

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 8, 2007, in Room 123-S of the Capitol.

All members were present except:

Senator Carolyn McGinn- excused

Committee staff present:

Jill Wolters, Senior Assistant, Revisor of Statutes  
Michael Corrigan, Assistant Revisor, Revisor of Statutes  
Alan Conroy, Director, Kansas Legislative Research Department  
J. G. Scott, Kansas Legislative Research Department  
Reagan Cussimano, Kansas Legislative Research Department  
Audrey Dunkel, Kansas Legislative Research Department  
Julian Efrid, Kansas Legislative Research Department  
Susan Kannarr, Kansas Legislative Research Department  
Aaron Klaassen, Kansas Legislative Research  
Heather O'Hara, Kansas Legislative Research Department  
Matt Spurgin, Kansas Legislative Research Department  
Michael Steiner, Kansas Legislative Research Department  
Amy VanHouse, Kansas Legislative Research Department  
Melinda Gaul, Chief of Staff, Senate Ways & Means  
Mary Shaw, Committee Assistant

Conferees appearing before the committee:

Glenn Deck, Executive Director, Kansas Public Employees Retirement System  
Senator Phil Journey  
Senator Pat Apple  
Kim Fowler, Assistant Fiscal Officer, Office of Judicial Administration  
Tim Madden, Senior Counsel, Kansas Department of Corrections

Others attending:

See attached list.

**Bill Introductions**

Senator Teichman moved, with a second by Senator V. Schmidt, to introduce a conceptual bill concerning contracts; indemnification clauses and additional insured requirements in construction contracts void. Motion carried on a voice vote.

Copies of information regarding the Summary of COLA Options for Active Members that was requested and submitted from Glenn Deck, Executive Director, Kansas Public Employees Retirement System, were distributed to the Committee (Attachment 1).

Copies of the Kansas Legislative Research Department Budget Analysts report for FY 2007 and FY 2008 were available to the committee.

**Subcommittee report on:**

**Larned State Hospital**  
**Osawatomie State Hospital**  
**Rainbow Mental Health Facility**  
**Parsons State Hospital and Training Center**  
**Kansas Neurological Institute (Attachment 2)**

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on March 8, 2007, in Room 123-S of the Capitol.

Subcommittee Chair Dwayne Umbarger reported that the subcommittee on the Larned State Hospital concurs with the Governor's recommendation in FY 2007 and concurs with the Governor's FY 2008 recommendation with exceptions and comments.

Subcommittee Chair Dwayne Umbarger reported that the subcommittee on the Parsons State Hospital and Training Center concurs with the Governor's recommendation in FY 2007 and concurs with the Governor's FY 2008 recommendation with exceptions.

Subcommittee Chair Dwayne Umbarger reported that the subcommittee on the Kansas Neurological Institute concurs with the Governor's recommendation in FY 2007 and concurs with the Governor's FY 2008 recommendation with exceptions.

Senator V. Schmidt moved, with a second by Senator Kelly, to amend the mental health subcommittee reports to remove the use of the word "care" regarding allowing the agency to enter into contractual agreements with local hospitals to provide acute inpatient mental health services. Motion carried on a voice vote.

Senator Teichman moved, with a second by Senator Kelly, to adopt the subcommittee budget reports on the Larned State Hospital in FY 2007 and FY 2008 as amended; the Parsons State Hospital and Training Center in FY 2007 and FY 2008; and the Kansas Neurological Institute in FY 2007 and FY 2008. Motion carried on a voice vote.

Subcommittee Chair Dwayne Umbarger reported that the subcommittee on the Osawatomie State Hospital concurs with the Governor's recommendation in FY 2007 with exception and concurs with the Governor's FY 2008 recommendation with exceptions and comments.

Senator Wysong moved, with a second by Senator Schodorf, to adopt the subcommittee budget report on the Osawatomie State Hospital in FY 2007 and FY 2008 as amended. Motion carried on a voice vote.

Subcommittee Chair Dwayne Umbarger reported that the subcommittee on the Rainbow Mental Health Facility concurs with the Governor's recommendation in FY 2007 and concurs with the Governor's FY 2008 recommendation with exceptions and comments.

Senator Kelly moved, with a second by Senator Teichman, to adopt the subcommittee budget report on the Rainbow Mental Health Facility in FY 2007 and FY 2008 as amended. Motion carried on a voice vote.

**Kansas Health Policy Authority (Attachment 3)**

Subcommittee Chair Dwayne Umbarger reported that the subcommittee on the Kansas Health Policy Authority concurs with the Governor's recommendation in FY 2007 and concurs with the Governor's FY 2008 recommendation with exceptions and notations.

Senator Teichman moved, with a second by Senator Teichman, to adopt the subcommittee budget report on the Kansas Health Policy Authority in FY 2007 and FY 2008. Motion carried on a voice vote.

The Chairman opened the public hearing on:

**HB 2385--Transfer of the administration of the state deferred compensation plan from the department of administration to the board of trustees of the Kansas Public Employees Retirement System**

Staff briefed the committee on the bill.

Chairman Umbarger welcomed Glenn Deck, Executive Director, Kansas Public Employee's Retirement System (KPERs), who testified in support of **HB 2385** (Attachment 4). Mr. Deck explained that the bill would transfer administration of the State's Deferred Compensation Plan from the Kansas Department of

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on March 8, 2007, in Room 123-S of the Capitol.

Administration to KPERS. In his written testimony, Mr. Deck provided details on the key reasons for the transfer and noted the fiscal impact of the transfer. In closing, Mr. Deck mentioned that the KPERS Board and Staff believe that **HB 2385** would be beneficial for their members, as well as members of the Deferred Compensation Plan, because it provides for improved coordination of retirement benefits and increased emphasis on personal savings for retirement.

There being no further conferees to appear before the committee, the Chairman closed the public hearing on **HB 2385**.

Senator Kelly moved, with a second by Senator Emler, to recommend **HB 2385** favorable for passage and be placed on the Consent Calendar. Motion carried on a roll call vote.

