Approved: March 3, 2004
Date

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Stephen Morris at 10:35 a.m. on February 4, 2004, in Room 123-S of the Capitol.

All members were present except:
Senator Jim Barone- excused

Committee staff present:
Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Becky Krahl, Kansas Legislative Research Department
Robert Waller, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes
Jill Wolters, Senior Assistant, Revisor of Statutes
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:
Senator Jay Emler
Daryl Johnson, Director, Lindsborg Emergency Medical Services (written)
David Lake, Administrator, Board of Emergency Medical Services
Reginald Robinson, President & CEO, Kansas Board of Regents (written)
Andy Sanchez, Executive Director, Kansas Association of Public Employees

Others attending:
See Attached List.

Senator Adkins moved, with a second by Senator Helgerson, to approve the minutes of the January 20, January 21, January 23 and January 26, 2004, meetings. Motion carried on a voice vote.

Bill Introductions

Senator Downey moved, with a second by Senator Helgerson, to introduce a bill concerning school districts; relating to school finance; providing revenue therefor (3rs1618). Motion carried on a voice vote.

Senator Adkins moved, with a second by Senator Helgerson, to introduce a bill concerning fees for services provided by the State Treasurer's Office; establishing the Treasurer Services Reimbursement Fund (3rs 1774). Motion carried on a voice vote.

Senator Adkins moved, with a second by Senator Downey, to introduce a bill relating to the rail service improvement program (3rs1684). Motion carried on a voice vote.

Chairman Morris opened the public hearing on:

SB 351--Emergency medical services provider educational assistance act

Staff briefed the committee on the bill.

The Chairman welcomed Senator Jay Emler who explained that due to the weather, Daryl Johnson, the Director of the Lindsborg Emergency Medical Support Service, was not able to be in attendance at the meeting. Senator Emler presented the written testimony on behalf of Daryl Johnson, Director, Lindsborg Emergency Medical Service, in support of **SB 351** (Attachment 1). Senator Emler pointed out that Mr.

Johnson wanted to express that his EMS service has nine active volunteers trying to cover 24/7 and 365 days a year and it is an extreme hardship. He explained that the purpose of the bill is intended to give some incentive to others to take the classes with the focus on reimbursement on the EMS-type classes which would possibly change the fiscal impact as well.

Chairman Morris welcomed David Lake, Administrator, State Board of Emergency Medical Services, who testified in support of **SB 351** (Attachment 2). Mr. Lake explained that one of the major concerns facing EMS providers throughout the country is recruitment and retention of personnel which is especially true in rural America as many of the providers are either part-time or volunteer status. He noted that to avoid considerable confusion, it is necessary to adequately define the term "volunteer" as the criteria established in the bill.

Written testimony was submitted by Reginald Robinson, President and CEO, Kansas Board of Regents, in regard to **SB 351** (Attachment 3). Committee questions and discussion followed.

There being no further conferees to come before the committee, the Chairman closed the public hearing on **SB 351**.

The Chairman requested that all parties involved review the legislation and fine tune it to setting up the fund.

Chairman Morris continued the public hearing from January 27, 2004, on:

SB 275--Allowing private companies to construct correctional facilities

The Chairman welcomed Andy Sanchez, Executive Director, Kansas Association of Public Employees, in opposition to **SB 275** (Attachment 4). Mr. Sanchez distributed copies of:

- Grassroots Leadership, Corrections Corporation of America: A critical look at its first twenty years (Attachment 5)
- Private Prisons in the United States, 1999: An assessment of Growth, Performance, Custody Standards, and Training Requirements (Attachment 6)

Mr. Sanchez explained that they oppose **SB 275** on the premise of inherent problems that arise in the operation of a private prison. He noted that a private prison is a for-profit prison and, if **SB 275** is passed, Kansas will be part of an experiment. Mr. Sanchez urged the committee to invest in a sure thing and that is quality public services by public employees.

There being no further conferees to come before the committee, the Chairman closed the public hearing on **SB 275.**

J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department, continued the presentation from a previous meeting regarding the staff summary of the Governor's Budget Recommendations (Attachment 7).

The meeting adjourned at 12:00 p.m. The next meeting is scheduled for February 5, 2004.

SENATE WAYS AND MEANS COMMITTEE
GUEST LIST
DATE February 4, 2004

NAME	REPRESENTING
Fred Phelps, Jr.	KDOC
JEREMY S BARCLAY	KDOC
SEC. ROGER WERHOLTZ	KDOC
Julia Butler	KSC
DAVID LAKE	Ks BEMS
Sheila Frahm	KACCT - Community Colleges
Jimmie Rose	KACCT
[illegible]	KAPE
KATHY GUEBARA	KS CURE
DAN HERMES	MIRROR, INC.
M. Hellebust	TFKC
Mike Huttles	Ks. Gov't Consulting

Members of the Ways and Means Committee,

My name is Daryl Johnson. I am here representing the 2,180 volunteer EMS personnel and the 96 volunteer services in Kansas and would like to thank you for the privilege of speaking to you about Senate Bill 351. I feel that this bill would be a step in the right direction in getting the number of Emergency Medical Service personnel needed to keep our volunteer services viable. Offering scholarships would be an incentive for students attending a Kansas College or University to serve the community in which they live. Increased numbers of Kansas Certified Emergency personnel within our state insures that the care would be there if needed for all who live and travel to and through our great state.

I have been an Emergency Medical Technician in Kansas since 1985, serving as a volunteer on the Lindsborg Emergency Medical Service. In 2000 I became the Director of that service. Our service and others across the state and nation are having a difficult time recruiting and retaining qualified people to serve. These services operate 24/7 to provide help to those in need. In the State of Kansas, an ambulance service must have at least two (2) qualified personnel on call at all times. Some services have been forced to shut down due to the lack of enough qualified personnel to fill the "on call" times. It is vital in a time of need that an ambulance service is located nearby. If you, or one of your relatives, live in an area where there is a volunteer service, and that service had to quit operating, how long would the wait be for an ambulance to arrive from another service? In a medical emergency this wait could be too long.

Our coverage area is over 200 square miles and a population of approximately 5,000 people. This coverage includes several communities and both Kansas Highway 4 and Interstate 135. My service has a total of nine active volunteers. Because of the lack of numbers, we are forced to have *volunteers* take four or more shifts per week. Right now the City of Lindsborg offers to pay for the cost of the EMT class and testing to anyone willing to serve on our service for one year. We offer classes every year and often have a college student or two take the class. We are still unable to attract the numbers needed to fill this void.

I read an article that was in a New York paper dated April 21, 2002, about what the Republicans in the state Senate there had proposed. I thought that this would be something that our state and other states could implement to help with this situation. In 2002 the Governor of New York signed legislation presented to him, which established the New York State Volunteer Recruitment Service Scholarship. I would like our Senate Bill 351 to mirror what New York put in place. A copy of this article and the New York State Education Law is attached.

Sincerely
Daryl Johnson
Director Lindsborg EMS

Senate Ways and Means
2-4-04
Attachment 1

From: News and Views | City Beat

Sunday, April 21, 2002

Ambulance Volunteers May Get Tuition

To boost enrollment in volunteer ambulance corps, Republicans in the state Senate want to entice potential candidates with college scholarships.

"This program will help maintain the levels of volunteers by offering an incentive for recruits and existing members," said state Sen. Frank Padavan (R-Queens), who made the scholarship program part of a

Senate majority budget resolution. "Without an adequate number of volunteers, these ambulances will cease to be viable. We can't let that happen."

The plan, announced Wednesday, would provide $2.5 million to pay up to $3,400 a year that could be used at any public or independent degree-granting college in New York.

"It's a win-win situation," said Chris Legaz, president of College Point Community Ambulance in Queens. "It's good for the recruits that they will get assistance with their college tuition, and beneficial for us since we are in desperate need for volunteers."

To be eligible for the awards, volunteers need at least a year of service in the corps and must stay active while at college.

Senate Republicans also have proposed using federal Homeland Security Act funds to buy life-saving thermal imaging equipment to help firefighters search for victims in smoke-filled buildings.

Ruth Bashinsky

NYS EDUCATION LAW

* § 669-c. Volunteer Recruitment Service Scholarships. 1. The higher education services corporation is authorized, within amounts appropriated or otherwise lawfully available from any other source, to establish a recruitment scholarship program for volunteer organizations.

2. Definitions. As used in this section, the term:

a. "Degree producing curriculum" shall mean a series of courses programmed to culminate in a specific post-secondary degree or diploma when successfully completed.

b. "Full-time study" shall mean enrollment in an approved post-secondary degree program for at least twelve credit hours per semester or at least eight credit hours per quarter in an institution.

c. "Institution" shall mean any institution of higher education recognized and approved by the regents or the University of the State of New York which provides a course of study leading to the granting of a post-secondary degree or diploma.

d. "Legal resident" shall mean a person whose principal domicile is located within New York State in excess of one year.

e. "Part-time study" shall mean enrollment in an approved post-secondary degree program for at least six but less than twelve credit hours per semester or at least four but less than eight credit hours per quarter in an institution.

f. "Tuition" shall mean the total semester, quarter, or credit hour cost of instruction to the student as periodically published in the catalogue of the institution, specifically excluding mandatory fees, book charges, and room and board.

g. "Tuition benefit" shall mean the payment of whatever cost is attributable to the cost of tuition after the deduction of any other available educational grant aid, not to exceed an amount equal to the annual tuition charged by the state university of New York.

h. "Volunteer organization" shall mean "Ambulance Company" as defined in section three of the volunteer ambulance workers' benefit law or "Fire Company" as defined in section three of the volunteer firefighters' benefit law.

3. Notwithstanding any law, rule, or regulation to the contrary, the higher education services corporation is authorized to grant, based upon available funding, volunteer recruitment service scholarships which shall be awarded in the following manner:

a. Volunteer organizations may annually submit one application to the higher education services corporation;

b. Volunteer organizations submitting an application shall develop a policy for selecting the candidate that will be forwarded to the higher education services corporation;

c. The higher education services corporation shall designate a date by which all applications shall be received by the corporation;

d. The higher education services corporation shall award a volunteer recruitment service scholarship to all eligible applicants unless the number of applications received are greater than the funding available for the program, in which case the corporation shall develop a random system for selecting the recipients;

e. A recipient of the volunteer recruitment service scholarship shall automatically continue to receive the scholarship once awarded provided that the recipient remains compliant with the provisions of this section, the recipient is continuously enrolled in a degree producing curriculum at an institution of higher education, and funding is available; and

f. The higher education services corporation shall develop a system for certifying each semester or quarter that the recipient is compliant with the conditions enumerated in subdivision four of this section prior to receiving the tuition benefit.

4. Recipients of the volunteer recruitment service scholarships shall:

a. Have been a member of the volunteer organization for less than six months at the time of the initial award, provided that this paragraph shall not apply to any individual under the age of twenty-three;

b. Maintain an active volunteer status, as determined by the volunteer organization, for the duration of the scholarship;

c. Have graduated from high school or have received a high school equivalency diploma and shall not possess a baccalaureate degree or higher;

d. Be enrolled in a degree producing curriculum at an institution located within fifty miles of the volunteer organization; provided that if no such institution exists, the next closest institution;

e. Maintain a cumulative grade-point average of at least 2.00;

f. Be a legal resident of the state; and

g. Apply for all other available state, federal, or other educational grant aid at the time of enrollment. Any grant aid or financial assistance received shall be utilized to offset the cost of tuition to the maximum extent possible, except that nothing shall require that aid or assistance received which may be used towards costs other than that of tuition shall be applied toward the cost of tuition.

5. The tuition benefit provided by this section may be used for either part-time or full-time study.

6. Upon the recipient's attainment of a baccalaureate degree or cessation of status as a volunteer with the volunteer organization, whichever occurs first, the tuition benefit provided by this section shall be discontinued. The tuition benefit provided by this section shall be suspended at the direction of the higher education services corporation for a recipient's failure to continue to serve as a volunteer with the volunteer organization, for the failure to maintain good academic progress and program pursuit, for the failure to maintain sufficient academic standing to retain eligibility for any other financial assistance the recipient may be receiving, or for the failure to comply with any provision of this section.

7. Unless otherwise provided for in this section, the tuition benefit for the volunteer recruitment service scholarships shall be on the terms and conditions set by the higher education services corporation, provided that any such tuition benefit for:

a. full-time study shall not exceed an amount equal to the annual tuition charged to the recipient or the tuition charged by the state university of New York, whichever is less;

b. part-time study shall not exceed an amount equal to the part-time tuition charged to the recipient or the per credit hour tuition charged by the state university of New York multiplied by the number of credit hours taken, whichever is less.

8. The higher education services corporation is hereby authorized to promulgate any rules and regulations necessary for the implementation of the provisions of this section.

* NB Repealed June 30, 2006

DENNIS ALLIN, M.D., CHAIR
DAVID LAKE, ADMINISTRATOR

KANSAS

BOARD OF EMERGENCY MEDICAL SERVICES

KATHLEEN SEBELIUS, GOVERNOR

memorandum

DATE: February, 2004

TO: Senator Stephen Morris, Chair and Members of The Senate Committee on Ways and Means

FROM: DAVID LAKE, Administrator
State Board of Emergency Medical Services

RE: Senate Bill 351

Mr. Chair and Members of the committee, Thank You for the opportunity to present this testimony in support of SB351. One of the major concerns facing EMS providers throughout the country is recruitment and retention of personnel. This is especially true in rural America as many of the providers do so in either a part-time or "volunteer" status.

As the administrator of the Board of Emergency Medical Services I heartily support any effort or endeavor that is undertaken which might encourage people to get the education and training necessary to become a member of their community's ambulance service. This proposed legislation would most likely create a strong incentive for people to get involved.

I do believe, however, that to avoid considerable confusion it is necessary to adequately define the term "volunteer" as the criteria established in the bill. In trying to determine how many people currently "volunteer"

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in our State, the question arises as to whether any amount of money received is contrary to the meaning of volunteer. Some attendants are payed a minimal amount per run, some are reimbursed expenses, some are given a monthly stipend, some are provided uniforms, and some truly do provide the service with no remuneration. Present language in the bill, Section 3(c) requires the administrator of the Board of EMS to "ensure initial and on-going eligibility of all attendants who are program participants". Without a clear definition of the term "volunteer", this will be very difficult to accomplish.

As stated earlier, as the Administrator of the Board of EMS I support this effort to encourage participation in a community's Emergency Medical Service. Please consider a more clear definition of the term "volunteer", a specific criteria for eligibility to participate in the program.

KANSAS BOARD OF REGENTS

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February 4, 2004

Senator Stephen Morris
Chairman
Senate Ways & Means Committee
State Capitol – Room 120-S
Topeka, KS 66612

Dear Senator Morris:

Today your Committee will hear testimony on SB 351. As you know, this legislation creates the Emergency Medical Services Provider Educational Assistance Act. The purpose of this Act is to establish an educational assistance program under which payment of the tuition and fees charged to eligible emergency medical services providers for enrollment at Kansas educational institutions shall be provided by the state. Mr. Chairman, I provide this letter to make you aware of the costs associated with implementing this legislation.

The Act provides that subject to the availability of appropriations for this Program and within the limits of any such appropriations, every eligible provider who is enrolled at a Kansas educational institution and who is participating in the program shall be paid the amount of tuition and required fees charged by the Kansas educational institution for enrollment in courses necessary to satisfy the requirements of the educational program. The amount of tuition and fees paid an eligible provider shall be at a rate not to exceed the maximum rate that would be charged by the state educational institutions for enrollment of the eligible provider. An eligible provider shall not be paid tuition and fees for any course repeated or taken in excess of the requirements for completion of the educational program in which the provider is enrolled.

The Act further provides that to participate in the program, the eligible provider must agree in writing to continue service as a volunteer attendant, plus six months service for each semester, or part thereof, of assistance received. Limited only by appropriations, SB 351 provides for full payment of an eligible provider's course work to obtain a degree, certificate or diploma in any field of study, up to a maximum based on the tuition and fee rates of the state universities, and subject to fulfilling a service agreement or repayment in cash.

It is difficult to estimate the cost of implementing this program because the levels of participation (numbers of students; hours of course work; type of institution) cannot be estimated with a reasonable degree of reliability. Information from the Board of Emergency Medical Services indicates there are currently 11,000 emergency medical service providers in the state; approximately 2,200 of that total report that they are volunteers. If 10 percent, or 220 of those eligible providers participated in the SB 351 program, and if they each received the maximum

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2-4-04
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KAPE
FPE / AFT / AFL-CIO

The Kansas Association of Public Employees

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Testimony on SB 275
Before the
Senate Ways and Means Committee
February 4, 2004
Presented by Andy Sanchez, Executive Director
Kansas Association of Public Employees

Thank you Mr. Chairman and members of the committee. I am thankful for the opportunity to appear before you today to speak on SB 275. As most of you already know KAPE represents state, city and county employees across the state. KAPE is the bargaining representative for all of the state correctional facilities except Lansing. As an organization whose mission includes the retention of public services within public agencies, never has our mission been more just than when we seek to retain our state prison system as a public sector function. Thus, we oppose SB 275 on the premise of inherent problems that arise in the operation of a private prison.

First, a private prison is a for-profit prison. This means first and foremost, a private vendor must maintain a profit. While turning a profit is an admirable business practice, I will explain later how this can be an overriding factor.

Second, say what you want, but if SB 275 is passed Kansas will be part of an experiment. That is, while Kansas will not be the first to do this, there is a great deal of research to support private prison management as controversial. In fact, for-profit prisons are still considered to be in the "immature" stage. Data is still relatively new to developing a track record. Private prison companies have captured only 5% of the total U.S prison market (including local facilities).

SB 275 is filled with language to offer assurances that the company selected looks every bit like a public facility assuring qualifications, experience, adherence to national standards, and certified training. But, I suspect the most telling thing about this bill is in two parts, Page 1, Sec. 2 "limited liability company". Sec. 4 (a) in which "substantial savings" must be attained. Clearly, the bill struggles with the dilemma of trying to provide the same level of service currently provided, but at the same time needing a great deal of oversight and then finally, relinquishing the company of responsibilities.

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I will also point out that Page 4 of the bill addresses a distinct possibility where it reads the contractor shall provide an emergency plan to address among other things, work stoppages and strikes. Our people fall under the Public Employer Employee Relations Act (PEERA), and thus cannot subject the state to a strike. If a union should decide to organize in a Kansas privately operated prison, PEERA would not apply.

Last, hiring a private contractor will assuredly involve a bidding process where the lowest bidder is awarded the contract. I urge this committee to steer away from private prisons and do not get into a situation where the lowest bidder guards our prisoners. Have them show exactly how they will save money and our members will show you shortcuts and compromises to security.

