

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Stephen Morris at 10:30 a.m. on January 15, 2003, in Room 123-S of the Capitol.

All members were present except: Senator David Adkins - excused
Senator Dave Kerr - excused

Committee staff present:

Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Director, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Melissa Calderwood, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Michael Corrigan, Assistant Revisor, Revisor of Statutes Office
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Pat Scalia, Executive Director, State Board of Indigents' Defense Services
Mike Hayden, Secretary, Kansas Department of Wildlife and Parks

Others attending: See attached list

Chairman Morris welcomed Pat Scalia, Executive Director, State Board of Indigents' Defense Services (SBIDS), who briefed the Committee on the need for emergency supplemental funding for FY 2003 (Attachment 1). Ms. Scalia introduced Mr. Ed Gillette, a private attorney from Johnson County and chairman of the transition team for their agency. Mr. Gillette was present for questions. She explained that SBIDS provides the right to Counsel for persons who cannot afford their own attorney required by the Sixth Amendment.

Ms. Scalia explained that the SBIDS budget was depleted by two causes, the unprecedented costs of recent death penalty cases, and the cuts made to their budget. She mentioned that 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. It is estimated that an additional \$400,000 is needed beyond the \$550,000 to pay death penalty costs. Ms. Scalia mentioned that in order to pay the costs on non-death cases, the entire \$1,244,000 that was cut must be restored.

In her testimony, Ms. Scalia explained that the transition team, chaired by Mr. Gillette, suggested 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. Mr. Gillette confirmed that the transition team went through this time and time again and clearly there is a budget crisis with this agency. He noted that the costs for death penalty cases will now probably be \$1 million dollars and that can be assumed in every death penalty case based upon the time and amount of effort involved.

Committee questions and discussion followed. Senator Barone requested information regarding a summary by week by attorney regarding the number of hours spent by the attorneys and Ms. Scalia responded that she could provide the information. Chairman Morris suggested that at some point very soon in the session that Ms. Scalia, Mr. Gillette and the transition team with their suggestions, be invited to do some brainstorming. In addition, the Chairman also mentioned that this whole area may justify an interim study in order to have enough time to address all of the issues.

Chairman Morris welcomed Mike Hayden, Secretary, Kansas Department of Wildlife and Parks, who provided an update on the budget status of the Department (Attachment 2). Secretary Hayden mentioned that

CONTINUATION SHEET

the Department of Wildlife and Parks is faced with challenges to provide a quality service to the public with reduced resources as with most state agencies funded with State General Fund appropriations. Committee questions and discussion followed.

The meeting adjourned at 11:45 a.m. The next meeting is scheduled for January 16, 2003.

**SENATE WAYS AND MEANS COMMITTEE
GUEST LIST**

DATE January 15, 2003

| NAME | REPRESENTING |
|-----------------|--------------------------|
| Jana El-Koubysi | Bd of Indigent's Defense |
| Pat Amici | Bd of Indigent's Defense |
| | Bd of Indigent's Defense |
| ED GILLETTE | BIDS |
| Dick Koerth | ICDWP |
| Sandy Braden | Cashes, Braden, Barber |
| Kyle Nessler | DOB |
| Adam Dunkel | DOB |
| Kande Bradford | Inter-Faith Ministries |
| Mike Hayden | KDWP |
| Chris Tymeson | KDWP |
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Testimony
State Board of Indigents' Defense Services
Before the
SENATE WAYS and MEANS COMMITTEE

Chairman, Senator Stephen Morris, 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. Presenting with me is Mr. Ed Gillette, a private attorney from Johnson County and Chairman of the transition team for our agency.

The SBIDS provides the right to Counsel for persons who cannot afford their own attorney 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 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.

