Approved: March 4, 2005
Date

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 A.M. on February 22, 2005, in Room 514-S of the Capitol.

All members were present except:
Representative Newton - excused
Representative Schwab - excused

Committee staff present:
Alan Conroy, Legislative Research Department
J. G. Scott, Legislative Research Department
Amy VanHouse, Legislative Research Department
Reagan Cussimanio, Legislative Research Department
Audrey Dunkel, Legislative Research Department
Jim Wilson, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Administrative Analyst
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:

Others attending:
See attached list.

- Attachment 1 Budget Committee report on Department of Social and Rehabilitation Services (SRS)

Representative Landwehr moved to introduce legislation concerning restrictions on persons maintaining or residing, working or volunteering, at childcare facilities or family daycare facilities. The motion was seconded by Representative Bethell. Motion carried.

Representative Bethell moved to approve the Committee minutes of February 2, February 3 and February 4, as written. The motion was seconded by Representative Pottorff. Motion carried.

SB 118 was referred to the General Government and Commerce Budget Committee.

Representative Landwehr, Chair of the Social Services Budget Committee, presented the Budget Committee report on the Department of Social and Rehabilitation Services (SRS) for FY 2005 and moved for the adoption of the Budget Committee recommendation for FY 2005 (Attachment 1). The motion was seconded by Representative Bethell. Motion carried.

Responding to a question from the Committee, the Budget Committee indicated that the deferrals in Item No. 5 are a result of federal audits which determine if Medicaid funds and other federal funds are being spent in accordance with federal law. Referring to Item No. 2, the Budget Committee noted that the funds to cover the deferrals for FY 2004 and FY 2005 will be paid from fee funds and State General Fund (SGF) moneys, moneys which possibly were designated to provide the 40 percent match to secure more federal funds.

Representative Ballard, member of the Social Services Budget Committee, presented the Budget Committee report on the Department of Social and Rehabilitation Services (SRS) for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 1). The motion was seconded by Representative Landwehr. Motion carried.

Responding to questions from the Committee, the Budget Committee noted that they had a concern with the Frail/Elderly (FE) waiver which has a $3.2 million decrease in its budget with apparently no waiting list at this time. The Budget Committee has requested further information from SRS explaining how the decrease of the FE waiting list was accomplished.

The Committee noted that President Bush has proposed a plan whereby the states will receive 100 percent federal funds for the first year to fund the removal of patients from the institutional setting and state hospitals. The federal funding is an incentive for the states to work toward this goal, with the states guaranteeing that the same level of service will be maintained for three years under the Medicaid program.

Responding to a question from the Committee, the Budget Committee noted that there is a legislative post audit which will address the success of the closure of SRS offices throughout the state and the level of service being received since the closures. The Budget Committees stated that the State Children's Health Insurance Program (SCHIP) was established as a federal ten-year program, originally funded by the federal government for a five-year period. The renewal of funding for SCHIP is proposed to be in the President's budget bill; however, the Budget Committee expressed a concern that when the federal government ceases funding, the state will be required to absorb the cost of the program and possibly limit enrollment.

The Budget Committee noted that the "clawback" effect is the result of the new Medicare Part D prescription drug program pertaining to those individuals, primarily in nursing facilities, who are now dual-qualified, receiving benefits under both Medicare and Medicaid. The new Medicare Part D will move these dual-qualified individuals to Medicare only and benefits under Medicaid will be stopped. The federal government has indicated that they may request the states to return part of the Medicaid funds which were received for those dual-qualified individuals who previously had their prescription drug benefits paid with Medicaid funds. The Budget Committee expressed concern that this issue could escalate over the coming years. Federal rules on the "clawback" issue are being developed at this time.

The meeting was adjourned at 10:30 a.m. The next meeting of the Appropriations Committee will be held at 9:00 a.m. on February 23, 2005.

Melvin Neufeld, Chair

HOUSE APPROPRIATIONS COMMITTEE
February 22, 2005
9:00 A.M.

NAME	REPRESENTING
Jolene Benham	Interpretic
Brenda Eddy	Youth Leadership Forum
Lois Weeks	SRS
Carolyn Middendorf	Ks St Ns Assn
Sheli Sweeney	Assoc. of CMHC
Mike Hammond	" " "
Kerrie Bacon	KCDC
Wayne White	Ks Legal Serv.
MATT FLETCHER	INTERHAB
Doug Bowman	Coordinating Council on Early Childhood
Ron Seeber	Hein Law Firm
Paul Johnson	PACK
[illegible]	Budget
Shannon Jones	SILCK
Josie Torrez	SILCK
Jennifer [illegible]	KACIL
Bruce Linhos	Children's Alliance
Marty Kennedy	KDOA

HOUSE SOCIAL SERVICES BUDGET COMMITTEE

FY 2005 and FY 2006

Social and Rehabilitation Services

Representative Brenda Landwehr, Chair

Representative Barbara Ballard

Representative Bob Bethell

Representative Willa DeCastro

Representative John Edmonds

Representative Jerry Henry

Representative Peggy Mast

Representative Louis Ruiz

Representative Arlen Siegfreid

HOUSE APPROPRIATIONS

DATE 2-22-2005

ATTACHMENT 1

House Budget Committee Report

Agency: Department of Social and Rehabilitation Services | **Bill No.** 2480 | **Bill Sec.**27

Analyst: Dunkel | **Analysis Pg. No.** Vol. II, 1007 | **Budget Page No.** 373

Expenditure	Agency Estimate FY 05	Governor Rec. FY 05	House Budget Committee Adjustments
State General Fund	$ 804,137,334	$ 835,083,480	$ 0
Other Funds	1,693,286,294	1,706,698,674	125,000
TOTAL	$ 2,497,423,628	$ 2,541,782,154	$ 125,000
Capital Improvements			
SGF	$ 0	$ 0	$ 0
Other Funds	10,322,587	10,322,587	0
TOTAL	$ 10,322,587	$ 10,322,587	$ 0
FTE Positions	3,981.5	3,981.5	0.0
Non-FTE Perm. Uncl. Pos.	76.4	76.4	0.0
	4,057.9	4,057.9	0.0

Agency Estimate/Governor's Recommendation

The **agency** requests FY 2005 expenditures of almost $2.5 billion all funds, $804.1 million State General Fund, an increase of $97.1 million or 4.0 percent all funds and $12.0 million or 1.5 percent State General Fund above the amount approved by the 2004 Legislature. The increase includes supplemental requests totaling $5.6 million all funds. The remainder of the increase is financed by reappropriations from FY 2004.

