731)
36	Kansas Water Office	0	(10,000)
37	Department of Transportation	0	(1,437,690)
38	Intergovernmental Transfer Fund	0	0
39	State Fair Capital Improvements Fund	0	0
40	Local Ad Valorem Tax Reduction Fund	0	0
41	County and City Revenue Sharing Fund	0	0
42	Special City and County Highway Fund	0	0
	TOTAL	\$ 19,791,786	\$ 38,212,382

Bill Explanation for 2003 House Bill 2026

Sec. 02 -- State Bank Commissioner

(a) The Governor recommends decreasing the expenditure limitation for FY 2003 on the Bank Commissioner Fee Fund from \$5,708,966 to \$5,547,921.

Sec. 03 -- Board of Barbering

(a) The Governor recommends decreasing the expenditure limitation for FY 2003 on the Board of Barbering Fee Fund from \$132,390 to \$113,266.

Sec. 04 -- Board of Cosmetology

(a) The Governor recommends decreasing the expenditure limitation for FY 2003 on the Board of Cosmetology Fee Fund from \$735,704 to \$661,161.

Sec. 05 -- Department of Credit Unions

(a) The Governor recommends the expenditure limitation for FY 2003 on the Credit Union Fee Fund be decreased from \$896,620 to \$850,554.

Sec. 06 -- Board of Nursing

(a) The Governor recommends an expenditure limitation increase from \$1,397,017 to \$1,459,832 in the Board of Nursing Fee Fund for FY 2003.

Sec. 07 -- Optometry Board

(a) The Governor recommends an increase in the expenditure limitation for FY 2003 on the Optometry Fee Fund from \$85,305 to \$106,777.

Sec. 08 -- Board of Pharmacy

(a) The Governor recommends an expenditure limitation increase for FY 2003 on the State Board of Pharmacy Fee Fund from \$571,321 to \$581,497.

Sec. 09 -- Securities Commissioner

(a) The Governor recommends decreasing the expenditure limitation for FY 2003 on the Securities Act Fee Fund from \$2,113,020 to \$2,092,824.

Sec. 10 -- Lieutenant Governor

(a) The Governor recommends that the expenditure limitation on official hospitality on the Lieutenant Governor's State General Fund operations account be increased from \$2,000 to "no limit" at the discretion of the Lieutenant Governor.

Sec. 11 -- Insurance Department

(a) The Governor recommends a transfer of \$4,000,000 from the Insurance Department Workers Compensation Fund to the State General Fund.

(b) The Governor recommends a transfer of an additional \$100,000 from the Insurance Department Service Regulation Fund to the State General Fund.

Sec. 12 -- Board of Indigents' Defense Services

(a) The Governor recommends an additional \$1,252,934 to address shortfalls in the Assigned Counsel Program and the Death Penalty Defense Unit.

Sec. 13 -- Department of Administration

(a) The Governor recommends lapsing any unencumbered balances in three accounts of the State Budget Stabilization Fund: Statehouse Elevators Renovation (\$43,897); Statehouse Fire and Safety Alarms (\$105,449); and Statehouse Grounds and Facilities Improvements (\$94,490).

(b) The Governor recommends funding of \$243,886 from the Budget Stabilization Fund in FY 2003 for ongoing rehabilitation and repair for the Statehouse and Cedar Crest (\$143,886) and the Kansas Judicial Center (\$100,000).

(c) The Governor recommends the lapse of \$42,625 in State General Fund expenditures for Statehouse grounds and facilities improvements.

(d) The Governor recommends a new no-limit fund in FY 2003, the Deferred Compensation Fees Fund.

(e) The Governor recommends a provision which transfers, on a monthly basis, interest earnings to the new Deferred Compensation Fee Fund from the State General Fund.

(f) The Governor recommends re-naming the existing Public School Districts Benefit Fund as the Non-State Employer Group Benefit Fund.

(g) The Governor recommends authorizing the expenditure of existing funding totaling \$74,269 from the State Buildings Operating Fund for debt service on a capital improvement project to replace the cooling towers in the Docking State Office Building.

(h) The Governor recommends lapsing all unencumbered funding with the exception of \$233,290 from the State Buildings Depreciation Fund for the Capitol Complex Tunnel Projects. This recommendation would lapse \$857,155 originally

recommended for the project, which was stopped by the Governor in August 2002. The funding remaining will be utilized to pay outstanding obligations on the project.

(i) The Governor recommends that the annual charge assessed by the Department against the Department of Social and Rehabilitation Services for administrative hearings services be increased from \$792,584 to \$827,741.

Sec. 14 -- KPERS

(a) The Governor recommends adjusting the State General Fund by transferring the balance of \$8,300,000 from the Senior Services Trust Fund to the SGF in FY 2003.

(b) The Governor recommends adjusting the consensus revenue estimate by transferring the balance of \$14,400,000 from the Kansas Endowment for Youth Fund to the SGF in FY 2003.

(c) The Governor recommends lapsing \$4,600,000 SGF in KPERS school and \$665,070 in agency budgets to reflect a fourth quarter moratorium on death and disability payments of \$5,265,070 in FY 2003.

(d) The Governor recommends transferring \$858,000 from agency fee funds to the SGF to account for a fourth quarter moratorium on death and disability payments in FY 2003.

(e) The Governor recommends that no participating employer shall contribution KPERS death and disability payments from April 1, 2003, through June 30, 2003.

Sec. 15 -- Board of Tax Appeals

(a) The Governor recommends the lapse of \$100,000 from the State Board of Tax Appeals State General Fund operating expenditures account for FY 2003.

Sec. 16 -- Department of Revenue

(a) The Governor recommends adding \$891,459 in expenditures from the Electronic Databases Fee Fund to offset reductions in SGF financing of a like amount for FY 2003.

Sec. 17 -- Kansas Racing and Gaming Commission

(a) The Governor recommends reducing the expenditure limitation on the State Racing Fund by \$157,729.

Sec. 18 -- Department of Commerce and Housing

(a) The Governor recommends a transfer between special revenue funds as a reimbursement for previous expenditures.

(b) The Governor recommends exempting the agency from a provision enacted by the 2002 Legislature which requires the transfer of any unencumbered balance in the agency's Economic Development Initiatives Fund account to the State General Fund at the end of FY 2003.

Sec. 19 -- Kansas Technology Enterprise Corp.

(a) The Governor recommends a lapse of \$132,530 in the agency's Economic Development Initiatives Fund appropriation.

Sec. 20 -- Commission on Veterans Affairs

(a) The Governor recommends authorizing the agency in FY 2003 to make expenditures for official hospitality from the state veterans cemeteries account provided the expenditures do not exceed \$500.

Sec. 21 -- Department of Health and Environment

(a) The Governor recommends the creation of several special revenue funds to receive moneys from the federal government.

(b) The Governor recommends a transfer of \$1,000,000 from the Waste Tire Management Fund to the State General Fund. This recommendation was included in the Governor's November allotment on executive branch agencies as a \$500,000 transfer from the Waste Tire Management Fund and a \$500,000 transfer from the Solid Waste Management Fund. The agency requested that the entire amount be taken from the Waste Tire Management Fund and the Governor concurred.

(c) The Governor recommends the transfer of \$10,000,000 from the Underground Petroleum Storage Tank Release Trust Fund to the State General Fund.

Sec. 22 -- Department on Aging

(a) The Governor recommends the transfer of \$7,416,587 all funds from the Long-Term Care loan and grant fund to the State General Fund.

Sec. 23 -- Social and Rehabilitation Services

Includes sections (a)-(f), (l), (o)-(p), and (s)-(u).

The Governor recommends increased operating expenditures for SRS to adjust for the November caseload estimates \$7,187,187 SGF and \$53,493,079 all funds, supplant State General Fund with \$4,000,000 additional Intergovernmental Transfer Fund , and pend medical claims (\$6,200,000) SGF and \$15,500,000 all funds.

Sec. 23 -- Kansas Neurological Institute

Includes sections (g) and (r).

(g) The Governor recommends a lapse of \$200,150 for FY 2003 from the Kansas Neurological Institute Operating Expenditures account of the State General Fund.

(r) The Governor recommends an increase in the FY 2003 expenditure limitation on the Kansas Neurological Institute Fee Fund from \$1,044,781 to 1,109,081.

Sec. 23 -- Larned State Hospital

Includes sections (h) and (m).

(h) The Governor recommends a lapse of \$642,296 from the Larned State Hospital Operating Expenditures Account of the State General Fund for FY 2003.

(m) An increase in the expenditure limitation in the Larned State Hospital Fee Fund from \$1,675,160 to \$2,811,230.

Sec. 23 -- Osawatomie State Hospital

Includes sections (i) and (n).

(i) The Governor recommends a lapse of \$120,936 for FY 2003 from the Osawatomie State Hospital Operating Expenditures account of the State General Fund.

(n) An increase in the FY 2003 expenditure limitation on the Osawatomie State Hospital Fee Fund from \$2,988,456 to \$3,531,601.

Sec. 23 -- Parsons State Hospital

Includes section (j).

(j) The Governor recommends a lapse of \$152,196 for FY 2003 from the Parsons State Hospital and Training Center Operating Expenditures Account of the State General Fund.

Sec. 23 -- Rainbow Mental Health Facility

Includes sections (k) and (q).

(k) The Governor recommends a lapse of \$55,234 for FY 2003 from the Rainbow Mental Health Facility Operating Expenditures Account of the State General Fund.