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Attachment 1

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. Gillette 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 Stetler - 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 | | | \$1,336 | | |
| | THOMAS REIDY | | | \$18,546 | | |
| | EARNEST RICHARD | | | \$1,638 | | |
| | LITIGATION CONSULTANTS | | | \$12,894 | | |
| | PET IMAGING | | | \$2,840 | | |
| | MRI IMAGING | | | \$1,644 | | |
| | GENETIC TECHNOLOGIES | | | \$29,287 | | |
| | WANDA FOLGLIA, PSYCH | | | \$10,135 | | |
| | ROY MALPASS, PSYCH | | | \$3,625 | | |
| | MIDWEST BRAIN FUNCTION | | | \$2,750 | | |
| | Advocacy Research/change venue | | | \$3,073 | | |
| | Dr. Woltersdorf, psych | | | \$1,750 | | |
| | WALTER MARKLEY INVESTIGATIONS | | | \$9,098 | | |
| | Investigation thru Wachtel/Greeno | | | \$20,131 | | |
| | VAL WACHTEL | | | | \$343,295 | |
| | JAY GREENO | | | | \$135,139 | |
| | | | | \$118,747 | \$3,535 | \$478,434 |
| | | EXPERT | TRAVEL | MISC | ASSIGNED COUNSEL | TOTAL |
| | | | | | | \$600,716 |

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

412

lrs1637

SENATE BILL NO.

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 fee will impose manifest hardship on the defendant, the court may waive payment of all or part of the administrative 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 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 | ----- | ----- | ----- | ----- | ----- |
|--|-----------|-----|-------|-------|-------|-------|-------|

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 | ----- | ----- | ----- | ----- | ----- |
|--|---------|------|-------|-------|-------|-------|-------|

| | | | | | | | |
|---|----------|--------|-------|-------|-------|-------|-------|
| POSSESSION EPHEDRINE OR PSEUDOEPHEDRINE W/INT TO MFG METH | 65-7006A | 25,000 | ----- | ----- | ----- | ----- | ----- |
|---|----------|--------|-------|-------|-------|-------|-------|

| | | | | | | | |
|--|----------|--------|-------|-------|-------|-------|-------|
| 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 | ----- | ----- | ----- | ----- | ----- |
|--|----------|--------|-------|-------|-------|-------|-------|

| | | | | | | | |
|---|-----------|------|-------|-------|-------|-------|-------|
| POSSESSION OF ANHYDROUS AMONIA IN AN UNAPPROVED CONTAINER | 65-4152A4 | 2500 | ----- | ----- | ----- | ----- | ----- |
|---|-----------|------|-------|-------|-------|-------|-------|

| | | | | | | | |
|-----------------------------|---------|--------|-------|-------|-------|-------|-------|
| 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 |



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
1020 S Kansas Ave., Room 200
Topeka, KS 66612-1327
Phone: (785) 296-2281 FAX: (785) 296-6953



January 15, 2003

Senator Steve Morris, Chairperson
Senate Committee on Ways and Means
Room 123-S, State Capitol Building
Topeka, Kansas 66612

Dear Senator Morris:

I would like to thank you and the members of the Committee for the opportunity to provide an update on the budget status of the Kansas Department of Wildlife and Parks (KDWP). The Department, as with most state agencies funded with State General Fund appropriations, is faced with challenges to provide a quality service to the public with reduced resources. The information provided to Committee in the following material will describe the current status of the KDWP prior to the issuance of the Governor's budget recommendations.

The FY 2004 budget request for the KDWP is displayed on Attachment One. For FY 2004, the Department is requesting a budget of \$43,443,570 of which \$3,340,819 would be financed from the State General Fund (SGF). For FY 2003, the revised budget is \$49,291,817. The amount is larger than the approved amount of \$43,000,322 to "roll-over" of capital improvement projects from prior fiscal years. The FY 2004 request is an increase of 1.03% over the approved FY 2003 budget. The SGF request for FY 2004, which was within the allocation received from the Division of the Budget is an increase of .60% above the FY 2003 revised amount. The KDWP is requesting an amount of \$6,794,710 for capital improvements in FY 2004. (Attachment Two) None of the capital improvement expenditures requested are financed from the SGF.

The KDWP utilizes several sources of funding to finance operations of the Department. Attachment Three provides a listing of the major sources of funding for the KDWP. As can be noticed, the majority of Department expenditures are from the Wildlife Fee Fund. The Park Fee Fund provides 14 % and the SGF provides 8 % of total expenditures. Attachment Four indicates that for Operations expenditures only, the SGF is 9.5 % of total operations. However, the amount of SGF used to finance operations of the State Parks is 24.4% of the total operations for that Division. In addition, the remaining SGF appropriated for the KDWP is used in the Administration Division to fund indirect costs associated with operations of the state parks.