Chairman Umbarger turned the Committee's attention to discussion of:

**SB 362--Enacting the Kansas Public Employees Retirement System Act of 2009**

Staff reviewed the bill and Committee discussion followed.

Senator Morris moved, with a second by Senator Wysong, to recommend **SB 362** favorable for passage. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

**HB 2368--Claims against the state**

Staff briefed the committee on the bill.

Chairman Umbarger welcomed Senator Phillip Journey who was the Chairman of the Joint Committee on Special Claims Against the State during the interim and he provided information regarding the activities of the Joint Committee. (No written testimony was provided.)

Chairman Umbarger welcomed Kim Fowler, Assistant Fiscal Officer, Office of Judicial Administration, who expressed concern about Section 10 of **HB 2368**. Ms. Fowler explained that the Judicial Branch has no responsibility in the claim and it would start a bad precedent to hold the Judicial Branch financially responsible for a judicial decision - especially one that was upheld on appeal (Attachment 5). The Chairman welcomed Tim Madden, who presented testimony from Roger Werholtz, Secretary, Kansas Department of Corrections, regarding opposition to provisions of **HB 2368** as amended by the House which provides a payment of \$37,500 from the Department's central administration operations and parole and postrelease supervision operations account of the State General Fund to Alice Buess (Attachment 6).

Senator Emler moved, with a second by Senator Taddiken, to amend **HB 2368** to reinstate the payment of the claim in the amount of \$75,000 from the State General Fund for Alice Buess, Benton, Kansas, for wrongful incarceration, Page 10, Section 4. Motion carried on a voice vote.

Senator Emler moved, with a second by Senator Betts, to amend **HB 2368** to reinstate the payment of the claim from the State General Fund for Jimmy Foiles, Towanda, Kansas, for wrongful incarceration, Page 11, Section 6. Motion carried on a voice vote.

The Chairman welcomed Senator Pat Apple who brought a claim to the Committee in to regard to a constituent in his area that had lost a benefit check that had been written to her regarding her mother's death from the Kansas Public Employees Retirement Fund and to add this claim to the bill (Attachment 7). Senator Apple submitted a balloon amendment (Attachment 8). Senator Kelly moved, with a second by Senator Emler, to amend **HB 2368** and adopt the balloon amendment. Motion carried on a voice vote.

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on March 8, 2007, in Room 123-S of the Capitol.

Senator Taddiken moved, with a second by Senator Emler, to recommend **HB 2368** favorable for passage as amended. Motion carried on a roll call vote.

The meeting adjourned at 12:20 p.m. The next meeting is scheduled for March 9, 2007.

SENATE WAYS AND MEANS COMMITTEE  
GUEST LIST

Date March 8, 2007

Name	Representing
<del>Edward Bradley</del>	<del>Disability Rights Center</del>
Julia Thomas	DOB
Konnie Leffler	DOB
Glenn Deck	EPERS
Fritz Joretto	DoA
Kevin Siek	TILRC
Jim Reece	USD 360
MARIL MARTELL	VIA CHRISTI HEALTH SYSTEM
TK Shively	KANSAS LEGAL SERVICES
RIP HURLEY	DoA
Jeff Caraman	Treasurer
Mary E. Hesperin	SRS
Mark Tallman	KA SB
Rosmarie Buryan	SRS
Tim Madson	KDOC
Shelly Starr	KDOC
Brend Smoot	ING
Jeon Krahn	KS G-ship Prog
Sarah Tidwell	KSNM
John Meyer	SRS
Cliff Kasperke	SRS
Jim Munson	ARA
Mark Desetti	KNEA

**SENATE WAYS AND MEANS COMMITTEE  
GUEST LIST**

Date March 8, 2007

Name	Representing
Suzanne Winkle	Kansas Action for Children
Sharon Ahlgraben	League of Women Voters Wichita
Scott Brown	KAPA
Luke Thompson	KAPA
D. Mike Hutches	Cenpatid
Mike Hammond	ACMHCW
Gretchen Weber	USD 360
Neli Hamm	USD 358
Jim Zerkow	SPS
Rhonda Habel	SPS
Marque Davis	SPS
Marilyn Knight	SPS
Whit Stenly	LSRS

# Kansas Public Employees Retirement System Summary of COLA Options for Active Members<sup>(a)</sup>

## SB 364 COLA for Active Members

### Annual 2% COLA

(beginning at age 65)

Members begin contributing 6% on 7-1-09.

Members retiring from active service after 7-1-09, receive 2% COLA each July 1 beginning at age 65.

	UAL Increase	Employee	Employer	
		Rate Increase	Rate Increase	Est. First-Yr Contributions
State Group	\$ 171 M	2.00%	0.66%	\$ 6.6 M
School Group	\$ 591 M	2.00%	0.81%	\$26.2 M
State Total	\$ 762 M	2.00%	0.76%	\$32.8 M

## Other Active Member COLA Options

### Option 1: Annual 2% COLA with minimum of 5 yrs of higher employee contributions

(beginning at age 65)

Members begin contributing 6% on 7-1-09.

Members retiring from active service after 7-1-09 who contributed at the higher employee rate for 5 or more years, receive 2% COLA each July 1 beginning at age 65.

Members retiring before contributing at higher rate for 5 years have additional contributions returned and do not receive automatic COLAs.

	UAL Increase	Employee	Employer	
		Rate Increase	Rate Increase	Est. First-Yr Contributions
State Group	\$ 105 M	2.00%	(0.02%)	\$ (0.2) M
School Group	\$ 360 M	2.00%	0.10%	\$ 3.4 M
State Total	\$ 465 M	2.00%	0.06%	\$ 3.2 M

### Option 2: Annual 1.95% COLA with minimum of 5 yrs of higher employee contributions

(beginning at age 65)

Members begin contributing 6% on 7-1-09.

Members retiring from active service after 7-1-09 who contributed at the higher employee rate for 5 or more years, receive 1.95% COLA each July 1 beginning at age 65.

Members retiring before contributing at higher rate for 5 years have additional contributions returned and do not receive automatic COLAs.

