

Approved: May 10, 2005
Date

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:30 A.M. on March 17, 2005 in Room 123-S of the Capitol.

All members were present except:
Senator Donald Betts- excused

Committee staff present:
Norman Furse, Revisor of Statutes
Jill Wolters, Revisor of Statutes Office
Audrey Dunkel, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Mary Shaw, Committee Secretary

Conferees appearing before the committee:
None

Others attending:
See attached list.

Bill Introduction

Senator Teichman moved, with a second by Senator Steineger, to introduce a conceptual bill concerning Kansas comprehensive grant program; students attending institutions accredited by American Association of Bible Colleges. Motion carried on a voice vote.

Copies of the Kansas Legislative Research Department Budget Analysis Report for FY 2005 and FY 2006 were available to the committee.

Subcommittee budget report on:

Kansas Department of Social and Rehabilitation Services (Attachment 1)

Subcommittee Chairman Dwayne Umbarger reported that the subcommittee on the Kansas Department of Social and Rehabilitation Services concurs with the Governor's recommendation in FY 2005 with adjustments and observations and concurs with the Governor's FY 2006 recommendations with adjustments and observations.

Senator Teichman moved, with a second by Senator Schodorf, to adopt the subcommittee budget report on the Kansas Department of Social and Rehabilitation Services in FY 2005 and FY 2006. Motion carried on a voice vote.

The meeting adjourned at 11:20 a.m. The next meeting is scheduled for March 18, 2005.

SENATE WAYS AND MEANS
GUEST LIST

Date March 17, 2005

NAME	REPRESENTING
Julia Thomas	DOB
Dan Hermes	DCCA
Bruce Linber	Children's Alliance
Doug Bowman	CC ECDs
Ron Secher	Anti Law Firm
Jace Jansaw	TILRC
Becca Vaughn	TILRC
Lisa Weeks	SRS
Raeanne Davis	SRS
Kyle Kersh	SRS
GARY DANIELS	SRS
TERRY J. HANCO	BREAKTHROUGH CLUB
Benjamin M. Craig	Breakthrough Club - Wichita
Blenda Edley	VLF
Tom Bruno	ERS
TANYA DORF	KACIL
Stuart Little	Assoc. of Cmtes
Mike Hammond	Assoc. of Cmtes
Steve Solomon	The Farm, Inc
Andy Shaw	Kearney & Associates
Wynna White	Ks Legal Services
Sister Therese Barget	Ks. Catholic Conference

SENATE SRS SUBCOMMITTEE

FY 2005 and FY 2006

Department of Social and Rehabilitation Services

Senator Dwayne Umbarger

Senator Dwayne Umbarger, Chair

Donald Betts, Jr.

Senator Donald Betts, Jr.

Carolyn McGinn

Senator Carolyn McGinn

Jean Kurtz Schodorf

Senator Jean Schodorf

Ruth Teichman

Senator Ruth Teichman

Senate Ways and Means
3-17-05
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 Social Welfare 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 (Attachment A).

Item	Penalty/Deferral (in millions)
	FY 2005
Child Welfare Deferral	\$15.5*
Disability Determination Services (DDS) Audit	\$4.9*
Statewide Automated Child Welfare Information System (SACWIS) Disallowance	\$1.0*
Synar Penalty	\$2.3
TOTAL	\$23.7
* 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 Committee Recommendation

The House Committee concurs with the Budget Subcommittee recommendation.

Senate Subcommittee Report

Agency: Department of Social
and Rehabilitation Services

Bill No. 272

Bill Sec. 27

Analyst: Dunkel

Analysis Pg. No. Vol. 2-1007

Budget Page No. 373

<u>Expenditure Summary</u>	<u>Agency Estimate FY 05</u>	<u>Governor's Recommendation FY 05</u>	<u>Senate Subcommittee Adjustments</u>
Operating Expenditures:			
State General Fund	\$ 804,137,334	\$ 835,083,480	\$ 0
Other Funds	1,693,286,294	1,706,698,674	125,000
TOTAL	<u>\$ 2,497,423,628</u>	<u>\$ 2,541,782,154</u>	<u>\$ 125,000</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	10,322,587	10,322,587	0
TOTAL	<u>\$ 10,322,587</u>	<u>\$ 10,322,587</u>	<u>\$ 0</u>
FTE Positions	3,981.5	3,981.5	0.0
Non FTE Uncl. Perm. Pos.	76.4	76.4	0.0
TOTAL	<u>4,057.9</u>	<u>4,057.9</u>	<u>0.0</u>

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.