In a 2003 research project report by "Good Jobs First", it states that "containing labor costs is the crux of the privatization movement". It goes on to say prisons are primarily labor intensive with 65 to 70 percent of the costs for operating a prison being staff salaries, fringe benefits, and overtime. Private firms claim they can save 10-20 percent largely due to efficient handling of labor costs. The report cites these key areas as a "recipe for disaster".

*Inadequate staffing levels
*Lack of experience amongst personnel
*Turnover
*Insufficient training
*Cutting corners on medical care

All of the above are major contributors to problems of violent out breaks. This is an industry where we can't afford to have policy driven by our budget problems. We have a system that works and we have a system that is prepped to expand. We urge this committee to invest in a sure thing and that is quality public services by public employees.

Thank you

pgs. 4-10
pg. 19
pgs. 37-41

Grassroots
LEADERSHIP

CORRECTIONS CORPORATION OF AMERICA:

A CRITICAL LOOK AT ITS FIRST TWENTY YEARS

by

Philip Mattera and Mafruza Khan
Corporate Research Project of Good Jobs First
Washington, DC

and

Stephen Nathan
Prison Privatisation Report International
London

December 2003

Senate Ways and Means
2-4-04
Attachment 5

Chapter 1: A NEW CCA? RECENT SCANDALS AND CONTROVERSIES

In August 1999, Corrections Corporation of America was brought in by officials in Tulsa, Oklahoma, to operate their spanking new jail, the David L. Moss Criminal Justice Center. A month later, an employee at the facility mistakenly allowed a prisoner to post bond after incorrectly recording the nature of her offense. "This is not something we're excited about having had happened," CCA's assistant warden told a reporter.[9]

Yet this would turn out to be the first in a series of snafus through which at least a dozen prisoners were accidentally released from custody at the jail. Some of the people set free had been accused or even convicted of violent crimes. These included an 18-year-old who had been convicted of first-degree murder, who was mistakenly released in July 2000, and an accused rapist, who was erroneously released in April 2003.[10]

Some of the mistaken releases were the result of administrative errors, but CCA employees at the Tulsa jail have also been fooled by prisoners who impersonated others scheduled for release.[11] In one case, a CCA employee mistakenly opened a secure door and allowed a prisoner to walk right out the front door of the jail.[12]

CCA officials have tended to put the blame for these incidents on low-level employees, some of whom have been disciplined or fired. Yet one of those fired workers told a reporter: "I was never trained how to read court documents...No one every gave me any formal training on how to do anything down there."[13]

In March 2002 the Tulsa County Criminal Justice Authority penalized CCA $5,625 in connection with the erroneous releases of three prisoners the month before. The three were absent from jail for a total of nine days. One of them was recaptured after being found with a knife in a stolen car. CCA Warden Don Stewart responded to the Authority's action by saying: "We do take responsibility."[14]

Another case of accidental release occurred recently at CCA's Silverdale Workhouse in Tennessee. The prisoner who was mistakenly let go was serving time on a drug charge and had just been indicted on separate charges involving the rape of a child. As of mid-November 2003, there had been no reports of the prisoner's recapture.[15]

Questions about training and competence at CCA facilities have also been raised in a number of civil lawsuits against the company:

- In May 2003 Conrado Mestas and Rafaela Ochoa Mestas of El Paso filed a wrongful death suit against CCA in connection with the death of their son in May 2001 during his incarceration at the Eden Detention Center in Texas. They charged that their son, also named Conrado,

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died after being subjected to mental abuse by CCA employees who also withheld a special diet he needed for medical reasons.[16]

- In April 2003 the family of a prisoner from Hawaii who died of a heart attack at the Florence Correctional Center in Arizona in 2001 filed suit against CCA and the Hawaii Department of Public Safety. The plaintiffs charged that Iulai Amani died as a result of being forced by a prison gang to swallow crystal methamphetamine in a balloon to transport the drug within the facility.[17] This suit came shortly after the filing of a separate action against CCA by Victoriano Ortiz, a prisoner at Florence who claimed he was badly beaten by the same gang, which was allegedly given extraordinary privileges by the warden and guards.[18]

- In March 2003 Tamara L. Schlitters filed a federal lawsuit against CCA and various company employees, charging that her 26-year-old son Jeffrey A. Buller died while in custody at Kit Carson Correctional Center in Colorado because prison officials refused to fill a prescription for him at a time when Buller had only ten days left to serve. Buller was said to suffer from hereditary angioedema, which causes swelling episodes in parts of the body, including the airways of the throat. Buller had trouble breathing and died on May 1, 2001, a day before he was supposed to be released.[19]

- In January 2003 Frances Hughes sued CCA in connection with the beating death of her 18-year-old son, Chad Littles, by other prisoners at the Bay County (Florida) Jail Annex in October 2002. The suit charged that CCA had insufficient monitoring equipment, that there were not enough guards and that the guards were not properly trained.[20] CCA denied responsibility for the incident.[21]

Allegations of incompetence, poor training, mistreatment, medical neglect and inadequate supervision are nothing new for the country's largest for-profit prison operator. As the next chapter will recount, CCA was at the center of a series of controversies from the late 1980s to the late 1990s about the way it ran its facilities–as well as the way it handled its finances.

Yet all that was supposed to have changed in 2000, when the company was restructured and its top executive was ousted. After he took over as chief executive of CCA that summer, John Ferguson arranged for the portraits of the company's founders – including Doctor Crants, Ferguson's predecessor as CEO–to be removed from the corporate headquarters.[22] The action was a small but highly symbolic part of the effort by Ferguson and the rest of the new leadership team at CCA to remake the company and put the scandals and controversies of the past behind them. Getahn Ward of Nashville's *Tennessean* newspaper, who has followed CCA closely, wrote at the time that Ferguson's mission was one of "restoring investor confidence and credibility at the nation's largest prisons company."[23]

Has this happened? It is true that there have been no major scandals in the past three years to rival, for example, the uproar over conditions at Youngstown, Ohio in 1998. Yet an examination

5-3

of the company's record since the ouster of Crants and the hiring of Ferguson reveals problems of a significant nature in at least one quarter of CCA's U.S. facilities. These include escapes, mistaken releases, outbreaks of violence and allegations of poor medical care. While none of these incidents has become a national cause celebre, the frequency of these situations suggests that CCA has not completely changed its stripes.

Litigation Caseload

One measure of the extent to which CCA may be continuing to engage in questionable operating practices is the volume of lawsuits brought against the company. There is no central information source on state court cases, but there is one at the federal level.[24] This database shows that CCA has been involved in hundreds of suits filed in the past two years, many of them brought by prisoners alleging civil rights violations. CCA, like other private and public prison managers, would undoubtedly argue that many of these cases are frivolous suits filed by jailhouse lawyers. Some could be frivolous, but others, such as those cited above, clearly allege serious problems at CCA's facilities. CCA mentions in its 10-K filing with the Securities and Exchange Commission that it is subject to such litigation, but it insists that none of the suits will have a material effect on the finances of the company.

It was not practical to review all of these hundreds of cases, so we took another approach. We searched media archives for newspaper articles about lawsuits against CCA, both federal and state, relating to events during the past three years. When it was available, we also consulted the online court docket for those cases. We also looked for news articles about general instances of mismanagement, especially escapes and violence, since August 2000. The following pages summarize the cases we found (beyond those mentioned above), organized by the various types of problems that continue to appear at prisons run by CCA.

Escapes

The fundamental job of prison administration is to keep the prisoners locked up. CCA's ability to carry out this function has come into question as a result of the numerous mistaken releases at the Tulsa Jail described earlier. The company has also experienced escapes at the Tulsa facility and elsewhere. Here are some examples from the past few years:

- A prisoner who had escaped from the Hernando County (Florida) Jail in July 2001 was captured a few weeks later when a former cellmate spotted him in a supermarket and notified state police. John Devane had escaped from the jail after removing his identification bracelet and replacing it with a low-security one that he fished out of the trash during his cleaning duties. This enabled him to join a work detail that was emptying trash outside the jail and then to flee.[25]

5-4

- In June 2001 two guards at the Winn Correctional Center in Louisiana were disciplined following an investigation of an incident in which two prisoners being driven to a hospital for medical appointments escaped from custody and remained at large for two days before being recaptured.[26]

- In August 2000 two prisoners at the Bartlett State Jail in Texas used a stolen pair of wire cutters to cut through a perimeter fence at the minimum-security facility and escape. At the time they were awaiting transfer to a more secure facility.[27]

CCA's problem with holding onto prisoners is not limited to the facilities it manages. Escapes have also occurred during prisoner transfers carried out by the company's Transcor subsidiary. For example:

- In September 2001 a prisoner being transported by Transcor in West Virginia overpowered two guards after faking an illness and getting them to remove his handcuffs. He drove off in the transport van and then took off on foot, armed with a Transcor shotgun.[28]

- In July 2001 Transcor officials acknowledged that one of their employees was responsible for the escape of a teenager who fled custody at a Milwaukee airport after being returned from California. The teen, who was not handcuffed at the time of the escape, subsequently fled to Texas, where he allegedly stabbed a police officer after a high-speed car chase.[29]

Failure To Provide Proper Medical Care

CCA and other private prison operators have been criticized for scrimping on medical care in order to reduce their operating costs.[30] In addition to the Schlitters case mentioned above, CCA was investigated for medical negligence in the death of Justin Sturgis, a 20-year-old who apparently swallowed several Ecstasy pills before being arrested and locked up in February 2001 at CCA's Bay County Jail in Florida. A grand jury concluded that deficiencies by CCA employees, including a nurse, contributed to the death of Sturgis. The grand jury found no criminal liability on CCA's part, but its presentment stated that "correctional personnel failed to demonstrate adequate health training in responding to the level of distress evidenced by Justin Sturgis." The presentment did not address the allegations of other prisoners that guards mocked the moaning Sturgis for two hours before calling an ambulance.[31]

Even when medical care is provided by CCA, it may not be properly supervised. For instance, in May 2002 a female prisoner at the Tulsa Jail was hospitalized for a drug overdose after she hoarded psychotropic medications. The incident allegedly occurred as a result of improper supervision by CCA medical employees at the jail.[32] In December 2001 the Tulsa County Criminal Justice Authority had notified CCA that it was in violation of its contract for failing to administer certain drugs in liquid form to prisoners. This action was taken after another prisoner apparently attempted suicide by taking an overdose of hoarded psychotropic drugs.[33]

In another suicide case, a civil rights and wrongful death suit was filed against CCA in May 2002 on behalf of Calvin Lamy, a Native American prisoner who took his own life at the Torrance County Detention Facility in New Mexico in August 2001. The suit alleged that prison officials had been warned by Lamy's psychologist that he posed a suicide risk but did not take appropriate precautions.[34]

Guard Involvement In Selling Illegal Drugs

While CCA's medical care is alleged to have been inadequate at times, some of its guards have been accused of providing drugs—of the illegal variety. For example:

- In September 2001 a former guard at the Tulsa Jail pleaded guilty to one count of attempting to smuggle methamphetamine to a prisoner. The charge came as the result of a federal sting operation.[35] A year later, CCA terminated a new employee at the jail after she was arrested for possession of a controlled substance (cocaine). The employee had been working at the jail for about two months after completing a CCA training course.[36]

- As a result of an FBI sting operation, four guards at CCA's Correctional Treatment Facility in the District of Columbia were indicted in November 2002 on charges that they smuggled drugs, pagers and cash to prisoners in exchange for bribes. The facility, originally used for prisoners with substance-abuse problems, was being used to house the overflow from the D.C. Jail.[37]

- The warden and security chief at the Silverdale Workhouse in Tennessee were fired in November 2002 following the escape of two prisoners and allegations of illegal drug use at the facility. The alleged drug use came to light as the result of a newspaper exposé, which prompted a request from Hamilton County Executive Claude Ramsey for a list of drug incidents at Silverdale for the previous two years. CCA officials who went to the facility to investigate the two escapes learned that the warden was unable to produce records of drug seizures. Silverdale was the site of a large-scale 1996 investigation of drug trafficking that led to nine convictions, including four guards.[38]

Failure To Control Prisoner Violence

There is no denying that prisons, especially at the higher security levels, can be violent places. Yet prison administrators have at least a moral responsibility to provide a reasonable level of safety for prisoners. As for the question of legal responsibility, the U.S. Supreme Court ruled in 1994 that the Eighth Amendment prohibition against cruel and inhuman punishment requires

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prison officials to take reasonable measures to guarantee the safety of prisoners. Yet the Court found that officials incur legal liability only when the danger is "sufficiently serious" and officials show "deliberate indifference" to a prisoner's health or safety.[39]

Allegations of failures by CCA to ensure prisoner safety were at the center of the uproar over conditions at its Youngstown, Ohio facility in the late 1990s. Such problems have persisted even after the change in top management at the company. For example:

- In December 2002 CCA settled a lawsuit brought by Brandon McKnight, who was critically injured as the result of a beating in 2001 by a fellow prisoner at the Tulsa Jail. McKnight had accused CCA of negligence for placing him in the same cell as a prisoner who had previously been found guilty of assaulting him. CCA did not admit wrongdoing in the case and did not disclose the terms of the settlement.[40]

- In January 2002 a prisoner serving two life sentences for murder convictions admitted to stabbing a counselor to death at the Hardeman County Correctional Facility in Tennessee. CCA said that the counselor, Delbert Steed, was the first employee to be killed on the job in the history of the company.[41]

- In August 2002 two former prisoners at the Cimarron Correctional Facility in Oklahoma were charged with assaulting female guards in two separate incidents during the previous winter. Both prisoners were transferred to the publicly-run Oklahoma State Penitentiary after the incidents.[42] That same month, prisoners at Cimarron were charged with severely beating another prisoner the previous September.[43]

Prison Protests And Uprisings

CCA's reputation was seriously marred during the 1990s by protests, which sometimes took the form of riots, by prisoners at a number of its facilities. In at least some of these cases, the protests were explicitly aimed at conditions in the prisons. This phenomenon, like many of CCA's other problems, has continued during the new management regime. Here are some examples:

- In September 2000 three guards at the Florence Correctional Center in Arizona were injured, one seriously enough to require hospitalization, in a disturbance involving about 20 prisoners who smashed property and briefly held one of the guards hostage.[44]

- In December 2000 CCA announced that the warden and chief of security of the Torrance County Detention Facility in New Mexico had been fired after an uprising the month before by prisoners from the District of Columbia. Eight guards were injured during the incident.[45]

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- In April 2001 some three-quarters of the 800 prisoners at the Cibola County Correctional Center in New Mexico took part in a non-violent protest in which they refused to return to their cells. The protest ended when guards fired tear gas into the recreation yard, where the prisoners had gathered. A prison official said the protest was prompted by the quality of food being served and by the price and availability of items at the prison commissary.[46]

- In July 2001 hundreds of prisoners at the Otter Creek Correctional Facility in Kentucky staged a nine-hour riot. A new warden appointed after the incident said that his ousted predecessor had failed to change procedures when medium-security prisoners were introduced into what had been a minimum-security facility.[47]

- An April 2003 disturbance at the North Fork Correctional Institution in Oklahoma, which housed more than 1,000 prisoners from Wisconsin, resulted in minor injuries to a guard and more than $12,000 in damages to the prison kitchen.[48]

While none of the problems of the past few years have received substantial media attention at the national level, they do suggest that the new CCA proclaimed in 2000 often looks a lot like the old, scandal-ridden CCA.

"Quiet" was not the best word to describe the continuing string of escapes at CCA facilities such as the West Tennessee Correctional Facility and the Bent County Correctional Facility in Colorado–and certainly not the violence that erupted during the summer of 1999 at the Diamondback Correctional Facility in Oklahoma and again at the Torrance County Detention Center in New Mexico.[97] The latter took place around the same time as another riot at a private prison in New Mexico–Wackenhut Corrections' Guadalupe County Correctional Facility–where a guard was fatally stabbed during an uprising involving as many as 200 prisoners.[98]

Following the incident in Torrance County, a group of guards at the facility filed suit against CCA, charging that prison officials knew of a planned uprising but did nothing to prepare. The suit also charged that the prison was chronically understaffed and that guards were not adequately trained. One of the guards filing the lawsuit had been beaten by prisoners with a baseball bat, crushing both his hands, fracturing his skull in six places and leaving him in a coma for six days.[99] Most of the claims were dismissed by a judge who found that they were precluded by workers compensation rules.[100]

CCA also got in trouble for poor performance on the part of its Transcor America prisoner transportation subsidiary. In March 1999 the American Civil Liberties Union of Colorado sued the company on behalf of a woman who said she was sexually assaulted by a Transcor guard while she was being transported from Texas to Colorado the year before.[101] (The case was resolved in April 2002 when Transcor reportedly agreed to pay a substantial out-of-court settlement; the exact amount was not disclosed.[102]) In October 1999, a Transcor driver in Texas sexually assaulted a female prisoner he was transporting. (The driver was later sentenced to ten years in prison.[103]) That same month Transcor was publicly criticized by North Dakota Gov. Ed Schafer after the escape from custody of a notorious child molester from his state while he was being transported through New Mexico.[104] Transcor guards reportedly were sleeping on the job during the escape and did not realize the prisoner was missing from their bus for nine hours.[105]

"Private Prisons Don't Work"

Problems such as these, along with economic considerations, helped to persuade some jurisdictions that had experimented with private management to conclude it was not worth the trouble. In June 2000 North Carolina terminated its two prison management contracts, both with CCA, saying it would be "in the best interest of the state" to return them to public management.[106] State Rep. Paul McCrary told a reporter: "I really felt like it was a failure," adding that private prison firms "are in business to make money, and they're going to take some shortcuts when they can."[107]

In August 2000 state officials in Utah abandoned a plan for that state's first fully-privatized prison after concluding that it would be cheaper to rent space in county lockups.[108] At about the same time, corrections officials in Georgia decided they didn't need a 1,500-bed prison that CCA was building "on spec" (i.e., without a prior operating contract in hand) in Stewart County,

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Chapter 5: LOCKING DOWN LABOR COSTS

The rise of modern prison privatization was based in significant part on the notion that government was doing a poor job of incarceration. "The work done in the public sector in the last 30 years has been a dismal failure," asserted Ted Nissen, president of now-defunct prison operator Behavioral Systems Southwest, in 1985.[178] As part of their sales pitch, companies such as CCA made the bold (and perhaps contradictory) claim that they could operate prisons in a way that was both superior in quality and lower in cost.