The **Governor** recommends FY 2005 expenditures of $2.5 billion all funds, $835.1 million State General Fund, an increase of $141.5 million or 0.5 percent all funds and $42.9 million or 5.4 percent State General Fund above the amount approved by the 2004 Legislature. The increase reflects Fall Consensus Caseload Estimate additions of $139.2 million all funds, $30.8 million State General Fund and reappropriations from FY 2004.

House Social Services Budget Committee Recommendation

The Social Services Budget Committee concurs with the Governor's recommendation with the following adjustments:

1. **Change from FY 2005 Approved.** The Budget Committee notes that the Governor's FY 2005 revised recommendation for the Department of Social and Rehabilitation Services is a State General Fund increase of $42.9 million or 5.4 percent above the FY 2005 State General Fund amount approved by the 2004 Legislature. The increase includes consensus caseload increases of $30.8 million State General Fund.

2. The Budget Committee notes that the agency experienced federal fund deferrals of $13.3 million in FY 2004 and expects an additional $15.5 million in federal fund deferrals in FY 2005 in the child welfare program. In FY 2004, the $13.3 million in deferrals were addressed with a portion of the funds added by the 2004 Legislature. The agency anticipates deferrals of $15.5 million in FY 2005 which will be offset with $9.5 million in one-time pharmaceutical rebate payments in the SRS Fee Fund. This leaves $6.1 million unaddressed in FY 2005. The Budget Committee recommends review of this item at *Omnibus*.

3. The Budget Committee notes that under the new child welfare contracts, which are Medicaid fee-for-service, the agency believes several Medicaid encounters claimed in the past will be unallowable for Medicaid funding and will need to be covered with state dollars totaling $4.1 million. The Budget Committee recommends review of this item at *Omnibus*.

4. The Budget Committee adds $125,000 from the Social Welfare Fund for the agency to allow Kansas Legal Services (KLS) to continue its contract work FY 2005. The Budget Committee notes that KLS, the contractor that provides legal representation and disability determination case management for persons receiving General Assistance (GA)/MediKan benefits, is paid through a performance base contracts. This means that they receive $1,000 each time they assist a disabled individual to obtain either Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), $700 for each case won at the Appeals Council level, and $300 for each case that benefits are not obtained with their assistance. KLS has been so successful in achieving these goals that Department of Social and Rehabilitation Services has terminated referrals to KLS to keep them within the $700,000 contractual payment amount.

5. The Budget Committee notes that the agency is experiencing several deferrals and audits. The following table lists the impact of deferrals and potential audit penalties for FY 2005. A description of the audits and deferrals is attached to this report.

Item	Penalty/Deferral
	FY 2005
Child Welfare Deferral	$15.5 million*
Disability Determination Services (DDS) Audit	$4.9 million*
Statewide Automated Child Welfare Information System (SACWIS) Disallowance	$1.0 million*
Synar Penalty	$2.3 million
TOTAL	$14.3 million

* The agency uses SRS fee fund to address these items as follows: Child Welfare Deferral - $9. 5 million; DDS Audit - $4.9 million; SACWIS disallowance - $1.0 million.

6. The Budget Committee notes that the Governor's recommendation includes $7.4 million State Institutions Building Funding (SIBF) for rehabilitation and repair at the state hospitals. The Budget Committee further notes that the 2004 Legislature approved FY 2005 expenditures of $6.8 million SIBF for rehabilitation and repair projects at the state developmental disability institutions, but added language requiring the recommendation of the Legislative Budget Committee (LBC) and approval of the State Finance council for expenditure of the funds. The LBC recommended expenditures of $5.0 million SIBF for the projects, which was subsequently approved by the State Finance Council. The Governor's recommendation for FY 2005 does not reflect this change in approved expenditures. The Budget Committee notes the Joint Committee on State Building construction recommended the lapse of the unspent $1.8 million SIBF.

House Budget Committee Report

Agency: Department of Social and Rehabilitation Services **Bill No.** 2482 **Bill Sec.** 54

Analyst: Dunkel **Analysis Pg. No.** Vol. II, 1007 **Budget Page No.** 373

Expenditure		Agency Req. FY 06		Governor Rec. FY 06		House Budget Committee Adjustments
State General Fund	$	882,903,095	$	872,695,709	$	0
Other Funds		1,729,980,211		1,800,718,545		125,000
TOTAL	$	2,612,883,306	$	2,673,414,254	$	125,000
Capital Improvements						
SGF	$	0	$	0	$	0
Other Funds		4,516,300		4,516,300		0
TOTAL	$	4,516,300	$	4,516,300	$	0
FTE Positions		4,007.5		3,981.5		0.0
Non FTE Perm. Uncl. Pos.		49.9		76.4		0.0
TOTAL		4,057.4		4,057.9		0.0

Agency Request/Governor's Recommendation

The **agency** requests FY 2006 expenditures of over $2.6 billion all funds, $882.9 million State General Fund, an increase of $115.5 million or 4.6 percent all funds and $78.8 or 9.8 percent State General Fund. The request includes enhancements totaling $152.7 million all funds and $78.9 million State General Fund.

The **Governor** recommends FY 2006 expenditures of $2.7 billion all funds, $872.7 million State General Fund, an increase of $64.7 million or 2.5 percent all funds and a decrease of $10.2 million or 1.2 percent State General Fund from the agency FY 2006 request. The increase reflects additions for the Fall Consensus Caseload estimates and funding for the KPERS death and disability rate increase, 27th payroll period, and 2.5 percent base salary adjustment.

The State General Fund reduction reflects the agency request to shift funding sources not included in the Governor's budget recommendation.