The KDWP did not requested any additional expenditures for FY 2003 in the budget request submitted on September 15, 2002. However, actions taken by the previous administration to reduce SGF expenditures since that time will require additional expenditures from the Wildlife

Senate Ways and Means
1-15-03
Attachment 2

Fee Fund in FY 2003 of \$112,492. In November, 2002, the KDWP was directed to reduce SGF expenditures by \$130,041. In December, 2002, the KDWP was directed to identify an additional \$82,492 for SGF reduction. This is in addition to a reduction of \$70,568 issued in August, 2002. (Attachment Five). These reductions in SGF support have reduced Parks Division Operations and increased the percent of Administrative costs for Wildlife programs requiring additional funding support from the Wildlife Fee Fund.

The KDWP has reduced expenditures from the Wildlife Fee Fund for FY 2004. This was done to increase the ending balance in the fund and will be discussed further in this section. Due to reduction in SGF support from the Legislature between FY 2002 and FY 2003 of approximately \$1,000,000, the KDWP has increased park fees effective 1/1/03. In order to continue the existing level of state parks operations, this increase was necessary. The FY 2004 budget request does not include any additional positions and maintains the Department FTE at 406.5 positions.

For FY 2004, the KDWP has requested a capital improvement budget of \$6,794,710. There is no SGF included in this request. The items requested will either maintain or improve existing facilities. A major item is a new water line to supply adequate water to the Milford Fish Hatchery. The water line will take water directly from Milford Reservoir to supply the hatchery. Also included are funds for river access points for boating including a site at Perry across from Lecompton on the Kansas River.

The SGF provides 9.5% of the requested FY 2004 Operating expenditures. This is a decrease from the 10.2% for FY 2001 and continues the trend of the Department receiving smaller amounts of financial support from the SGF. The major impact is to the financing of the Parks Division. The amount of SGF support for this program has decreased from 60.4% in FY 1995 to 24.4% for FY 2004. This dramatic decrease in SGF support has required more reliance on the Park Fee Fund, resulting in increases in park fees that were effective on 1/1/2001 and 1/1/2003. For FY 2004, the KDWP has recommended a small amount of Wildlife Fee Fund to finance the costs of selling hunting and fishing licenses by State Park personnel. The KDWP also uses SGF financing in the Administrative Program to fund indirect costs associated with the Parks Division. These costs must be financed from a source other than wildlife fees. An increase in the usage of financing from the Park Fee Fund does not decrease total park program costs but does require that more of the SGF appropriations for the KDWP be used for financing of park program indirect costs.

The Park Fee Fund (PFF) was created by K.S.A. 32-991. This statute provides that all receipts from state park fees shall be deposited to the fund and used only for expenses related to administration of the state parks. As mentioned earlier in this narrative, the amount of SGF provided to the KDWP for operations of the Department have been decreasing. This decrease has required that the amount of revenue to the PFF be increased to maintain existing operations at the state parks. The fees for use of the state parks have been increased twice in the last three years. These increases have not allowed for enhancements to the state parks system but only to maintain current operations. The revenue to the PFF has continued to increase. This is partly through increased fees but also increased usage by the public. The KDWP received an amount of \$10

million in FY 1999 to improve the infrastructure of the state parks. These funds have allowed for the construction of modern shower buildings, improved campground sites, and upgraded electrical and other utilities. These improvements have assisted in generating increased revenue through more use of park facilities by the public.

At the time the KDWP submitted the FY 2004 budget request, the balance in the Park Fee Fund (PFF) was adequate to provide for a positive cash flow in order to finance expenditures at the state parks during the cold weather months when the parks receive very little visitation and significantly decreased revenue. In addition, the balance was adequate to allow for some contingencies such as emergency expenses or small decreases in park revenue. However, for FY 2004, expenditures from the PFF will be increased to replace SGF deleted in FY 2003. The remaining balance in the fund is the minimum necessary to provide a positive cash flow. It should be noted that the revenue to the PFF can be dramatically impacted by weather. The floods of 1993 and 1995 had a significant impact, and the KDWP had to receive additional revenue from the SGF to finance approved expenses. Less dramatic weather impacts such as a "wet" fourth of July holiday weekend will also impact revenue. The KDWP needs to maintain an adequate balance in the PFF to avoid disruptions in financing of approved expenditures. Attachment Six is a graph reflecting the history of revenue to the PFF from park vehicle permit and camping fee sales.