On the cost side of the equation, CCA and the other operators had to confront the fact that prisons are a very labor intensive business. In its Securities and Exchange Commission filings after going public in 1986, CCA said that labor accounted for about two-thirds of its operating expenses. More recent filings do not specify an amount but say that labor is "the most significant component of fixed operating expenses."[179] Obviously, any cost advantage would have to involve this major portion of expenses. In a 2001 report for the Bureau of Justice Assistance, James Austin and Garry Coventry put it this way:

> This point of containing labor costs is the crux of the privatization movement. Prisons are extremely labor intensive, with approximately 65 to 70 percent of the costs of operating a prison going to staff salaries, fringe benefits, and overtime. Controlling these costs is more difficult to achieve with unionized government workers. Private firms typically use nonunion labor, allowing for the lowest benefit packages. Overall, private firms claim that they can save 10 to 20 percent in prison operations due largely to efficient handling of labor costs.[180]

For CCA, "efficient handling of labor costs" meant–and still means–keeping strict controls on both wages and benefits, and this, in turn, required a policy of union avoidance. "Efficient labor is precluded in public facilities in several states by unionized labor," wrote Doctor Crants in 1991 while he was serving as CCA's president, "Union contracts tend to increase wage costs and promote unjustified job security."[181]

It was to CCA's advantage that the states that were initially most receptive to prison and jail privatization–including Tennessee, Florida and Texas–were also ones in which unions were weak, partly as a result of "right to work" laws that discouraged unionization. CCA remained totally non-union from its founding until early 1993. In March 1993 CCA signed its first collective bargaining agreement–with an independent (non-AFL-CIO) union representing 73 guards at the Silverdale facility in Tennessee. The agreement was terminated a year later when the union was decertified.[182] In 1993 unions lost representation bids at two other Tennessee facilities: the South Central Correctional Center in Clifton and the West Tennessee Detention Facility in Mason.[183]

In January 1996 CCA signed an agreement with an independent union representing 38 non-security employees at the Shelby Training Center in Memphis, and the following year it recognized existing union representation arrangements when it took over the Correctional

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Treatment Facility in Washington, DC. Around the same time, it recognized a union representing about 60 guards at Shelby.[184] The next case of union recognition came in the late 1990s at the ill-fated Northeast Ohio Correctional Center in Youngstown, where CCA reached agreements with the Teamsters (representing non-security personnel) and an independent guards union.[185]

These organizing efforts did not have much of an impact on CCA. At the end of 2001, by which time the Youngstown prison was closed, only 515 of the company's 15,156 employees were represented by unions, and the union presence was limited to four facilities.[186] In 2002 there was some new organizing by the Security, Police and Fire Professionals of America that brought the number of union-represented CCA employees up to 1,100. This was equal to about 8.2 percent of CCA's total workforce.[187]

CCA at times has professed neutrality on unions. For example, in 2001 a company spokesman said, "we don't take a stance as far as they're good or they're bad."[188] That same year, however, organizers for an independent union charged that they were videotaped by management while distributing literature outside the CCA-run Tulsa Jail and that employees were made to attend meetings at which the warden warned them against supporting the union.[189]

What complicates an assessment of CCA's labor record is the fact that many large unions shied away from organizing the company's workforce and instead supported a campaign, led by public-sector unions, that opposed the very existence of an industry dedicated to incarceration for profit. Yet whatever was the main cause, CCA has remained largely non-union. This, along with the company's preoccupation with depressing labor costs, has helped create substandard working conditions in CCA's facilities.

Benefits and wages. The absence of unions during its early years enabled CCA to take what was perhaps its most significant step in controlling labor costs: denying its employees the kind of retirement benefits that unionized public-sector correctional employees ordinarily enjoyed. CCA offered employees shares of stock (which initially had questionable value) rather than pension benefits. A 1995 comparison of similar public and private correctional centers in Tennessee found that the CCA-run prison had employee benefit costs 23 percent lower than at the government-run facility. The study also found that higher-level administrative staff at the CCA facilities received much more lucrative benefit packages than the typical employee.[190]

In 1997 an official at the Monroe County Sheriff's Office in Florida calculated that a CCA employee who retired at age 50 with 25 years of service would, over the rest of his or her life, receive only about 14 percent of the pension benefits that a correctional officer employed by the Sheriff's Office would receive.[191]

These days CCA still does not offer a defined-benefit retirement plan to employees, but it does enable workers with a year or more of tenure to participate in a 401(k) plan. The company, however, will match employee contributions only up to five percent of pay. In addition, it takes five years for employees to be fully vested in any company contributions.[192] This means that the company benefits financially from high turnover of its staff. Public-sector correctional officers,

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by contrast, typically have defined-benefit pension benefits for which a worker is eligible at age 50 after 20 years of service or at any age with 25 years of service.

CCA has tended to be secretive about its salary levels, but occasionally details have become public. In 1995 a newspaper reported that positions at a proposed CCA facility in Wythe County, Virginia would have starting salaries as low as $13,840.[193] A 1999 article in *Corrections Professional* pointed out that guards at CCA's Diamondback Correctional Facility in Oklahoma were earning only $8.25 an hour, which it noted was barely above the federal poverty line for a family of four.[194] Guards at Youngstown were paid a more generous $11.84 an hour, but this was below the $12.49 received by correctional officers at Ohio state prisons.[195] In February 2003 a state official in Colorado said that CCA was paying its employees in the state an average of $8,000 a year less the salaries of public-sector correctional officers.[196] In August 2003 the union at the D.C. Correctional Treatment Center held a press conference to complain about inadequate pay and forced overtime.[197]

The problem of low salaries is common throughout the private prison industry. According to the *Corrections Yearbook*, the average starting salary of guards in private adult prisons in 2000 was only $17,628, and the average maximum salary was a mere $22,082 . It should be noted that these averages were calculated without information from facilities run by CCA, which declined to provide data to the *Corrections Yearbook.* CCA's non-cooperation was one of the reasons the Yearbook's editors finally decided to stop publishing salary data on private facilities.[198]

By comparison, data published in the U.S. Labor Department's *Occupational Outlook Handbook* show that in 2000 federal correctional officers had a median salary of $37,430. At the state level the median was $31,860, and at the local government level it was $29,240.[199]

Executive compensation. Like most corporations, CCA's quest for cutting labor costs disappears when it comes to the firm's top executives. In 2002, Chief Executive John Ferguson was paid a salary of $400,000 and a bonus of $458,846. Senior Vice President J. Michael Quinlan had a salary of $281,323 and a bonus of $131,562; Executive Vice President Irving Lingo Jr. had a salary of $299,116 and a bonus of $199,312; Executive Vice President G.A. Puryear IV had a salary of $168,617 and a bonus of $122,282; and Operations Vice President Jimmy Turner had a salary of $186,576 and a bonus of $50,252. Each of the five men, the highest paid officers of the company, also received stock options.[200] It should be noted that the compensation received by each of the five men was greater than the salary of the director of the Federal Bureau of Prisons, who is in charge of a system with more than 100 facilities and about 160,000 prisoners– far larger than CCA's.

Wage & hour compliance. It has been alleged that some of CCA's facilities have violated the overtime pay and minimum wage rights of its employees. In 2001, lawyers in Mississippi brought three suits against the company in federal court for violations of the Fair Labor Standards Act. The suits charged that guards were required to attend meetings off the clock and were barred from clocking out on days during which they worked more than eight hours.[201] CCA settled the cases out of court. According to an online database of wage and hour violations, CCA's Winn

Correctional Center in Louisiana paid $5,430 in 2000 to settle charges that it had violated minimum wage rules in connection with 33 employees.[202] At its San Diego Correctional Facility, CCA paid $4,846 in 2000 for failing to pay the prevailing wage rate to 48 employees under the federal Service Contract Act.[203]

Inadequate staffing levels. The need to work people overtime (and then shave off paid hours to reduce the additional labor costs) can be seen as a reflection of inadequate staffing levels. For example, a 1999 audit by the Georgia Department of Corrections of two CCA facilities in the state found insufficient staffing at both prisons. As a result, auditors said, critical security posts were sometimes not staffed for entire eight-hour shifts, and prisoners had easy access to tools that could be fashioned into weapons.[204] In his 1998 article on CCA in *The Nation*, Eric Bates quoted a guard as saying "We're always short…They do staff fewer positions—that's one way they save money."[205] A September 2003 audit of prisons by the state comptroller of Tennessee cited numerous instances in which CCA had failed to live up to its contractual obligations on staffing at the South Central Correctional Facility and the Hardeman County Correctional Facility.[206]

Lack of experience. Given the pay and benefit levels offered by private prisons operators, it is no surprise that many of the people who apply for jobs and end up being hired do not have extensive corrections experience. This was made abundantly clear in the report that the District of Columbia Corrections Trustee issued in 1998 on the CCA-run prison in Youngstown. The report, which cited inexperienced staff as a major contributor to the problems at the facility, found that more than half of the senior correctional officers at Youngstown had no prior correctional experience of any kind (or only minimal experience as security guards) before being hired. The same was true of two of the nine assistant shift supervisors (lieutenants). Four of the six shift supervisors (captains) had less than five years of experience in the field. Taking into account the many inexperienced hirees among entry-level personnel, the report found that overall, 80 percent of the security staff at the prison were new to the field of corrections.[207]

Inexperienced staff was also cited by Hawaii state auditors in their 2001 study of violent outbreaks among prisoners (including ones from Hawaii) at CCA's Florence Correctional Facility in Arizona.[208]

CCA may be willing to hire inexperienced men, but in one case it was accused of refusing to hire women. In 2002 CCA's North Fork Correctional Facility in Oklahoma agreed to pay $152,000 in back wages to 96 women who claimed they were denied employment because of their sex, according to charges brought by the U.S. Department of Labor.[209]

In some cases, the people hired by CCA have the wrong kind of criminal justice experience. For example, during a 2002 review of the company's Gadsden Correctional Facility, the Florida Department of Law Enforcement found that CCA had failed to follow registration procedures for dozens of guards and that five of these individuals had arrest records that should have been reported.[210] In May 2001 a Tulsa newspaper found that 20 of the 348 employees hired by CCA to work at the city's jail had arrest records. Most were for traffic offenses, but there were also cases of burglary, pointing a deadly weapon, assault and battery, shoplifting and fraud. CCA

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told the newspaper that it did not hire convicted felons, but it took a "case-by-case approach" with regard to applicants who had been convicted of misdemeanors.[211]

Turnover. What goes along with inexperience and low pay is high turnover. A 1999 report by the Tennessee Department of Correction found that turnover at CCA's South Central Correctional Center the year before had been 104.8 percent, while that at CCA's Hardeman County Correctional Center was 81.7 percent. At publicly run prisons in the state the overall turnover rate was 34 percent, and no facility had a rate above 52 percent.[212]

In July 2001 a newspaper reporter did an analysis of work records at the CCA-run Tulsa Jail and found that 72 percent of the people hired when the company began operating the facility in August 1999 were no longer there.[213] A similar analysis, published in January 2003, found annual turnover rates of more than 60 percent for CCA facilities in Tennessee.[214] By contrast, the average turnover rate among state correctional officers is about 16 percent.[215]

Insufficient training. Another part of the mix is inadequate training of personnel. In a 1998 report on Youngstown, the D.C. Corrections Trustee found that CCA did not require pre-service firearms training for guards and that its overall in-service training requirements were loosely enforced. For example, guards were given credit toward the 40-hour annual requirement simply for attending staff meetings.[216] Youngstown guards told a newspaper reporter that CCA did not provide firearms training because of the cost—about $3,000 per worker—of state certification in that area, yet the company allowed untrained guards to carry guns.[217] At the Hernando County Jail in Florida, 44 percent of the guards did not have state certification in 1999.[218]

"A Recipe for Disaster"

Taken together, these labor practices spell trouble not only for private prison employees, but also indirectly for prisoners and for the public at large. As Joshua Miller of the public employee union AFSCME put it in his survey of private prison working conditions:

> Private corrections is structurally flawed. The profit motive drastically changes the mission of corrections from public safety and rehabilitation to making a quick buck. Chronic employee turnover and understaffing, a high rate of violence, and extreme cost-cutting make the private prison model a recipe for disaster.[219]

As the largest and most influential of the prison companies, CCA has its name writ large on that recipe. It is difficult to avoid the conclusion that the numerous operating problems CCA has experienced are at least partly a result of the company's drive to reduce labor costs. Understaffing, high turnover, and substandard wages and benefits all lead to the creation of a labor force that may be ill equipped to do what is a stressful and often dangerous job.

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Private Prisons in the United States, 1999: An Assessment of Growth, Performance, Custody Standards, and Training Requirements

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March 2000

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Senate Ways and Means
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Attachment 6

Contents

Guide to Abbreviations Used

API	Alternative Programs, Inc.
BOP	Federal Bureau of Prisons
CCA	Corrections Corporation of America
CCI	Cornell Corrections, Inc.
CGI	CiviGenics, Inc.
CSC	Correctional Services Corporation
DM	Dominion Management
FCI	Federal Correctional Institution
MCS	McLoud Correctional Services, LLC
MPC	Marantha Production Company, LLC
MTC	Management & Training Company
NIC	National Institute of Corrections
NOCC	Northeast Ohio Correctional Center
ORE	Office of Research and Evaluation (BOP)
TCI	Taft Correctional Institution
USP	United States Penitentiary
WCC	Wackenhut Corrections Corporation

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Private Prisons in the United States, 1999: An Assessment of Growth, Performance, Custody Standards, and Training Requirements

Executive Summary

This report addresses issues surrounding the growth in the private sector's operation of adult, secure facilities for sentenced inmates in the United States. It is also an analysis of private sector standards in staff training, policy and procedure devoted to inmate security and custody, and some of the important indicators of the quality of private prison operations. This report fulfills a mandate from the U.S. Congress (pursuant to Public Law 105-277, Sec. 111).

Private sector firms have responded to the need for prison beds created by the rapid growth in the jail and prison populations in recent years. This growth has generated tremendous opportunities for entrepreneurs to build, own, and operate prisons. The two largest firms, Corrections Corporation of America (CCA) and Wackenhut Corrections Corporation (WCC) arose in the 1980s and rapidly expanded to provide care to more inmates in the United States than most State systems. The private sector housed 69,188 inmates in 94 prisons on July 31, 1999. Private prisons held 5.3 percent of the 1.3 million inmates under the jurisdiction of State and Federal Governments at this time. This marked a significant increase from the end of 1997, when there were 91 contracts that covered 37,651 inmates in 84 private prisons.

CCA held 37,244 inmates in 45 prisons in 1999—53.8 percent of the total number of inmates in private prisons. WCC incarcerated another 19,001 inmates in 26 prisons—27.4 percent of the total number of privately held inmates. CCA was responsible for more inmates than those held in all but seven States and the Federal Bureau of Prisons (BOP). An additional nine State systems had more inmates than the total reported for WCC, or 16 States altogether plus the Bureau of Prisons. Together, CCA and WCC held 56,245 inmates, or 81.3 percent of the inmates held in secure, adult, private prisons.

Along with the opportunities generated by the rapid influx of prisoners into the private sector, the private companies also experienced the challenges of operating rapidly expanding correctional systems. In particular, the private companies had to recruit, train, and maintain adequate numbers of correctional staff to operate their prisons.

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Some evidence suggests that the private sector prison providers had problems in maintaining adequately trained and experienced staff and that there were critical lapses in appropriate security practices. Both major companies, CCA and WCC, had inmates escape from their adult prisons in 1999. CCA had three escape incidents in 1999 during which four inmates were able to breach the perimeter and escape from secure facilities. CCA, and its subsidiary TransCor, also experienced escapes when inmates were being transported, either for medical treatment or to a prison. There were four such incidents in which five inmates escaped. WCC had two separate incidents in 1999 where one inmate in each incident was able to successfully escape from inside of a secure prison. One of the WCC escapes was particularly relevant for the BOP, an inmate escaped from the Taft Correctional Institution (TCI), which is operated by WCC for the BOP. Correctional Services Corporation (CSC) had significant problems with the McKinley County Detention Center it operated in New Mexico. There were two separate escape incidents in which nine inmates were able to escape from inside of the facility. (CSC has since lost the contract to operate this facility.) The Management & Training Company (MTC) also had one escape in 1999 in which three inmates were able to escape from inside of a secure prison.

Private sector companies also experienced serious group disturbances in 1999, most of which could be viewed as riots. CCA (five incidents), WCC (three incidents), and CSC (one incident) experienced group disturbances in which chemical agents had to be used to control inmates, and/or injuries resulted to staff members, and/or significant property damage occurred. In the most tragic of these incidents, a correctional officer was killed at the Guadalupe County Correctional Facility, which was operated by WCC for the State of New Mexico.

Research Plan for the Analysis

The U.S. Congress (Public Law 105-277, Sec. 111, Fiscal Year 1999 Omnibus Appropriations Bill) required that the Director of the BOP initiate a study that "evaluates the growth and development of the private prison industry during the past 15 years, training qualifications of personnel at private prisons, and the security procedures of such facilities, and compares the general standards and conditions between private prisons and Federal prisons."

To fulfill this requirement, the Bureau of Prisons' Office of Research and Evaluation (ORE), in conjunction with subject matter experts within the BOP and the National Institute of Corrections (NIC), developed a research plan with three major components: (1) a census of secure private prisons for sentenced, adult inmates, (2) a survey of Government employees responsible for administering the private prison contracts within agencies that utilized private prison bed space,

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and (3) site visits to selected private institutions. This report covers the census and survey. A later report will discuss the findings of the site visits.

Census

The census identified 94 different institutions that held sentenced, adult inmates for departments of corrections in one of the 50 States, Puerto Rico, the District of Columbia, or the Federal Government. Nine of the prisons had contracted with two or more jurisdictions to hold inmates, meaning that, at the time of the census, there were 103 different contracts to hold adult inmates in private prisons.

As of July 31, 1999, there were 69,188 adult inmates incarcerated in private prisons in the United States. The majority of these inmates were identified by the respective jurisdictions as being medium security, with 33,088 of the inmates, or 48 percent, so classified. The next largest classification of inmates was minimum security with 35 percent (24,014) of the inmate total. For the remaining inmates, 12 percent (8,103) were identified as low security, 4 percent (2,772) as maximum security, and 2 percent (1,211) as having a different or no security classification.

The private sector holds a lower percentage of high and medium security offenders than the public sector. Other aspects of the custody classification of inmates held by the private prisons are less clear, especially the experiences of the private sector in holding what the BOP classifies as an inmate with medium security needs. There are differences between many State corrections systems and the BOP in terms of classification criteria and nomenclature. As a result, in many State systems, inmates who would be considered in the Federal system as low security risks are classified as medium security risks.

Survey

The survey developed by the BOP's ORE was distributed to contract administrators who were responsible for administering the private prison contracts. Information was received for 91 of the 103 contracts identified, for a response rate of 88 percent.

The survey was designed around three basic sections. The first and longest section asked for information about the respective training policy and standards in private and State-operated prisons. The second section asked for basic information about custody policy and standards at private prisons. The final section covered three major areas: general characteristics of the prison

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and staff, information about the types of inmates housed at the prison, and data about the types of inmate misconduct experienced at the prison.