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 2006. 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 8.9 percent reduction to the FY 2006 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, to the Board of Regents and its institutions, or to the judicial or legislative branches. **For this agency, the reduction to the Governor's recommended FY 2006 State General Fund budget would total $77,925,777.**

House Social Services Budget Committee Recommendation

The Social Services Budget Committee concurs with the Governor's recommendations with the following adjustments and observations:

1. **Change from FY 2005 Approved.** The Budget Committee notes that the Governor's FY 2006 State General Fund recommendation for the Department of Social and Rehabilitation Services totals $872.7 million, an increase of $80.6 million above the FY 2005 State General Fund amount approved by the 2004 Legislature. Absent amounts recommended for the 2.5 percent base salary adjustment ($1,307,679), the 27th payroll period ($2,647,411), and the Kansas Public Employees Retirement System (KPERS) death and disability increase ($200,773), and consensus caseloads ($63,424,913) the recommendation is an increase of $12,980,770,or 1.6 percent above the approved amount.

2. The Budget Committee notes that under the new Child Welfare contracts, which are Medicaid fee-for-service, the agency believes several Medicaid encounters claimed in the past will be unallowable for Medicaid funding and will need to be covered with state dollars. The agency estimates $10.0 million in state funds will be necessary in FY 2006. The Budget Committee recommends review of this item at *Omnibus*.

3. The Budget Committee notes that the Governor's budget recommendation includes reductions that eliminate out of home services, for clients ages eighteen and over, of $879,482 all funds and $576,389 SGF. The program provides support to young adults who are physically or mentally handicapped or who are needing additional support while they complete their education. As a result of this reduction, the agency indicates clients may not receive needed services resulting in undue hardships as a result of being exposed to additional risk factors. This reduction would require a statutory change by the Legislature. 2005 SB 171 would address this reduction, and is currently being heard in the Senate Judiciary Committee. If this bill is not passed, the agency budget will be short the reduction amount.

4. The Budget Committee notes that the Governor's budget recommendation includes a reduction that eliminates out of home services for non-abuse/ non-neglect children ages sixteen through seventeen for a savings of $2.9 million all funds and $1.9 million SGF. The program provides support to youth who have physical or mental handicaps, youth who are needing support to remain in school, or youth who are out of parental control. According to the agency, the reduction may result in clients not receiving services resulting in undue hardships as a result of being exposed to additional risk factors. This reduction would require a statutory change by the Legislature. 2005 SB 171 would address this reduction, and is currently being heard in the Senate Judiciary Committee. If this bill is not passed, the agency budget will be short the reduction amount.

5. The Budget Committee notes that the Health Care Access Improvement Program approved by the 2004 Legislature is currently under review by the

Centers for Medicare and Medicaid Services (CMS). The agency anticipates approval of the program by April 2005. This will result in an additional $111.3 million all funds available for the Regular Medical program.

6. The Budget Committee notes that eligibility for services under the Medicaid program requires that a person have resources below $2,000. Persons must "spend down" their assets to this level before they can be eligible for Medicaid services. Most often assets are expended for the care of the person. The Budget Committee is concerned that some people use other avenues to "spend down" assets - establishment of special trust funds, investment in exempted assets, and the transfer of assets outside the three year look-back period in federal law. The Budget Committee requests the agency review this process and incorporate in their process an explanation that "spend down" should be for the person's care.

7. The Budget Committee notes that the Kansas Equipment Exchange (KEE), located at the Kansas University Center on Disabilities at Parsons works with durable medical equipment (DME) providers to remind Medicaid recipients about the re-use program for durable medical equipment. Department of Social and Rehabilitation Services notifies recipients of expensive pieces of equipment that it must be returned for re-use once it is no longer needed by the beneficiary. KEE staff also call beneficiaries periodically to determine if the equipment is still in use. The Budget Committee encourages the agency to continue to pursue methods of reducing costs for durable medical equipment and applauds its efforts thus far.

8. The Budget Committee congratulates the agency on the expansion of it's policies regarding the Vagus Nerve Stimulation (VNS) device and the Baclofen Intrathecal (ITB) pumps. Vagus Nerve Stimulation (VNS) involves the placement of a programmable pacemaker-like device in the upper chest through a surgical procedure. By stimulation of the vagus nerve, it has been show that abnormal seizure activity is reduced. The VNS is powered by a battery that must be replaced every 1.5 to 5 years, also through a surgical procedures. The VNS is a non-mandated service that has previously been covered only for children aged 12 to 21 who qualify for the early periodic screening, diagnosis and treatment program. SRS has instituted a policy that would continue coverage in adulthood for continued battery pack replacement, along with the accompanying surgical procedure. A similar policy change has been made related to the coverage of Baclofen Intrathecal (ITB) pumps, which is an implantable infusion pump used to treat severe spasticity. The policy change related to ITB will provide ongoing coverage for refills and pump maintenance for adults. The adult coverage for battery or pump replacement will be provided regardless of who paid for the original implant.

   The Budget Committee recommends the agency explore adult coverage for implantation of both the VNS device and the ITB pumps in the future.

9. The Budget Committee notes that the agency received an additional $5.4 million in federal funds for the State Children's Health Insurance Program (SCHIP). Even with the additional funding, the agency anticipates the state's SCHIP account will be depleted in April 2007.

10. The Budget Committee notes that the Kansas Children's Service League (KCSL) has been charging potential foster parents $325 for home study reports. The charge was implemented to address the issue of persons accessing adoption services through KCSL until the home study report was completed without charge, then taking the report and going through a private adoption agency. The Budget Committee recommends that when a family has been turned down by the adoption contractor for adoption of a child, that the home study report be made available to them free of charge, similar to credit reports.

11. The Budget Committee notes that the agency reduction packages included a reduction of $470,000 State General Fund for the elimination of the funeral assistance program, which provides less than $600, on average, in assistance for families presently receiving TAF, General Assistance, Food Stamps or Medicaid. This reduction package has been offered by the agency for the last several years, and the Governor does not recommend the reduction.

12. The Budget Committee notes with concern the anticipated fiscal affect of the Medicare Part D prescription drug program on the state of Kansas. The federal estimate for the "clawback" from Kansas is $85.5 million, while the agency's estimate is significantly lower, at $42.0 million. The agency indicates the reason for the difference is that the Centers for Medicare and Medicaid Services (CMS) used data from a national reporting system which assume 100.0 percent of all aged and disabled persons receiving Medicaid are eligible for Medicare. The agency believes this assumption to be incorrect, but does not know what the methodology will be used to calculate the payment required by the state.