	UAL Increase	Employee	Employer	
		Rate Increase	Rate Increase	Est. First-Yr Contributions
State Group	\$ 101 M	2.00%	(0.06%)	\$ (0.6) M
School Group	\$ 348 M	2.00%	0.04%	\$ 1.3 M
State Total	\$ 449 M	2.00%	0.01%	\$ 0.7 M

(a) Based on results and assumptions in KPERs actuarial valuation dated December 31, 2005, and assumes COLA option will have no impact on future retirement patterns. Unless otherwise specified, all COLAs are automatic, annual compound cost-of-living adjustments to be paid on July 1 and assume member is retired for one year before becoming eligible for COLA.

### Option 3: Annual 1.45% COLA

(beginning at age 65)

Members begin contributing 6% on 7-1-09.

Members retiring from active service after 7-1-09, receive 1.45% COLA each July 1 beginning at age 65.

1.45% COLA represents nearest COLA percentage that may be funded with additional 2% employee rate.

	UAL	Employee	Employer	
	Increase	Rate	Rate	Est. First-Yr
		Increase	Increase	Contributions
State Group	\$ 111 M	2.00%	(0.01%)	\$ (0.1) M
School Group	\$ 387 M	2.00%	0.07%	\$ 2.4 M
State Total	\$ 498 M	2.00%	0.04%	\$ 2.3 M

### Option 4: Annual 2% COLA delayed 4 yrs or to age 68

Members begin contributing 6% on 7-1-09.

Members retiring from active service after 7-1-09, receive 2% COLA each July 1 beginning the later of age 68 or four years after retirement.

This option represents a 2% COLA that may be fully funded with the additional 2% employee rate.

	UAL	Employee	Employer	
	Increase	Rate	Rate	Est. First-Yr
		Increase	Increase	Contributions
State Group	\$ 103 M	2.00%	(0.09%)	\$ (0.9) M
School Group	\$ 378 M	2.00%	0.04%	\$ 1.3 M
State Total	\$ 481 M	2.00%	0.00%	\$ 0.4 M

### Option 5: Benefit Option COLA

Upon retirement, members could elect a "COLA Option" (similar to current survivor options) with monthly benefits actuarially-reduced to fund COLAs.

Several COLA options could be provided such as:

- 2% immediate COLA,
- 2% COLA beginning 5 yrs after retirement, or
- 2% COLA beginning at age 65.

Members receive lower initial benefit payments but receive COLA increases throughout retirement.

**Employee Contributions: None**

**Employer Contributions: None**

**Example:** Member A retires at age 60 on June 1, 2010

Monthly benefit before COLA option \$1,500

Monthly benefit with COLA Option  
Immediate 2% COLA \$1,250

Member receives 2% COLA each July 1.

Monthly benefit	after first COLA	\$1,275
	5 <sup>th</sup> yr of retirement	\$1,353
	10 <sup>th</sup> yr of retirement	\$1,494
	15 <sup>th</sup> yr of retirement	\$1,682
	20 <sup>th</sup> yr of retirement	\$1,821

### Option 6: Pro-Rata 2% Annual COLA (beginning at age 65)

Members retiring from active service after 7-1-09, receive annual 2% COLA based on the number of years contributing at the higher rate divided by their total years of service.

**Employee Contributions**

**Employer Contributions**

Currently working with actuary to further refine cost estimates for pro-rata COLA option.



FY 2007 and FY 2008

**SENATE WAYS AND MEANS SUBCOMMITTEE**

**Larned State Hospital  
Osawatomie State Hospital  
Rainbow Mental Health Facility  
Parsons State Hospital  
Kansas Neurological Institute**

*Sen. Dwayne Umbarger*

Senator Dwayne Umbarger, Chair

*Sen. Donald Betts*

Senator Donald Betts

*Carol McGinn*

Senator Carolyn McGinn

*Jean Schodorf*

Senator Jean Schodorf

*David Wysong*

Senator David Wysong

Senate Ways and Means  
3-8-07  
Attachment 2

# House Budget Committee Report

**Agency:** Larned State Hospital      **Bill No.** HB 2541

**Bill Sec.** 33

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 283

**Budget Page No.** 296

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	\$ 39,741,197	\$ 39,741,197	\$ 0
Other Funds	11,433,957	11,433,957	0
Subtotal - Operating	\$ 51,175,154	\$ 51,175,154	\$ 0
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
<b>TOTAL</b>	<b>\$ 51,175,154</b>	<b>\$ 51,175,154</b>	<b>\$ 0</b>
FTE Positions	978.2	978.2	0.0
Non FTE Uncl. Perm. Pos.	16.0	16.0	0.0
<b>TOTAL</b>	<b>994.2</b>	<b>994.2</b>	<b>0.0</b>

## Agency Estimate

The agency estimates FY 2007 operating expenditures of \$51.2 million, including \$39.7 million from the State General Fund. The estimate is an increase of \$800,027 from the State General Fund which calculates to an all funds increase of 1.6 percent and a State General Fund increase of 2.1 percent. The increase is a result of the following:

- A supplemental request of \$187,742 from the State General Fund and 12.0 FTE positions for the Sexual Predator Treatment/Transition program;
- A transfer of \$524,153 from the State General Fund and 8.0 non-FTE positions for the Sexual Predator Transition House Services from the Department of Social and Rehabilitation Services to the hospital budget; and
- Additional funding of \$88,132 from the State General Fund to fully fund the salary enhancements approved by the 2006 Legislature.

## Governor's Recommendation

The Governor concurs with the agency estimate.

### House Budget Committee Recommendation

The Social Services Budget Committee concurs with the Governor's recommendation.

### House Committee Recommendation

The House Committee concurs with the Budget Committee recommendation.