The data reported here allowed the authors of the report to compare key staffing characteristics at private prisons and BOP prisons. There was no attempt to collect information on pay and benefits—generally it is expected that the pay and benefits of *individual* line staff in the Federal sector surpass that in the private sector. This is not to say that overall staffing costs in the Federal sector are necessarily higher than those in the private sector. In a cost analysis of the first year of operations at TCI, Nelson (1999) found that the BOP would have operated TCI for less money than WCC did, assuming that the BOP staffed TCI the way it staffed comparable Federal prisons. WCC employed more staff than the comparable BOP prisons.

General Characteristics of Private Prisons

There were differences between the BOP and private sector prisons. The BOP reported lower ratios of custody staff to inmates than most of the private prisons, but it reported comparable ratios for total staff to inmates. It would seem that the comparable ratios of total staff to inmates resulted from the BOP's greater use of case management and program staff, although this issue was not examined directly in the survey.

The BOP had a more stable workforce. The separation rates for custody staff at most private prisons were much higher than the corresponding rates for BOP prisons. Where the average six-month separation rate for custody staff at BOP prisons was 4.4 percent and no BOP prison had a rate greater than 9 percent, 95 percent of the private prisons had a separation rate that was equal to or greater than 10 percent. In fact, almost half of the private prisons had a separation rate equal to or in excess of 50 percent. The contract administrators noted that the separation rates at the private prisons were higher than the corresponding rates at comparable public prisons operated by their respective agencies. They further responded that the separations created staff shortages.

Regarding inmate misconduct, there were lower hit rates for drug use in BOP prisons than in many of the private prisons, although quite a few of the private prisons were doing very well on this measure. The BOP had substantially fewer escapes from secure prisons than the private prisons taken as a whole. The homicide rates for all BOP prisons and all private sector prisons were very similar. However, it is worth remembering that secure BOP institutions had a higher percentage of maximum security prisoners, and probably had a higher percentage of medium

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security prisoners as well. Due to the incompatibility in the survey question and the BOP data, it was not possible to compare the assault rates effectively.

For the most part, the contract administrators rated inmate misconduct in private prisons as being comparable to rates of misconduct in their own public prisons.

Training Standards and Policy

For employment requirements, public agencies were somewhat more likely to require initial firearms, firearms refresher, and gang management training; initial and periodic custody training seemed to be required at about the same levels. The small difference in training standards may be attributable to the fact that the contract prison population represents, on average, lower security and custody level inmates.

Public and private agencies frequently used the same standards for the various kinds of training either because the contract between the public agency and the contractor mandated the same standards, or because the contractor adopted the public standards.

Training at the privately-operated prisons was primarily the responsibility of the private sector employees, although the public sector also did a significant amount of the training. The number of training hours was almost identical between the public agency employees and the staff at the privately-operated institutions.

The larger picture that emerged from this data is that private contractors were typically obligated to use the training standards and policies of the public agencies. There was much more variation from jurisdiction to jurisdiction than there was between the publicly and privately-operated institutions within a jurisdiction.

Custody Standards and Policy

The responses to this section of the survey showed that the private sector's standards and policies were typically a reflection of the jurisdiction governing the contract. The public sector maintained responsibility for routine and intensive formal reviews of custody practices but often did these reviews in conjunction with the private sector. The training and custody sections of the survey demonstrate that the training and custody policies and standards of the privately-operated prisons were a reflection of the same standards and policies of the public jurisdiction responsible for those contracts.

Verification of Inmate Classification

A follow up phone call was made to contract monitors to establish whether the privately operated facilities had procedures in place to verify the security classification level of the inmates they were receiving from the public sector. Most facilities had procedures in place. The typical circumstance was that inmates were classified by State experts and the private vendor used the State classification system to verify that the classification level was appropriate.

Concluding Remarks

The private prison industry experienced phenomenal growth from its founding in the 1980s until the present. While there have been changes in the types of inmates held in private prisons, most of the experiences of the private sector have been with lower-risk inmates. The relative growth in the private sector (that is, the increase in prisoners in comparison to the numbers previously held) will probably not be as dramatic in the future as it has been in previous years. In fact, there is some evidence that the growth in the U.S. prison population is slowing down. Nonetheless, there is every reason to believe that growth in absolute numbers of inmates held in private prisons will continue to expand, necessitating increased hiring and training of private prison staff. Many of the factors driving the growth of the U.S. prison population—increased arrests and prosecutions, mandatory minimum sentences, determinate sentencing/elimination of parole, less use of probation—are the same factors that necessitate that a jurisdiction add prison capacity and contract for some of those beds.

From the survey results presented here, there do appear to be some systemic problems that the private sector must address. For example, the rapid turnover of staff perpetuates the situation in which private prisons are operated by inexperienced staff. The large numbers of escapes from private sector prisons, in comparison to the BOP, may be related to the lack of experienced staff who are essential to operating safe and secure prisons. As anecdotally reported here and more systematically in the Clark and Austin et al. reports, staff inexperience was evident in the Youngstown situation, the New Mexico problems, the Colorado group disturbance, and the Taft Correctional Institution incidents.

Another area that needs more probing is the staffing patterns at public and private prisons. The custody staff-to-inmate ratio is generally higher at private prisons than in the BOP, suggesting that private prisons may focus too many resources in this area. The total staff-to-inmate ratio of most private facilities lies somewhere between the staffing levels of the Bureau of Prisons low- and medium-security prisons. Thus, the private sector's overall staffing levels are comparable to the BOP; however, since their custody staffing levels are higher, they probably use fewer program and case management workers. This suggests that there may be fundamental differences in how the private sector approaches custody.

The impetus for the use of private prisons in the United States was the promise of lower costs and the need for additional capacity. In Australia and the United Kingdom, the motivation to privatize was driven by these factors but was also propelled by prison reforms. In fact, some have proposed that private prisons are places for experimentation, a test-bed for new approaches to programming, management, and staffing. The competition that arises from the contrasting approaches between the public and private sectors, according to this proposition, will promote innovation and cross-fertilization of ideas and practices. While this proposition appears plausible, there are factors that limit these possibilities.

Because of the inherent risk of corrections, private companies and State agencies that have oversight obligations are unlikely to wander very far from standards and requirements that have already been established in each jurisdiction. The survey results on training and custody standards and requirements show that the private sector, even when there is no contractual obligation, has adopted the standards and policies of their public sector counterparts. A different constraint upon private operators involves jurisdictional requirements that cost savings must be demonstrated. These requirements reduce the opportunities for innovation, especially in the private sector's flexibility to experiment with the management of human resources, the most costly part of prison operations. One of the few alternatives the private sector has to save money and make a profit is to suppress labor costs through direct measures such as restructuring pay and benefits. But, reducing pay and benefits may result in high separation rates among staff.

The question that remains is whether there is sufficient room for the private sector to maneuver and innovate when they are constrained by correctional standards and State cost containment goals. Because of these types of restraints, in most jurisdictions, the privately operated prisons become an extension of the public correctional agency.

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There are exceptions to the pattern of private prisons being extensions of the public sector that contracts for their services. In Florida, for example, the contracting for private prisons is under the control of an agency separate from the Florida Department of Corrections. The Bureau of Prisons' philosophy concerning contracting for private facilities is to provide a balance between setting policy and encouraging innovation. The BOP structures its contracts, where feasible, around performance goals instead of policy compliance. In other words, the Bureau contracts for certain levels of output from the vendor, but the vendor is free to specify how they could achieve the output goals when bidding for the contracts.

Nonetheless, the general practice in the United States is for private prisons to reflect the training and security policies and standards of the agencies contracting for their services. There was much greater variation between jurisdictions than there was between the public and private sectors within a jurisdiction. The implication of this finding may be that the operations and standards of the private sector are a reflection of the contracting jurisdiction whether the jurisdiction's policies and standards are good or bad, progressive or retrogressive. Thus, despite the fact that CCA and WCC are large correctional entities, the operations at their facilities are more likely to be influenced by the contract jurisdictions and local circumstances (e.g., labor markets, cost of living) than they are by corporate policies and standards. Given the problems with escapes, disturbances, and staff instability, many (though certainly not all) of the privately-operated prisons are struggling to meet basic safety and security standards. This may be a reflection of the immaturity of the private corrections sector. It may be alleviated if private operators can stabilize their workforce and retain sufficient numbers of line and supervisory staff with sufficient correctional tenure. Experienced staff can train the younger workforce and serve as models for that workforce.

It is important to distinguish between the standards and policies of a correctional system and the manner in which they are implemented. Having sound policy is only the first step. Ensuring that staff execute policy correctly is just as important. The survey methodology used in this report could not measure how well privately-managed prisons operated on a day-to-day basis. That kind of performance is assessed through systematic audits of all aspects of prison operations. The only evidence we had from this survey were indicators of performance, such as escapes, drug use hit rates, major incidents, and homicides. Based on those indicators, and on the high turnover rate of staff at private prisons, it would appear that both the public and private sector managers need to be vigilant in their monitoring of the day-to-day operations of privately-operated prisons—certainly no less vigilant than they are about public sector performance. It is important to note that this report is not an indictment of every privately-operated prison. The data represent an overall picture.

This study brings to light several significant issues related to staffing, workforce experience, and performance in the private sector. We believe that these issues should be addressed before the private sector is allowed to take responsibility for the custody of more violent and sophisticated prisoners.

Introduction

This report presents the growth in the private sector's operation of adult, secure facilities for sentenced inmates in the United States. It is also an analysis of private sector standards in staff training, the development of policy and procedure devoted to inmate security and custody, and some of the important indicators of the quality of private prison operations. This report fulfills a request for information from the U.S. Congress (Public Law 105-277, Sec. 111).

The rapid growth in the jail and prison populations in recent years has generated tremendous opportunities for entrepreneurs to build, own and operate prisons.[1] The two largest firms, Corrections Corporation of America (CCA) and Wackenhut Corrections Corporation (WCC) arose in the 1980s and rapidly expanded to provide custody of more inmates in the United States than most State systems. Abt Associates Inc., under contract with the National Institute of Corrections (NIC), conducted a census of adult prison facilities in the United States and found that the private sector housed 69,188 inmates in 94 different prisons on July 31, 1999 (see Appendix 2).[2] Private prisons held 5.3% of the 1.3 million inmates under the jurisdiction of State and Federal Governments at that time. This marked a significant increase from the end of 1997, the last time Abt conducted a census, when Abt determined that 91 contracts covered 37,651 inmates in 84 different private prisons (McDonald, Fournier, Russell-Einhorn, and Crawford 1998). A more complete history of the rise of private sector prisons is provided in Appendix 1 of this report, written by Douglas C. McDonald and Carl W. Patten, Jr., of Abt Associates, Inc.

In 1999, CCA held 37,244 inmates in 45 prisons—53.8 percent of the total number of inmates in private prisons. WCC incarcerated another 19,001 inmates in 26 prisons—27.4 percent of the total number of privately-held inmates. CCA was responsible for more inmates than those held in all but seven States and the Federal Bureau of Prisons. These comparisons are based on numbers reported for the State and Federal systems on January 1, 1998, the latest date for which complete

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[1]Private prisons in the United States are not new phenomena. In the 19th century, some States entered into agreements with private parties to lease the labor of inmates. In some of these agreements, the private party became responsible for the housing and care of the inmates in addition to paying a fee for the labor of the inmate. This system was subject to abuse and was fairly widespread. The convict lease system came to an end in 1923 during the Progressive Era (Shichor 1995: 34-43). Under the current incarnation of private prisons, the opportunity for private operators to benefit directly from the labor of inmates has been removed for the most part.

[2]Private prison operators hold a large number of adults in jails and detention centers in the U.S., such as the illegal aliens incapacitated for the Immigration and Naturalization Service and the pre-trial inmates held for the U.S. Marshals Service. These facilities and inmates are not the focus of the present report which concentrates on secure adult prisons, and Abt Associates did not attempt to collect information on these types of facilities.

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data were available (Camp and Camp 1998: 6-7).[3] An additional nine State systems were larger than the total reported for WCC, or 16 States altogether plus the Bureau of Prisons.[4] Together, CCA and WCC held 56,245 inmates, or 81.3 percent of the inmates in secure, adult, private prisons.

As Harding (2000) has argued, private prison companies are not prison systems in the usual sense of the term. To quote Harding (2000: 2): "This is a fundamentally erroneous concept, suggesting status and autonomy as principal. Both CCA and WCC and each of the other operators are *agents* of the State in the various jurisdictions" (emphasis in original). It is important in Harding's conceptualization of the relationship between the public and private sectors that the State—although it has contracted for the care and well-being of prisoners—is still ultimately responsible for ensuring that the care and well-being of the prisoners is provided through regulatory and accountability mechanisms.

In addition, there is another fundamental difference between private and public prison "systems." Unlike CCA or WCC, the BOP runs a system of prisons that are integrated by common laws, policies, and practices. CCA and WCC, on the other hand, operate a series of prisons that are extensions of other prison systems. To date, a private prison company has not operated an entire prison system, although CCA and WCC have proposed in the past to operate the prison systems in Tennessee and Florida (Harding 2000).

While we emphasize the difference between prison systems and private companies that operate prisons, there are still some commonalities between them. As already mentioned, during a period of growth, both must be capable of hiring and training staff to meet the demands of an increasing population. Both must be capable of activating new facilities with a relatively immature workforce. Both must make prudent decisions about using limited funds to best meet the needs of the inmate population, while protecting staff and citizens. To the extent there is a corporate approach, or perhaps even to the extent there is a corporate ethos in meeting these requirements, private companies can be said to be corporate prison systems.

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[3]The seven States with larger populations in secure prisons were California (155,276), Florida (61,270), Illinois (40,787), Michigan (42,388), New York (69,108), Ohio (47,808), and Texas (129,278). The Federal Bureau of Prisons had 87,224 inmates in secure prisons.

[4]In addition to the States listed in footnote 3, the following States had larger inmate populations than WCC on January 1, 1998: Alabama (19,541), Arizona (23,484), Georgia (35,677), Missouri (23,645), New Jersey (22,252), North Carolina (28,696), Pennsylvania (30,819), South Carolina (20,629), and Virginia (24,644).

The rapid influx of prisoners into the private sector brought challenges and opportunities. One of the most significant challenges was the need to recruit, train, and maintain adequate numbers of correctional staff that were necessary to operate the prisons they managed.

Many of the concerns about private corporations and their staff capabilities came to a head in the aftermath of the highly publicized escape of six maximum risk inmates, five of them convicted murderers, from the Northeast Ohio Correctional Center (NOCC) in July of 1998. In a detailed and rare glimpse into the operations of a private prison, John L. Clark, the Corrections Trustee for the District of Columbia, provided a detailed examination of the problems experienced by CCA at NOCC during its initial operations. In addition to the much-publicized escapes, there were two inmate murders and numerous stabbings and assaults, including assaults on staff. Among his findings, Clark documented the lack of basic security practices and the inexperience and inability of staff to handle difficult inmates (Clark 1998). Since the escapes, staffing and procedural changes were instituted at NOCC, and the institution received ACA accreditation.

WCC also experienced highly publicized problems in two of the prisons it operated in New Mexico: the Lea County and Guadalupe County Correctional Facilities. The incidents at these facilities are recorded in Table 1. At the request of the Special Advisory Group composed of New Mexico State Senators, State Representatives, the State Corrections Secretary, and the State Deputy Attorney General, a group of independent consultants were asked to examine the operations in New Mexico public and private prisons in light of the problems experienced by the New Mexico Corrections Department and WCC. The correctional consultants documented their evaluation in a report submitted to the Special Advisory Group (Austin, Crane, Griego, O'Brien, and Vose 2000). Among the types of problems documented, some were attributed to the New Mexico Department of Corrections, such as lack of surveillance of gang activities and inequity in housing conditions between the public prisons and the more Spartan private prisons. Other problems were more likely to be found in the private prisons: problems with inadequate numbers of staff, inexperienced staff, insufficiently trained staff (partly caused by difficulty in scheduling access to the State training academy), and physical plant deficiencies in the facilities owned by WCC. Richard Crane argued that part of the problem in operations at the two facilities originated with the complicated contractual arrangements between the Corrections Department, the Counties of Guadalupe and Lea, and WCC. To quote Crane (2000: 54):

> In the end, the complex contractual arrangements, the unclear facility missions, the need for prison beds, and the involvement of too many agencies and individuals in negotiations, resulted in contracts which fall well short of industry standards and create significant security, programmatic and fiscal implications for the State (p. 54).

Jerry O'Brien, a correctional consultant, conducted operational reviews at the Lea and Guadalupe facilities. With regard to security issues, O'Brien listed a number of issues: tool control was in "total disarray" and was being handled by the inmates (O'Brien 2000: 125); the security staffing at the two contract facilities reflected an immature and untrained security workforce and even inexperience at the supervisory level; there were recruitment and retention problems and "serious shortfalls" in filling positions (O'Brien 2000: 124); there were serious gaps in search procedures to find contraband; and there were deficiencies in intelligence gathering. O'Brien also found fault with one of the facilities operated by the State of New Mexico, but not to the same degree as in the privately-operated institutions.

The Clark and Austin et al. reports should not be taken as evidence of problems in the entire private prison sector. The reports were requested and issued because there were known problems at these institutions, and they certainly do not reflect or represent all privately-operated prisons. By the very nature of the reports, they provided intensive case studies of the prisons within which specific incidents occurred rather than a more general assessment of the ability of the private sector to operate safe and efficient prisons. There is other evidence, though, that private sector prison operators continued to experience problems in operating their prisons in 1999.

Accounts reported in the press suggest that the private sector prison providers had problems in maintaining adequately trained and experienced staff and appropriate security practices. Table 1 lists some of the more serious incidents at the private adult prisons that were reported in the media for calendar year 1999.[5] As can be seen there, both major companies, CCA and WCC, had inmate escapes at their adult prisons in 1999. CCA had three escape incidents from the inside of secure facilities in 1999 in which four inmates were able to breach the perimeter. CCA, and its subsidiary TransCor, also experienced escapes when inmates were being transported, either to medical treatment or to a prison. There were four such incidents involving the successful escapes of five inmates. WCC had two separate incidents in 1999 where one inmate in each incident was able to successfully escape from inside of a secure prison. One of the WCC escapes was particularly relevant for the BOP as an inmate was able to escape from the Taft Correctional Institution, which is operated by WCC for the BOP. Correctional Services Corporation (CSC) had significant problems with the McKinley County Detention Center it operated in New Mexico.

[5]There were escapes and other major incidents at other secure facilities operated by the private companies, but since these facilities are jails and detention centers, they were not relevant for or included in this report. Ryan Sherman, Esq., a legislative aide for the California Correctional Peace Officers Association, counted 38 escapes that were reported in the media from *all* secure private facilities in 1999 (Sherman 1999). He also found reports of 26 escapes in 1998, 20 in 1997, 38 in 1996, and 20 in 1995.