(q) The Governor recommends an increase in the FY 2003 expenditure limitation on the Rainbow Mental Health Facility Fee Fund from \$364,678 to \$489,863.

Sec. 24 -- Department of Education

(a) The Governor recommends \$4,637,027 for general state aid and \$21,999,043 for

supplemental general state in order to fully fund Base State Aid Per Pupil at the rate of \$3,863. The addition is based on revised estimates made in November and assumes that \$2,000,000 in unanticipated carry-forward savings in general state aid in FY 2002 will not be transferred to in-service education but instead will be used to help fund general state aid.

(b) The 2002 Legislature believed it was funding special education excess costs at the 85 percent level, but revised estimates made in November indicate that the amount available is slightly over 85 percent. The Governor's recommended lapse of \$254,991 State General Fund would reduce the excess cost level in the current year to 85 percent.

Sec. 25 -- State Historical Society

(a) The Governor recommends the creation of two new funds into which federal grants totaling \$39,700 from the National Parks Service will be credited. The money will be used for construction projects at the Native American Heritage Museum near Highland and at the Grinter Place in Kansas City.

Sec. 26 -- Emporia State University

(a) The Governor recommends the transfer of \$101,695 to the State General Fund from the Student Union Account of the Restricted Fees Fund.

(b) The Governor recommends the transfer of \$4,897 to the State General Fund from the Housing Systems Operations Fund.

Sec. 27 -- Wichita State University

(a) The Governor recommends the appropriation of the Education Opportunity Grant - Federal Fund as a no limit fund in FY 2003 to allow WSU to spend federal grant funds.

Sec. 28 -- Board of Regents

(a) The Governor recommends the appropriation in FY 2003 of a new special revenue fund to allow the receipt and disbursement of tuition waiver gifts, grants and reimbursements.

(b) The Governor recommends the lapse of \$345,000 from the State General Fund appropriated by the 2002 Legislature for the start up operations of the KanEd Educational Network.

Sec. 29 -- Department of Corrections

(a) Appropriates a total of \$3,997,854 as follows:

(i) \$733,963 to fund an unanticipated increase of approximately 500 inmates for

the per capita-based food service and medical contracts; and

(ii) \$3.3 million to restore the allotment reductions the Department made to the food service and medical contracts in order to keep all correctional facilities open. Governor Graves' second-round allotment amounted to \$8.3 million for KDOC; in order to meet the reductions fully the Department decided to close the Stockton, Osawatomie, Toronto, and El Dorado North units, the Labette conservation camps, and the adult residential centers in Johnson and Sedgwick counties. Governor Sebelius moved the cuts to the food service and medical contracts, with the intention of recommending this supplemental appropriation.

(b) A technical provision that authorizes expenditures from a new fund (the Topeka Correctional Facility -- Bureau of Prisons Contract -- Federal Fund). The Division of the Budget recommends this money be kept separate from state-funded sums.

Sec. 30 -- Juvenile Justice Authority

(a) The Governor recommends the transfer of \$500,000 from the Juvenile Detention Facilities Fund to the State General Fund.

Sec. 31 -- Adjutant General

(a) The Governor recommends reducing the amount of State General Fund financing by \$18,750 for costs associated with an Air Force Audit of McConnell Air Force Base reorganizing from B-1 bombers to an air-refueling wing.

Sec. 32 -- Highway Patrol

(a) The Governor recommends the establishment of a Kansas highway patrol operations fund and transfer of \$13,111,192 from the State Highway Fund.

(b) The Governor recommends the lapse and subsequent transfer of \$12,085,011 from the Kansas Highway Patrol to the State General Fund.

Sec. 33 -- Kansas Department of Agriculture

(a) The Governor recommends the expenditure limitation of the wheat quality survey fund be increased from \$29,341 to \$33,500.

(b) The Governor recommends the expenditure limitation of the petroleum inspection fee fund be increased from \$623,605 to \$632,593.

(c) The Governor recommends the addition of \$10,000 from the State Water Plan Fund for the water use study.

(d) The Governor recommends the lapse of \$315 from the State Water Plan Fund for interstate water issues.

(e) The Governor recommends the lapse of \$633 from the State Water Plan Fund for sub basin water resources management.

Sec. 34 -- Kansas State Fair Board

(a) The Governor recommends increasing the position limitation from 22.0 FTE positions to 23.0 FTE positions.

Sec. 35 -- State Conservation Commission

(a) The Governor recommends the lapse of \$145,000 from the State Water Plan Fund for nonpoint source pollution assistance.

(b) The Governor recommends the lapse of \$75,808 from the State Water Plan Fund for the land treatment cost share program.

(c) The Governor recommends the lapse of \$131,923 from the State Water Plan Fund for the water rights purchase program.

Sec. 36 -- Kansas Water Office

(a) The Governor recommends the lapse of \$10,000 from the State Water Plan Fund for technical assistance to water users.

Sec. 37 -- Kansas Department of Transportation

(a) The Governor recommends reducing the agency's operating budget from \$227,072,321 to \$225,634,631 (\$1,437,690)

(b) The Governor recommends eliminating the transfer of \$94,608,648 to the State Highway. The funding was intended to reimburse the agency for the transfer of those funds to the State General Fund on or before June 30, 2003.

Sec. 38 -- Intergovernmental Transfer Fund

(a) The Governor recommends the diversion of Intergovernmental Transfer Fund revenues from the Senior Services Trust Fund, Long-Term Care Loan and Grant Fund, Aging State Medicaid Match Fund, SRS State Medicaid Match Fund and Aging IGT Fund to the SRS IGT Fund.

Sec. 39 -- Kansas State Fair Capital Improvements

The Governor recommends that during FY 2003 State General Fund transfers to the State Fair Capital Improvements Fund be considered revenue transfers.

Sec. 40 -- LAVTRF

The Governor recommends that no moneys shall be transferred from the State General Fund to the LAVTRF on or after November 26, 2002, during FY 2003 (\$26,246,722).

Sec. 41 -- CCRSF

The Governor recommends that no moneys shall be transferred from the State General Fund to the CCRSF on or after November 26, 2002, during FY 2003 (\$16,740,646).

Sec. 42 -- SCCHF

The Governor recommends eliminating the transfer of monies from the State General Fund to the Special City/County Highway Fund (\$10,063,644).



The Kansas District Judges' Association



January 23, 2003

Representative Melvin Neufeld
 Chair, House Appropriations Committee
 Statehouse, Room 517-S
 Topeka, KS 66612

Dear Representative Neufeld and House Appropriations Members:

On behalf of the Kansas District Judges Association Executive Board, I am writing to convey the board's support for current year supplemental funding for the Board of Indigents' Defense Services. At our board meeting yesterday, we discussed the statewide impact of the board's impending inability to pay assigned counsel and other costs in indigent cases.

Although some delays in payments have been inherent in these types of cases in the past, this is the most significant delay we have experienced in recent years. Many attorneys simply cannot absorb the costs of office overhead, insurance, support staff, and other costs for five months without at least some payment for their services. As a result, some attorneys we have come to rely upon to provide representation in indigent felony cases may find themselves in the position of not being able to accept these appointments. Expert witness fees present a similar issue. It is sometimes difficult to find appropriate expert witnesses under the best of circumstances, but finding appropriate expert witnesses who know they will not be paid for five months results in an even more difficult situation.

As judges, we are placed in the position of having to appoint counsel when there are no area attorneys willing to accept the appointments. This can result in speedy trial issues, and ultimately may result in the dismissal of some cases.

We are mindful of the difficult fiscal situation you face as legislators, and know that both the current fiscal year and FY 2004 present many troubling issues for you. While we do not mean to add to your difficulties, we felt that some discussion of the consequences of not providing this funding was warranted.

Thank you for your consideration of this issue.

Sincerely,

Hon. Larry F. Solomon
 Kansas District Judge

HOUSE APPROPRIATIONS

DATE 1-24-03
 ATTACHMENT 2

HOUSE APPROPRIATIONS

DATE 1-24-2003
 ATTACHMENT 2

Testimony
State Board of Indigents' Defense Services
Before the
HOUSE APPROPRIATIONS COMMITTEE

Chairman, Representative Melvin Neufeld, Members of the Committee, and Analyst Debra Hollon.

Thank you for the opportunity to appear before you today and present testimony regarding the SBIDS need for Emergency Supplemental Funding for FY03. My name is Pat Scalia and I serve as Executive Director of the agency.

The SBIDS provides the right to Counsel for persons who cannot afford their own attorney as required by the Sixth Amendment. We provide that right to counsel in three ways, by providing a public defender or in cases where the public defender has a conflict of interest, or in rural areas where an office would not be cost effective, we provide private attorneys-assigned counsel. We also have many contracts with individual assigned counsel to perform legal defense work at less than hourly rate which is \$50.00 per hour. That hourly rate has remained in place since 1987.

This year we have run out of money to pay our assigned counsel and we will run out of money to maintain our public defender offices without an emergency supplemental appropriation.

Our budget was depleted by two causes: first, the unprecedented costs of recent death penalty cases and second the cuts made to our budget. The entire death penalty budget request for FY03 was a very conservative \$1.9 million. However, the costs of two recent trials alone were over \$1 million. The trial of the Carr brothers in Sedgwick County cost \$1,305,973 to date and the trial of John Robinson in Johnson County cost \$1,104,526 to date. Many additional death penalty cases are proceeding to trial and many others are proceeding on appeal. Our conservative budget request of \$1.9 million was cut by \$550,000, so we only had \$1.35 million to work with.