The Wildlife Fee Fund (WFF) is authorized by K.S.A. 32-990 and by this statute is to receive all moneys from licenses, permits, and other issuances of the KDWP related to wildlife and fishing activities. The same statute states that the fund shall only be used for administration of matters which relate to wildlife and fishing and which are under control of the Secretary of Wildlife and KDWP. In addition, to this statute, the State also created two other statutes (K.S.A. 32-828 and 32-829) which state that the State of Kansas assents to the requirements of federal law pertaining to the use of moneys received from wildlife and fishing licenses, permits, etc. and that such funds will only be used for wildlife and fishing programs. Failure to comply with these requirements will result in the loss of federal aid funds received from the Dingell-Johnson and Pittman-Robertson programs. For FY 2004, the estimated receipts from these programs are \$7,400,000. Loss of these funds would have a major negative impact to programs operated by KDWP.

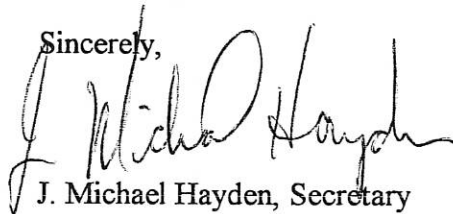
Attachment Seven is a graph indicating trends for hunting/fishing licenses and big game permits. The non-federal aid receipts to the WFF have not increased and have remained flat for FY's 2000 - FY 2002. A fee increase for licenses and permits related to hunting and fishing was effective 1/1/2002 and should provide increased revenue. Due to the flat receipts to the WFF, the balance in the fund had decreased to \$4.1 million for FY 2003. To stop the decrease in the balance, the KDWP decreased expenditures from the WFF for FY 2004. This will allow the Department to expend less from this fund than collected in receipts and will allow the balance in the WFF to increase to \$4.3 million for FY 2004.

The KDWP also receives funding from other sources as listed below. These sources have limited usage either through federal or state restrictions and normally are not used to finance general operations of the Department. Listed are the other major funds, the priority use of the fund, and the estimated expenditures for FY 2004:

| | | |
|---|---|-------------|
| Boating Fee Fund | Boating education and enforcement | \$1,762,107 |
| Federal Agricultural Fund | Operations of federal reservoirs public lands | \$ 600,000 |
| Federal Land and Water Conservation Fund (LWCF) | Local Aid and capital improvement projects | \$1,719,500 |
| Federal Grants Fund | Misc. grants for research or specific projects | \$1,394,564 |
| Roads Fund | Transfer from KDOT for road maintenance | \$1,500,000 |
| Wildlife Conservation Fund | Capital improvement projects and property taxes | \$2,132,110 |

The staff of the KDWP is available to provide additional information regarding budget and financing of the Department. Thank you for the opportunity to discuss the budget status of the Department with the Senate Committee on Ways and Means.

Sincerely,



J. Michael Hayden, Secretary
Kansas Department of Wildlife and Parks

Attachments (7)