Governor's Recommendation

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.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor, with the following adjustment and observation:

1. **Change from FY 2005 Approved.** The Subcommittee 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 Subcommittee notes that Kansas Legal Services (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 based contract. 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 processed enough cases to exceed the \$700,000 contractual payment amount. The Subcommittee adds expenditure authority of \$125,000 from the Social Welfare Fund for the agency to allow KLS to continue its work.

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:			
State General Fund	\$ 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 situation 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 its policies regarding the Vagus Nerve Stimulation (VNS) device and the Baclofen Intrathecal (ITB) pumps. 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 shown 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 procedure. 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 effect of the Medicare Part D prescription drug program on the state of Kansas. The federal estimate for the "clawback" from Kansas in FY 2006 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 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 Social Welfare 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 Medicaid Management Information System (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 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 service, 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 child welfare 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 to operate independently. However, stable funding is the biggest challenge. 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 of 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 programs 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.

House Committee Recommendation

The House Committee concurs with the Budget Committee recommendation.

Senate Subcommittee Report

Agency: Department of Social
and Rehabilitation Services

Bill No. 270

Bill Sec. 54

Analyst: Dunkel

Analysis Pg. No. Vol II, 1007

Budget Page No. 373

Expenditure	Agency Req. FY 06	Governor Rec. FY 06	Subcommittee Adjustments
State General Fund	\$ 882,903,095	\$ 872,695,709	\$ (3,956,450)
Other Funds	1,729,980,211	1,800,718,545	(4,686,582)
TOTAL	<u>\$ 2,612,883,306</u>	<u>\$ 2,673,414,254</u>	<u>\$ (8,643,032)</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	4,516,300	4,516,300	0
TOTAL	<u>\$ 4,516,300</u>	<u>\$ 4,516,300</u>	<u>\$ 0</u>
FTE Positions	4,007.5	3,981.5	0.0
Non FTE Perm. Uncl. Pos.	49.9	76.4	0.0
TOTAL	<u>4,057.4</u>	<u>4,057.9</u>	<u>0.0</u>

Agency Request

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.

Governor's Recommendation

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.**

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor, with the following adjustments and observations:

1. **Pay Plan Adjustment.** Delete \$3,582,627, including \$1,307,679 from the State General Fund, to remove pay plan funding recommended by the Governor (a 2.5 percent base salary adjustment for all state employees) for consideration in a separate bill.
2. **Other Salary and Wage Adjustments.** Delete \$5,865,405, including \$2,848,771 from the State General Fund, to remove funding recommended by the Governor for the 27th payroll period (\$5,316,278), and for the Kansas Public Employees Retirement System (KPERs) death and disability increase (\$549,127) for later Committee consideration.
3. **Change from FY 2005 Approved.** The Subcommittee notes that the Governor's FY 2006 recommendation is a State General Fund increase of \$80.6 million or 10.2 percent above the FY 2005 State General Fund amount approved by the 2004 Legislature. Absent the above pay plan and salary and wage adjustments and consensus caseloads, the recommendation is an increase of \$12,980,770, or 1.6 percent above the approved amount.
4. The Subcommittee adds of \$180,000 Social Welfare Fund, \$450,000 all funds for breast reconstructive surgery for cancer patients in the Medicaid program. The Subcommittee recommends the agency add breast reconstructive surgery to the services covered under the Medicaid program.
5. The Subcommittee adds \$30,000 from the Social Welfare Fund for 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 has been 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 challenge. YLF has requested \$30,000 to drawn down federal funds at a federal match rate of 80/20 to cover the costs of the forum, staff and administration.