### Senate Subcommittee Report

**Agency:** Larned State Hospital      **Bill No.** SB 358      **Bill Sec.** 33

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 283      **Budget Page No.** 296

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	Senate Subcommittee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 39,741,197	\$ 39,741,197	\$ 0
Other Funds	11,433,957	11,433,957	0
Subtotal - Operating	<u>\$ 51,175,154</u>	<u>\$ 51,175,154</u>	<u>\$ 0</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
<b>TOTAL</b>	<u><u>\$ 51,175,154</u></u>	<u><u>\$ 51,175,154</u></u>	<u><u>\$ 0</u></u>
FTE Positions	978.2	978.2	0.0
Non FTE Uncl. Perm. Pos.	16.0	16.0	0.0
<b>TOTAL</b>	<u><u>994.2</u></u>	<u><u>994.2</u></u>	<u><u>0.0</u></u>

### Agency Estimate

The agency estimates FY 2007 operating expenditures of \$51.2 million, including \$39.7 million from the State General Fund. The estimate is an increase of \$800,027 from the State General Fund which calculates to an all funds increase of 1.6 percent and a State General Fund increase of 2.1 percent. The increase is a result of the following:

- A supplemental request of \$187,742 from the State General Fund and 12.0 FTE positions for the Sexual Predator Treatment/Transition program;

- A transfer of \$524,153 from the State General Fund and 8.0 non-FTE positions for the Sexual Predator Transition House Services from the Department of Social and Rehabilitation Services to the hospital budget; and
- Additional funding of \$88,132 from the State General Fund to fully fund the salary enhancements approved by the 2006 Legislature.

### **Governor's Recommendation**

The Governor concurs with the agency request.

### **Senate Subcommittee Recommendation**

The Senate Subcommittee concurs with the Governor's recommendation.

## House Budget Committee Report

**Agency:** Larned State Hospital      **Bill No.** HB

**Bill Sec.**

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 283

**Budget Page No.** 296

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 41,520,484	\$ 41,871,494	\$ (1,816,941)
Other Funds	11,433,957	11,433,957	0
Subtotal - Operating	\$ 52,954,441	\$ 53,305,451	\$ (1,816,941)
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
 <b>TOTAL</b>	 <b>\$ 52,954,441</b>	 <b>\$ 53,305,451</b>	 <b>\$ (1,816,941)</b>
 FTE Positions	 988.2	 978.2	 0.0
Non FTE Uncl. Perm. Pos.	16.0	0.0	0.0
<b>TOTAL</b>	<b>1,004.2</b>	<b>978.2</b>	<b>0.0</b>

### Agency Request

The agency requests FY 2008 operating expenditures of \$53.0 million, including \$41.5 million from the State General Fund. The request is a State General Fund increase of \$1,779,287, or 4.5 percent, and an all funds increase of the same amount which calculates to a 3.5 percent increase.

The request includes enhancements of \$1,653,683 from the State General Fund and 22.0 FTE positions. Of the FTE positions requested, 12.0 were also requested as a supplemental in FY 2007 for the last half of the fiscal year, resulting in an increase of 10.0 FTE above the current fiscal year estimate. The remainder of the increase is accounted for by general increases in cost indices for supplies and services.

### Governor's Recommendation

The Governor recommends expenditures of \$53,305,441, including \$41,871,484 from the State General Fund, which is an all funds increase of \$2,130,287, or 4.2 percent, and a State General Fund increase of \$2,130,287, or 5.4 percent, above the FY 2007 recommendation. The recommendation is an all funds increase of \$351,000, or 0.7 percent, and a State General Fund increase of the same amount, which equates to a 0.8 percent increase, above the agency request.

The Governor recommendation includes the following:

- The Governor's FY 2008 recommendation includes the addition of \$1,564,228 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement.
- The Governor recommends enhancements of \$440,455 from the State General Fund and 12.0 FTE positions for an increase in the Sexual Predator Treatment/Transition program and the purchase of four replacement vehicles. The recommendation is a decrease of \$1,213,228, or 73.4 percent, and 10.0 FTE below the amount requested by the agency for enhancements.

### House Budget Committee Recommendation

The Social Services Budget Committee concurs with the Governor's recommendation with the following exceptions and comments:

1. Delete \$1,564,228, all from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$62,600, all from the State General Fund, to remove recommended funding to replace four vehicles for consideration at Omnibus.
3. Delete \$190,113, all from the State General fund, to remove funding for 12.0 FTE positions in the Sexual Predator Treatment Program (SPTP) added for the second half of FY 2007 for consideration at Omnibus. The Budget Committee notes the rising census in the SPTP which is fully supported by the State General Fund. As a result, the agency requested additional security staffing for the recently opened Jung building. According to testimony, of the residents presently assigned to SPTP, more than two thirds have been received within the past four years. The steady increase in referrals to the program and the length of time it takes to complete the program combine to create a continuing budget and public policy challenge. At the beginning of FY 2007, the SPTP's physical capacity was 152 beds and the census at the end of August 2006 was 151 residents on the Larned campus. With the opening of the Jung building in the current fiscal year, the physical capacity is 217 beds. The forecast is that there will be 159 clients at the end of FY 2007 and 169 at the end of FY 2008. In addition, the Budget Committee was told that the Sexual Predator Transition Program located at Osawatomie State Hospital, which is included in the Larned State Hospital (LSH) budget, may also require additional resources as clients are referred to those phases of treatment. The Budget Committee acknowledges that additional funding will be needed to support the Treatment and Transitions programs but would like additional information to determine the resources needed.
4. The Budget Committee notes the agency's enhancement request for \$230,420 from the State General Fund in increase salaries for Licensed Practical Nurses (LPN's) in order to improve recruitment and retention. According to the budget information presented, only 59 percent of the agency's LPN positions are filled due to difficulty in hiring.

The Budget Committee is concerned about the ability of the hospital to provide patient care given the large number of vacancies in these position and about the hospital's ability to fill these positions without salary increases.