13. The Budget Committee notes that the agency requested enhanced funding of $24.1 million State General Fund to replace Temporary Assistance for Needy Families (TANF) funding in the Foster Care Contracts. The balances in the TANF fund have been expended and maintenance of current funding levels for other programs in the agency requires a shift in funding sources. The Governor does not recommend the enhancement, but funds Foster Care with $7.0 million TANF, $10.0 Million Intergovernmental Transfer Fund, and $ 7.1 million Department of Social and Rehabilitation Services Fee Fund. The Budget Committee notes that these are one-time funding sources, and that there will be a TANF shortfall in FY 2007.

14. The Budget Committee adds $125,000 from the Social Welfare Fund for the agency to allow Kansas Legal Services (KLS) to continue its work. The Budget Committee notes that KLS, the contractor that provides legal representation and disability determination case management for persons receiving General Assistance (GA)/MediKan benefits, is paid through a performance base contracts. This means that they receive $1,000 each time they assist a disabled individual to obtain either Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), $700 for each case won at the Appeals Council level, and $300 for each case that benefits are not obtained with their assistance. KLS has been so successful in achieving these goals that Department of Social and Rehabilitation Services has terminated referrals to KLS to keep them within the $700,000 contractual payment amount.

15. The Budget Committee notes that the agency is experiencing several deferrals and audits. The following table lists the impact of deferrals and potential audit penalties for FY 2005 and beyond. A description of the audits and deferrals is attached to this report (Attachment A).

Item	Penalty/Deferral ($ in millions)		
	FY 2005	FY 2006	FY 2007
Child Welfare Deferral	$15.5		
Disability Determination Services Audit	$4.9		
Statewide Automated Child Welfare Information System (SACWIS) Disallowance	$1.0		
Synar Penalty	$2.3		
LEA Medicaid audit		$40.0	$0
Child Welfare Rehabilitation Services Medicaid Audit		$0	$20.0
TOTAL	$23.7	$40.0	$20.0

16. The Budget Committee notes that House Resolution 6015, disapproving Executive Reorganization Order (ERO) No. 33, which reorganizes specific state health care programs and establishes a Division of Health Policy and Finance within the Department of Administration, was passed out by the House Appropriations Committee and is awaiting further action in the House.

17. The Budget Committee notes that the Governor's budget recommendation shifts $4.5 million Social Services Block Grant (SSBG) to the Department on Aging for the Senior Care Act program in return for $4.5 million State General Fund from that program, which will be used to draw down additional federal matching funds by the Department of Social and Rehabilitation Services. SSBG funds can be used for five goals: 1) to prevent, reduce, or eliminate dependency; 2) to achieve or maintain self-sufficiency; 3) to prevent neglect, abuse, or exploitation of children and adults; 4) to prevent or reduce inappropriate institutional care; and 5) to secure admission or referral for institutional care when other forms of care are not appropriate. Services provided by the Senior Care Act program fall within these guidelines.

18. The Budget Committee recommends that if further budget reductions should become necessary, the Department of Social and Rehabilitation Services budget should be exempted, having contributed more than its fair share in addressing the budget crisis.

19. The Budget Committee notes that while only a few items in the SRS budget are included in this budget, it does not diminish the importance of the myriad of other essential services provided by the agency. Unfortunately, the current budget constraints allowed the Subcommittee to address just a few of those services.

20. The Budget Committee recommends the following language be included in the appropriation bill to ensure that funds follow the person from an institution into a community setting: During the fiscal year ending June 30, 2006, of the expenditures from the Mental Health and Retardation Services Aid and Assistance account for HCBS/MRDD services as authorized by this or other appropriations act of the 2005 regular session, reimbursement rates for consumers with documented extraordinary needs who currently receive, have been approved for or leave a state institution or private institutional setting and are approved for special tier or individualized rates shall be maintained at a level no lower than the rate of reimbursement for these consumers on July 1, 2002: *Provided, however*, That, nothing in this subsection shall prohibit a reduction or guarantee an increase in the reimbursement rate for consumers with documented extraordinary needs because of a change as a result of the annual basis assessment: *Provided further*, That any reductions in the HCBS/MRDD funding in fiscal year 2006 shall be implemented based on information and recommendations obtained in the most recent rate study required under subsection (a)(3) of KSA 39-1806 and amendments thereto.

21. The Budget Committee notes that the Joint Committee on Children's Issues has noted serious problems in the delivery of mental health services for children, youth, and their families over the last several years in three major areas: 1) access to services; 2) communication and cooperation; and 3) system issues. Access issues include distance, hours that services are available, access to appropriate services, timeliness of services, and inability of a child's parents to pay for court ordered services. The concerns regarding communication and cooperation included the exclusion of foster parents from the mental health treatment process for children in their care, fear of retaliation from providers against foster parents who complained, resolution of differences between foster care contractors and community mental health centers as children with Severe Emotional Disturbance (SED) were transferred to services in the community, and inclusion of parents in a child's treatment. The system issues in children's mental health services were continuity of services as children move in and out of the child welfare system, failure to utilize available providers by community mental health centers, and lack of follow-up once a child returns home. The Budget Committee recommends continued monitoring of these issues in the future (Attachment B).

22. The Budget Committee recommends the agency work with Electronic Data Services (EDS) to enhance the current Kansas Medical Assistance Program website to add electronic prescription capability. This would allow physicians to submit prescriptions electronically to the patients pharmacy. In addition, the Budget Committee recommends alternative methods of transmission for pharmacies with varying technological capabilities.

23. The Budget Committee notes that Section 1902 (a)(55) of the Social Security Act requires that state Medicaid programs provide out stationed eligibility workers (OEW) in Federally Qualified Health Centers (FQHCs) and disproportionate share hospitals to provide for the receipt and initial processing of applications for medical assistance. The state may outstation staff or reimburse FQHCs necessary administrative costs such as salary, fringe benefits, travel, training , equipment and space directly attributable to the out

stationing of eligibility workers. Federal matching dollars are available as an administrative match for costs incurred by the state to implement and provide out stationing of eligibility workers at a rate of 50.0 percent. The Budget Committee recommends authorization for FQHCs to provide certified match of dollars from local units of government to draw down federal match for OEWs.