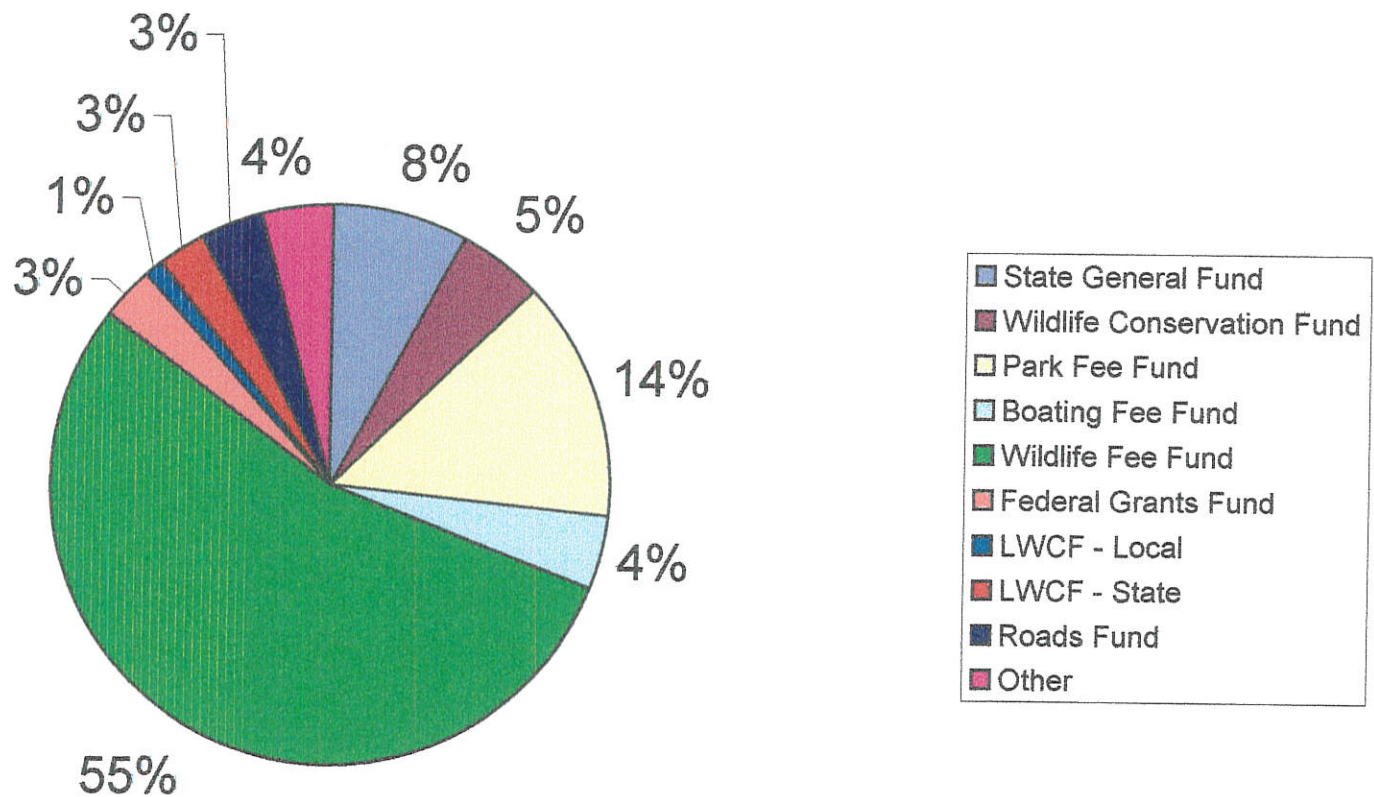
| | FY 2002 Actuals | FY 2003 Estimated | FY 2004 Request |
|----------------------------------|--------------------|----------------------|--------------------|
| Programs: | | | |
| Administration | 7,829,785 | 7,656,100 | 7,498,419 |
| Grants-in-Aid | 1,583,506 | 1,435,000 | 1,585,000 |
| Law Enforcement | 5,171,105 | 5,070,664 | 5,035,178 |
| Parks | 8,748,226 | 8,243,386 | 8,308,310 |
| Fisheries and Wildlife | 14,053,873 | 14,844,451 | 14,221,953 |
| Capital Improvements | 6,564,986 | 12,042,216 | 6,794,710 |
| TOTAL | 43,951,481 | 49,291,817 | 43,443,570 |
| Expenditure Groups: | | | |
| Salaries and Wages | 20,088,217 | 20,441,757 | 20,656,552 |
| Contractual Services | 8,867,334 | 9,166,157 | 8,849,609 |
| Commodities | 3,689,539 | 3,648,400 | 3,528,730 |
| Capital Outlay | 3,157,899 | 2,558,287 | 2,028,969 |
| Aid/Other Assistance | 1,583,506 | 1,435,000 | 1,585,000 |
| Capital improvements | 6,564,986 | 12,042,216 | 6,794,710 |
| TOTAL | 43,951,481 | 49,291,817 | 43,443,570 |
| Funding: | | | |
| <i>Operating Expenditures:</i> | | | |
| State General Fund | 4,245,011 | 3,285,963 | 3,340,819 |
| Nonrestricted Fund | 245,644 | 225,000 | 225,000 |
| Park Fee Fund | 4,766,027 | 5,583,403 | 5,703,754 |
| Boating Fee Fund | 982,928 | 1,111,509 | 1,282,107 |
| Wildlife Fee Fund | 23,402,132 | 23,722,731 | 22,861,876 |
| Federal Ag Fund | 556,967 | 600,000 | 600,000 |
| Land and Water Conservation Fund | 173,303 | 302,608 | 550,000 |
| Federal Grants Fund | 1,326,265 | 1,689,292 | 1,394,564 |
| Other Funds | 1,688,218 | 729,095 | 690,740 |
| | 37,386,495 | 37,249,601 | 36,648,860 |
| <i>Capital Improvements</i> | | | |
| State General Fund | 345,986 | 34,872 | - |
| Water Plan Fund | - | - | 100,000 |
| Bridges Fund | 76,880 | 730,490 | 200,000 |
| Roads Fund | 1,886,176 | 1,866,826 | 1,500,000 |
| Wildlife Conservation Fund | 1,411,680 | 3,449,992 | 2,132,110 |
| Park Fee Fund | 91,402 | 271,408 | 316,100 |
| Boating Fee Fund | 101,976 | 597,667 | 480,000 |
| Parks 2000 Fund | 288,956 | 51,466 | - |
| Wildlife Fee Fund | 1,647,758 | 2,747,679 | 797,000 |
| Migratory Waterfowl Fund | 127,319 | 275,640 | 100,000 |
| Land and Water Conservation Fund | 284,294 | 1,313,417 | 1,169,500 |
| Federal Grants Fund | 302,559 | 702,759 | - |
| | 6,564,986 | 12,042,216 | 6,794,710 |
| TOTAL | 43,951,481 | 49,291,817 | 43,443,570 |
| FTE | 406.5 | 406.5 | 406.5 |