Prior to the costs of two of the recent cases exceeding \$1.1 million, the most costly death penalty trial to date had been the Sedgwick County case of Stanley Elms at \$400,000. Factors that contributed to the high costs of the recent cases include the multiple victims, multiple crime scenes, cost of private attorneys and cost of experts. Unfortunately, we expect the high costs to continue. We have been unable to hire additional qualified death penalty attorneys which prevents us from opening a death penalty conflicts office that would reduce our dependence on private attorneys. Experts give us little discount as indigent defense from what they claim are their regular fees. And finally, one of the new cases in Wyandotte County is a quintuple homicide. For these reasons, we believe a trial cost of \$1 million will be the norm and not the exception.

In order to pay the costs of those cases actually in trial at the end of calendar year 2002, we had to transfer \$900,000 from all other operations into the death penalty budget. This included \$800,000 from the assigned counsel fund and \$100,000 from our docket fees which is usually applied to assigned counsel. Despite this additional \$900,000, the death penalty fund was depleted. I sent a letter of advice to all nine private attorneys who have contracts to defend death penalty cases advising them that we would be unable to pay costs after December 15 until additional funds were provided by the Legislature.

Although the \$900,000 transfer prevented a possible mistrial on the death penalty trials, that transfer, together with the budget cut to assigned counsel of \$1,244,000 has now caused the depletion of the assigned counsel funds. Letters have been sent to all 500+ assigned counsel attorneys advising them that we are unable to pay their fees and other costs after February 1, 2003, until Legislative action is taken to restore funds.

REQUEST

Governor Graves has already recommended that the budget cut of \$550,000 from the death penalty funds be restored and that \$1 million of the \$1,244,000 cut from assigned counsel be restored. We estimate that an additional \$400,000 is needed beyond the \$550,000 to pay death penalty costs. In order to pay the costs on non-death cases, the entire \$1,244,000 that was cut must be restored.

During the last legislative session, we had a bill proposed through the Senate Judiciary Committee that would amend the current statute that allows the SBIDS an administrative fee of \$35.00 per case when ordered in the discretion of the judge. The bill proposed last year, Senate Bill 412, would have allowed an application fee of \$50.00 unless the judge found that such a cost would cause undue hardship. That bill passed the Senate but was killed in the House.

The transition team chaired by Mr. Gillett suggests that the Emergency Supplemental Bill include language to amend K.S.A. 2001 Supp. 22-4529 to allow for an application fee of \$100 unless the judge found hardship. Paying at the front end of the case by way of an application fee, rather than at the completion of a case by way of an administrative charge will greatly increase the likelihood of payment. Many persons who qualify for representation, nevertheless, have other funds available through other sources that allow them to pay bonds costing anywhere from one hundred to thousands of dollars.

Funds coming into the agency under the proposed legislation would total about \$800,000. We currently receive \$273,000. If appropriate, we would ask that this be included in our Emergency Supplemental.

Mr. Gillette and I will stand for questions.

CAPITAL DEFENSE CASE STATUS

J ROBINSON JOHNSON COUNTY FILED FY 2000 6/14/2000 PENDING - AT TRIAL 9/01/2002 Assigned Counsel 1/14/2003	Litigation Consultants	\$26,755				
	transcripts	\$7,110				
	Ron Dillehay	\$4,471				
	James Merikangas	\$4,318				
	CTR for Captial Asst, Scarlet Nerad	\$53,775				
	Dean Steller - DNA	\$24,617				
	Genetic Technoligies	\$5,641				
	Micrologic digital evidence	\$25,543				
	Reproduction Systems	\$14,972				
	Michael Gelbort	\$14,445				
	Catherine Yeager	\$9,377				
	Dorothy Lewis	\$19,432				
	George Martin sketch artist	\$275				
	Maurice Godwin., psych	\$717				
	Peter Hamilton, change venue/LITIGATION CO	\$13,160				
	Edward Friedlander	\$1,350				
	M Cunningham - psych	\$15,341				
	Hutchinson & Assco, psych	\$3,740				
	Clark Investigations	\$22,161				
	Cecilia Wood, investigations	\$6,544				
	Dan Grothaus investigations	\$20,743				
	Alice Craig				\$3,835	
	Sean O'brien/Jason Billam/Berrigan				\$731,516	
		\$294,487	\$4,326	\$143	\$735,351	\$1,034,307
		EXPERT	TRAVEL	MISC	ASSIGNED COUNSEL	TOTAL

CAPITAL DEFENSE CASE STATUS

JONATHAN CARR SEDGWICK COUNTY FILED FY 2001 12/200 DEATH VERDICT TRIED 9-11/02 2 DEFENDANTS 1/14/2003	TRANSCRIPTS	\$168		
	salary 46% 1/1/01-6/30/01	\$109,351		
	salary 46% all fy 02	\$208,854		
	salary 46% 7/1-10/31/02	\$68,645		
	KATHLEEN KINSLER	\$635		
	WOLTERS DORF	\$188		
	APPLIED RESEARCH ASSOC	\$3,120		
	George Hough	\$9,400		
	PET IMAGING	\$2,840		
	RICHARD ERNEST	\$5,088		
	ROBERT ALLE, PSYCH	\$525		
	DR ROBERT KUHLMAN	\$266		
	Cunningham, psych	\$18,794		
	Litigation Consultants, change venue	\$11,576		
	Advocacy Research/change venue	\$3,073		
	Logan & Peterson psych eval	\$316		
	Tony Blasier - polygraph	\$750		
	DENNIS COWAN	\$3,150		
	office overhead 46% since 1/1/01-11/15/02	\$102,746		
	copying evidence	\$3,247		
DEVAN MARKER	\$525			
DEAN STETLER	\$4,850			
	\$558,107	\$34,774	\$0	\$592,881
	EXPERT	TRAVEL	MISC	ASSIGNED COUNSEL TOTAL

CAPITAL DEFENSE CASE STATUS

REGINALD CARR SEDGWICK COUNTY FILED FY 2001 12/2000 DEATH VERDICT TRIED 9-11/02 2 DEFENDANTS WACHTEL/GREENO CONTRACTORS 1/14/2003	TRANSCRIPTS THOMAS REIDY EARNEST RICHARD LITIGATION CONSULTANTS PET IMAGING MRI IMAGING GENETIC TECHNOLOGIES WANDA FOLGLIA, PSYCH ROY MALPASS, PSYCH MIDWEST BRAIN FUNCTION Advocacy Research/change venue Dr. Woltersdorf, psych WALTER MARKLEY INVESTIGATIONS Investigation thru Wachtel/Greeno VAL WACHTEL JAY GREENO	\$1,336 \$18,546 \$1,638 \$12,894 \$2,840 \$1,644 \$29,287 \$10,135 \$3,625 \$2,750 \$3,073 \$1,750 \$9,098 \$20,131 \$343,295 \$135,139	\$118,747 \$3,535 \$478,434 \$600,716 EXPERT TRAVEL MISC ASSIGNED COUNSEL TOTAL
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CAPITAL DEFENSE CASE STATUS

C. OLIVER SEDWICK COUNTY FILED FY 2001	12/2000	TRANSCRIPTS	\$1,907			
		salary 21% 1/1/01-6/30/01	\$49,920			
Tried 12/01 to be sentenced 2 DEFENDANTS		salary 21% all fy 02	\$95,346			
		salary 21% 7/1-10/31/02	\$31,338			
PAIGE NICHOLS CONTRACTED 2ND CHAIR		Dr. Reidy	\$13,465			
		Counseling & Media	\$300			
	1/14/2003	David Autry	\$800			
		Dr Hamilton - venue	\$9,950			
		Dr. ofshe	\$6,250			
		Dr. Pcch	\$1,045			
		Advocacy Research, change venue	\$3,320			
		Rusty Eddy investigations	\$482			
		Lone Thanning, forensic consultant	\$5,300			
		J. Graham, psych	\$12,443			
		Dennis Cowan, psych	\$300			
		Tony Blasier, polygraph	\$1,729			
		Dean Stetler, DNA	\$5,180			
		DR BRESLER, PSYCH	\$3,359			
		Dr. Cunningham	\$557			
		office overhead 21% 1/1/01-10/31/02	\$46,906			
		Page Nichols				\$5,085
			\$289,897	\$15,466	\$571	\$5,085
						\$311,019
			EXPERT	TRAVEL	MISC	ASSIGNED COUNSEL TOTAL

2002

SENATE BILL NO. 412

lrs1637

By Committee on Judiciary

AN ACT concerning crimes, criminal procedure and punishment; relating to aid to indigent defendants; application fee; amending K.S.A. 2001 Supp. 22-4529 and repealing the existing section.