5. The Budget Committee notes the significant amount of testimony received expressing concern about the availability of inpatient treatment for mentally ill adults and children. Highlighted in the testimony is the critical role the state mental health hospitals play in the mental health treatment system. Conferees commented on the increasing admissions to the state hospitals which must operate within a set budget and number of beds regardless of the demand. As a result, many conferees expressed concern over the need to accommodate the increased demand by reducing the length of stay for individuals. One issue discussed in relation to increasing admissions was the significant decrease in the private psychiatric beds that was not anticipated when mental health reform downsizing was initiated. Several conferees noted the interim Legislative Budget Committee report which recommended that SRS and stakeholders work to determine what the role of the state mental health hospitals should be and the number of inpatient beds needed to provide services to meet the needs of the citizens of Kansas.
6. In addition to increasing capacity at state hospitals, the Budget Committee notes testimony it received in support of increasing inpatient psychiatric capacity in communities and stresses the importance of these resources as a part of the continuum of mental health services.

The interim Legislative Budget Committee recommended additional funding for SRS to enter into contractual relationships with local hospitals who have the capacity to provide inpatient services. In response, SRS testified to the Budget Committee that it has begun discussions with other providers regarding the possibility of entering into contractual arrangements to provide acute care, inpatient mental health services. The agency reported that these discussions are promising, especially for children and youth with preliminary cost estimates between \$375 and \$450 per day per youth. The estimated total to provide these types of services is \$2.5 million. In its testimony, SRS indicated that if these contractual arrangements are successful and are funded, children and adolescent services provided by Rainbow Mental Health Facility (RMHF) and LSH could be shifted to private providers and the units freed up to serve more adults thereby relieving census issues at all the state mental health hospitals. The Budget Committee was also informed that SRS intends to retain access to at least an equal number of children's inpatient beds as are at the state hospitals currently if the external contracting is successful. In addition, the agency reported that it has worked with ComCare and Via Christi in Wichita to ensure Via Christi continues to provide care to civilly committed individuals and to provide an overflow capability when Osawatomie State Hospital (OSH) and LSH are both at capacity.

The Budget Committee believes that bringing additional inpatient resources into the system is critical. In addition, having beds for youth that may be closer to home than the current state hospitals (RMHF and LSH) provide would help alleviate concerns about access to mental health services for those families.

**House Committee Recommendation**

The House Committee concurs with the Budget Committee recommendation with the following adjustment:

1. The Committee recommends that Item 4, regarding an agency enhancement request for \$230,420 from the State General Fund to increase LPN salaries, be considered at Omnibus.

**Senate Subcommittee Report**

**Agency:** Larned State Hospital      **Bill No.** SB 357      **Bill Sec.** 55

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 283      **Budget Page No.** 296

<u>Expenditure Summary</u>	<u>Agency Request FY 08</u>	<u>Governor's Recommendation FY 08</u>	<u>Senate Subcommittee Adjustments</u>
<b>Operating Expenditures:</b>			
State General Fund	\$ 41,520,484	\$ 41,871,494	\$ (1,816,941)
Other Funds	11,433,957	11,433,957	0
Subtotal - Operating	<u>\$ 52,954,441</u>	<u>\$ 53,305,451</u>	<u>\$ (1,816,941)</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
<b>TOTAL</b>	<u><u>\$ 52,954,441</u></u>	<u><u>\$ 53,305,451</u></u>	<u><u>\$ (1,816,941)</u></u>
<b>FTE Positions</b>	988.2	978.2	0.0
<b>Non FTE Uncl. Perm. Pos.</b>	16.0	16.0	0.0
<b>TOTAL</b>	<u><u>1,004.2</u></u>	<u><u>994.2</u></u>	<u><u>0.0</u></u>

**Agency Request**

The agency requests FY 2008 operating expenditures of \$53.0 million, including \$41.5 million from the State General Fund. The request is a State General Fund increase of \$1,779,287, or 4.5 percent, and an all funds increase of the same amount which calculates to a 3.5 percent increase. The request includes enhancements of \$1,653,683 from the State General Fund and 22.0 FTE positions. Of the FTE positions requested, 12.0 were also requested as a supplemental in FY 2007 for the last half of the fiscal year, resulting in an increase of 10.0 FTE above the current fiscal year estimate. The remainder of the increase is accounted for by general increases in cost indices for supplies and services.



## **Governor's Recommendation**

The Governor recommends expenditures of \$53,305,441, including \$41,871,484 from the State General Fund, which is an all funds increase of \$2,130,287, or 4.2 percent, and a State General Fund increase of \$2,130,287, or 5.4 percent, above the FY 2007 recommendation. The recommendation is an all funds increase of \$351,000, or 0.7 percent, and a State General Fund increase of the same amount, which equates to a 0.8 percent increase, above the agency request.

The Governor recommendation includes the following:

- The Governor's FY 2008 recommendation includes the addition of \$1,564,228 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement.
- The Governor recommends enhancements of \$440,455 from the State General Fund and 12.0 FTE positions for an increase in the Sexual Predator Treatment/Transition program and the purchase of four replacement vehicles.
- The recommendation is a decrease of \$1,213,228, or 73.4 percent, and 10.0 FTE below the amount requested by the agency for enhancements.

## **Senate Subcommittee Recommendation**

The Senate Subcommittee concurs with the Governor's recommendation with the following exceptions and comments:

1. Delete \$1,564,228, all from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$62,600, all from the State General Fund, to remove recommended funding to replace four vehicles for consideration at Omnibus.
3. Delete \$190,113, all from the State General fund, to remove funding for 12.0 FTE positions in the Sexual Predator Treatment Program (SPTP) which were added for the second half of FY 2007. The above amount represents funding for the second half of FY 2008 to support the positions. The Subcommittee notes the rising census in the SPTP, which is fully supported by the State General Fund. The Subcommittee acknowledges that the increasing census may necessitate additional funding in FY 2008 and recommends the funding be reviewed at Omnibus.
4. The Subcommittee recommends that the Subcommittee considering the budget of Social and Rehabilitation Services add \$2.0 million from the State General Fund to allow the agency to enter into contractual agreements with local hospitals to provide acute care, inpatient mental health services in order to help relieve stress on the inpatient resources at the state mental health hospitals.