24. The Budget Committee notes that the agency has requested enhanced funding for the Traumatic Brain Injury (TBI) waiver of $500,000 State General Fund to replace other state fees fund to continue the enhancement added by the 2004 Legislature for FY 2005. The Governor does not recommend the enhancement. The agency does not believe funds will be available in the other state fees fund to continue the enhanced funding in FY 2006. The Budget Committee notes that the TBI waiver currently has no waiting list. The agency indicates that the wait for services has been time needed to process the paperwork and get the names back out to case managers. The Budget Committee recommends review of funding of this item at *Omnibus* to reassess the funding that may be necessary for the program in FY 2006.

25. The Budget Committee notes that the Governor recommends a reduction of $1.2 million all funds, $480,000 State General Fund for the elimination of a separate administrative services contract for the Medicaid dental program. Currently, Doral Dental is the managed care organization (MCO) for the State Children's Health Insurance Program (SCHIP)-Healthwave Title XXI. Doral manages all administrative aspects of the program, including recruitment and enrollment of dentists, referral of beneficiaries, claims adjudication, and claims payment to dentists. Department of Social and Rehabilitation Services currently contracts with Doral to provide administrative services for the Title XIX Medicaid providers and beneficiaries - Doral receives all dental claims, adds prior authorization for required services, and answers enrollment and billing questions. EDS performs other functions including claims processing the issuance of payments to dentists, and customer services. This has caused concerns in the dental community, prompting the agency to make changes. The reduction would make Doral Dental responsible for dental administrative services for the Medicaid program, including claims payments. The agency will make payments to Doral based on MMIS verification of validated claims. This is necessary because all claims must be validated through the MMIS system.

    The Budget Committee has concerns about this transition and its affect on dental service providers and requests the agency update the Budget Committee on the dental contract change and provide process charts for both the current system and the system after the change by *Omnibus*.

26. The Budget Committee notes that United Methodist Youthville (UMY) has a sexual offender treatment program at their Dodge City Level VI program. They also have a Sexual Issues program for boys who have had sexual conduct problems, but are not yet necessarily adjudicated for the problem. UMY indicates the sexual offender program has a long waiting list at this time. The Budget Committee requests the agency report back prior to *Omnibus* on the costs and the number served in these programs, as well as other programs that provide treatment for these children.

27. The Budget Committee requests the agency provide the number of fraud cases prosecuted and the amount recovered prior to the implementation of the new Medicaid Management Information System (MMIS) and after the implementation of the system including cases pending by *Omnibus*.

28. The Budget Committee notes that the Governor's recommendation includes \$7.5 million all funds, \$3.0 million State General Fund to fund developmental disability waiver reimbursement rate enhancement. The Budget Committee recommends review of this item at *Omnibus*.

29. The Budget Committee requests the agency report back by *Omnibus* on the status of the Graduate Medical Education (GME) program.

30. The Budget Committee notes with concern the change in the contracts for Family Preservation, Adoption, and Foster Care for FY 2006. The new contracts are designed to eliminate the need to transition children between the foster care and adoption contractors. Both the child/family's case management services and the reintegration/foster care services are to remain with the contractor receiving the original referral throughout the life of the case. The adoption contractor is responsible for recruiting, training and preparing adoptive families for the entire state. The adoption contractor will provide training and support to the adoptive family, while the original referral contractor continues its involvement in the case as a child is referred to adoption services.

    Along with a change in the practices of the child welfare contracts, there is a change in payment methodology. Payment for family preservation services will occur three times - at the point of referral, on the 45th day of service and on the 90th day of services, through a performance based system. In the case of foster care payment, a tiered structure is being used. The statewide adoption contractor will be paid a flat monthly amount to recruit and train a group of families willing to adopt, and provide matching services to the family preservation and reintegration/foster care contractors.

    The Budget Committee applauds the agency responsiveness to the prior recommendation that adoption services should be handled by a single contractor, however, the new contracts are similar to those developed when privatization began. Those initial contracts may have contributed to financial demise of several child welfare contractors in the state. In light of these concerns, the Budget Committee request the agency report back at *Omnibus* on the contract details regarding payment rates and methodology.

31. The Budget Committee heard excellent testimony from several young people regarding the Youth Leadership Forum (YLF). YLF is a statewide, five-day leadership training program for high school juniors and seniors with disabilities. Approximately 30-40 new students are selected to attend each year through a competitive application process. YLF is an intense, motivational event held on a college campus with a curriculum that addresses leadership skills, career goals, disability history and resources, advocacy and other issues related to disabilities and living independently. The forum costs between \$50,000 to

$60,000 to host, depending on the accommodations needed for the delegates, and is funded through grants, sponsorships, and contributions.

The Youth Leadership Forum is currently operating with loaned staff and facilities with a five-year commitment of support from the Resource Center for Independent Living. The support is phasing out over the next two years. The Forum is seeking non-profit status and pursuing grants toward that end. However, stable funding is the biggest challenger. YLF has requested $150,000 to cover the costs of the forum, staff and administration. The Budget Committee recommends review of this program at *Omnibus* to determine if additional funding is available.

32. The Budget Committee notes the excellent work of the Boys and Girls Clubs of Kansas, which provide services to 28,706 children through programs like Smart Moves (alcohol, drug, and abstinence from sexual behavior in age appropriate settings, Smart Girls (health, fitness, and self esteem for girls 8-17), Passport to Manhood (responsibility and positive behavior for males 11-14), as well as Power Hour (academic preparation programs.) The Kansas Alliance ob Boys and Girls Clubs is requesting $100,000 to expand their programs to more children. The Alliance suggested the Children's Initiatives Fund (CIF) could be an appropriate funding source, however, the Kansas Children's Cabinet noted that it does not recommend CIF for program without an evaluation plan, which the 2004 Legislature required for any new funding through the CIF. The Budget Committee recommends review of this program at *Omnibus* to determine if additional funding is available.

33. The Budget Committee recommends *Omnibus* review of the performance audit report Foster Care: Determining Whether Adoptions Are Being Finalized As Quickly As Possible, Once An Adoptive Family is Located.