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

Section 1. K.S.A. 2001 Supp. 22-4529 is hereby amended to read as follows: 22-4529. ~~The court may impose an administrative fee in the amount of \$35 against~~ Any defendant entitled to counsel pursuant to K.S.A. 22-4503, and amendments thereto shall pay an application fee in the amount of \$50 to the clerk of the district court. If it appears to the satisfaction of the court that payment of the ~~administrative application~~ application fee will impose manifest hardship on the defendant, the court may waive payment of all or part of the ~~administrative application~~ application fee. All moneys received pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the indigents' defense services fund. If the defendant is acquitted or the case is dismissed, any ~~administrative application~~ application fee paid pursuant to this section shall be remitted to the defendant. ~~The provisions of this section shall take effect on and after July 17, 1997.~~

Sec. 2. K.S.A. 2001 Supp. 22-4529 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

POSSESSION OF MARIJUANA (Depressants, Stimulants or hallucinogenic Drugs or other Substances, including Illegal Possession of Prescription Drugs or Anabolic Steroids. Class A Non-Person Misdemeanor for 1st offense; Class D Felony; Drug Severity Level 4 with prior conviction.)

	65-4162	-----	-----	-----	-----	-----	-----
1 ST (M)	-----	500	-----	-----	-----	-----	-----
2 ND (F)	-----	2500	-----	-----	-----	-----	-----
3 RD (F)	-----	5000	-----	-----	-----	-----	-----

SALE; POSSESSION WITH INTENT TO SELL; OR SALE WITHIN 1000 FEET OF A SCHOOL – MARIJUANA (Depressants, Stimulants or Hallucinogenic Drugs or other Substances, including Sale, Possession with Intent to Sell, or Sale within 1000 Feet of a School of Prescription Drugs or Anabolic Steroids.)

	65-4163	-----	-----	-----	-----	-----	-----
1 ST	-----	10,000	-----	-----	-----	-----	-----
2 ND	-----	25,000	-----	-----	-----	-----	-----

UNLAWFUL MANUFACTURING, EQUIPMENT OR ATTEMPTING SUCH OF ANY CONTROLLED SUBSTANCE; AND UNLAWFUL MANUFACTURING OR ATTEMPTING OF ANY CONTROLLED SUBSTANCE WITHIN 1000 FEET OF A SCHOOL

	65-4159	-----	-----	-----	-----	-----	-----
	-----	25,000	-----	-----	-----	-----	-----

USE OR POSSESS WITH INTENT TO USE DRUG PARAPHERNALIA (M)

	65-4152A2	500	-----	-----	-----	-----	-----
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USE OR POSSESS WITH INTENT TO USE ANY DRUG PARAPHERNALIA TO PLANT, PROPAGATE, CULTIVATE, GROW HARVEST, MANUFACTURE, EQUIPMENT, COMPOUND, CONVERT, PRODUCE, PROCESS, PREPARE, TEST, ANALYZE, PACK, REPACK, SELL OR DISTRIBUTE A CONTROLLED SUBSTANCE IN VIOLATION OF THE UNIFORM CONTROLLED SUBSTANCES ACT. (Drug Severity Level 4 Felony, except when it involves the possession of drug paraphernalia for the planting, propagation, growing or harvesting of less than five (5) marijuana plants which is a Class A Non-person Misdemeanor.)

	65-4152A3	-----	-----	-----	-----	-----	-----
	-----	2500	-----	-----	-----	-----	-----

UNLAWFUL ACTS INVOLVING PROCEEDS DERIVED FROM VIOLATIONS OF THE UNIFORM CONTROLLED SUBSTANCES ACT. (Knowingly or intentionally to receive or acquire proceeds, or engage in transactions involving proceeds known to be derived from any violation of the Uniform Controlled Substances Acts, i.e. Money Laundering.)

	65-4142	2500	-----	-----	-----	-----	-----
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POSSESSION EPHEDRINE OR PSEUDOEPHEDRINE W/INT TO MFG METH	65-7006A	25,000	-----	-----	-----	-----	-----
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SELLING OR PROVIDING EPHEDRINE OR PSEUDOEPHEDRINE TO ANOTHER WHEN THE PERSON KNOWS OR SHOULD KNOW IT IS GOING TO BE USED TO MFG METH	65-7006B	25,000	-----	-----	-----	-----	-----
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POSSESSION OF ANHYDROUS AMONIA IN AN UNAPPROVED CONTAINER	65-4152A4	2500	-----	-----	-----	-----	-----
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FALSE IMPERSONATION (M)	21-3824	250	250	250	250	250	250
FALSE IMPERSONATION AGG (F)	21-3825	1500	-----	-----	-----	-----	-----
FAIL TO APPEAR	21-3813	-----	-----	-----	-----	-----	-----
FAIL TO APPEAR AGG	21-3814	-----	-----	-----	-----	-----	-----
FLEE & ELUDE	08-1568	500	500	250	250	250	250
FORGERY (F)	21-3710	2500	-----	-----	-----	-----	-----
INDECENT LIB W/CHILD	21-3503	10,000	-----	-----	-----	-----	-----
INDECENT LIB W/CHILD AGG	21-3504	25,000	-----	-----	-----	-----	-----
ISSUE WORTHLESS CHECKS (F)	21-3707	1500	-----	-----	-----	-----	-----
ISSUE WORTHLESS CHECKS (M)	21-3707	500	500	250	250	250	250
LEWD & LASCIVIOUS BEHAVIOR	21-3508	250	250	250	250	250	250
LIQUOR							
DUI	08-1567	-----	-----	-----	-----	-----	-----
1 ST CONVICTION	-----	250	500	1000	1000	1000	1000
2 ND CONVICTION	-----	500	500	1000	1000	1000	1000
3 RD CONVICTION	-----	1500	-----	-----	-----	-----	-----
FURN LIQUOR/CMB TO MINOR	21-3610	250	250	250	250	250	250
ICOL/IPOL BY MINOR	41-0727	100	250	150	150	150	150
IPOL	41-0719	100	100	250	250	250	250

ITOL	08-1599	100	100	150	150	150	150
PUBLIC INTOX/DRUNK ON ROAD (HPD HAS A 4HR HOLD)	08-1543	100	100	50	50	50	50
OBSTRUCTION/RESIST (M)	21-3808	500	500	250	250	250	250
OBSTRUCTION/RESIST (F)	21-3808	1500	-----	-----	-----	-----	-----
PAROLE VIOLATION	75-5217	-----	-----	-----	-----	-----	-----
PROBATION VIOLATION	22-3716	-----	-----	-----	-----	-----	-----
PROTECTION FROM ABUSE (W/CRIMINAL TRESPASS 48HR HOLD)	21-3843	2500	500	500	500	500	500
ROBBERY (F)	21-3426	10,000	-----	-----	-----	-----	-----
ROBBERY AGG	21-3427	25,000	-----	-----	-----	-----	-----
SODOMY	21-3505	25,000	-----	-----	-----	-----	-----
SODOMY AGG	21-3506	50,000	-----	-----	-----	-----	-----
THEFT <\$500 (M)	21-3701	500	500	250	250	250	250
THEFT >\$500<\$25,000 (F)	21-3701	1500	-----	-----	-----	-----	-----
TRAFFIC							
DWS (M)	08-262	-----	-----	-----	-----	-----	-----
1 ST CONVICTION	-----	250	500	250	250	250	250
2 ND CONVICTION	-----	500	500	250	250	250	250
3 RD CONVICTION.....	-----	500	500	250	250	250	250
EXPIRED DRIVERS LICENSE	08-235	100	50	100	100	100	100
EXP/ILLEGAL DISPLAY TAG	08-142	100	50	100	100	100	100
FAIL TO GIVE INFO AT ACCIDENT	08-1605	250	250	100	100	100	100
FAIL TO REPORT ACCIDENT	08-1606	250	250	100	100	100	100
HABITUAL VIOLATOR (M)	08-286	500	500	250	250	250	250
LEAVE SCENE OF ACCIDENT	08-1604	250	250	100	100	100	100
NO DRIVERS LICENSE	08-244	100	50	100	100	100	100
NO LIABILITY INSURANCE	40-3104	100	100	100	100	100	100
RECKLESS DRIVING	08-1566	250	250	150	150	150	150
UNREGISTERED VEHICLE	08-135	100	20	100	100	100	100
VIOL DL LAWS (ALTERED DL/ID)	08-260	500	500	100	100	100	100

Memorandum

To: Committees on Senate Ways and Means and House Appropriations
From: Sabrina Wells, Kansas Insurance Department
Date: 1/10/2003
Re: Cash flow Status Workers Compensation Fund

Senate Bill 517 (Chapter 204, Section 74(d) of the *2002 Session Laws of Kansas*), allowed the transfer of \$7.0 million from the Insurance Department's Workers Compensation Fund to the State General Fund. The bill also required the Insurance Department to submit in January, to the Committees on Senate Ways and Means and House Appropriations, a cash-flow analysis of the Workers Compensation Fund.

The attached spreadsheet is respectfully submitted to the chairpersons and members of the aforementioned committees. Please note that the spreadsheet makes the following assumptions: (1) There will be no additional transfers to the State General Fund; (2) there will be no company assessments for the Workers Compensation Fund in FY 2004 or FY 2005; and (3) expenditures for each of fiscal years 2004 and 2005 will total approximately \$4.6 million.

Conclusion of Attached Cash-Flow Analysis:

- The Insurance Department's Workers Compensation Fund balance will be in a negative status by FY 2005, assuming that there will be no additional transfers-out and no assessments to companies through FY 2005.

Please do not hesitate to contact the Department should you require additional information or wish us to formally testify before one or both committees.