5. The Subcommittee acknowledges the importance of stakeholder involvement in planning for the future of the mental health system and notes the following recommendation made by the 2006 Interim Legislative Budget Committee:

“SRS and mental health stakeholders shall work together to define what the future role of the State Mental Health Hospitals (SMHH) is going to be; to determine what the appropriate number of inpatient beds that is necessary to meet the needs of the citizens of Kansas based on the State’s current population and respective population growth projections (either SMHH beds or a combination of SMHH beds and local acute care inpatient resources); and to propose a plan as part of the agency’s budget hearings in 2007 to the Ways and Means and Appropriations Committees that would support the needs identified in the plan.”

During budget hearings, the agency informed the Subcommittee that it is proceeding with discussions with stakeholders on these issues but that the work is not expected to be completed until Summer 2007.

## House Budget Committee Report

**Agency:** Parsons State Hospital and Training Center      **Bill No.** HB      **Bill Sec.**

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 264      **Budget Page No.** 318

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 8,809,007	\$ 8,809,007	\$ 0
Other Funds	14,302,098	14,302,098	0
Subtotal - Operating	<u>\$ 23,111,105</u>	<u>\$ 23,111,105</u>	<u>\$ 0</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 56,121	\$ 56,121	\$ 0
Other Funds	52,900	52,900	0
Subtotal - Capital Improvements	<u>\$ 109,021</u>	<u>\$ 109,021</u>	<u>\$ 0</u>
<b>TOTAL</b>	<u><u>\$ 23,220,126</u></u>	<u><u>\$ 23,220,126</u></u>	<u><u>\$ 0</u></u>
FTE Positions	467.2	467.2	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<u><u>467.2</u></u>	<u><u>467.2</u></u>	<u><u>0.0</u></u>

### Agency Estimate

The agency estimates FY 2007 operating expenditures of \$23.1 million, including \$8.8 million from the State General Fund. The estimate is an all funds decrease of \$61,168, or 0.3 percent, and a State General Fund decrease of \$8,268, or 0.1 percent, below the amount approved by the 2006 Legislature. The budget represents essentially flat spending from FY 2006 and no supplemental requests are included in the agency's budget. The requested budget is estimated to allow the agency to operate at an average daily census of 198 patients for FY 2007.

### Governor's Recommendation

The Governor concurs with the agency estimate.

### House Budget Committee Recommendation

The Social Services Budget Committee concurs with the Governor's recommendation.

### House Committee Recommendation

The House Committee concurs with the Budget Committee recommendation.

### Senate Subcommittee Report

**Agency:** Parsons State Hospital and Training Center      **Bill No.** SB 358      **Bill Sec.** 33

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 264      **Budget Page No.** 318

<u>Expenditure Summary</u>	<u>Agency Estimate FY 07</u>	<u>Governor's Recommendation FY 07</u>	<u>Senate Subcommittee Adjustments</u>
<b>Operating Expenditures:</b>			
State General Fund	\$ 8,809,007	\$ 8,809,007	\$ 0
Other Funds	14,302,098	14,302,098	0
Subtotal - Operating	<u>\$ 23,111,105</u>	<u>\$ 23,111,105</u>	<u>\$ 0</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 56,121	\$ 56,121	\$ 0
Other Funds	52,900	52,900	0
Subtotal - Capital Improvements	<u>\$ 109,021</u>	<u>\$ 109,021</u>	<u>\$ 0</u>
 TOTAL	 <u><u>\$ 23,220,126</u></u>	 <u><u>\$ 23,220,126</u></u>	 <u><u>\$ 0</u></u>
 FTE Positions	 467.2	 467.2	 0.0
Non FTE Uncl. Perm. Pos.	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
TOTAL	<u><u>467.2</u></u>	<u><u>467.2</u></u>	<u><u>0.0</u></u>

### Agency Estimate

The agency estimates FY 2007 operating expenditures of \$23.1 million, including \$8.8 million from the State General Fund. The estimate is an all funds decrease of \$61,168, or 0.3 percent, and a State General Fund decrease of \$8,268, or 0.1 percent, below the amount approved by the 2006 Legislature. The budget represents essentially flat spending from FY 2006 and no supplemental requests are included in the agency's budget. The requested budget is estimated to allow the agency to operate at an average daily census of 198 patients for FY 2007.

### Governor's Recommendation

The Governor concurs with the agency estimate.

### Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

## House Budget Committee Report

**Agency:** Parsons State Hospital and Training Center      **Bill No.** HB 2542      **Bill Sec.** 55

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 264      **Budget Page No.** 318

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 9,527,762	\$ 9,478,886	\$ (750,409)
Other Funds	14,913,258	14,302,098	0
Subtotal - Operating	<u>\$ 24,441,020</u>	<u>\$ 23,780,984</u>	<u>\$ (750,409)</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 60,714	\$ 60,714	0
Other Funds	52,900	52,900	0
Subtotal - Capital Improvements	<u>\$ 113,614</u>	<u>\$ 113,614</u>	<u>\$ 0</u>
<b>TOTAL</b>	<u><u>\$ 24,554,634</u></u>	<u><u>\$ 23,894,598</u></u>	<u><u>\$ (750,409)</u></u>
<b>FTE Positions</b>			
FTE Positions	497.2	467.2	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<u><u>497.2</u></u>	<u><u>0.0</u></u>	<u><u>0.0</u></u>

### Agency Request

The agency requests FY 2008 operating expenditures of \$24,441,020, including \$9,527,762 from the State General Fund. The request is an all funds increase of \$1.3 million, or 5.8 percent, and a State General Fund increase of \$0.7 million, 8.2 percent, above the FY 2007 estimate. The request reflects the annualization of salary enhancements approved for FY 2007. The request includes enhancements of \$1.2 million, including \$0.6 million from the State General Fund, and 30.0 FTE positions to reopen one of the living units and replace aging vehicles. The requested budget is estimated to allow the agency to operate at an average daily census of 198 patients for FY 2008.