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There were two separate escape incidents in which nine inmates were able to escape from inside of the facility. (CSC has since lost the contract to operate this facility.) The Management & Training Company (MTC) also had one escape in 1999 in which three inmates were able to escape from inside of a secure prison.

In contrast to this spate of inmate escapes from secure private correctional facilities, the BOP had one escape in 1999. This was the first escape from a secure BOP facility since 1996. The BOP, with 80,800 inmates in secure prisons in July of 1999, was almost 17 percent larger than the combined inmate populations of all private adult prisons in July of 1999.[6] Taken all together, the private prisons had 18 inmates escape from inside of secure prisons in 1999, and 5 inmates who were housed in secure prisons were able to escape while they were being transported elsewhere.

Private sector companies also experienced serious group disturbances in 1999. CCA (five incidents), WCC (three incidents), and CSC (one incident) experienced group disturbances in which chemical agents had to be used to control inmates, and/or injuries resulted to staff members, and/or significant property damage occurred (see Table 1). In the most tragic of these incidents, a correctional officer was killed at the Guadalupe County Correctional Facility, operated by WCC for the State of New Mexico.

In the BOP, seven incidents were classified as major disturbances in fiscal year 1999. All of these incidents involved large numbers of inmates fighting among themselves, usually gang related. Four of these disturbances required the use of gas, nonlethal munitions, or warning shots from guards on perimeter towers to control the inmates. There were no serious staff injuries in any of the seven incidents. Two of the group disturbances occurred at one institution, FCI Big Spring. In one of the incidents, MK-9 pepper fogger (an aerosol that irritates the eyes and respiratory system) was used by the disturbance control team to disperse the inmates. In the other incident at FCI Big Spring, warning shots were fired before gas and sting ball grenades (nonlethal weapons that release rubber pellets that "sting" the legs) were used to disperse the fighting inmates. Stun munitions and sting ball grenades were used at USP Leavenworth to stop fighting inmates. Finally, warning shots were fired to control inmates at USP Florence.

[6]Secure prison is defined for purposes of this report as a facility with a secure perimeter fence or fences. Also, the facility must hold sentenced adult inmates in general population units. In the BOP, this excludes all facilities that are designated as minimum-security prison camps, metropolitan detention centers, prison hospitals, and metropolitan correctional centers. Secure prisons incarcerating sentenced adults include the security levels of low, medium, and high.

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The capability of staff at private prisons has been openly questioned in some of the publicized incidents. Following the group disturbance at the Crowley County Correctional Facility (which is operated by CSC), John Suthers, Executive Director of the Colorado Department of Corrections, noted that "staff was (sic) not as well trained as it (sic) could have been" in handling the disturbance. Suthers promised that future contracts would place more emphasis upon "proper training." There have been other allegations, such as those made by some staff at the Kit Carson Correctional Facility (operated by CCA), that staff separations and lack of training have caused problems, but there is typically no hard evidence to support or refute such charges.

There is further anecdotal evidence of staff problems—at least short-term problems. In the wake of a food and work strike at TCI on August 25, 1999 (not listed in Table 1) and the group disturbance at TCI listed in Table 1, the issue of staff experience came into question from the private sector vendor. Contrary to WCC's own (and proper) correctional practice, the top executive staff directed activities from the institution compound, instead of from the command center. In both instances, the executive staff felt that they needed to be on the compound with line staff because of the youth and inexperience of the line staff (Andrews 1999: 2).

Research Plan for the Analysis

The U.S. Congress (Public Law 105-277, Sec. 111) required that the Director of the BOP initiate a study that "evaluates the growth and development of the private prison industry during the past 15 years, training qualifications of personnel at private prisons, and the security procedures of such facilities, and compares the general standards and conditions between private prisons and Federal prisons."

To fulfill this requirement, the Office of Research and Evaluation (ORE), in conjunction with subject matter experts within the BOP and the National Institute of Corrections (NIC), developed a research plan with three major components: (1) a census of secure private prisons for sentenced, adult inmates, (2) a survey of contract officials within agencies that utilized private prison bed space, and (3) site visits to selected private institutions. This report covers the census and survey. A later report will discuss the findings of the site visits.

The BOP, through the NIC, contracted with Abt Associates, Inc. of Cambridge, MA for assistance on the first two aspects of this project. Dr. Douglas McDonald of Abt Associates conducted the census of adult, secure correctional facilities. Dr. McDonald also administered the

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survey that was developed by the Office of Research and Evaluation (ORE) at the BOP to institutions identified in the census. A copy of the survey instrument is presented in Appendix 3.

Once Abt Associates produced the database corresponding to the completed surveys, the data were turned over to the BOP for analysis by the ORE. The results of that survey are presented in this report. Dr. McDonald also was asked to update the earlier description of the growth and development of the private prison sector provided in the 1998 report, *Private Prisons in the United States: An Assessment of Current Practice* (McDonald, Fournier, Russell-Einhorn and Crawford 1998). This update, written with Carl W. Patten, Jr., appears as Appendix 1 of this report.

The site visits were conducted to evaluate the extent to which the training and custody policies were being implemented at the privately-operated institutions. A representative sample of private institutions would require site visits to at least 30 institutions and would involve a great deal of time and money. In lieu of that approach, it was decided that it would be more expedient to visit a few institutions that represent the positive and negative exemplars of private corrections. The selection of sites would be based on the data we received from the survey. This would be the only opportunity to closely evaluate the consistency (or lack thereof) between the standards and policy adopted by the private sector and the procedures and practices as they were being executed by line staff and their supervisors. In order to evaluate the facilities, a security-custody audit was chosen, since security and custody represent core elements of correctional practice.[7]

The NIC assisted the ORE in identifying an independent reviewer to accompany BOP personnel on visits to the selected private prisons. Superintendent Joan Palmateer, currently the warden of the Oregon State Penitentiary, formerly Chief of Security for the Oregon Department of Corrections, accompanied BOP research and custody experts to share her expertise. This report covers the census and survey. A later report will discuss the findings of the site visits.

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[7]A security audit is a risk assessment that is used to determine the likelihood of a significant safety or security problem. It focuses on the potential for an inmate escape, staff or inmate injury, disturbance, or property damage. The audit procedures were developed by the National Institute of Corrections. The audit covers such areas as the institution's armory, contraband management, hazardous materials, searches, post orders, key control, tool control, and perimeter security. The audit procedures are intended to clarify the factors that may increase or minimize the risk of a significant security problem. These factors include:"...poorly designed policy; inadequate procedures; overlooked standards; a facility design inappropriate to a changed inmate profile; inadequate training; or lack of knowledge, complacency, or inattention of staff to the requirements of their position." (National Institute of Justice, 1999: Introduction, p. 1)

Census

The census conducted by Abt Associates identified 94 different institutions that held sentenced, adult inmates for departments of corrections in one of the 50 States, Puerto Rico, the District of Columbia, or the Federal Government. Nine of the prisons had contracted with two or more jurisdictions to hold inmates, meaning that, at the time of the census, there were 103 different contracts to hold adult inmates in private prisons. A complete list of the contracting jurisdictions, the corresponding prisons, the location of the prisons (which is sometimes different from the contracting State), the security level of the inmates being held at the facility, and the total number of inmates being held can be found in Appendix 2. The list is sorted by the contracting jurisdictions.

As of July 31, 1999, there were 69,188 inmates incarcerated in adult, private prisons in the United States. The majority of these inmates were identified by the respective jurisdictions as being medium-security, with 48 percent or 33,088 of the inmates so classified. The next largest classification of inmates was minimum-security with 35 percent (24,014) of the inmate total. For the remaining inmates, 12 percent (8,103) were identified as low-security, 4 percent (2,772) as maximum-security, and 2 percent (1,211) as having a different or no security classification (see Table 2).[8]

The private sector holds far fewer high- or maximum-security inmates than the public sector. In all of the public sector adult prisons in the United States, 11.7 percent of inmates received the highest or maximum-security designation (Camp and Camp 1998: 18-19) compared with the 4 percent in the private sector. Other aspects of the custody classification of inmates held by the private prisons are less clear, especially the experiences of the private sector in holding what the BOP classifies as an inmate with medium security needs. Most private prison operators accept the inmate custody classification provided by the contracting jurisdiction. Most States use different classification instruments than the BOP, even using different custody classes. The custody classification reported here, that of minimum, low, medium, and maximum, is based on the BOP classification system. However, most States use a three-level system, whereby inmates are classified as minimum, medium, or maximum/close/high. At least some medium-security State inmates would be classified as low security in the Federal system.

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[8]Most of the inmates, 4,741, that were reported to be low security risks were held in four different private prisons for the BOP.

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Table 1. Serious Incidents at Private Prisons in 1999[1]

Listed by Company and Date

Company	Date	Correctional Facility	Incident	Facility Type	Brief Description
CCA	1/30/1999	South Central Correctional Facility, TN	Escape	Prison	An inmate, who confessed to first-degree murder in 1990, was able to escape with the cooperation of a staff member. A female prison officer dressed the inmate as an officer and helped him walk out of the prison.
CCA	3/19/1999	North Fork Correctional Facility, OK	Group disturbance	Prison	A dispute between a Wisconsin inmate and a correctional officer in the dining hall spread to other inmates, including inmates in a housing unit. Gas was used to control the inmates. All inmates in the facility are from WI.
CCA	5/20/1999	West Tennessee Correctional Facility, TN	Escape / Attempted Escape	Prison	Four Montana inmates being held in a TN prison attempted an escape. Two inmates were caught before they could climb the perimeter fence, but two inmates, one a convicted murderer, were able to complete the escape.
CCA	7/25/1999	In Transit, VA	Escape	Transport	Two maximum security inmates, both convicted murderers, who were being returned to a Virginia prison after a court appearance in TN, were able to escape from two CCA officers. The officers left the door to the van unlocked while at a restaurant, and the inmates were able to slip their leg irons and flee.
CCA	7/28/1999	Bent County Correctional Facility, CO	Escape	Prison	An inmate was able to escape from the prison, probably by stowing away in a trash truck. Another inmate had escaped from this prison two weeks earlier by hot-wiring a prison van while working at a regional recycling center.

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Company	Date	Correctional Facility	Incident	Facility Type	Brief Description
CCA	8/15/1999	Diamondback Correctional Facility, OK	Group disturbance	Prison	A disturbance started when correctional officers attempted to stop two inmates from climbing a fence separating two recreation areas. 25 inmates went on a rampage with $400,000 in damage from fire, smoke, and water resulting from 12 separate fires.
CCA	8/16/1999	Hardeman County Correctional Facility, TN	Escape	Transport from Prison	While on a hospital visit, an inmate, convicted of robbery, was able to escape by overpowering a officer after the officer had released the inmate from handcuffs. The inmate took the officer's gun, a woman hostage, and a car stolen from the hostage to flee down an interstate highway.
CCA	8/17/1999	Torrance County Correctional Facility, NM	Group disturbance / Assault on staff	Prison	Two officers were seriously injured in a disturbance that involved about 290 inmates. One officer was in a coma for four days. As many as 75 inmates were involved in the disturbance, which may have been staged as a cover for an aborted escape attempt.
CCA	1/1999 through 9/1999	Kit Carson Correctional Facility, CO	Staff misconduct	Prison	Charges were made that up to 15 female officers and nurses had affairs with Colorado inmates during the first 9 months of operation of this private facility.
CCA	11/17/1999	Pamlico Correctional Facility, NC	Escape	Transport from Prison	A convicted killer in North Carolina escaped from officers who had escorted the inmate to a doctor's office in New Bern, NC.
CCA	11/30/1999	Whiteville Correctional Facility, TN	Group disturbance	Prison	A disturbance started in the dining hall shortly after the visiting Corrections Secretary of Wisconsin left the dining hall. The facility holds WI inmates. The inmates took 15 hostages, and 3 staff received minor injuries during the incident. Tear gas was used to end the disturbance.

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Company	Date	Correctional Facility	Incident	Facility Type	Brief Description
CCA	11/30/1999	Crossroads Correctional Center, MT	Group disturbance	Prison	A dispute over prison policies regarding televisions escalated into a riot involving 49 inmates. The incident was brought under control quickly with the use of tear gas. Damages were limited.
CSC	3/5/1999	Crowley County Correctional Facility, CO	Group disturbance	Prison	The disturbance started in the dining hall when a Washington state inmate hit a correctional officer with a tray. The disturbance spread to two housing units, where staff were able to control the disturbance with the use of OC spray. While the incident started with Washington state inmates, inmates from Wyoming and Colorado also became involved in the disturbance.
CSC	9/5/1999	McKinley County Detention Center, NM	Escape	Jail[2]	Four inmates, including two murder suspects, were able to escape from the facility by crawling through an air vent. The sheriff was notified 1 hour and 15 minutes later. The jail inmates were sent to the facility to keep the inmate population at the Bernalillo County Jail under a court mandated population cap.
CSC	11/26/1999	McKinley County Detention Center, NM	Escape	Jail	Five inmates were able to escape from the facility by climbing through a skylight. CSC claimed that the facility is not structurally sound. As a result, the company returned inmates, including some penitentiary inmates from Montana, to their home jurisdictions.
MTC	4/4/1999	Promontory Prison, UT	Escape	Prison	Three inmates were able to escape from this minimum security prison by cutting a hole in a fence with a file. The facility functions as a pre-release center.

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Company	Date	Correctional Facility	Incident	Facility Type	Brief Description
TransCor	10/16/1999	In Transit, NM	Escape	Transport	A North Dakota inmate, convicted of murdering a child, escaped from a bus that was transporting him from ND to the super-maximum prison in Organ, NM. The inmate had concealed a cuff key on himself, unlocked his restraints, and escaped through a vent on top of the bus. The escape was not noted for 9 hours, and the NM police were not notified for another 2 hours.
WCC	1/13/1999	Lea County Correctional Facility, NM	Inmate death	Prison	An inmate was found stabbed to death at the prison. WCC said the stabbing appeared to be gang related. This was the eighth stabbing and second such death since the prison opened 6 months prior to this event.
WCC	4/6/1999	Lea County Correctional Facility, NM	Group disturbance	Prison	A group of 150 inmates rioted at this facility, producing minor injuries to 13 staff members. The incident started in the dining hall, but it spread to other parts of the facility. At issue, in part, were religious demands of Native American inmates.
WCC	6/18/1999	Lea County Correctional Facility, NM	Inmate death	Prison	An inmate was found stabbed to death in his cell. Two rival gang members were suspected of the crime. This was the third fatal stabbing at the facility.
WCC	8/11/1999	South Bay Correctional Facility, FL	Escape	Prison	Two inmates, one convicted of murder and the other of burglary and aggravated assault, were able to escape from this facility.
WCC	8/12/1999	Guadalupe County Correctional Facility, NM	Inmate death	Prison	An inmate was murdered with a laundry bag filled with rocks as he watched television.

Company	Date	Correctional Facility	Incident	Facility Type	Brief Description
WCC	9/1/1999	Guadalupe County Correctional Facility, NM	Group disturbance / Staff death / Inmate assault	Prison	There was a riot involving 290 inmates. A correctional officer was stabbed numerous times by up to 9 inmates. The riot was in response to efforts to lock down the institution following the stabbing of an inmate.
WCC	9/6/1999	Taft Correctional Institution, CA	Escape	Prison	A Federal inmate was able to escape the secure facility by altering his appearance and walking out of the institution with visitors following visitation.
WCC	9/7/1999	Travis County Community Justice Center, TX	Contract revocation	Prison	The state of Texas retook control of this prison. 11 former officers and a case manager were indicted on criminal sex charges. They are charged with felony charges of sexual assault and improper sexual activity as well as misdemeanor charges of sexual harassment. The state is also investigating fraud.
WCC	11/16/1999	Taft Correctional Institution, CA	Group disturbance	Prison	Federal inmates broke windows, televisions, and tables in a disturbance that started over issues with food services. Damage was estimated at between $50,000 and $60,000. The staff used gas, nonlethal bullets, and other nonlethal weapons to control about 1,000 inmates who had refused to return to their housing units.

Notes:

1. The incidents reported in this table are for the facilities listed in Appendix 1 only. Escapes and major incidents at jails, detention centers, and juvenile facilities operated by the respective private prison companies are not included in this table.
2. Jails that serve principally in that function are not included in this study. The McKinley County Detention Center, however, held 72 sentenced, medium-security inmates from Montana at the time the data were collected for this study (July 31, 1999).

Source: Published newspaper accounts.

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Table 2. Private Prison Vendors Sorted by Number of Inmates

Company	Number of Facilities	Inmates					
		Maximum Security	Medium Security	Low Security	Minimum Security	None or Other	Total
Corrections Corporation of America	45	1,454 (4%)	21,580 (58%)	2,593 (7%)	10,632 (29%)	985 (3%)	**37,244 (100%)**
Wackenhut Corrections Corporation	26	1,143 (6%)	8,218 (43%)	2,345 (12%)	7,126 (38%)	169 (1%)	**19,001 (100%)**
Management & Training Corporation	8	29 (1%)	1,258 (24%)	295 (6%)	3,716 (70%)	0 (0%)	**5,298 (100%)**
Cornell Corrections, Inc.	4	0 (0%)	629 (18%)	2,282 (65%)	572 (16%)	22 (1%)	**3,505 (100%)**
Correctional Services Corporation[1]	5	98 (4%)	554 (24%)	157 (7%)	1,536 (65%)	0 (0%)	**2,345 (100%)**
McLoud Correctional Services, LLC	1	0 (0%)	599 (100%)	0 (0%)	0 (0%)	0 (0%)	**599 (100%)**
Marantha Production Company, LLC	1	0 (0%)	0 (0%)	256 (50%)	256 (50%)	0 (0%)	**512 (100%)**
Alternative Programs, Inc.	1	0 (0%)	0 (0%)	175 (50%)	176 (50%)	0 (0%)	**351 (100%)**
Dominion Management	1	0 (0%)	250 (100%)	0 (0%)	0 (0%)	0 (0%)	**250 (100%)**
CiviGenics, Inc.	2	48 (58%)	0 (0%)	0 (0%)	0 (0%)	35 (42%)	**83 (100%)**
Total	**94**	**2,772 (4%)**	**33,088 (48%)**	**8,103 (12%)**	**24,014 (35%)**	**1,211 (2%)**	**69,188 (100%)**

Notes: 1. Correctional Services Corporation operates a facility in addition to the five listed in this table, the Crowley County Correctional Facility. That facility is owned by Dominion Management. Inmates held in the Crowley facility that are under contract with CSC are listed in the inmate totals for CSC. Inmates held at the Crowley facility under contract with Dominion Management are listed in the Dominion Management row of the table.