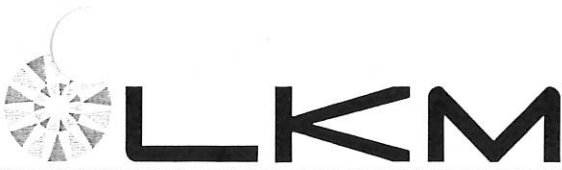
HOUSE APPROPRIATIONS

DATE 1/24/03
ATTACHMENT 3

WC Second Injury Fund
Cash Flow Analysis

3-2

FY 2001	Jul-00	Aug-00	Sep-00	Oct-00	Nov-00	Dec-00	Jan-01	Feb-01	Mar-01	Apr-01	May-01	Jun-01
Beginning Balance	\$ 25,881,339.91	\$ 25,547,172.98	\$ 25,135,182.10	\$ 24,736,950.80	\$ 23,919,714.31	\$ 23,667,727.05	\$ 23,526,467.59	\$ 22,443,691.04	\$ 22,126,432.73	\$ 21,902,332.69	\$ 21,520,873.94	\$ 21,125,883.89
Receipts	\$ 266,774.94	\$ 18,050.61	\$ 41,789.81	\$ 5,039.33	\$ 18,888.90	\$ 20,411.73	\$ 4,510.61	\$ 12,185.45	\$ 18,058.00	\$ 33,084.27	\$ 9,218.89	\$ 2,854,700.24
Expenditures	\$ (600,941.87)	\$ (430,041.49)	\$ (440,021.11)	\$ (822,275.82)	\$ (270,876.16)	\$ (161,671.19)	\$ (1,087,287.16)	\$ (329,443.76)	\$ (242,158.04)	\$ (414,543.02)	\$ (404,208.94)	\$ (277,142.39)
Ending Balance	\$ 25,547,172.98	\$ 25,135,182.10	\$ 24,736,950.80	\$ 23,919,714.31	\$ 23,667,727.05	\$ 23,526,467.59	\$ 22,443,691.04	\$ 22,126,432.73	\$ 21,902,332.69	\$ 21,520,873.94	\$ 21,125,883.89	\$ 23,703,441.74
FY 2002	Jul-01	Aug-01	Sep-01	Oct-01	Nov-01	Dec-01	Jan-02	Feb-02	Mar-02	Apr-02	May-02	Jun-02
Beginning Balance	\$ 23,703,441.74	\$ 23,720,678.65	\$ 23,210,771.44	\$ 23,120,953.13	\$ 22,639,087.83	\$ 22,465,783.79	\$ 22,098,074.17	\$ 21,587,369.04	\$ 21,300,343.03	\$ 21,016,230.56	\$ 20,518,846.84	\$ 19,940,886.79
Receipts	\$ 372,940.57	\$ 12,120.86	\$ 41,035.79	\$ 73,413.39	\$ 11,379.28	\$ (2,854.30)	\$ 7,078.81	\$ 44,103.66	\$ 17,574.54	\$ 14,120.72	\$ 26,945.95	\$ 28,035.48
Expenditures	\$ (355,703.66)	\$ (522,028.07)	\$ (130,854.10)	\$ (555,278.69)	\$ (184,683.32)	\$ (364,855.32)	\$ (517,783.94)	\$ (331,129.67)	\$ (301,687.01)	\$ (511,504.44)	\$ (604,906.00)	\$ (176,861.75)
Ending Balance	\$ 23,720,678.65	\$ 23,210,771.44	\$ 23,120,953.13	\$ 22,639,087.83	\$ 22,465,783.79	\$ 22,098,074.17	\$ 21,587,369.04	\$ 21,300,343.03	\$ 21,016,230.56	\$ 20,518,846.84	\$ 19,940,886.79	\$ 19,792,060.52
												Senate Bill 363, Sec. 32(b)) \$ (7,000,000.00)
												Ending Balance \$ 12,792,060.52
FY 2003	Jul-02	Aug-02	Sep-02	Oct-02	Nov-02	Dec-02	Jan-03	Feb-03	Mar-03	Apr-03	May-03	Jun-03
Beginning Balance	\$ 12,792,060.52	\$ 12,324,089.11	\$ 11,729,782.35	\$ 11,661,942.21	\$ 11,363,153.42	\$ 11,118,860.32	\$ 10,838,020.48	\$ 10,422,680.48	\$ 10,007,340.48	\$ 9,592,000.48	\$ 9,176,660.48	\$ 8,761,320.48
Receipts	\$ 6,134.88	\$ 5,905.60	\$ 19,251.81	\$ 52,975.38	\$ 13,642.67	\$ 23,279.81	\$ 17,860.00	\$ 17,860.00	\$ 17,860.00	\$ 17,860.00	\$ 17,860.00	\$ 17,860.00
Expenditures	\$ (474,106.29)	\$ (600,212.36)	\$ (87,091.95)	\$ (351,764.17)	\$ (257,935.77)	\$ (304,119.65)	\$ (433,200.00)	\$ (433,200.00)	\$ (433,200.00)	\$ (433,200.00)	\$ (433,200.00)	\$ (433,200.00)
Ending Balance	\$ 12,324,089.11	\$ 11,729,782.35	\$ 11,661,942.21	\$ 11,363,153.42	\$ 11,118,860.32	\$ 10,838,020.48	\$ 10,422,680.48	\$ 10,007,340.48	\$ 9,592,000.48	\$ 9,176,660.48	\$ 8,761,320.48	\$ 8,345,980.48
FY 2004	Jul-03	Aug-03	Sep-03	Oct-03	Nov-03	Dec-03	Jan-04	Feb-04	Mar-04	Apr-04	May-04	Jun-04
Beginning Balance	\$ 8,345,980.48	\$ 7,978,077.23	\$ 7,610,173.98	\$ 7,242,270.73	\$ 6,874,367.48	\$ 6,506,464.23	\$ 6,138,560.98	\$ 5,770,657.73	\$ 5,402,754.48	\$ 5,034,851.23	\$ 4,666,947.98	\$ 4,299,044.73
Receipts	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00
Expenditures	\$ (389,903.25)	\$ (389,903.25)	\$ (389,903.25)	\$ (389,903.25)	\$ (389,903.25)	\$ (389,903.25)	\$ (389,903.25)	\$ (389,903.25)	\$ (389,903.25)	\$ (389,903.25)	\$ (389,903.25)	\$ (389,903.25)
Ending Balance	\$ 7,978,077.23	\$ 7,610,173.98	\$ 7,242,270.73	\$ 6,874,367.48	\$ 6,506,464.23	\$ 6,138,560.98	\$ 5,770,657.73	\$ 5,402,754.48	\$ 5,034,851.23	\$ 4,666,947.98	\$ 4,299,044.73	\$ 3,931,141.48
FY 2005	Jul-04	Aug-04	Sep-04	Oct-04	Nov-04	Dec-04	Jan-05	Feb-05	Mar-05	Apr-05	May-05	Jun-05
Beginning Balance	\$ 3,931,141.48	\$ 3,601,141.48	\$ 3,271,141.48	\$ 2,941,141.48	\$ 2,611,141.48	\$ 2,281,141.48	\$ 1,951,141.48	\$ 1,621,141.48	\$ 1,291,141.48	\$ 961,141.48	\$ 631,141.48	\$ 301,141.48
Receipts	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
Expenditures	\$ (355,000.00)	\$ (355,000.00)	\$ (355,000.00)	\$ (355,000.00)	\$ (355,000.00)	\$ (355,000.00)	\$ (355,000.00)	\$ (355,000.00)	\$ (355,000.00)	\$ (355,000.00)	\$ (355,000.00)	\$ (355,000.00)
Ending Balance	\$ 3,601,141.48	\$ 3,271,141.48	\$ 2,941,141.48	\$ 2,611,141.48	\$ 2,281,141.48	\$ 1,951,141.48	\$ 1,621,141.48	\$ 1,291,141.48	\$ 961,141.48	\$ 631,141.48	\$ 301,141.48	\$ (28,858.52)



300 SW 8th Ave
Topeka, Kansas 66603-3912
Phone: (785) 354-9585
Fax: (785) 354-4186

League of Kansas Municipalities

To: House Appropriations Committee
From: Don Moler, Executive Director
Re: Opposition to Portions of HB 2026
Date: January 24, 2003

First of all, thank you for allowing the League to appear today in opposition to three specific sections of HB 2026. The sections we are opposing are Sections 40, 41, and 42. These sections eliminate the second half of the FY 2003 Demand Transfers to local governments which amounts to a \$48 million loss of revenue which cities and counties are unable to replace in the current budget year.

As I am sure you are all aware, these are the Demand Transfers which were stopped by Governor Graves last year as part of the allotment process. There is currently a lawsuit pending which involves the League of Kansas Municipalities, the Kansas Association of Counties, and a number of individual cities and counties. We believe that a very, very important legal issue is presented by this case and that there is no reason for the legislature to take action at this time. We urge the legislature to allow the legal process to work and to allow the Supreme Court of the State of Kansas to rule in this area.

Ultimately, this lawsuit focuses on the powers of the Governor and the ability of the Governor to modify legislative action. We are very concerned that this legislation would short circuit the litigation thus not allowing for a determination by the Kansas Supreme Court of the legality of the Governor's actions. This has potential ramifications not only for cities and counties, but also for others who are subject to appropriations of the legislature which may then be impacted adversely by a decision of a Kansas Governor in years to come. There are also very serious separation of powers issues involved in this litigation. As a result, we would urge the Committee to remove the changes to Sections 40, 41, and 42 which will allow the litigation to run its course and the court to determine whether the Governor can reduce demand transfers pursuant to the allotment process, when that is in direct contradiction to the process that the Legislature has established for reducing demand transfers. Thank you for allowing the League to appear today on this very important subject.