FY 2004 CAPITAL IMPROVEMENTS - Requested

| Priority | Level | Description | State General Fund | Wildlife Conserv Fund | Wildlife Fee Fund | Park Fee Fund | Water Plan Fund | Roads Fund | Boating Fee Fund | Migratory Waterfowl Fund | Land & Water Cons Fund | Bridge Maint Fund | TOTAL |
|----------|-------|----------------------------------|--------------------------|-----------------------------|----------------------|------------------|--------------------|---------------|---------------------|--------------------------------|------------------------------|-------------------------|-----------|
| 1 | CS | Parks Major Maintenance | | | | 219,100 | | | | | 1,074,500 | | 1,293,600 |
| 2 | CS | Milford Hatchery Water Line | | 1,282,110 | | | | | | | | | 1,282,110 |
| 3 | CS | Land Acquisition | | 500,000 | | | | | | | | | 500,000 |
| 4 | CS | Wetlands Acquisition/Development | | 350,000 | | | | | | 100,000 | | | 450,000 |
| 5 | CS | River Access | | | | | 100,000 | | 220,000 | | | | 320,000 |
| 6 | CS | Public Lands Major Maintenance | | | 235,000 | | | | | | | | 235,000 |
| 7 | CS | Parks ADA Renovation | | | | 97,000 | | | | | 95,000 | | 192,000 |
| 8 | CS | Roads Maintenance | | | | | | 1,500,000 | | | | | 1,500,000 |
| 9 | CS | Bridge Maintenance | | | | | | | | | | 200,000 | 200,000 |
| 10 | CS | Motorboat Access | | | 562,000 | | | | 260,000 | | | | 822,000 |
| | | | | | | | | | | | | | |
| | | TOTAL | 0 | 2,132,110 | 797,000 | 316,100 | 100,000 | 1,500,000 | 480,000 | 100,000 | 1,169,500 | 200,000 | 6,794,710 |

Wildlife and Parks Funding Sources

(FY 2004 Request)



KANSAS DEPARTMENT OF WILDLIFE AND PARKS (KDWP)

1/12/2003

State General Fund - Operating Expenditures (Does not include capital improvements)

| | FY 2001 | FY 2002 | Approved FY 2003 | Request FY 2004 |
|-----------------------------|--------------|--------------|---------------------|--------------------|
| Total - KDWP | \$ 3,545,971 | \$ 4,245,011 | \$ 3,285,963 | \$ 3,340,819 |
| Percent of Total Operations | 10.2% | 11.1% | 9.2% | 9.5% |
| Total - Parks Division | \$ 2,489,596 | \$ 2,255,182 | \$ 1,828,691 | \$ 1,884,460 |
| Percent of Park Operations | 36.2% | 25.8% | 24.0% | 24.4% |

x/SGF percentages for KDWP FY 2004

FY 2003 STATE GENERAL FUND REDUCTIONS AS OF 12/04/02

| | Total | Admin. | Parks |
|----------------------------------|------------|-----------|------------|
| (1) August, 2002 Reductions | \$ 70,568 | \$ 10,568 | \$ 60,000 |
| (2) November 26, 2002 Reductions | \$ 130,041 | \$ 30,000 | \$ 100,041 |
| (3) December 3, 2002 Reductions | \$ 82,492 | \$ - | \$ 82,492 |
| Total | \$ 283,101 | \$ 40,568 | \$ 242,533 |