34. The Budget Committee notes with concern that the average total caseload for Child Support Enforcement in FY 2004 was 134,115, with only 63,831- roughly half, of these open cases having support orders. While the average support due for each month for these cases was $14.1 million, the average support paid was only $7.8 million. The Budget Committee request an update from the agency at *Omnibus* on efforts to improve child support collections in the state.

Attachment A

FEDERAL DEFERRALS & AUDIT FINDINGS

Child Welfare Medicaid Deferral

CMS has deferred medical services claims in the child welfare contracts for all four quarters of the FY 2004 and has said they will defer the two quarters of FY 2005. The deferrals were initially made because of the state's inability to comply with the new managed care regulations which became effective August 2003. The Department has worked to comply with all the new CMS requirements, but, additional issues have been raised subsequently. SRS is currently working with CMS to resolve these deferrals and reach compliance for future periods.

New child welfare contracts will be effective on July 1, 2005 which will not include any Medicaid in the rate. Medicaid services will be billed fee-for-service by the provider of the service. Because of the issues that surfaced with the managed care deferrals, the amount of Medicaid funding CMS will allow the agency to claim could be significantly less than currently budgeted. SRS is currently working with CMS to resolve any state plan changes that may need to be made in order to assure that children in out-of-home placement receive Medicaid services.

Impact: The impact to available funds of this deferral has been reduced from the $38.6 million from the original estimate to $6.1 million in FY 2005. $9.8 million of the deferral has been reimbursed by the federal government, $9.5 million has been offset with Department of Social and Rehabilitation Services Fee Fund revenue derived from a one-time pharmaceutical rebate payments, and $13.3 million has been offset in FY 2004 with a portion of the funds added by the 2004 Legislature, which were used to draw down additional federal funding.

Child Welfare Contracts Funding Shift. Through the consensus caseload process, the Title XIX funds have remained budgeted in FY 2005 at the same level approved by the 2004 Legislature. Under the new Child Welfare contracts, which are fee-for-service, the agency believes several Medicaid encounters claimed in the past will be unallowable for Medicaid funding and will need to be covered with state dollars.

Impact: The agency estimates it will need an additional $4.0 million in state funds in FY 2005 and $10.0 million in FY 2006 to address the reduced federal match available to the state. Without these funds, the agency anticipates cash flow problems in FY 2005 and FY 2006.

State Hospital Medicaid Disallowance. In November 2002, CMS deferred $11.1 million of educational costs and formally disallowed the amount in January 2004. (The disallowance letter states $13.3 million. However, CMS has taken the $11.1 million originally deferred from the Medicaid account.) This amount represented the costs incurred but not yet claimed by the State Mental Health Hospitals between 1994 and 1999. Medicaid costs in State Hospitals are claimed by filing cost reports. These cost reports are audited by the department. SRS temporarily removed the educational costs from the claims and kept the cost reports open for several years while resolving education cost issues. When SRS resolved the issues, the cost reports were finalized and the education claim was submitted to CMS. CMS made the deferral based on the two-year timely filing requirement. The agency believes this requirement is not applicable to the claim and is currently appealing the disallowance. A ruling is expected in May 2005. SRS has paid the Hospitals for these educational costs so a $11.1 million deficiency currently exists in the SRS Title XIX fund.

Impact: The agency does not anticipate a budget impact for this item.

Local Education Agency (LEA) Medicaid Audit by OIG. The Health and Human Services Office of Inspector General (OIG) completed an audit of Medicaid payments made to school districts for health related services to children with disabilities. The audit also looked at claims made for administrative costs of

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school districts. The audit expressed concerns about the state's bundled rate methodology and the lack documentation maintained by the schools to support the payments. $40.0 million in expenditures are currently being reviewed, and a final audit report has not yet been issued. The department anticipates some recovery will be sought by CMS. SRS is modifying and updating the bundled rate methodology and working with school districts to reach compliance with OIG's concerns.

Impact: The impact of this item is unknown at this time. The agency does not anticipate a budgetary impact until FY 2006 or later.

Child Welfare Rehabilitation Services Medicaid Audit by OIG. OIG is reviewing Kansas' use of the Rehabilitation Services Option of the federal Medicaid program. Services being reviewed include in-home family therapy and behavior management for foster care, adoption, and family preservation. The review covers the period July 1, 2001 through June 30, 2003 (the two years prior to the Child Welfare deferrals). The auditors have expressed concern in two areas: not being able to reconcile the Medicaid claim to the detail documentation supporting the claim, and the department not strictly adhering to the Medicaid State Plan for claiming. The Medicaid State Plan requires payments to be the lesser of the capitated rate or the actual expense on a child by child basis. The Department's claims have complied on an aggregated basis but not on a child by child basis. While no fiscal impact is currently known, similar OIG reviews have been conducted in two other states, resulting in monetary reductions of approximately $20 million. A risk also exists that any disallowances from the CMS deferrals in FY 2004 and FY 2005 may be applied to this audit period by OIG. The Rehabilitation Services section of the State Plan is currently being reviewed and updated by SRS.

Impact: The impact is unknown at this time. The agency does not anticipate a budgetary impact until FY 2007 or later.

Disability Determination Services (DDS) OIG Audit Recoupment. DDS is funded entirely with federal funds for all work completed on behalf of the Social Security Administration. An audit by the OIG found that DDS's expenditures were overstated by $4,923,606 because indirect costs were not allocated correctly between July 1, 1998 and March 31, 2002. The department appealed the finding to the Social Security Administration because SRS was operating under an approved cost allocation plan. The appeal was lost, but a second appeal has been filed with the U.S. Department of Health and Human Services. A final decision has not been made.

Impact: The agency anticipates a recoupment will occur in FY 2005 and will use SRS fee funds to address the issue.

Statewide Automated Child Welfare Information System (SACWIS) IV-E Disallowance. Enhanced Title IV-E funding was provided to states to help develop and implement a Statewide Automated Child Welfare Information System (SACWIS). From 1993 to 1996 states were allowed to claim 75.0 percent federal match for costs associated with developing a comprehensive automated case management tool that supports social workers' foster care and adoptions assistance case management practices. The state claimed some enhanced funding during this period, but later decided not to pursue completion of a full SACWIS system. The Federal Government has notified the state of an intent to recoup the funds totaling nearly $1.0 million. To date, the Federal Government has not taken this money.