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To: Members of the House Committee on Appropriations
From: Juan C. Sexton, Executive Vice President
Tank Management Services, Inc.
Date: January 24, 2003
Testimony: HB 2026

Mr. Chairman and members of the House Committee on Appropriations

My name is Juan Sexton and I am Executive Vice President of Tank Management Services, Inc. an environmental consulting firm doing business in Kansas. Prior to assuming my current duties, I spent nine years working in the Storage Tank Section of the Bureau of Environmental Remediation in the Kansas Department of Health and Environment. During that time I managed the program that enforced the State's underground storage tank regulations.

I appreciate the opportunity to appear before you today in opposition to Sec. 21 (c) of HB 2026: which would transfer \$10,000,000 from the Underground Storage Tank Release Trust Fund of the Department of Health and Environment to the State General Fund.

Background

Initially I would like to provide some background information as to the purpose of the Underground Storage Tank Release Trust Fund (herein after referred to as the Trust Fund) and a brief description of how it works.

The Trust Fund was established by the Kansas Legislature with the passage of the Kansas Storage Tank Act in 1989. It was established to provide Kansas storage tank owners with a mechanism to meet the financial responsibility requirement of the Federal EPA Underground Storage Tank Regulations. Additionally, the establishment of the Trust Fund provided KDHE funds to investigate and cleanup contamination caused by releases from petroleum storage tanks.

When contamination is discovered at an underground storage tank facility, the tank owner is invited to apply to the Trust Fund for reimbursement for acceptable expenses allowed by the statutes and regulations that govern the Trust Fund. Once the tank owner's application is approved, KDHE's legal staff writes a consent agreement that sets forth KDHE's and the tank owner's rights and responsibilities under the consent agreement. The consent agreement establishes the deductible and any civil penalties that the tank owner is required to pay.

The tank owner is then required to get a minimum of three bids to investigate the horizontal and vertical extent of the contamination as well as the concentration of contaminants at the tank site. The tank owner can contract with any approved environmental consultant, but will be reimbursed only at the low bid rate.

Once the contract is signed, KDHE encumbers the funds required for reimbursement under the terms of the consent agreement. Encumbering the funds keeps KDHE from spending funds that have already been spent.

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After the investigation is completed and the final report is approved by KDHE's project manager the consultant invoices the tank owner for the work completed. The tank owner then submits a copy of the invoice and a request for reimbursement form to KDHE. Upon review of all documents, KDHE reimburses the tank owner for the expenses minus the deductible and any civil penalties assessed. The process is repeated during the monitoring, remedial design and remedial implementation phases. During each phase the funds required for that phase are encumbered in order to maintain solvency of the Trust Fund.

Transfer of Funds

We stand in opposition to Sec. 21 (c) of HB 2026 for the following reasons:

1) Sec. 21 (c) of HB 2026 is in violation of K.S.A. 65-34, 114 which created the fund from which the transfer would occur. K.S.A. 65-34, 114 (c) states "The underground fund shall be used for the purposes set forth in this act **and for no other governmental purposes**. It is the intent of the legislature that the underground fund shall remain intact and inviolate for the purposes set forth in this act, and moneys in the underground fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and the amendments thereto." It appears obvious to me that the legislature that created the Trust Fund was concerned that a future legislative body would attempt to take moneys from the Trust Fund and use those revenues for purposes other than their intended use.

2) The transfer of funds would threaten the financial solvency of the fund. The Kansas Department of Health and Environment has operated a nationally-recognized storage tank release trust fund that is both efficient and effective. What is even more important is that the trust fund has remained solvent. Throughout the 1990s, many other states established similar trust funds. Most of those trust funds are no longer in existence because they became insolvent due to improper management. Some states (Texas and others) ran their trust funds into bankruptcy multiple times.

One of the reasons that Kansas' Trust Fund has remained solvent is that when a tank owner's contract with an environmental consultant is approved for reimbursement, those funds are encumbered so that they cannot be spent again. In order for these funds to be transferred, the agency will be required to unencumber those funds already encumbered. Those funds have been set aside to pay for work already approved if not completed.

There are approximately 70 environmental consulting firms approved to provide contractual services for Trust Fund reimbursement. They in turn have many subcontractors, suppliers and services providers that they use to complete the contracts. If the Trust Fund becomes insolvent, all of the parties involved in this work will be negatively impacted financially. This will lead to loss of income, layoffs and a decrease in the amount of business tax and personal income tax paid to the state.

3) The cost of investigating, monitoring and cleanup of Trust Fund sites is lower in Kansas than in surrounding states. This cost differential is due to the fact that the consultants know that the Trust Fund is solvent and they will be paid for their services. Since there is little risk of nonpayment for work completed, the consultants are willing to work for lower profits. This is another effect of a

state program that is operated effectively and efficiently.

4) As I described earlier in my testimony, the Kansas Department of Health and Environment enters into a consent agreement with the tank owner to provide reimbursement for expenses incurred in the investigation, monitoring or cleanup of contamination due to a release from their underground storage tanks. If the Trust Fund is insolvent, KDHE will be in violation of the consent agreements currently in force. This action would set a dangerous precedent in the relationship between state agencies and the regulated communities.

5) The Trust Fund is the means by which most tank owners meet the financial responsibility requirement of the UST regulations. If the Trust Fund is insolvent, this compliance mechanism will no longer be available and the tank owners could be required to purchase storage tank pollution insurance. This added financial burden would be on top of the thousands of dollars already spent by the tank owners to upgrade their facilities in order to comply with the federal and state regulations. This will have a negative financial impact on the approximately 3000 UST owners in Kansas. It should be noted that included in this list of UST owners are school districts, municipalities, counties, airports and many other non-marketers.

6) EPA will be notified if the Trust Fund becomes insolvent, since the Trust Fund is a compliance mechanism for the Financial Responsibility requirement. This could lead to EPA's enforcement of the UST regulations in Kansas. EPA enforcement of the UST regulations will place another onerous burden on tank owners, which includes those state agencies that own tanks.

7) The transfer of moneys from the Trust Fund to the General Fund threatens KDHE's ability to protect the health and safety of the citizens of Kansas. At the numerous Trust Fund sites across Kansas petroleum contamination has impacted the groundwater in the area around the site. If the Trust Fund does not have adequate funding to investigate, monitor and, if need be, cleanup this contamination, private and public groundwater supplies could become unsafe to consume. The Trust Fund and the management systems it employees works very hard to protect the groundwater supply and keep it safe for consumption. The proposed transfer of funds contained in this bill threatens the ability of this successful program to continue to protect the state's groundwater supply.

I would like to thank the chairman and the committee for your time and the opportunity to present this testimony.

I would be happy to take questions from the committee members at this time.

TESTIMONY OF PATRICK J. HURLEY
ON BEHALF OF
ECONOMIC LIFELINES

TO

HOUSE APPROPRIATIONS COMMITTEE

ON JANUARY 24, 2003

ON

HB 2026

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Mr. Chairman and Members of the Committee.

I am Pat Hurley and appear on behalf of Economic Lifelines, the Coalition of statewide organizations dedicated to the full implementation of the 1999 Comprehensive Transportation Program.

Attached is a Resolution, which was adopted by our full Board in December 1999, which reflects our unanimous and continuing support for the full implementation of this program and completion of all projects. It further expresses our strongest possible opposition to any reduction in funding, which would result in the elimination of any of these projects. That remains our position today. That also reflects the unanimous expressions of the Governor's Transportation 2000 Committee at twelve weeks of hearings in 1998, which lead to the passage of this program and four weeks of hearings this fall where over 800 citizens expressed their continued support for completion of the program.

It is important that you keep in mind that the Legislature's passage of this program by over seventy percent of each house was not just a response to your constituents but a commitment by the Legislature that all of the announced projects would be completed within the ten-year program just as was done in the 1989 Highway Program. In fact, you memorialized this commitment by incorporating the list of all promised projects into the journal. Right now this program is threatened as never before due to the downturn of the state's economy. Last year the Legislature took the entire demand transfer of one hundred forty seven million dollars and in an unprecedented step borrowed another ninety-five million dollars from the Highway Fund, which was to be paid back on or before June 30 of this year.

The supplemental bill before your committee would break that commitment. We strongly oppose the failure of the Legislature to honor the commitment that they made just months ago. If that loan is not repaid in FY03 we would urge that you retain it as a loan to be paid at a specific future date during this program so that KDOT can count on that revenue in its cash-flow projections. This is critically important or you will have effectively taken another ninety-five million dollars permanently from the program.

Also, in the Governor's recommendations, the funding for the Highway Patrol is transferred to the Highway Fund for the remainder of FY03 and the continuance into FY04. That takes approximately another twenty-six million dollars per year from the Highway Program.

In addition, while not in this bill, the Governor has recommended nonrepayment of the ninety-five million dollar loan in FY04 as well as the taking of the Demand Transfer (\$128 million) for another fiscal year (FY04).

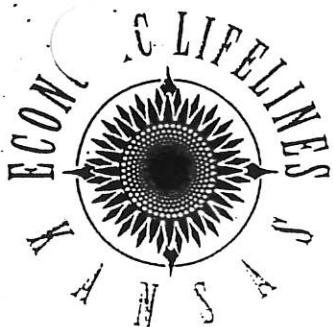
While we are still studying these numbers and are in communication with KDOT to try to determine the full impact of all of these proposed reductions of funding to the highway program it is incomprehensible to us that we can continue this practice and proclaim that the program will still be fully implemented on the time table of the original 1999 act.