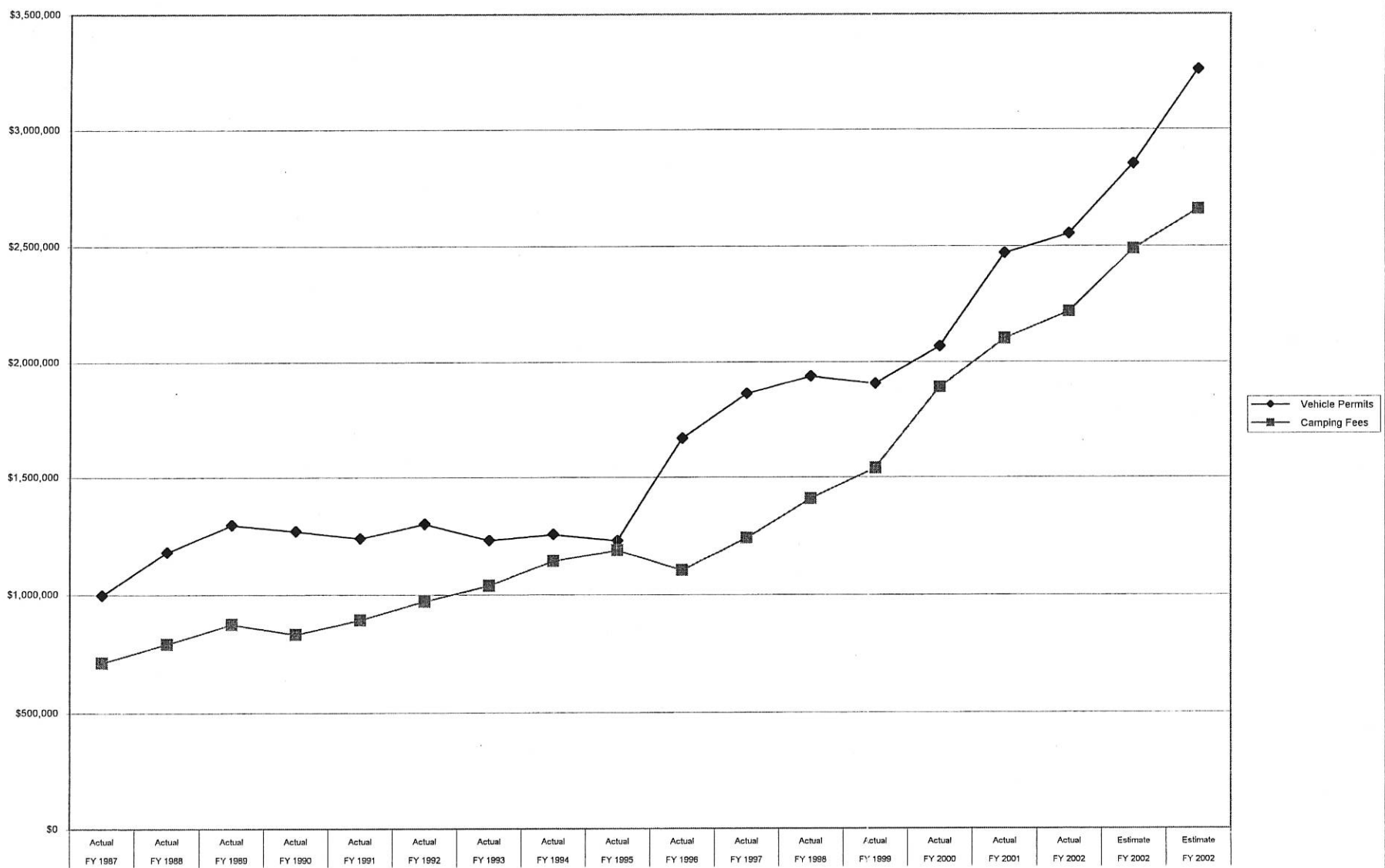
- (1) Reduction of 2.12% issued by Governor Graves to balance SGF expenditures to 1/1/03
- (2) Reduction of 3.9% issued by Governor Graves to balance SGF expenditures to 6/30/03
- (3) Reduction of 2.5% requested by Division of the Budget