### Governor's Recommendation

The Governor recommends expenditures of \$23,780,984, including \$9,478,886 from the State General Fund, which is an all funds increase of \$669,879, or 2.9 percent, and a State General Fund increase of \$669,879, or 7.6 percent, above the FY 2007 recommendation. The recommendation is an all fund decrease of \$660,036, or 2.7 percent, and a State General Fund decrease of \$48,876, or 0.5 percent, below the agency request. The Governor's FY 2008 recommendation includes the addition of \$712,809 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. The Governor recommends \$37,600 from the State General Fund for the purchase of two replacement vehicles, but does not recommend funding to reopen a living unit. The recommendation reflects the acceptance of the

agency's proposed reduced resource budget and a shift of funding from State General Fund to special revenue funds resulting in a State General Fund savings of \$197,765.

## House Budget Committee Recommendation

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

1. Delete \$712,809, all from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$37,600, all from the State General Fund, to remove recommended funding to replace two vehicles for consideration at Omnibus.
3. The Budget Committee notes the following information about Parsons State Hospital and Training Center (PSH&TC).

PSH&TC is budgeted to serve 188 persons in FY 2007 and FY 2008 with an anticipated Average Daily Census of 198 residents. Residents live in ten residential units, each of which house approximately 21 persons, except for the dual diagnosis unit which has an average census of ten. Just over half of the residents are categorized in the severe to profound range of mental retardation. In addition to their mental retardation, 93 percent of PSH&TC residents present significant behavioral challenges or symptoms of emotional disturbance. Last fiscal year, 19 persons were placed from PSH&TC to community service settings and 21 persons were admitted.

PSH&TC also provides a research-based treatment program for persons with developmental disabilities who have a history of sexual offenses. Currently, the hospital works with 53 persons and 13 outpatients in assessment and treatment programs designed to reduce the probability of new offenses.

The hospital's Dual Diagnosis Treatment and Training Services (DDT&TS) provides treatment and consultation for persons with developmental disabilities and severe mental illness. The DDT&TS has an active caseload of 76 in the community in addition to 10 residents at the hospital. The program provides on-site delivery of psychological services, as well as direct training to parents and staff of community service providers.

The Parsons Research Center and the Kansas University Center on Developmental Disabilities (KUCDD) are also located on the PSH&TC campus. These programs have a 50-year history at PSH&TC employing 50 faculty and staff with \$4.3 million in contracts and grant awards.

4. The Budget Committee notes the agency's enhancement request for \$1,018,600, including \$407,400 from the State General Fund, and 30.0 FTE positions to reopen one of the living cottages closed in FY 2002 due to budget reductions. According to the agency, the reopening of Willow cottage is necessary to relieve

overcrowding in other living cottages which is causing increased behavior problems and risk of patient harm. The Budget Committee notes that the Average Daily Census has increased since the closure of this cottage in FY 2002. Finally, the Budget Committee notes the Governor did not recommend the funding for this enhancement and recommends the item be further reviewed at Omnibus.

### House Committee Recommendation

The House Committee concurs with the Budget Committee recommendation.

### Senate Subcommittee Report

**Agency:** Parsons State Hospital and Training Center      **Bill No.** SB 357      **Bill Sec.** 55

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 264      **Budget Page No.** 318

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	Senate Subcommittee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 9,527,762	\$ 9,478,886	\$ (343,009)
Other Funds	14,913,258	14,302,098	611,200
Subtotal - Operating	<u>\$ 24,441,020</u>	<u>\$ 23,780,984</u>	<u>\$ 268,191</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 60,714	\$ 60,714	0
Other Funds	52,900	52,900	0
Subtotal - Capital Improvements	<u>\$ 113,614</u>	<u>\$ 113,614</u>	<u>\$ 0</u>
<b>TOTAL</b>	<u><u>\$ 24,554,634</u></u>	<u><u>\$ 23,894,598</u></u>	<u><u>\$ 268,191</u></u>
FTE Positions	497.2	467.2	30.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<u><u>497.2</u></u>	<u><u>467.2</u></u>	<u><u>30.0</u></u>

### Agency Request

The agency requests FY 2008 operating expenditures of \$24,441,020, including \$9,527,762 from the State General Fund. The request is an all funds increase of \$1.3 million, or 5.8 percent, and a State General Fund increase of \$0.7 million, 8.2 percent, above the FY 2007 estimate. The request reflects the annualization of salary enhancements approved for FY 2007. The request includes enhancements of \$1.2 million, including \$0.6 million from the State General Fund, and 30.0 FTE

positions to reopen one of the living units and replace aging vehicles. The requested budget is estimated to allow the agency to operate at an average daily census of 198 patients for FY 2008.

### **Governor's Recommendation**

The Governor recommends expenditures of \$23,780,984, including \$9,478,886 from the State General Fund, which is an all funds increase of \$669,879, or 2.9 percent, and a State General Fund increase of \$669,879, or 7.6 percent, above the FY 2007 recommendation. The recommendation is an all funds decrease of \$660,036, or 2.7 percent, and a State General Fund decrease of \$48,876, or 0.5 percent, below the agency request. The Governor's FY 2008 recommendation includes the addition of \$712,809 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. The Governor recommends \$37,600 from the State General Fund for the purchase of two replacement vehicles, but does not recommend funding to reopen a living unit. The recommendation reflects the acceptance of the agency's proposed reduced resource budget and a shift of funding from State General Fund to special revenue funds resulting in a State General Fund savings of \$197,765.

### **Senate Subcommittee Recommendation**

The Senate Subcommittee concurs with the Governor's recommendation with the following exceptions:

1. Delete \$712,809, all from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$37,600, all from the State General Funds, to remove recommended funding to replace two vehicles for consideration at Omnibus.
3. Add \$1,018,600, including \$407,400 from the State General Fund, and 30.0 FTE positions to allow the agency to reopen the Willow Cottage living unit as requested in the enhancement request. The Subcommittee notes agency information that current overcrowding on living units is creating behavior problems and increased incidences of harm to residents.