Impact: The impact is unknown at this time, however the agency believes it will affect the FY 2005 budget and has set aside SRS fee fund to address the disallowance.

SYNAR - Potential Penalty. The federal Synar Amendment enacted in 1992 requires that all states adopt a law limiting access to tobacco products by minors under age 18. Kansas passed a law in 1997 stating that it is illegal for those under age 18 to purchase or possess tobacco products. The Synar Amendment also requires states to monitor retailer compliance to restrict the sale of tobacco products to minors. In Kansas, the Division of Alcoholic Beverage Control(ABC) conducts random inspections of licensed tobacco vendors to assist SRS/Addiction and Prevention Services in this monitoring process. The Synar Amendment requires that states conduct inspections of retail outlets with a number sufficient to yield reliable results. Of the approximately 3,100 tobacco retailers licensed by the ABC, 650 randomly selected outlets are inspected using an underage youth working with agents from ABC.

Kansas must maintain an 80.0 percent or better compliance rate by September 30, 2004. The sample design allows for a statistical range for error of plus or minus 3.0 percent; thus, 23.0 percent is the maximum level for violations. Kansas has maintained its compliance rate near the 80.0 percent target for the past five years. The FFY04 rate, to be determined in late October 2005, will for the first time put Kansas out of compliance with federal requirements. Inspections conducted between October 1, 2003 and September 30, 2004, resulted in violations by 220 of the 571 retail outlets selected in the random sample. The outcome was a compliance rate of 62.0 percent -- 18.0 percent below the target required.

Easy access to cigarettes by youth holds significant penalties for states that do not meet the 80.0 percent compliance level. The law declares that state Substance Abuse Prevention and Treatment Block Grant funds can be withheld if the targeted compliance is not achieved. No states have been penalized at this level. An alternative option has been implemented by SAMHSA. Rather than the federal agency withholding 40.0 percent of SAPT Block Grant funds, the State could be required to obligate state funds toward addressing youth access to tobacco. The amount would equal 1.0 percent of the SAPT Block Grant for each percentage point the state is under the 80.0% level.

Impact: The impact is unknown at this time, however the agency anticipates it will affect the FY 2005 budget.

Executive Reorganization Order (ERO) 33

Executive Reorganization Order Number 33 establishes a Division of Health Policy and Finance within the Department of Administration. The division will have a director, appointed by, and serving at the pleasure of, the Governor in the unclassified service. Responsibilities of the director will include coordination of health care planning, administration, and purchasing, and analysis of health care data for the state. The ERO would move Title XIX (Medicaid), Title XXI (SCHIP), MediKan, and the Medicaid Management Information System (MMIS) out of the Division of Health Care Policy in the Department of Social and Rehabilitation Services and into the Division of Health Policy and Finance in the Department of Administration. The Home and Community Based Services (HCBS) waivers, mental health programs, addiction and prevention services and state institutions would all remain under the Department of Social and Rehabilitation Services under its new name, the Department of Human Services. The personnel and funds associated with these programs would be transferred to the Division of Health Policy, which would become the Medicaid agent for the state.

New Child Welfare Contracts

Beginning in FY 2006, the new family preservation, reintegration/foster care, and adoption contracts go into effect. The new contracts are designed to eliminate the need to transition children between the foster care and adoption contractors. Both the child/family's case management service contractor and the reintegration/foster care contractor are to remain with the contractor receiving the original referral throughout the life of the case. The adoption contractor is responsible for recruiting, training and preparing adoptive families for the entire state. The adoption contractor will provide training and support to the adoptive family, while the original referral contractor continues its involvement in the case as a child is referred to adoption services.

Along with a change in the practices of the child welfare contracts, there is a change in payment methodology. Payment for family preservation services will occur three times - at the point of referral, on the 45th day of service and on the 90th day of services. If the family does not engage in services or the child goes into foster care before the 45th day, payments on the 45th and 90th day will not be made. If the child goes into foster care before the 90th day, but after the 45th day, the final payment will not be made.

In the case of foster care payment, a tiered structure is being used. During the first six months from the referral, the contractor will receive an enhanced, or Tier 1, rate. For the next six months, the provider will receive payment equal to the projected average monthly cost for services and maintenance, the Tier 2 rate. If services are provided for more than twelve months, the contractor is paid a reduced, or Tier 3 rate. The intent of the tiered rate systems is provide contractors with an incentive to quickly either reintegrate the child or find alternative permanency for the child.

The statewide adoption contractor will be paid a flat monthly amount to recruit and train a group of families willing to adopt, and provide matching services to the family preservation and reintegration/foster care contractors.

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February 18, 2005

Attachment B

To: Social Services Budget Committee

From: Emalene Correll, Research Associate

Re: Mental Health Services: Joint Committee on Children's Issues

The Joint Committee on Children's Issues was created in 1998 as a part of the legislation that authorizes the operation of a state children's health insurance program (SCHIP) for Kansas. The Committee operates pursuant to KSA 46-3001, which directs the Committee to oversee the implementation and operation of the health insurance program for children and such other children's issues as the Committee deems necessary.

One issue the Committee has pursued since its inception is oversight of the implementation and operation of the Kansas child welfare system. One component of the system that has received continued attention is the delivery of mental health services to children and youth who end up in the courts under the child-in-need-of-care laws. Whether these children and youth end up in out-of-home placements or remain with their birth families, many are in need of mental health services, and it is not uncommon for the court to order the parents of a child in the child welfare system to seek evaluation, counseling, and other mental health services as a condition of returning a child to the parental home.

Over the past three years, the Committee has initiated committee-sponsored daylong roundtable discussions in which Committee members and interested individuals participated. The roundtable schedule has been reprinted in newsletters and other sources, thereby reaching individuals who would not ordinarily testify before a legislative committee and who are involved in the day-to-day operation of the child welfare system as foster parents, as service providers, as parents, and as clients. Because the roundtable format represents an informal setting in which participants can speak frankly and respond to or amplify on comments made by other participants, the Committee members have been able to learn the ways in which services impact the life and health of individual clients of the mental health system in a way that is not conveyed by the statistical data supplied by the state agency and contractors. In addition, roundtable discussions involving judges and county or district attorneys have resulted in seeing another side of how the quality and availability of mental health services affect the time a child may remain in foster care, the ability of parents to access court-ordered services, and the reasons for delays and postponements of scheduled court proceedings.