While we recognize the unprecedented dire economic conditions of the state and the general fund in particular, it is vitally important that you keep in mind that the 1999 program, just as the 1989 program, is the single largest economic development program occurring in the state of Kansas at this time. Economists from Kansas State University and Kansas University have produced studies that were

presented to the T2000 Committee this fall indicating extraordinarily positive benefits to the state's economy if this program is completed as scheduled and conversely the severely detrimental impact it would have on the state's economy and the ability to recover as quickly as possible if funding for the program continues to be diminished.

Economic Lifelines wants to work with the Governor and the Legislature and the Department of Transportation to figure out the best resolution for preserving this important program but it is clear that we cannot continue to use the Highway Fund as a bank for every possible scheme or idea which someone devises to take more and more funding from the revenue stream.

Thank you for hearing our concerns and we welcome the opportunity to work with both the Executive and Legislative branches to resolve this serious problem. I would be happy to answer any questions.



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RESOLUTION

A RESOLUTION OPPOSING REDUCTIONS IN FUNDING FOR THE 1999 COMPREHENSIVE TRANSPORTATION PROGRAM.

WHEREAS, The 1999 Kansas Legislature enacted a ten year Comprehensive Transportation Program authorizing expenditures for projects and programs in all modes;

WHEREAS, the Legislature approved a program including the following highway system program improvements over ten years;

- Routine and substantial maintenance;
- Construction and reconstruction, including major modifications and priority bridges;
- System enhancement projects - (\$1.05 billion);

WHEREAS, the Legislature approved increased assistance to local units of government over ten years including the following:

- an increase in the Special City and County Highway Fund;
- an increase in general local aid and in state aid for city connecting links maintenance from \$2000 to \$3000 per lane mile;
- new assistance for communities with railroad crossings not on the State Highway System;
- a program of credit enhancements for local units through the Kansas Transportation Revolving Fund;
- spending of at least \$3 million in each county for highway, bridge, and substantial maintenance projects over the ten years;

WHEREAS, the Legislature also approved funding for other modal elements over ten years including the following:

- a loan program for railroad rehabilitation projects;
- the Kansas Airport Improvement Program;
- an enhanced public transit program including expansion of transportation for elderly and disabled;

WHEREAS, the Legislature approved revenue enhancements including the following to help finance these program commitments:

- authority to issue \$995 million in twenty year bonds;
 - a gradual four cent increase in motor fuels taxes;
- a gradual increase in the sales tax demand transfers from the state general fund;

WHEREAS, communities throughout the state identified their transportation needs to the Governor's Transportation - 2000 Committee and to the Legislature as the basis for enactment of a program and the Legislature overwhelmingly enacted the ten year 1999 Comprehensive Transportation Program specifically to address as many of these identified transportation needs as possible and committed the necessary revenues to support such a program;

WHEREAS, pursuant to this program the Kansas Department of Transportation has already begun to identify projects in all modes which will be completed under this ten year program and is engaged in various stages of work on these projects;

AND WHEREAS, the Legislature must avoid reducing KDOT's funding in any individual year or on an overall basis to such a degree that it risks endangering the completion of projects and commitments due to the uncertainty of future occurrences over the life of the program;


NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Economic Lifelines:

SECTION 1. That it does hereby reiterate its support for the implementation of the total 1999 Comprehensive Transportation Program and the completion of all projects and commitments thereunder and the full retention of all funding components necessary to do so;

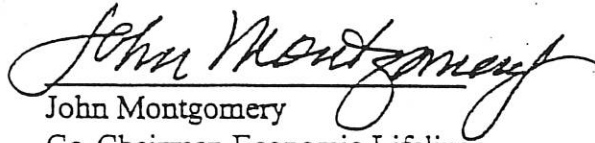
SECTION 2. That it does hereby express its strongest possible opposition to any reduction of funding of the 1999 Comprehensive Transportation Program, either on a yearly or overall basis, which could result in the elimination, modification or failure to complete any project which would otherwise be done under the program as originally enacted by the Legislature, or which would reduce the level of funding committed to local units of government; "

SECTION 3. That it does hereby direct that copies of this resolution be presented to the Governor, and each individual member of the Kansas Senate and the Kansas House of Representatives.

ADOPTED BY THE BOARD OF DIRECTORS OF ECONOMIC LIFELINES ON,
THIS 17TH DAY OF DECEMBER, 1999.



Fred Berry
Co-Chairman Economic Lifelines



John Montgomery
Co-Chairman Economic Lifelines

DON MOLER
League of Kansas Municipalities

RANDY ALLEN
Kansas Association of Counties

JIM DEHOFF
Kansas AFL-CIO

KEN BLACK
Kansas Association of Airports

RON BUTTS
Kansas Public Transit Association

DAN RAMLOW
Kansas Contractors Association

BILL FULLER
Kansas Farm Bureau

MIKE KELLY
Kansas Motor Carriers Association

ED DESOIGNIE
Heavy Constructors Association
of Greater Kansas City Area

JOHN FOWLER
Kansas Chamber of Commerce
and Industry

ANN CHARLES
JOBS, Inc.

TIM WITSMAN
Wichita Area Chamber of Commerce

JIM DAHMEN
Mid-America, Inc.

JON DAVELINE
Hutchinson/Reno Co. Chamber of Commerce

JIM JONES
Kansas Asphalt Paving Association

GEORGE BARBEE
Kansas Consulting Engineers

AL SILVERSTEIN
Great Bend Chamber of Commerce

MAX ZIMMERMAN
S.P.I.R.I.T. Group

CAROL MEYER
Garden City Area Chamber of Commerce

KEN JOHNSON
Kansas Aggregate Producers Association

GEORGE WELLS
Kansas Cement Council

CHRISTY CALDWELL
Topeka Chamber of Commerce

MARY BIRCH
Overland Park Chamber of Commerce

BUD BURKE
US 69 Highway Association of Kansas

MARY TURKINGTON
Topeka, Kansas

HOWARD LOOMIS
Pratt, Kansas

JOHN KOGER
Kansas Good Roads

ROY WESTHOFF
Kansas Ready Mixed Concrete Association



KANSAS
ASSOCIATION OF
COUNTIES

Testimony concerning HB 2026
House Appropriations Committee
January 24, 2003
Presented by Randall Allen, Executive Director
Kansas Association of Counties

Mr. Chairman and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. Thank you for the opportunity to present testimony on House Bill 2026.

I am here today to specifically address Sections 40, 41, and 42 of the bill relating to the three demand or revenue transfers to local government. As much as we object to the policy implications of shifting up to \$48 million to the local property tax, I am not here to address the fiscal policy issue. Rather, I am here to express a concern about the timing of HB 2026, and its effect on bringing some clarity to the separation of powers question that is the crux of our legal action against various state officials.

Clearly, the Legislature has the right to authorize or not authorize transfers of revenue from the State General Fund to units of local government. That is unquestionable, and we do not question your role in this regard. As demonstrated by our legal action in December, *we do question* the extent of the Governor's authority to change or abolish the transfers after the Legislature has taken its action. If the Supreme Court rules on our action, clarity on this legal point can be used by local government budgeters for years to come. As such, the concern I bring today is one of *timing*, i.e. that legislative affirmation of Governor Graves' reductions in demand transfers through HB 2026 could potentially render the legal action before the Supreme Court moot, and delay closure on this important issue. The separation of powers question and its relation to the ability of locally elected officials to know which revenues are solid and which revenue streams are less certain are our central concerns today.

Thank you for the work you do and for your time in listening to my comments.

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The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Judy Moler by calling (785) 272-2585.

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TESTIMONY

DATE: January 24, 2003
BEFORE: The House Appropriations Committee
FROM: Edward R. Moses, Kansas Aggregate Producers Association
SUBJECT: HB 2026 – Emergency Supplemental Appropriations for FY 2003

Good Morning Mr. Chairman, my name is Edward R. Moses, Managing Director of the Kansas Aggregate Producers Association. We thank you for the opportunity to appear before you today regarding House Bill No. 2026. The Kansas Aggregate Producers Association is strongly opposed to House Substitute for House Bill No. 2026. In its current form Sub. HB 2026 will remove the requirement for the State General Fund to repay the \$94.6 million loan from the State Highway Fund on June 30, 2003. Approval of this bill will materially impair the ability of the Kansas Department of Transportation to complete the Comprehensive Transportation Program (CTP) overwhelmingly approved by this legislature in 1999.

We are also joined in this opposition by Economic Lifelines, the statewide transportation coalition, which adopted a resolution supporting full repayment of the loan at its last board meeting held June 19, 2002. Economic Lifelines is the largest statewide coalition in Kansas dedicated to highway safety, transportation improvements, and the future economic development of Kansas communities. It is comprised of organizations ranging from the Kansas Chamber of Commerce and Industry, the Kansas AFL-CIO, the League of Kansas Municipalities, Kansas Association of Counties, Kansas Association of Airports, Kansas Public Transit Association, Kansas Farm Bureau, Kansas Motor Carriers Association, Kansas Consulting Engineers, Kansas Good Roads Association, Kansas Contractors Association, The Heavy Constructors Association of Kansas City, and most importantly, numerous communities represented by their local Chambers of Commerce, economic and industrial development groups, and city and county governments throughout the entire state.