Overview of the Fiscal Year 2005

Governor's Budget Report

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Senate Ways and Means
2-4-04
Attachment 7

OVERVIEW OF THE FISCAL YEAR 2005 GOVERNOR'S BUDGET REPORT

In this Budget Overview, various summaries of state expenditures and the plan for their financing are reviewed. The summary data were obtained from *The FY 2005 Governor's Budget Report.* The Legislative Research Department utilizes the classification of expenditures by function of government so as to coincide with the Division of the Budget and the Division of Accounts and Reports. The Department has made some changes in the classification of expenditures in order to be consistent with its prior reports to the Legislature.

The summary data in this overview compare actual expenditures for FY 2003, the Governor's revised estimates for FY 2004, and the Governor's recommendations for FY 2005.

SUMMARY OF CHANGES TO ESTIMATED FY 2004 EXPENDITURES

Based on actions of the 2003 Legislature, it was estimated by the Research Department that FY 2004 expenditures from **all funds** would total $10.218 billion. The *Governor's Budget Report* revises the all funds FY 2004 budget to $10.211 billion, **a reduction of $7.2 million** below the earlier estimate. Major differences from the session-end estimates and the current Governor's recommendation include:

- An increase of $170.2 million in the budget of the **Kansas Department of Human Resources**, largely reflecting increased unemployment benefits.
- A net reduction of $124.2 million in the budget of the **Department of Education**, primarily related to the Governor's decision to trigger property tax accelerator provisions authorized by the 2003 Legislature ($163.1 million), partially offset by increased school finance adjustments ($22.7 million).

At the close of the 2003 Session, FY 2004 expenditures from the **State General Fund** were estimated to be $4.533 billion. The *Governor's Budget Report* revises the FY 2004 State General Fund budget to $4.332 billion, **a reduction of $200.7 million from the earlier estimate**. Recommended adjustments to the approved State General Fund budget include:

- A net State General Fund reduction of $159.6 million in the budget of the **Department of Education**, primarily related to the Governor's decision to trigger property tax accelerator provisions authorized by the 2003 Legislature ($163.1 million), partially offset by increased school finance adjustments ($8.7 million).
- A net State General Fund decrease of $34.0 million in the budget of the **Department of Social and Rehabilitation Services**, largely to reflect savings related to the Federal Medicaid Assistance Percentage (FMAP) funding in the current year. The net change to the Department's budget from all funding sources is an increase of $6.5 million.

The following tabulation summarizes the changes to FY 2004 expenditures by major category.

	Millions	
	General Fund	All Funds
Original FY 2004 Expenditure Estimates	$ 4,533.0	$ 10,218.0
Revisions:		
State Operations	7.7	95.2
Aid to Local Units	(164.0)	(135.0)
Other Assistance	(46.3)	244.5
Capital Improvements	1.9	(211.9)
Total Revisions	$ (200.7)	$ (7.2)
Revised FY 2004 Exp. Estimates	$ 4,332.3	$ 10,210.8

TOTAL STATE EXPENDITURES FOR FY 2005

Summary of Expenditures from All Funds

The Governor's recommendation for FY 2005 state expenditures from all funds totals $10.182 billion, **a reduction of $28.6 million** (0.3 percent) from the Governor's revised recommendation for FY 2004 of $10.211 billion. Actual FY 2003 expenditures from all funding sources were $10.082 billion.

Expenditures by Major Purpose

State Operations. ***Actual agency operating costs for salaries and wages, contractual services, commodities and capital outlay.***

The Governor's FY 2005 recommendation for state operations increases by $70.1 million or 2.4 percent above the revised FY 2004 amount. The largest increases are in the budgets of the Board of Regents and its institutions ($14.3 million), the Department of Transportation ($12.4 million), the Department of Social and Rehabilitation Services ($11.6 million), and the Department of Corrections and the correctional facilities ($6.2 million) and are primarily related to the Governor's recommended 3.0 percent pay plan increase.

Aid to Local Units. ***Aid payments to counties, cities, school districts, state employee, and other local government entities. May be from state or federal funds.***

Aid to local units increases by $140.1 million or 4.4 percent in FY 2005. Recommended Increases in the budgets of the Department of Education ($158.2 million, primarily for general and supplemental school aid, and for the employers contribution for Kansas Public Employees Retirement System-School costs), and the Board of Regents ($5.7 million, primarily for funding associated with the Higher Education Coordination Act) are partially offset by reductions in the Department of Transportation ($13.3 million, mostly in special city and county aid), and the Adjutant General ($9.1 million, largely related to reduced disaster aid expenditures in FY 2005).

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Other Assistance, Grants, and Benefits. ***Payments made to or on behalf of individuals as aid, including public assistance benefits, unemployment benefits, and tuition grants.***

Other assistance increases $108.3 million or 3.4 percent above the revised FY 2004 amount. Major increases include $147.5 million in the Department of Social and Rehabilitation Services and $9.6 million in the Department on Aging budget (caseload increases). The increases are partially offset by a reduction of $46.0 million, largely for unemployment insurance benefit payments, in the budget of the Department of Human Resources.

Capital Improvements. ***Cash or debt service payments for projects involving new construction, remodeling and additions, rehabilitation and repair, razing, and the principal portion of debt service for a capital expense.***

Capital improvements are recommended to decrease by $347.1 million or 38.0 percent from the FY 2004 level. Included are decreases in construction expenditures for the Department of Transportation ($332.1 million, largely reflecting increased used of bond proceeds to finance projects), and $11.4 million in Department of Wildlife and Parks' projects.

EXPENDITURES FROM ALL FUNDS BY MAJOR PURPOSE

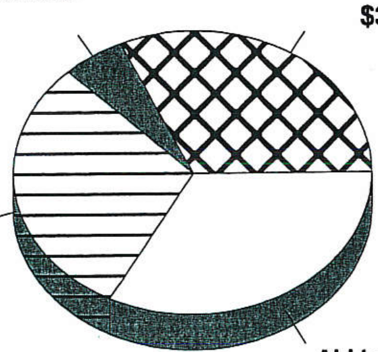
(Millions of Dollars)

Purpose	Actual FY 03	Rec. FY 04	Change $	Change %	Rec. FY 05	Change $	Change %
State Operations	$ 2,874.8	$ 2,980.0	$ 105.2	3.7%	$ 3,050.1	$ 70.1	2.4%
Aid to Local Units	3,079.6	3,176.7	97.1	3.2	3,316.8	140.1	4.4
Other Assistance	3,118.3	3,139.8	21.5	0.7	3,248.1	108.3	3.4
Total Operating	$ 9,072.7	$ 9,296.5	$ 223.8	2.5%	$ 9,615.0	$ 318.5	3.4%
Capital Improvements	1,009.3	914.3	(95.0)	(9.4)	567.2	(347.1)	(38.0)
TOTAL	$ 10,082.0	$ 10,210.8	$ 128.8	1.3%	$10,182.2	$ (28.6)	(0.3)%

Of the total budget recommendation for FY 2005, 30.0 percent is for state operations, 32.6 percent is for state aid to local units of government, 31.9 percent is for other assistance, grants, and benefits, and 5.6 percent is for capital improvements. The following pie chart displays the major categories of all funds expenditures in FY 2005.

FY 2005 EXPENDITURES FROM ALL FUNDS BY MAJOR PURPOSE

(Millions of Dollars)



Total: $10,182.2

Expenditures by Function of Government

The following table summarizes expenditures from all funds by function of government. Functions of government reflect the six classifications into which similar agencies are grouped that share similar basic purposes of state government. The functions include: General Government; Human Resources; Education; Public Safety; Agriculture and Natural Resources; and Transportation. The education function is by far the largest component with 45.1 percent of the total. The three largest functions of government—education, human resources, and transportation—comprise 88.1 percent of the recommended expenditures for FY 2005.

EXPENDITURES FROM ALL FUNDS BY FUNCTION OF GOVERNMENT

(Millions of Dollars)

Function	Actual FY 03	Rec. FY 04	Change $	Change %	Rec. FY 05	Change $	Change %
General Government	$ 638.6	$ 571.5	$ (67.1)	(10.5)%	$ 585.1	$ 13.6	2.4%
Human Resources	3,278.7	3,369.8	91.1	2.8	3,494.6	124.8	3.7
Education	4,277.8	4,415.3	137.5	3.2	4,589.3	174.0	3.9
Public Safety	445.1	476.2	31.1	7.0	480.3	4.1	0.9
Agriculture & Nat. Res.	146.5	162.1	15.6	10.6	150.7	(11.4)	(7.0)
Transportation	1,295.3	1,215.9	(79.4)	(6.1)	882.1	(333.8)	(27.5)
TOTAL	$ 10,082.0	$ 10,210.8	$ 128.8	1.3%	$ 10,182.2	$ (28.7)	(0.3)%

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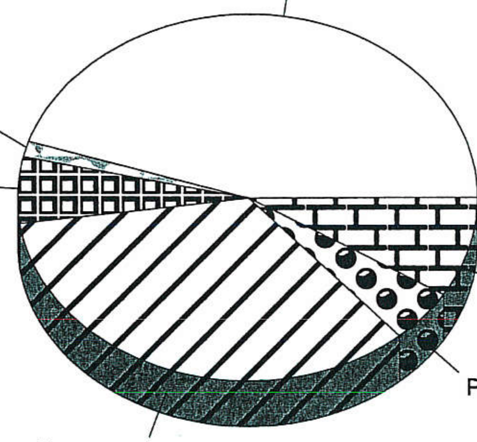
SUMMARY OF EXPENDITURES FROM ALL FUNDS BY FUNCTION OF GOVERNMENT

(Millions of Dollars)



Total: $10,182.2

Summary Plan for Financing

Total state expenditures are financed by the resources contained in approximately 1,300 distinct funds. The following tabulation summarizes total state expenditures. The tabulation separates the plan for financing into operating purposes and capital improvements. The State General Fund operating amount shown in the table for FY 2005 is based on current resources of the Fund. The net increase in State General Fund operating expenditures from FY 2004 to FY 2005 is $281.1 million or 6.5 percent. The Governor's recommendations do, however, include both positive and negative adjustments for individual agencies.

SUMMARY OF THE PLAN FOR FINANCING STATE EXPENDITURES
(Millions of Dollars)

	Actual FY 03	Gov. Rec. FY 04	Change $	Change %	Gov. Rec. FY 05	Change $	Change %
Operating Expenditures:							
State General Fund	$ 4,123.8	$ 4,318.8	$ 195.0	4.7%	$ 4,599.9	$ 281.1	6.5%
All Other Funds	4,948.9	4,977.7	28.8	0.6	5,015.1	37.4	0.8
Total Operating	$ 9,072.7	$ 9,296.5	$ 223.8	2.5%	$ 9,615.0	$ 318.5	3.4%
Capital Improvements:							
State General Fund	$ 13.7	$ 13.5	$ (0.2)	(1.5)%	$ 14.8	$ 1.3	9.6%
All Other Funds	995.6	900.8	(94.8)	(9.5)	552.4	(348.4)	(38.7)
Total Capital Imprv.	$ 1,009.3	$ 914.3	$ (95.0)	(9.4)%	$ 567.2	$ (347.1)	(38.0)%
TOTAL Expenditures	**$ 10,082.0**	**$ 10,210.8**	**$ 128.8**	**1.3%**	**$ 10,182.2**	**$ (28.6)**	**(0.3)%**

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The State General Fund, to which most state tax receipts are credited, is the predominant source of financing for state expenditures. The State General Fund finances 42.4 percent of estimated FY 2004 expenditures. In FY 2005, the State General Fund finances 45.3 percent of the recommended expenditures.

Schedule 7 in *The Governor's Budget Report* (Volume 1) summarizes actual and estimated receipts of federal funds. Estimated FY 2004 receipts are $2.719 billion, a reduction of $278.2 million or 9.3 percent from the FY 2003 actual receipts. The FY 2005 estimate of $2.700 billion is $19.1 million or 0.7 percent below the FY 2004 estimated receipts. Three agencies -- the Department of Social and Rehabilitation Services, the Department of Education, and the Department of Transportation -- account for 73.8 percent of FY 2005 estimated federal receipts.

Federal receipts for fiscal years 2004 and 2005 are dependent on future actions of the federal government. Past experience indicates that the final outcome of those actions will not be known prior to adjournment of the 2004 Legislature.

Expenditures for State Operations

Expenditures for state operations, *i.e.*, for purposes other than local aid, other assistance, and capital improvements, comprise 30.0 percent of total recommended expenditures for FY 2005. The tabulation below divides state operations expenditures into four major components: salaries and wages; contractual services (communications, rent, travel); commodities (food, supplies, stationery); and capital outlay (equipment and furniture, not building and highway construction projects).

SUMMARY OF EXPENDITURES FROM ALL FUNDS STATE OPERATIONS BY MAJOR COMPONENT

(Millions of Dollars)

Function	Actual FY 03	Rec. FY 04	Change $	Change %	Rec. FY 05	Change $	Change %
Salaries and Wages	$ 1,861.0	$ 1,869.3	$ 8.3	0.4%	$ 1,971.4	$ 102.1	5.5%
Contractual Services	692.9	766.2	73.3	10.6	745.5	(20.7)	(2.7)
Commodities	143.5	164.9	21.4	14.9	151.9	(13.0)	(7.9)
Capital Outlay	98.7	92.4	(6.3)	(6.4)	74.1	(18.3)	(19.8)
Debt Service	78.7	87.0	8.3	10.5	102.0	15.0	17.2
Statewide Adjustments	0.0	0.2	0.2	0.0	5.2	5.0	2,500.0
TOTAL	$ 2,874.8	$ 2,980.0	$ 105.2	3.7%	$ 3,050.1	$ 70.1	2.4%

Salaries and wages expenditures, including fringe benefits, comprise almost two-thirds of the state operations budget for FY 2005 (64.6 percent) and represent a $102.1 million or 5.5 percent increase from the FY 2004 estimate.

Salaries and wages policy recommendations incorporated into the proposed FY 2005 budget include the following:

GOVERNOR'S FY 2005 STATE EMPLOYEE SALARY ADJUSTMENTS

	Millions	
	State General Fund	All Funds
A. For classified employees of the executive branch, a 3.0 percent base salary adjustment effective June 6, 2004, the first pay period attributable to FY 2005. For unclassified employees, including statewide elected officials, Regents employees, legislative and judicial branch employees, including legislators and judges, a 3.0 percent unclassified merit pool, to be distributed on the basis of performance.	$ 24.7	$ 53.1
B. Annualization of the FY 2004 Pay Plan (funds are added to cover the costs of the FY 2004 pay plan for all 26 pay periods in FY 2005 - the FY 2004 pay increase was effective for 23 of the 26 pay periods in FY 2004).	1.7	3.5
C. Longevity ($40 a year for each year of service for those classified employees that have at least ten years of service up to a maximum of 25 years).	0.4*	0.8*
GRAND TOTAL	**$ 26.8**	**$ 57.4**

* Amounts reflect the difference between the Governor's recommendation for FY 2004 and the amount of longevity bonus payments that are estimated to be paid in FY 2005.

Financing for all recommended salary adjustments is contained in the recommended budgets for each state agency.

Other Pay Plan Recommendations

The Governor's FY 2005 recommendation includes a 21.5 percent composite rate increase over the FY 2004 amount. This equates to an annual increase in the employer contribution per employee of $852 for single member premiums (from $3,961 to $4,813) and $394 for dependent health insurance premiums (from $1,833 to $2,227).

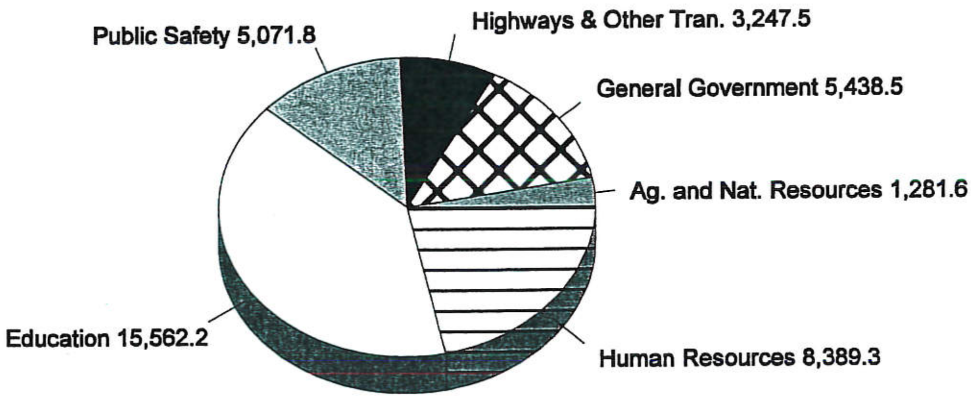
Authorized FTE Employees by Function of Government

Expenditures for salaries and wages are also affected by policy recommendations which change the size of the state's workforce. The FY 2005 budget recommendations of the Governor finance 38,990.9 full-time equivalent positions, a net reduction of 165.5 FTE positions from the FY 2004 recommended level of 39,156.4. In addition, the Governor recommends 1,772.2 non-FTE unclassified permanent positions in FY 2005, a reduction of 7.7 from FY 2004. These employees are not included in the FTE limitation.

The following pie chart reflects the Governor's recommended FY 2005 full-time equivalent positions by function of government.

FY 2005 FULL-TIME EQUIVALENT (FTE) POSITIONS

by Function of Government



Total FTE Positions: 38,990.9

State Workforce Adjustments

The Governor's FY 2005 recommendation reduces the size of the state's workforce by a net 165.5 FTE positions. Factors contributing to the reduction in positions include:

- Reductions of 81.4 FTE positions in the **Department of Administration** budget (to make the position count more accurately reflect anticipated staffing needs for the agency); and a total reduction of 91.0 FTE positions at **Larned State Hospital** (including 19.0 reflecting the elimination of services to children under age 12, and 72.0 related to staffing for the Sexual Predator Treatment Unit).

- It appears as though there has been a change in the methodology for determining FTE and Non-FTE Unclassified positions for the Regents institutions. Traditionally, all positions were considered FTE positions. The Budget System is now separating that total into FTE and Non-FTE Unclassified. The Regents have no position limitation and all of the positions are funded. The number of positions at issue systemwide is 991.1.

Program or Agency Components of the FY 2005— All Funds Budget

To this point, this memorandum has dealt primarily with measuring **year-to-year** changes proposed in *The Governor's Budget Report*. The following tabulation pertains to **FY 2005 only** and measures major programs or agency expenditures in dollar terms and as a percent of the total budget. The budgets of the Department of Education, the Department of Social and Rehabilitation Services, and the Board of Regents and its institutions account for just over two-thirds (67.7 percent) of the total state budget.