The Committee has found serious problems with the delivery of mental health services for children, youth, and their families and, during the last several years, has noted many of the problems that were initially identified by the Committee continue to exist.

The major problems in the delivery of mental health services identified by the Joint Committee on Children's Issues over the prior five years are summarized below.

❑ Access To Services

Barriers to accessing mental health services for children and youth in the child welfare system take several forms, including the location of services, scheduling of services, the cost of services, and the shortage or lack of services.

- One of the continuing concerns expressed by conferees and participants in roundtable discussions is the distance foster parents, birth parents, and children and youth must travel to access necessary mental health services. In some parts of the state, a drive of 50 or more miles to access any services is the norm. This means adult foster care providers and parents must spend almost, if not all, of a day away from their employment, and the affected children are away from school for an entire school day. Committed adults use vacation time or take leave without pay in order to see that children and youth in their care receive mental health services.

- Although distance to access services is primarily a problem in the less urban areas of Kansas, the hours that services are available affect access statewide. Birth and foster parents and the children involved must take time away from work and school in order to access services that are only available during the traditional work day and work week. While some private providers will see patients outside the usual work week hours, they are not usually able to bill through Medicaid and therefore their services are not available to many of the children and families involved in the child welfare system. It should be noted that some of the community mental health centers have tried to provide services at times that are more accessible for working families, but that is not the norm.

- Access to appropriate mental health services is another issue that has been raised at every roundtable. Discussion has centered on two aspects of appropriate care. One is the absence of specific types of service in some areas. If a family moves or a foster care placement is changed, services the family or child has been receiving may not be available in the new location. The second is inability to access providers who have made the treatment of a specific diagnosis or condition a speciality. In recent years the state has contracted with the Consortium representing the state's community mental health centers to act as the single Medicaid mental health provider for severely emotionally disturbed (SED) children. Speciality providers tend to be in the private sector and therefore accessible only to those with third party insurance coverage or the ability to pay for their care.

- From judges, the Committee learned children may remain in an out-of-home placement due to failure to receive services on a timely basis. If initial evaluations or court ordered tests and assessments are not available, scheduled hearings must be rescheduled, and, depending on the court's caseload, rescheduling may cause a delay that means the child is out of his home for a longer period prior to disposition of the case.

- Of even more importance in terms of a child remaining in out-of-home placement longer than might be necessary, is the inability of a child's parents to access court-ordered services, which must be completed prior to returning the child to his or her home. Judges who participated in roundtable discussions cited availability of services, location of services, inability of the parents to pay for the services, and inability to access the services except during hours of employment as reasons parents are unable to complete requirements for having a child or children returned to the home.

❑ Communication and Cooperation

In each of the years of Committee study, issues were raised that indicated problems in communication and cooperation existed in the provision of mental health services for children and youth involved in the child welfare system. While the Committee believes some progress has been made in dealing with these problems, they remain a concern systemwide.

- Foster parents caring for SED and other children expressed frustration and concern over being excluded from the mental health services offered to the children and youth in their care. Many indicated that, although they are with the children on a daily and even hourly basis, mental health professionals did not seek or value their input into the child's treatment. Indeed, some foster parents indicated they were treated by the mental health system as being the cause of problems rather than a part of the treatment. Others noted they received no information as to what transpired during therapy sessions although they were the ones who had to deal with the child and his or her reactions until the next scheduled appointment.

- Foster parents, who see themselves as advocates for the children and youth in their care, indicated they were afraid to complain about services or question decisions or recommendations made by mental health providers because they feared retaliation against themselves, or more importantly, against the children in their care.

- At the outset of implementation of the decision by the Department of Social and Rehabilitation Services to transfer responsibility for mental health services for SED children and youth from the contractors to the community mental health center system and to reimburse through Medicaid for such services, there were problems in communication between the contractors and the centers. Children and youth who had been receiving services from a mental health provider had to be transferred to community mental health center providers with resulting upheaval in their treatment. There were disagreements as to diagnosis and treatment needs. Although these initial problems apparently have largely been resolved, there are some areas of concern remaining in regard to how differences are resolved and where responsibility is fixed.

- There continue to be problems with bringing birth parents into the treatment system when the plan for the child is to return to his or her home. There are obstacles to such inclusion, including the obstacles to access noted earlier and the fact that parents may be some distance from the child's placement. In some instances, as noted in roundtable discussion, the problem is the attitude of those treating the child toward the parents or a failure to communicate with the parents.

❑ System Issues

- One of the most persistent issues brought to the attention of the Committee is that of continuity of mental health services which many mental health professionals believe to be of great importance in successful treatment. Children who enter into the child welfare system and who have been receiving treatment prior to entering the system are often required to change providers because the payment source is a different one or because of a change in their residential location. Children who are in the system often experience one or more placement changes, each of which may result in a new mental health provider. Children who have reached the point of trusting a mental health professional or team, are transferred to new providers for any of a number of reasons and, according to some persons who met with the Committee, may lose months of progress in treatment.

- There is a failure to fully utilize the mental health providers who are available to see and treat children and youth. Mental health providers who are not employees or affiliates of a mental health center may not be utilized even though they are closer to the child needing services or available at more convenient times than the mental health center. This is largely the result of payment mechanisms and the contractual relationships that accompany them. In some cases private sector providers may not be reimbursed due to the type of credentials they have even though they provide the same services and are reimbursed by private or third party payers. Community mental health centers have been reluctant to enter into service agreements with such persons.

- There appear to be unresolved problems with followup when a child is returned to his or her home. The contractors have a 12-month responsibility for such children pursuant to the contracts they have entered into, but no similar responsibility rests with the mental health contractors. Again the issue of continuity is involved.

In 2004, the members expressed their frustration and concern that not all children and families are receiving the mental health services they need in a timely and responsive fashion. The members expressed the belief that even one child who experiences a failure of the system is one child too many and recommend the Department of Social and Rehabilitation Services, representatives of private sector mental health professions, and representatives of the community mental health centers sit down and address the problems.