The CTP has lost almost \$231 million through legislative transfer or the outright failure of the legislature to make the promised demand transfers. In 2002 the legislature took steps to correct this error by passing a supplemental revenue package. This package essentially restored the CTP to solvency, but only on the assumption that the loan and future demand transfers are made on time. Approval of Sub HB 2026 will only upset the current funding plan and set the CTP up for ultimate failure.

While we understand and sympathize with your current efforts to correct the state's finances we think it is premature to cancel the loan payment. Rather, we urge this committee to consider other methods of financing state government and end the constant raids upon the State Highway Fund.

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Even in these difficult times we think there are several good reasons for staying the course:

➤ **The CTP stabilizes and stimulates the state's economy during all times but especially during difficult economic times.**

- From an October 12, 1992 *U.S. News and World Report* article discussing states facing a downturn in their economic fortunes: "As the nation slid into recession during the second half of 1990, highway money began to course through the Kansas economy. Road expenditures leapt from 293 million dollars in 1989 to 429 million in 1991, sending a torrent of dollars through checkbooks and cash registers. In what economists call the multiplier effect, construction workers started buying tools, contractors leased new equipment, and engineering firms started placing help-wanted ads. As highway money worked its way through Kansas's economic bloodstream, personal income climbed at 2.4 percent, more than twice the national average (in 1991)."

➤ **Our investment in roads must be maintained**

- Thanks to the CTP, Kansas currently ranks " 4th in the nation in pavement condition, while ranking only 24-26th in per capita dollars spent to maintain the system." Source: Stidger, Ruth W., *Better Roads*, May 2002.
- Not only do Kansans benefit from the use of their outstanding highway system, upgrading the system as originally intended generates thousands of jobs each year, bringing financial benefits to the State.

➤ **Millions of dollars of unmet transportation needs remain to be addressed.**

- According to an article appearing January 17, 2003 in *USA Today*. " Highway traffic up 37% in decade but systems mileage grew only 5%"The economy of our State and local municipalities depends upon a reliable transportation infrastructure, providing not only a means to distribute products, but also jobs, and income resulting in revenue. The cost of construction only increases over time, and maintaining an adequate and consistent investment in the transportation infrastructure is a strategy that pays high returns over a long period. Deferring highway projects only increases costs and adds to pool of unmet needs.

➤ **Kansans, in overwhelming numbers, support completion of the CTP on time**

- "The citizens of Kansas overwhelmingly support the Comprehensive Transportation Program (CTP), are opposed to any funding reductions in CTP, are alarmed at how the State Highway Fund (SHF) dollars are being used to balance the state budget, and are demanding that the promises made when the CTP was passed in 1999 be kept." T-2000, *A Program in Jeopardy*, Report to the Governor, December 9, 2002.

- Four public meeting were held to gather input from citizens regarding the CTP. Approximately 800 city and county leaders, business people, and citizens attended the four meetings. About 150 people spoke or gave presentations in favor of the CTP.
- **Completion of the CTP will save lives and provide a higher level of public safety**
 - According to the Burress economic impact analysis, **\$1.3 billion** funding loss will cost the state **\$4.7 billion** in travel time and accidents. Source: Dr. David Burress, University of Kansas, Presentation to Transportation 2000, September, 2002
 - Public Transit, already cut \$500,000 in FY03, provides many disabled citizens throughout the state with their only means of transportation. Vital to the maintenance of independent lives.

For these, any many other reasons, we urge you to keep the CTP solvent by opposing any attempt to remove repayment of the \$94.6 million loan. We stand ready, along with Economic Lifelines, to work with you in identifying more appropriate ways to fund state government. We recognize the need to be a part of the solution. We only ask you to pass on this premature action.

I'm Walter Wulf, Jr., President and Chairman of the Board of The Monarch Cement Company, Humboldt, Kansas. I'm here to speak for continuance of the T -2000 Transportation Program and its importance to Monarch, the Kansas economy and revenue sources of the State. First let me tell you a little bit about our industry's past. The cement industry has played an important role in the history and economic development of Kansas. There were thirty-four known attempts to organize cement mills in Kansas from 1898 to 1910, only eighteen plants were built. The majority of these mills were in southeast Kansas. They located here due to the abundance of limestone, a primary ingredient, and natural gas. By 1918, the number of operating mills was down seven. By 1969, this number was reduced to five, and today only four have survived, and they are all located in southeast Kansas.

Continuance of the T -2000 Transportation Program is important to Monarch because approximately 10% of our annual production has gone into Kansas highway projects since the programs' inception. With the passage of TEA-21, at the federal level, and T -2000, at the state level, it became apparent that if Monarch was going to be in a position to supply cement for the State's infrastructure improvements that we would need to expand our production capabilities. We embarked on an expansion program, which will ultimately increase our production 35 to 40%. Monarch is a publicly held company chartered in Kansas. Many of our shareholders reside in Kansas; we invested over 60 million dollars of shareholder's money in property, plant and equipment in 2000 and 2001. Now we ask that our State make good on their commitment to preserve and improve our infrastructure for the benefit of our residents.

Continuance of the T -2000 Transportation program is also important to Monarch because a reliable transportation system is key to providing service to our customers. Last year 20,240 trucks and 3,000 rail cars made deliveries to 93 locations in Kansas and 51 locations in other states. From January 1 thru September 25 of this year we received 2,846 trucks and 97 rail cars bearing material essential to our operations in Humboldt.

Finally, continuance of the T -2000 Transportation Program is important to the State of Kansas because according to the Federal Highway Administration every \$1 million of increased investment in highway infrastructure generates 42 jobs- In 2001 Monarch's Humboldt payroll was approximately \$10,000,000 for 169 employees. In addition we employ another 166 people at subsidiaries located in Dodge City, Wichita, Hutchinson, Salina, Topeka and Merriam, Kansas.

In summary, the T -2000 Transportation Program is important to Monarch not only as a market for our product but as a means to get our product to market, and it is important to the State because the dollars it spends stay in the State, providing jobs and income resulting in revenue which is critical to meeting other budget needs. We've all heard that history repeats itself. At the beginning of my remarks, I told you that at one time there were 18 cement mills in Kansas, and today there are 4. This due in large part to over expansion in anticipation of increased demand" Today Monarch and at least two of our competitors have increased production in anticipation of increased demand promised by passage of T -2000. I urge our state legislators to make good on that promise. Don't let further reductions in highway spending be responsible for another cement mill closing in Kansas.



MEMO TO: House Appropriations Committee
FROM: Thomas M. Palace, Executive Director of the Petroleum Marketers and
Convenience Store Association of Kansas
DATE: January 24, 2003
RE: Comments on HB 2026

Mr. Chairman and members of the House Appropriations Committee:

My name is Tom Palace and I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA), a statewide trade association that represents over 360 independent petroleum marketers and convenience stores throughout Kansas.

I appreciate the opportunity to appear before you today in opposition to HB 2026. More specifically, section 21, page 8, the transfer of \$10 million from the Underground Petroleum Storage Tank Release Trust Fund.

Kansas has been fortunate over the years to have put in place a storage tank program that accounts for claims by way of reserving dollars to pay for the investigation and monitoring of dirty sites. This process usually takes up to 2 years to complete; however, contractor's and the Kansas Department of Health and Environment (KDHE) know that there are funds to pay the bills when work is completed. KDHE hires a contractor to complete a job only when they have to money to do so. Releasing the encumbered funds to aid the budget shortfall will impact KDHE's ability to monitor dirty sites in a timely fashion and pay invoices when they are due.

The funds that are currently held in the Underground Storage Tank Release Trust Fund are not surplus dollars. These funds have been earmarked for jobs that pose an environmental threat due to leaking underground storage tanks. Taking these funds could put the state in a position where it can't pay bills when presented. UST programs in other states have gone bankrupt for this very reason... no money to pay the bills. Currently there are 1600 sites that have been approved for investigation and monitoring with money set aside for when the job is completed. If we move forward with the "pay-as-you-go" theory, who prioritizes which job is to be completed first? Additionally, if the Kansas Legislature elects to release encumbered funds from the underground petroleum release fund, what is to stop you from doing this in the future to fund other programs not affiliated with underground storage tanks? The release fund was

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established for one general purpose: to investigate, monitor, remediate (if necessary) and protect the environment from contamination. It was never intended to be used to fill gaps in the budget when money is needed.

Another area of concern is the impact on real estate sales. Locations with underground fuel tanks are not the easiest type of real estate to sell. Bankers view the Underground Storage Tank Release Fund as an insurance policy. If the loan goes into default, and the bank becomes the owner of the location, the bank would be eligible to apply to the trust fund if contamination is discovered. Will banks be more reluctant to extend credit on a property that has underground tanks if this proposal is approved? It's a question that I have no answer for at this time, but I could venture a safe guess.

KDHE has done a wonderful job managing the Underground Storage Tank Release Trust Fund. The Kansas legislature should also be commended for establishing this program and proud to know that Kansas continues to be a national leader when it comes to underground storage tank issues. Releasing funds designated to contain and remediate environmental pollution to finance the State's budget woes is the wrong way to use this money.

Mr. Chairman, PMCA urges this committee to reconsider making any decisions to release fund from the Underground Storage Tank Release Trust Fund.