GOVERNOR'S RECOMMENDED EXPENDITURES FROM ALL FUNDS, FY 2005
By Agency or Program

	Amount (Thousands)	Percent of Total	Cumulative Percent	Percent Change From FY 04
Department of Education	$ 2,772,715	27.2%	27.2%	6.1%
Department of SRS, Except Hospitals	2,338,770	23.0	50.2	7.7
Board of Regents and Institutions	1,786,233	17.5	67.7	0.8
Department of Transportation	882,125	8.7	76.4	(27.4)
Department of Human Resources	470,262	4.6	81.0	(8.9)
Department on Aging	429,746	4.2	85.2	2.2
Department of Corrections and Facilities	242,691	2.4	87.6	1.8
Department of Health and Environment	189,240	1.9	89.5	(0.2)
State Hospitals	111,289	1.1	90.6	1.3
Highway Patrol and KBI	104,630	1.0	91.6	8.6
Judicial Branch	102,681	1.0	92.6	4.0
Juvenile Justice Authority and Facilities	85,735	0.8	93.5	(1.6)
Department of Revenue	84,777	0.8	94.3	1.5
Dept. of Commerce, KTEC, Kansas, Inc.	73,735	0.7	95.0	(6.1)
Kansas Lottery	56,897	0.6	95.6	0.6
Insurance Dept.and Health Care Stabilization	49,540	0.5	96.1	(0.4)
Department of Wildlife and Parks	43,208	0.4	96.5	(19.2)
State Treasurer	40,859	0.4	96.9	5.5
Adjutant General	35,265	0.3	97.2	(20.5)
KPERS Operations	30,405	0.3	97.5	17.8
Legislative Branch	21,304	0.2	97.7	4.2
Department of Agriculture	20,293	0.2	97.9	(4.9)
State Corporation Commission	18,998	0.2	98.1	9.3
Board of Indigents' Defense Services	18,205	0.2	98.3	7.3
Attorney General	13,098	0.1	98.4	(4.7)
Conservation Commission	9,259	0.1	98.5	(12.7)
Water Office	5,400	0.1	98.6	(11.2)
All Other	144,858	1.4	100.0%	0.0
TOTAL	**$ 10,182,218**	**100.0%**		**(0.3)%**

Note: Each agency's expenditures include state and federal aid, if any, to local units of government.

INCREASE (DECREASE) IN EXPENDITURES FROM ALL FUNDS

FY 2004 to FY 2005

		Amount (Thousands)	Comments
Total Decrease	**$**	**(28,579)**	
Department of Social and Rehab. Services		166,854	Caseload increases
Department of Education		159,891	General and supplemental aid, KPERS - School
Board of Regents and Institutions		14,580	Higher Education Coordination Act funding; pay plan
Department on Aging		9,455	Caseload increases
KBI/Highway Patrol		8,258	Operating expenditures
Judicial Branch		3,931	Operating expenditures
State Treasurer		2,136	Operating expenditures
Department of Revenue		1,252	Operating expenditures
Department of Health and Environment		(470)	Operating expenditures
Attorney General		(639)	Operating expenditures
Juvenile Justice Authority and Facilities		(1,438)	Operating expenditures
Department of Commerce, KTEC, Kansas, Inc.		(4,809)	Operating expenditures
Adjutant General		(9,071)	Reduced disaster relief funding
Department of Wildlife and Parks		(10,239)	Current year capital improvements
Department of Human Resources		(45,697)	Unemployment benefits
Department of Transportation		(333,734)	Increased use of bond proceeds
All Other Agencies		11,161	

Note: Details may not add to total increase due to rounding.

EXPENDITURES AND STATUS OF THE STATE GENERAL FUND

Program and Agency Components of the FY 2005 State General Fund Budget

The following tabulation provides an overview of the program or agency components of the Governor's recommended FY 2005 expenditures from the State General Fund. This tabulation identifies individual components which comprise 99.5 percent of State General Fund expenditures. Education and state aid account for 68.5 percent of State General Fund expenditures.

STATE GENERAL FUND EXPENDITURES BY PROGRAM OR AGENCY
Governor's Recommendations for FY 2005

	Amount (Thousands)	Percent of Total	Cumulative Percent	Increase Over FY 2004 Amount (000)	Increase Over FY 2004 Percent
Education					
State Aid to Local Units	$ 2,442,721	52.93%	52.93%	$ 170,366	7.5%
Bd. of Regents/Institutions (a	588,928	12.76	65.70	21,866	3.9
Other Education*	30,118	0.65	66.35	527	1.8
Subtotal, Education	$ 3,061,767	66.35		$ 192,759	6.7
State Aid Except Education	$ 97,542	2.11	68.46	(2,231)	(2.2)
SRS, Except Hospitals	749,097	16.23	84.70	94,192	14.4
Dept. of Corrections/Facilities	196,028	4.25	88.94	3,310	1.7
Department on Aging	167,581	3.63	92.58	12,883	8.3
Judicial Branch	91,731	1.99	94.56	8,367	10.0
State Hospitals	56,388	1.22	95.79	(295)	(0.5)
Juvenile Justice	45,669	0.99	96.78	2,851	6.7
Legislative Branch	21,138	0.46	97.23	913	4.5
Dept. of Revenue	20,046	0.43	97.67	(1,930)	(8.8)
Dept. of Administration**	19,939	0.43	98.10	284	1.4
Board of Indigents Defense	17,695	0.38	98.48	1,275	7.8
Health and Environment	17,508	0.38	98.86	977	5.9
Highway Patrol/KBI***	12,472	0.27	99.13	(28,372)	(69.5)
Dept. of Agriculture	9,518	0.21	99.34	64	0.7
Elected Officials	5,546	0.12	99.46	(2,518)	(31.2)
All Other	24,996	0.54	100.00	(188)	(0.7)
TOTAL	$ 4,614,661	100.00%		$ 282,341	6.5%

* Includes Department of Education, Schools for the Blind and Deaf, State Library, Arts Commission, and Historical Society, except for state aid to local units.

** Includes Public Broadcasting, except state aid of $0.356 million which is part of Education-State Aid.

*** The Governor's FY 2005 recommendation for the Highway Patrol funds that portion of the Patrol which was funded from the State General Fund in FY 2004 from the State Highway Fund in FY 2005.

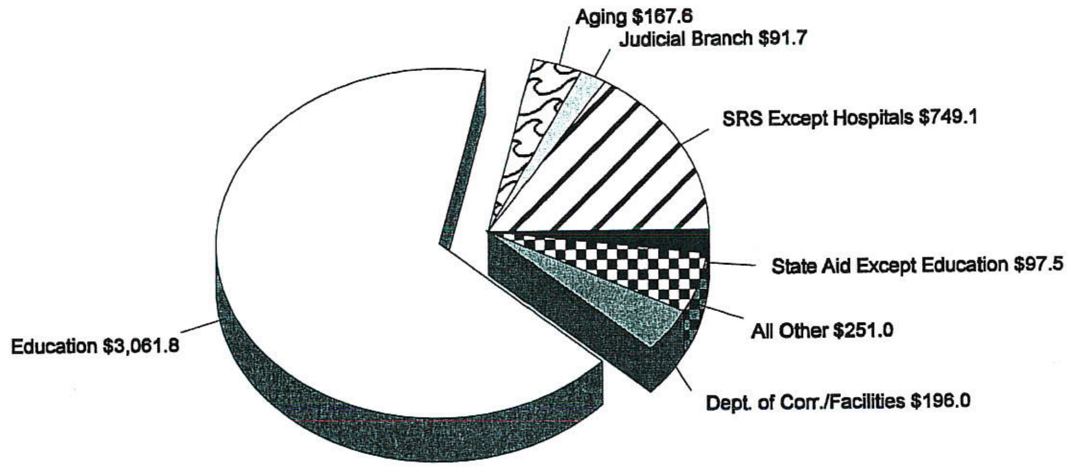
a) Aid to Washburn University is included in state aid to local units ($10.557 million).

Note: All expenditures for each entry from SRS through "All Other" exclude state aid, if any.

The following pie chart displays the FY 2005 State General Fund expenditures by major program.

FY 2005 State General Fund Expenditures by Major Program or Agency

(Millions of Dollars)



Total: $4,614.7

State General Fund Expenditures by Function of Government

The next tabulation summarizes State General Fund expenditures by function of government. The reduction in public safety is largely related to the recommendation to shift funding for the Kansas Highway Patrol from the State General Fund to financing from the State Highway Fund.

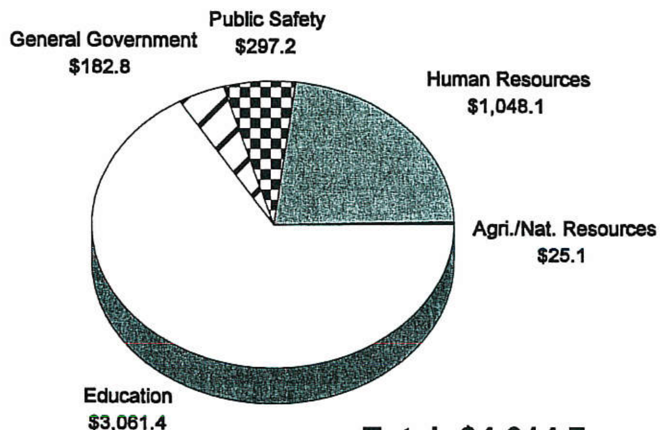
STATE GENERAL FUND EXPENDITURES BY FUNCTION OF GOVERNMENT

(Millions of Dollars)

Function	Actual FY 03	Est. FY 04	Change $	Change %	Rec. FY 05	Change $	Change %
General Government	$ 182.7	$ 173.4	$ (9.3)	(5.1)%	$ 182.8	$ 9.4	5.4%
Human Resources	827.4	944.7	117.3	14.2	1,048.1	103.4	10.9
Education	2,806.8	2,868.7	61.9	2.2	3,061.4	192.7	6.7
Public Safety	298.4	319.1	20.7	6.9	297.2	(21.9)	(6.9)
Agriculture/Natural Resources	22.2	26.4	4.2	18.9	25.1	(1.3)	(4.9)
Transportation	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	$ 4,137.5	$ 4,332.3	$ 194.8	4.7%	$ 4,614.7	$ 282.4	6.5%

The following pie chart reflects FY 2005 State General Fund expenditures by function of government

**FY 2005 STATE GENERAL FUND EXPENDITURES
BY FUNCTION OF GOVERNMENT
(Millions of Dollars)**



Expenditures by Major Purpose

Over $2.5 billion (55.0 percent) of recommended FY 2005 expenditures from the State General Fund is paid to local units of government, 26.1 percent represents the costs of state operations, 18.5 percent is for other assistance payments, and 0.3 percent is for capital improvements.

**STATE GENERAL FUND EXPENDITURES BY MAJOR PURPOSE
(Millions of Dollars)**

	Actual FY 03	Est. FY 04	Change $	Change %	Rec. FY 05	Change $	Change %
State Operations	$ 1,152.5	$ 1,204.7	$ 52.2	4.5%	$ 1,204.8	$ 0.1	0.0%
Aid to Local Units	2,304.3	2,372.1	67.8	2.9	2,540.3	168.2	7.1
Other Assistance	667.0	742.0	75.0	11.2	854.8	112.8	15.2
Total Operating	$ 4,123.8	$ 4,318.8	$ 195.0	4.7	$ 4,599.9	$ 281.1	6.5%
Capital Improvements	13.7	13.5	(0.2)	(1.5)	14.8	1.3	9.6
TOTAL	$ 4,137.5	$ 4,332.3	$ 194.8	4.7%	$ 4,614.7	$ 282.4	6.5%

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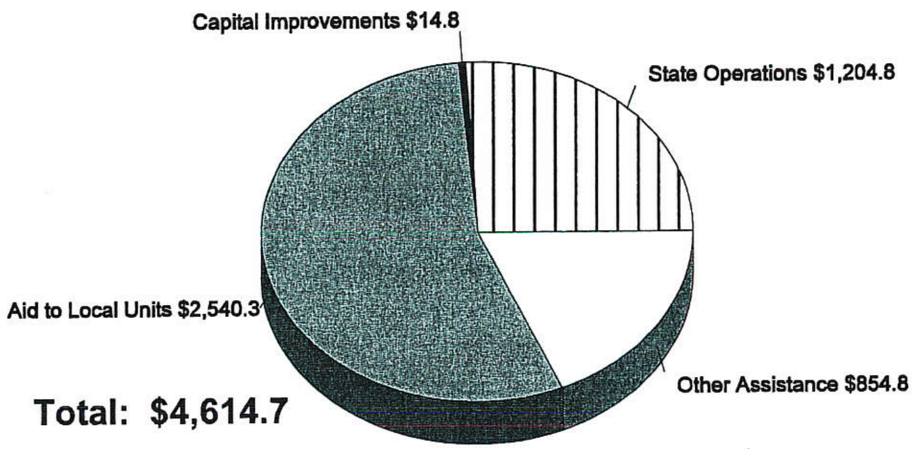
The following pie chart displays FY 2005 State General Fund expenditures by major purpose.

FY 2004 STATE GENERAL FUND EXPENDITURES
BY MAJOR PURPOSE
(Millions of Dollars)



State Operations by Function of Government

The following tabulation shows expenditures from the State General Fund for state operations, *i.e.*, excluding state aid, other assistance, and capital improvements, by function of government.

STATE GENERAL FUND FOR STATE OPERATIONS
BY FUNCTION OF GOVERNMENT
(Millions of Dollars)

Function	Actual FY 03	Est. FY 04	Change $	Change %	Rec. FY 05	Change $	Change %
General Government	$ 176.8	$ 167.2	$ (9.6)	(5.4)%	$ 172.9	$ 5.7	3.4%
Human Resources	145.4	175.2	29.8	20.5	173.6	(1.6)	(0.9)
Education	564.1	572.4	8.3	1.5	591.3	18.9	3.3
Public Safety	244.1	265.0	20.9	8.6	241.9	(23.1)	(8.7)
Agriculture/Natural Resources	22.1	24.9	2.8	12.7	25.1	0.2	0.8
Transportation	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	$ 1,152.5	$ 1,204.7	$ 52.2	4.5%	$ 1,204.8	$ 0.1	0.0%

State Aid to Local Units of Government

The tabulation on the following page lists state aid by major program or financing source. Although most of the programs of state aid to local units are financed from the State General Fund, some significant ones are financed from the resources of other funds. For example, the Governor's recommendation includes $8.2 million in local aid expenditures from the Children's Initiatives Fund in the budget of the Department of Education. Federal aid is not included in this tabulation.

The tabulation reflects State General Fund aid to local school districts in FY 2005 which increases $160.4 million or 7.4 percent above the FY 2004 level. Total State General Fund aid to local units in the budget year increases $168.1 million or 7.1 percent above the current year.

STATE AID TO LOCAL UNITS OF GOVERNMENT
In Thousands

From State General Fund	FY 2001	FY 2002	FY 2003	Gov. Rec. FY 2004	Gov. Rec. FY 2005	Increase FY 2004-2005 Amount	Increase FY 2004-2005 Percent
General State Aid	$ 1,805,484	$ 1,810,731	$ 1,608,950	$ 1,621,855	$ 1,760,302	$ 138,447	8.5%
Supp. General Aid	84,255	116,569	118,571	160,740	163,045	2,305	1.4
Subtotal	1,889,739	1,927,300	1,727,521	1,782,595	1,923,347	140,752	7.9
Cap. Improve. Aid	30,676	40,008	0	0	0	0	0.0
KPERS-School	88,462	98,392	112,148	114,733	134,979	20,246	17.6
Special Ed.	233,391	242,679	249,607	249,792	249,792	0	0.0
Deaf/Blind/Hand. Child.	109	107	107	109	109	0	0.0
Food Service	2,362	2,366	2,370	2,370	2,370	0	0.0
In-Service Training	4,592	2,592	2,594	0	0	0	0.0
Parent Education	4,620	4,236	4,374	4,640	4,640	0	0.0
Ed. Excellence Grants	41	65	98	133	168	35	26.3
Innovative Programs	11	0	0	0 0	0	0	0.0
Mentor Teachers	0	891	0	0	0	0	0.0
School Safety Hotline	0	15	0	0	0	0	0.0
Juv. Detention Grants	4,703	5,170	5,270	6,269	5,599	(670)	(10.7)
Subtotal, USDs	**$ 2,258,706**	**$ 2,323,821**	**$ 2,104,089**	**$ 2,160,641**	**$ 2,321,004**	**$ 160,363**	**7.4%**
Voc. Ed.-Postsecondary	19,508	20,084	19,486	15,300	19,674	4,374	28.6
Community Colleges	74,807	85,174	80,942	80,958	86,044	5,086	6.3
Adult Basic Ed. (CCs)	1,100	1,100	950	1,049	1,049	0	0.0
Tech. Equip. (WU & CCs)	450	450	449	424	424	0	0.0
Washburn University	9,270	10,561	10,101	10,102	10,557	455	4.5
Public TV (Washburn)	323	340	386	358	356	(2)	(0.6)
Libraries	3,866	3,872	3,432	3,398	3,398	0	0.0
Arts Program Grants	1,303	1,314	90	16	104	88	550.0
Pittsburg State	0	3	0	0	0	0	0.0
Historical Society Grants	0	114	436	110	110	0	0.0
Total, Education	**$ 2,368,613**	**$ 2,446,836**	**$ 2,220,361**	**$ 2,272,355**	**$ 2,442,721**	**$ 170,364**	**7.5%**
Local Prop. Tax Reduc	54,137	0	0	0	0	0	0.0
Co.-City Revenue Sharing	34,531	0	0	0	0	0	0.0
Community Corrections	14,753	15,280	12,987	14,241	15,549	1,308	9.2
Community Corr. Camps	2,629	2,247	2,203	2,202	2,202	0	0.0
Juvenile Comm. Prog.	25,317	22,218	14,308	15,855	14,310	(1,545)	(9.7)
Local Public Health	9,582	9,836	6,194	9,581	9,161	(420)	(4.4)
Aging Dept. Programs	10,108	2,329	0	0	0	0	0.0
SRS Aid Programs	56,105	52,189	43,851	52,930	50,975	(1,955)	(3.7)
Disaster Relief/Training	41	371	3,967	1,058	53	(1,005)	(95.0)
Mtr. Carrier Tax to CCHF	10,343	0	0	0	0	0	0.0
Aid to Cons. Districts	0	789	0	0	0	0	0.0
Employment Programs	372	326	65	65	0	0	0.0
Sent. Comm - SB 123	0	0	0	3,842	5,291	1,449	37.7
Total, Other Programs	**$ 217,918**	**$ 105,584**	**$ 83,951**	**$ 99,773**	**$ 97,542**	**$ (2,229)**	**(2.2)%**
Total, State General Fund	**$ 2,586,532**	**$ 2,552,420**	**$ 2,304,312**	**$ 2,372,128**	**$ 2,540,263**	**$ 168,135**	**7.1%**
% of Total SGF Expend.	58.4%	57.2%	55.7%	54.8%	55.0%		

* FY 2001 and FY 2002 reflect expenditures for Department on Aging nutrition programs. Because it was determined that those expenditures are more appropriately categorized as other assistance, the expenditures are not shown for FYs 2003-2005.