6. The Subcommittee adds \$200,000 State General Fund for the Community Medication program. The Community Support Medication Program assists in the purchase of atypical anti-psychotic medications for individuals with a mental illness or who are at risk for hospitalization and who meet income requirements. The legislature allocates \$800,000 annually to the program, which began in 1997 (the funding in 1997 was \$680,000).

Due to rising medication costs, newer more costly drugs needed and the current usage of the program, the agency predicts the funds will exceed its allocated rate prior to the end of FY 2005. To address this issue, the agency implemented restrictions to the program in January 2005 to reduce the cost of the program, including limitations on enrollment periods and covered drugs. Despite these changes in policy, SRS anticipates needing additional funding in FY 2006 to cover costs of the program.

7. The Subcommittee adds \$125,000 Social Welfare Fund for the Kansas Legal Services (KLS) contract, to continue the increase the Subcommittee recommended in FY 2005.
8. The Subcommittee recommends the agency continue implementing the Money Follows the Person proviso and increase the number and funding allowed to transfer from nursing facilities to waiver services from 75 to 100. The Subcommittee also recommends the addition of language to the proviso requiring the agency to report back to the 2006 Legislature with expenditure data for this program.
9. The Senate Committee recommends the addition of the following proviso to prohibit the agency from expanding the provider pool for mental health services under the medical card:

“Provided, That the secretary of social and rehabilitation services shall not expand the existing public mental health provider system by opening up the medical card for the provision of mental health services to other than the existing medicaid eligible providers of mental health services as of March 1, 2005; Provided further, That the secretary of social and rehabilitation services shall work with the association of community mental health centers of Kansas, Inc., to identify and address concerns related to service delivery, access and choice within the structure of the existing public mental health system.”

10. The Subcommittee requests a post audit to determine whether the current Medicaid Management Information System (MMIS) has been fully implemented, what problems the system may still have, and whether the promised benefits have materialized in major programs, especially in the prescription drug program.
11. The Subcommittee 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 Subcommittee recommends authorization for Non-profit or publicly-funded primary care clinics, including community health centers, FQHCs, and FQHC-Look A Likes, that provide comprehensive primary health care services, offer sliding fee discounts based upon household income, and serve any person regardless of ability to pay to provide certified match of dollars from local units of government to draw down federal match for OEWs.
12. The Subcommittee commends the agency for eliminating the waiting list for the home and community based services (HCBS) traumatic brain injury (TBI) and technology assistance (TA) waivers, and notes that the agency estimates there will be no waiting list for the physically disabled (PD) waiver by the end of FY 2006. However, the Subcommittee notes with concern that the HCBS developmental disability (DD) waiver currently has a waiting list of 1,105 persons and that the wait for services can be as long as several years.
13. The Subcommittee recommends the agency attempt to fill some of the open positions within the agency within existing funds to improve the agency's Child Support Enforcement collections.
14. The Subcommittee 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 Subcommittee notes that these are one-time funding sources, and that there will be a TANF shortfall in FY 2007.
15. The Subcommittee notes the Governor added \$7.5 million all funds and \$3.0 million State General Fund to increase the rates paid for community developmental disability services, approximately half of the agency request. A rate study of reimbursement rates paid for community Developmental Disabilities (DD) services is conducted bi-annually as directed by the DD Reform Act. The 2003 reimbursement rate study demonstrated a need for rate

increases for many of the services funded through the home and community based services waiver for persons with a developmental disability (DD Waiver).