Total reduction to KDWP SGF FY 2003 appropriation is 8.6%

Total reduction to Parks Division SGF FY 2003 appropriation is 13.5%

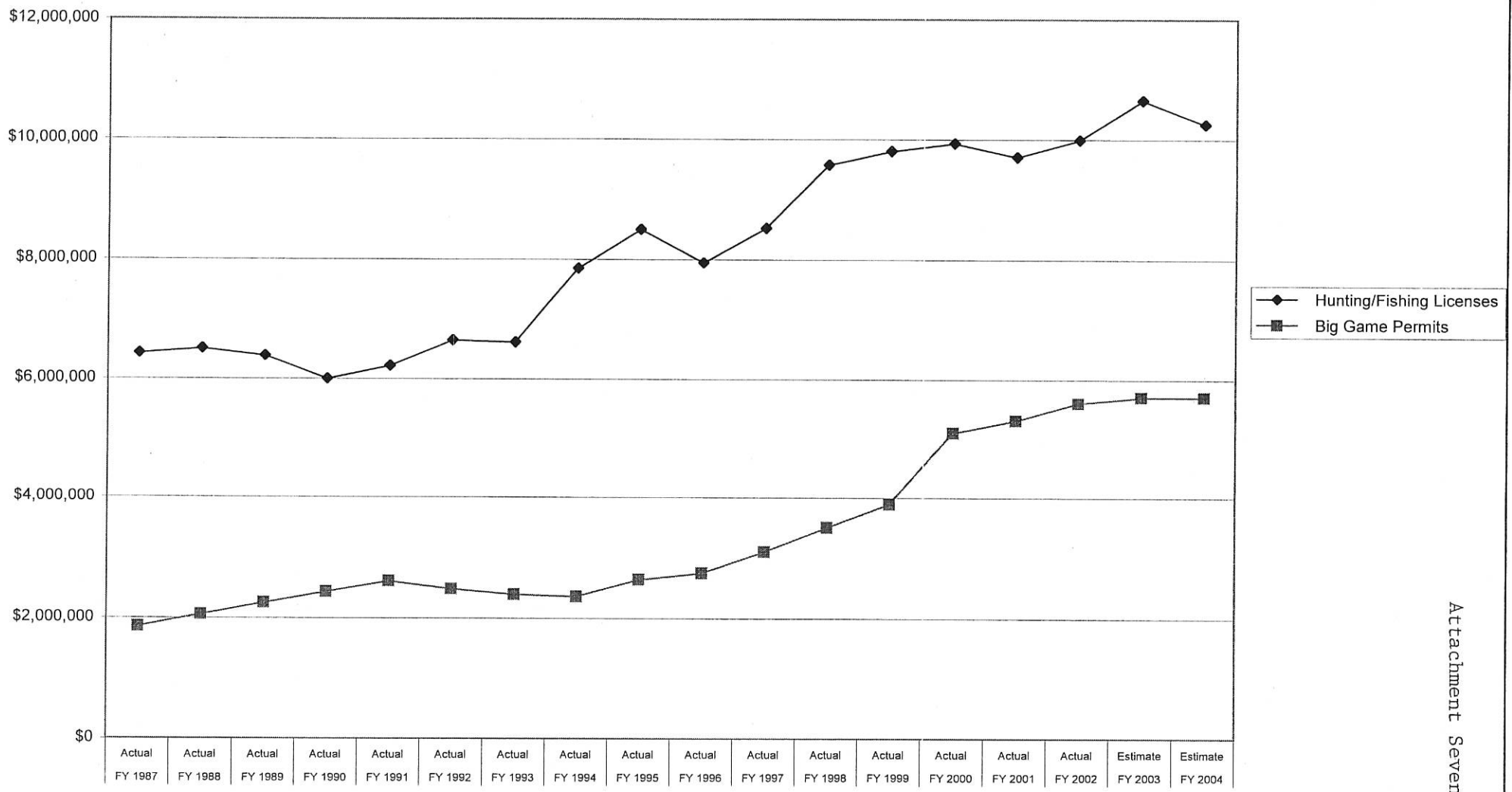
Park Fee Fund Revenues

By Major Category



Wildlife Fee Fund Revenue

By Major Category (excl Fed Aid)



Attachment Seven