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SELECTED STATE AID FROM OTHER FUNDS FOR EDUCATION
In Thousands

From Other Funds	Actual FY 2003	Gov. Rec. FY 2004	Gov. Rec. FY 2005	Increase FY 2004-2005 Dollar	Percent
School Dist. Finance	$ 21,454	$ 32,000	$ 14,900	$ (17,100)	(53.4)%
Driver Safety/Training	1,539	1,547	1,568	21	1.4
Mineral Prod. Tax	4,565	5,411	5,300	(111)	(2.1)
Children's Initiatives					
Four-Year-Old At-Risk	4,500	4,500	4,500	0	0.0
Parent Education	2,500	2,500	2,500	0	0.0
Spec. Educ./General State Aid	1,225	1,225	1,225	0	0.0
Econ. Devel. Initiatives					
Voc. Ed.-Postsecondary	6,144	10,331	6,957	(3,374)	(32.7)
Voc. Ed.-Cap. Outlay	2,565	2,565	2,565	0	0.0
Tech. Grants-CCs/AVS	191	185	181	(4)	(2.2)
Total	$ 44,683	$ 60,264	$ 39,696	$ (20,568)	(34.1)%

SELECTED NONEDUCATION STATE AID FROM OTHER FUNDS
In Thousands

From Other Funds	Actual FY 2003	Gov. Rec. FY 2004	Gov. Rec. FY 2005	Increase FY 2004-2005 Amount	Percent
City-Co. Highway and Co. Equal. and Adj.	$ 149,707	$ 158,649	$ 146,185	$ (12,464)	(7.9)%
State Highway-City Maintenance Payments	2,931	3,360	3,360	0	0.0
Public Transportation	6,372	5,490	5,490	0	0.0
Aviation	3,666	3,000	3,000	0	0.0
Local Alcoholic Liquor	18,981	19,000	19,100	100	0.5
Firefighter's Relief	7,470	7,500	7,500	0	0.0
Co. Mineral Prod. Tax -- Counties' Share	4,565	5,411	5,300	(111)	(2.1)
Rental MV Excise Tax	2,741	2,850	2,900	50	1.8
Tax Incr. Financing Revenue Replacement	1,084	1,100	1,100	0	0.0

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Recommended Changes in State General Fund Programs

The following tabulation summarizes State General Fund expenditure changes from the FY 2004 Governor's revised estimate to the Governor's recommendations for FY 2005.

INCREASE IN STATE GENERAL FUND EXPENDITURES
FY 2004 to FY 2005

	Amount (000)	Percent of Total Increase
Total Increase	**$ 282,341**	**100.0%**
Education		
State Aid for Education, Total	$ 170,366	60.3%
Basic General Aid	138,447	49.0
Supplemental General Aid	2,305	0.8
KPERS-School	20,246	7.2
Community College Aid	5,086	1.8
All Other	4,282	1.5
SRS, Except Hospitals*	94,192	33.4
Board of Regents and Regents Institutions*	21,866	7.7
Department on Aging*	12,883	4.6
Judicial Branch	8,367	3.0
Dept. of Corrections/Facilities*	3,310	1.2
Juvenile Justice Authority/Facilities*	2,851	1.0
Board of Indigents' Defense Services	1,275	0.5
Health and Environment*	977	0.3
Legislative Branch	913	0.3
Department of Administration*	284	0.1
Dept. of Agriculture	64	0.0
State Hospitals	(295)	(0.1)
Department of Revenue	(1,930)	(0.7)
State Aid Except Education	(2,231)	(0.8)
Elected Officials	(2,518)	(0.9)
Highway Patrol/KBI**	(28,372)	(10.0)
All Other*	339	0.1

* Excludes state aid to local units of government

**The Governor's FY 2005 recommendation for the Highway Patrol funds that portion of the Patrol which was funded from the State General Fund in FY 2004 from the State Highway Fund in FY 2005.

DEMAND/REVENUE TRANSFERS FROM THE STATE GENERAL FUND

Demand transfers are certain expenditures specified by statute. Since FY 2002, the demand transfers to the Local Ad Valorem Tax Reduction Fund (LAVTRF), the County and City Revenue Sharing Fund (the CCRSF) and the Special City and County Highway Fund (SCCHF) have been treated as revenue transfers. By changing these demand transfers to revenue transfers, these funds were no longer considered State General Fund expenditures and thus, no longer subject to the State General Fund ending balance law. In FY 2003, the Governor recommended changing the State Water Plan Fund and the School District Capital Improvement Fund to revenue transfers as well. In FY 2004 the remaining demand transfers were also treated as revenue transfers, a recommendation the Governor continues for FY 2005. No transfers are recommended to the LAVTRF or the CCRSF or to the State Highway Fund in FY 2005. The Governor recommends transfers of $57.0 million to the School District Capital Improvement Funds, $10.1 million to the SCCHF, $3.7 million to the State Water Plan, and $0.4 million to the Regents Faculty of Distinction Fund. The table below reflects the Governor's recommended transfers for FY 2005, compared to estimated statutory amounts.

FY 2005 DEMAND/REVENUE TRANSFERS FROM STATE GENERAL FUND TO OTHER STATE FUNDS

(In Thousands)

	FY 2005		
Fund	No Law Change	Proposed	Difference
State Highway	$ 180,179	$ 0	$ (180,179)
Local Ad Valorem Tax Reduction	67,197	0	(67,197)
Co.-City Revenue Sharing	51,615	0	(51,615)
City-Co. Highway	18,000	10,064	(7,936)
Water Plan	6,000	3,749	(2,251)
School Dist. Cap. Improvements	57,000	57,000	0
State Fair	300	0	(300)
Faculty of Distinction	400	400	0
TOTAL	$ 380,691	$ 71,213	$ (309,478)

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Status of the State General Fund

The following tabulation summarizes the status of the State General Fund as to receipts, expenditures, and unencumbered cash balances based on the Governor's recommendation for fiscal years 2004 and 2005.

STATE GENERAL FUND RECEIPTS, EXPENDITURES, AND BALANCES

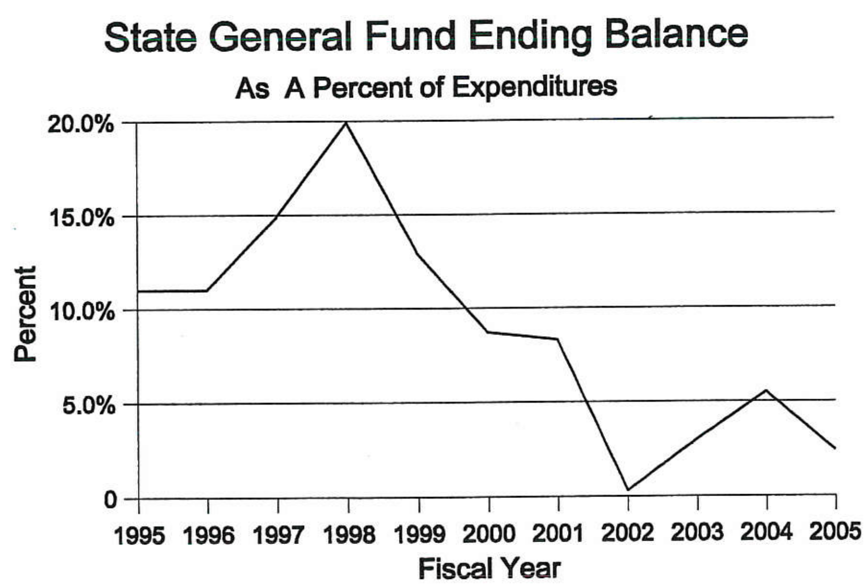
(Millions of Dollars)

	Actual FY 03	Gov. Rec. FY 04	Change	Gov. Rec. FY 05	Change
Beginning Unencumbered Cash Balance	$ 12.1	$ 122.7	$ 110.6	$ 239.5	$ 116.8
Released Encumbrances	2.6	2.5	(0.1)	0.0	(2.5)
Receipts (November 2003 Consensus)	4,245.6	4,483.6	238.0	4,469.3	(14.3)
Gov. Rec. Adjustments	0.0	(37.0)	(37.0)	18.9	55.9
Adjusted Receipts	4,245.6	4,446.6	201.0	4,488.2	41.6
Total Resources	$ 4,260.3	$ 4,571.8	$ 311.5	$ 4,727.7	$ 155.9
Less Expenditures	4,137.5	4,332.3	194.8	4,614.7	282.4
Ending Unencumbered Cash Balance	$ 122.7	$ 239.5	$ 116.7	$ 113.0	$ (126.5)
Ending Balance as a Percentage of Expenditures	3.0%	5.5%		2.4%	
Adj. Receipts in Excess of Expenditures	$ 108.1	$ 114.3		$ (126.5)	

The FY 2005 State General Fund ending balance as a percentage of expenditures under the Governor's recommendations would be 2.4 percent, well below the $346.1 million required to achieve the targeted minimum ending balance of 7.5 percent required under K.S.A. 75-6702 and 75-6703. **Receipts for FY 2004 and FY 2005 are equal to the consensus estimates except for certain transfers and proposals recommended by the Governor which reduce receipts to the State General Fund by $37.0 million in FY 2004 and increase receipts by $18.9 million in FY 2005. The Governor's proposed adjustments include the following:**

- For **FY 2004**, the Governor recommends that all tax refunds be paid on time, resulting in a reduction of receipts of $50.0 million. In addition, the Governor includes disaster relief funding of $2.1 million approved by the State Finance Council in the budget of the Adjutant General. The funding was transferred from the State General Fund to the State Emergency Fund. Those two reductions are offset by a number of transfers to the State General Fund from agency special revenue funds, including: transfers totaling $6.1 million from the Department of Administration related to the Governor's decision to eliminate the state motor pool and sell surplus vehicles; transfers totaling $4.4 million from the Kansas Public Employees Retirement System to refund an overpayment made in previous years for security officers' retirement ($3.7 million) and funding to cover the costs of the bond payment for the KPERS 13th check ($0.7 million); transfers totaling $0.9 million from three different special revenue funds in the Department of Health and Environment ($0.3 million from the Waste Tire Management Fund, $0.2 million from the Subsurface Hydrocarbon Fund, and $0.4 million from the Solid Waste Management Fund); a transfer of $0.1 million from the Racing and Gaming Commission; $0.5 million from the Highway Patrol Motor Vehicle Fund; and $25,000 from the community planning fund of the Juvenile Justice Authority. The Governor's recommended adjustments also reflect a transfer of $0.3 million from the State Treasurer's budget to repay a State General Fund startup loan; savings from the vehicle purchase moratorium at the Kansas Department of Transportation and a matching transfer to the State General Fund totaling $0.4 million; and a reduction in the estimated transfer to the School District Capital Improvements Fund totaling $2.1 million.

- For **FY 2005**, the Governor's recommendation increases State General Fund revenues by $18.9 million. The recommendation proposes making transfers from the State General Fund totaling $71.2 million, including transfers to the School District Capital Improvements Fund ($57.0 million), the Special County City Highway Fund ($10.1 million); a partial transfer to the State Water Plan Fund ($3.7 million), and a transfer to the Board of Regents for the Faculty of Distinction Program ($0.4 million). No transfers are recommended to the Local Ad Valorem Tax Reduction Fund, the County City Revenue Sharing Fund or the State Highway Fund. In addition, the Governor proposes legislation as part of an Economic Revitalization Plan which would provide tax credits for business development in rural areas, which is estimated to reduce State General Fund tax receipts by $2.5 million. The Governor's recommended revenue increases to the State General Fund include: paying all FY 2005 tax refunds on time ($50.0 million); transfers from special revenue funds based on estimated savings from implementation of the Budget Efficiency Savings Teams (BEST) recommendations ($20.1 million), transfers from savings related to the Governor's recommended vehicle purchase moratorium ($2.7 million); transfers from selected special revenue funds with balances in excess of $200,000 ($6.3 million); a transfer of $3.1 million from KPERS to reimburse for the 13th check bond payment; and a transfer of the projected balance in the Kansas Endowment for Youth Fund ($4.6 million). In addition, numerous special revenue fund transfers are recommended, including $0.8 million from three Department of Health and Environment funds, the Waste Tire Management Fund ($0.3 million), the Subsurface Hydrocarbon Fund ($0.2 million) and the Solid Waste Management Fund ($0.3 million); transfers from the Lottery Operating Fund ($0.5 million), the Gaming Revenues Fund ($0.1 million), the Juvenile Detention Facility Fund of the Juvenile Justice Authority ($0.3 million); the Emergency Medical Services operating fund ($1.0 million), the Motor Vehicle Fund of the Highway Patrol ($1.0 million); and the State Fire Marshal Fee Fund ($0.5 million). Finally, the recommendation includes $1.5 million to be transferred from the Department of Wildlife and Parks to repay a loan for a project at Tuttle Creek.



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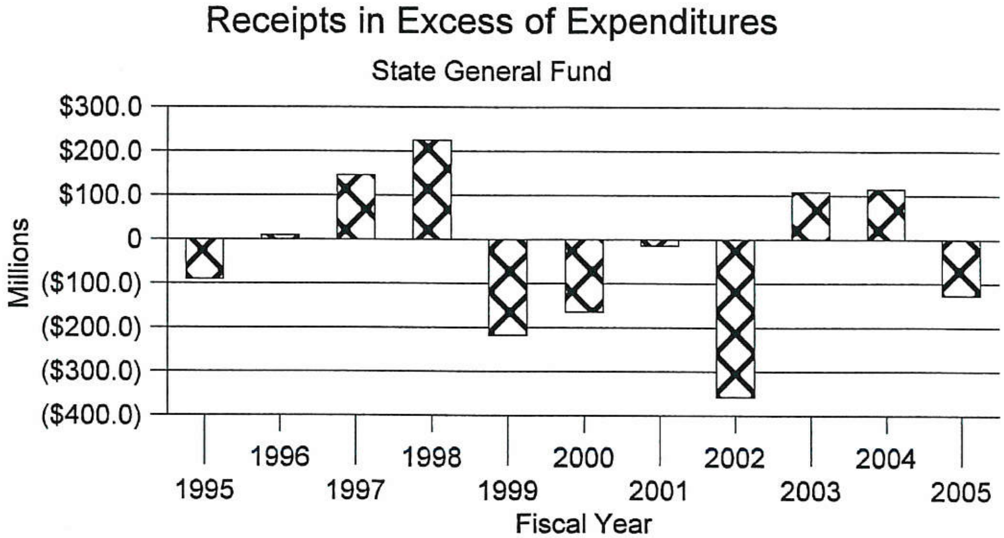

Other Issues

Statutory Budget Submission

K.S.A. 75-6701 requires that the budget submitted by the Governor and the budget ultimately approved by the Legislature provide for a State General Fund ending balance of at least 7.5 percent of expenditures for FY 2004. To comply with this provision, Volume 1 of the *Governor's Budget Report* includes a "statutory budget" designed to provide for a 7.5 ending balance. In general, this requires a 14.8 percent reduction to the FY 2005 State General Fund executive branch budget recommendations submitted by the Governor. That reduction has not been applied to school finance funding in the Department of Education or to the Board of Regents and its institutions. **To achieve the 7.5 percent ending balance, the reduction to the Governor's recommended FY 2005 State General Fund budget would total $216.9 million.**

Budget Efficiency Savings Teams (BEST) Reductions

The FY 2005 Governor's recommendation for executive branch agencies includes savings of $26.7 million (including $6.5 million from the State General Fund) anticipated to be realized by recommendations of the BEST teams. These amounts are related to information technology and purchases. To determine the FY 2005 reductions, expenditure object codes related to those two categories were identified, and four years of actual expenditures for each object code by agency were obtained. This allowed for the identification of a four-year average expenditure amount. The reduction recommended by the Governor is equivalent to 10 percent of that four-year average amount. The special revenue fund reductions will be transferred to the State General Fund. ***It is the recommendation of the Governor that these savings be used to offset the State General Fund portion of the Governor's recommended 3.0 percent salary increase for all state employees.***

New Vehicle Moratorium

On November, 13, 2003, The Governor imposed a moratorium on the purchase of new vehicles for the next two years (with the exception of certain law enforcement vehicles). Due to the deadline for budget submission, funds to purchase these vehicles had already been included in the affected agencies' budget submissions. Therefore, the requested monies were removed from agency budgets by reducing $415,562 in FY 2005 State General Fund appropriations and by reducing expenditure authority and transferring $2,745,750 from special revenue funds to the State General Fund in FY 2005.

"Education First" Plan

The Governor's submitted budget does not reflect the additional proposals included in her "Education First" Plan, which would provide, among other things, funding to increase Base State Aid Per Pupil (BSAPP) by $250 over three years. The proposal is funded through three different revenue sources:

- increased sales taxes (from the current 5.3 percent to 5.5 percent in FY 2005, 5.6 percent in FY 2006, and 5.7 percent in FY 2007, estimated to generate $316.9 million over three years (under current law, the 5.3 percent sales tax is scheduled to be reduced to 5.0 percent at the beginning of FY 2007.)
- a 5.0 percent income tax surcharge estimated to raise $300 million over three years; and
- an increase in the school mill levy from the present 20 mills to 21 mills (estimated to generate $47.0 million over three years). In addition, the proposal includes an additional 1 mill increase beginning in FY 2008.

The table below shows the fiscal impact of the Governor's proposal. The amount shown for FY 2005 would be in addition to her FY 2005 recommendations under current law. Amounts shown for FY 2006 and FY 2007 are increases over the prior year.

Program	Governor's Proposal FY 2005	Governor's Proposal FY 2006	Governor's Proposal FY 2007
BSAPP increased by total of $250 (from $3,863 to $4,113)	$ 58,000,000	$ 43,600,000	$ 43,600,000
Special education funded as $434 addition to BSAPP	--	--	--
Special education infants and toddlers counted as 0.5 FTE pupil	6,000,000		
Funding for school district services provided residents of SRS institutions	500,000	--	--
At-risk weighting increased from 10% to 25%	25,400,000	26,000,000	26,500,000
Bilingual weighting increased from 20% to 25%	1,100,000	1,200,000	650,000
Correlation weighting threshold lowered from 1,725 to 1,700	12,200,000	--	--
All-day kindergartners counted as 1.0 FTE pupil, based on total students at school on free or reduced price lunch	17,000,000	10,900,000	11,600,000*
Capital outlay equalized, up to four-mill limit	15,000,000	1,000,000	1,000,000
Parent Education Program enriched	500,000	500,000	500,000
Mentor Teacher Program funded for first-year teachers	1,000,000	--	--
School district efficiency audits provided	250,000	--	--
TOTAL	**$ 136,950,000**	**$ 83,200,000**	**$ 83,850,000**

* The percentage of students eligible for free and reduced price lunches at the school would decrease by 12 percent increments until FY 2011, when each all-day kindergartner would be counted.