16. The Subcommittee notes that Florence Crittenton is the only facility in the state that provides level V residential treatment for girls who are pregnant or parenting with severe problems which include truancy, drug and alcohol abuse, trauma, abuse and neglect, and other mental health disorders. The Subcommittee recommends the Committee review their request for an appropriation of \$150,000 annually to cover the \$112,000 annual shortfall in the cost of caring for adolescent girls and the \$35,000 annual cost of providing care for infants of these girls at *Omnibus*.
17. The Subcommittee notes the Governor's recommendation includes a reduction of \$405,413 State General Fund from the Blind Services program. This program is currently financed primarily by federal grant funding and the State General Fund. A small amount from the Blind Services Enterprise Fund is also used. The reduction from the State General Fund is not shown as an expenditure reduction. The State General Fund is replaced with funding from the Blind Services Enterprise Fund. This fund currently has a balance from proceeds of the sale of the building at 6th and Mac Vicar that was previously used in the program. Although the carry-forward balance partially funds the State General Fund reduction, a shortfall of \$189,444 is projected. Policy decisions will have to be made to either reduce expenditures or increase enterprise revenues. In the past, attempts to privatize this program have been unsuccessful. The Governor recommends that the issue be revisited. The Governor believes that, in light of the continual growth of SRS caseloads and service costs, the reductions and restrictions in federal funding, and the increasing demands on the State General Fund, this program should at least be self-supporting. The Subcommittee recommends review of this item at *Omnibus*.
18. The Subcommittee notes that the Governor's recommendation includes a reduction \$3.1 million all funds and \$1.2 million State General Fund for acceleration of the approval process for placing drugs on the preferred drug list and/or requiring prior authorization. Under current law, SRS can control utilization of pharmacy expenditures by creating limitations on the amount and conditions for use of drugs through the prior authorization process. SRS also can put drugs on a preferred formulary that removes some of the prior authorization requirements for clinically equivalent drugs that are less expensive. Both of these processes require approval of the prior authorization criteria through the rules and regulation process. The agency notes this adds six to nine months to the implementation process after the decision is made to put a drug on prior authorization and also delays the receipt of supplemental drug rebates that are negotiated in the preferred drug list process. This reduction would capture the savings related to accelerated approval of utilization controls in the pharmacy program. The Subcommittee notes that SB 290 would implement the statutory revisions required to change this process, and recommends review of this item at *Omnibus*.
19. The Subcommittee notes that the agency requests \$4.9 million all funds and \$1.9 million State General fund to provide dental services in the home and community based services waivers and \$16.0 million all funds and \$6.2 million

State General Fund to expand dental services beyond emergency services in the Medicaid program. The Subcommittee recognizes the need for dental services for low income Kansans and notes that the Mission of Mercy through the Kansas Dental Charitable Foundation has been funded by charitable donations from the Ewing M. Kaufman Fund, United Methodist Health Ministry Fund, Kansas Health Foundation, Wyandotte Health Foundation and the Greater Kansas City Community Foundation, and has been able to provide \$3.4 million in free dental care to nearly 9,000 Kansans since 2003. The Subcommittee recommends the Committee review dental services for Medicaid and waiver clients during the 2006 session.

20. The Subcommittee recommends the agency continue to pursue the appeals process for the pending deferrals and audit penalties and provide updates to the Legislature as the situation develops.
21. The Subcommittee notes that Medicare Part D prescription drug program requires a "clawback" payment from states beginning January 2006. The agency estimates the clawback amount for FY 2006 to be \$42.0 million, however, the initial estimate from the federal government is \$85.5 million. The Subcommittee recommends the Committee continue to monitor the situation.
22. The Subcommittee 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. The Subcommittee recommends the Committee continue to monitor the progress of the program through the approval process with CMS.
23. The Subcommittee notes 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 Subcommittee recommends the agency report back to the 2006 Legislature on the transition to the new form of contracts and their success in

guaranteeing positive outcomes for children and families in the child welfare system.

24. The Subcommittee notes that the Governor's budget recommendation includes reductions that eliminate out of home services for clients ages eighteen and over for a savings of \$879,482 all funds and \$576,389 SGF and for non-abuse/non-neglect children ages sixteen through seventeen for a savings of \$2.9 million all funds and \$1.9 million SGF. These programs provide 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, but has not been passed out of committee, resulting in a shortfall in the agency budget. The agency indicates they are working with providers to find appropriate ways to serve these children within their existing budget. The Subcommittee recommends the agency continue its efforts.

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