# House Budget Committee Report

**Agency:** Kansas Neurological Institute      **Bill No.** HB 2541

**Bill Sec.** 33

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 246

**Budget Page No.** 254

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 12,285,109	\$ 12,285,109	\$ 0
Other Funds	14,902,062	14,902,062	0
Subtotal - Operating	\$ 27,187,171	\$ 27,187,171	\$ 0
<b>Capital Improvements:</b>			
State General Fund	\$ 55,169	\$ 55,169	0
Other Funds	64,831	64,831	0
Subtotal - Capital Improvements	\$ 120,000	\$ 120,000	\$ 0
 TOTAL	 \$ 27,307,171	 \$ 27,307,171	 \$ 0
 FTE Positions	 575.2	 575.2	 0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	575.2	575.2	0.0

## Agency Estimate

The agency estimates FY 2007 operating expenditures of \$27,187,171, including \$12,285,109 from the State General Fund. The estimate is an all funds decrease of \$65,058, or 0.2 percent, and a State General Fund increase of \$312, 0.0 percent, as compared to the budget approved by the 2006 Legislature. The FY 2007 budget reflects essentially flat spending from FY 2006 and no supplemental funding is requested.

## Governor's Recommendation

The Governor concurs with the agency estimate.

## House Budget Committee Recommendation

The House Budget Committee concurs with the Governor's recommendation.

## House Committee Recommendation

The House Committee concurs with the Budget Committee recommendation.

### Senate Subcommittee Report

**Agency:** Kansas Neurological Institute      **Bill No.** SB 358      **Bill Sec.** 33

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 246      **Budget Page No.** 254

<u>Expenditure Summary</u>	<u>Agency Estimate FY 07</u>	<u>Governor's Recommendation FY 07</u>	<u>Senate Subcommittee Adjustments</u>
<b>Operating Expenditures:</b>			
State General Fund	\$ 12,285,109	\$ 12,285,109	\$ 0
Other Funds	14,902,062	14,902,062	0
Subtotal - Operating	<u>\$ 27,187,171</u>	<u>\$ 27,187,171</u>	<u>\$ 0</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 55,169	\$ 55,169	\$ 0
Other Funds	64,831	64,831	0
Subtotal - Capital Improvements	<u>\$ 120,000</u>	<u>\$ 120,000</u>	<u>\$ 0</u>
 TOTAL	 <u><u>\$ 27,307,171</u></u>	 <u><u>\$ 27,307,171</u></u>	 <u><u>\$ 0</u></u>
 FTE Positions	 575.2	 575.2	 0.0
Non FTE Uncl. Perm. Pos.	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
TOTAL	<u><u>575.2</u></u>	<u><u>575.2</u></u>	<u><u>0.0</u></u>

#### Agency Estimate

The agency estimates FY 2007 operating expenditures of \$27,187,171, including \$12,285,109 from the State General Fund. The estimate is an all funds decrease of \$65,058, or 0.2 percent, and a State General Fund increase of \$312, 0.0 percent, as compared to the budget approved by the 2006 Legislature. The FY 2007 budget reflects essentially flat spending from FY 2006 and no supplemental funding is requested.

#### Governor's Recommendation

The Governor concurs with the agency estimate.

#### Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

## House Budget Committee Report

**Agency:** Kansas Neurological Institute      **Bill No.** HB 2542

**Bill Sec.** 55

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 246

**Budget Page No.** 254

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 12,675,161	\$ 13,257,791	\$ (820,730)
Other Funds	14,902,427	14,970,790	(68,363)
Subtotal - Operating	\$ 27,577,588	\$ 28,228,581	\$ (889,093)
<b>Capital Improvements:</b>			
State General Fund	\$ 55,534	\$ 55,534	0
Other Funds	64,466	64,466	0
Subtotal - Capital Improvements	\$ 120,000	\$ 120,000	\$ 0
 TOTAL	 \$ 27,697,588	 \$ 28,348,581	 \$ (889,093)
 FTE Positions	 575.2	 575.2	 0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	575.2	575.2	0.0

### Agency Request

The agency requests FY 2008 expenditures of \$27,577,588, including \$12,675,161 from the State General Fund. The request is an all funds increase of \$390,417, or 1.4 percent, and a State General Fund increase of \$390,052, or 3.2 percent, above the revised FY 2007 estimate.

The request includes a State General Fund enhancement of \$238,100 for replacement vehicles. The remainder of the increase from FY 2007 is related to increases in salaries and wages expenditures as a result of the annualization of the salary plan approved by the 2006 Legislature for FY 2007.

### Governor's Recommendation

The Governor recommends expenditures of \$28,228,581, including \$13,257,791 from the State General Fund. The recommendation is an all funds increase of \$650,993, or 2.4 percent, and a State General Fund increase of \$582,630, or 4.6 percent, above the agency request. The Governor recommends \$857,793, including \$789,430 from the State General Fund, for step movement for classified state employees, a 4.0 percent merit pool for unclassified employees, a 1.5 percent base salary adjustment, and an increase in longevity pay. The recommendation includes funding of \$31,300 from the State General Fund for the purchase of two vehicles which represents a portion of the agency's enhancement request.

## House Budget Committee Recommendation

The House Budget Committee concurs with the Governor's recommendation with the following exceptions and comments:

1. Delete \$857,793, including \$789,430 from the State General Fund for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$31,300 from the State General Fund to remove recommended funding to replace two vehicles for consideration at Omnibus.
3. The Budget Committee notes the following information about the Kansas Neurological Institute (KNI), located in Topeka.

KNI serves 164 persons, 98 percent of whom are categorized in the severe to profound range of mental retardation. Most residents require intensive physical and medical supports. Most are unable to walk or speak, and about two-thirds of residents have seizure disorders. Residents live in one of 24 homes in 5 lodges on the campus and are served through a person-centered approach designed to meet the individual needs and desires of the residents. In addition to caring for residents who live at the facility, KNI operates three other programs designed to assist persons with developmental disabilities living in the community.

- KNI operates one of three seating clinics in Kansas providing individually designed seating for persons using wheelchairs and providing assistive technology support to persons in the community. The seating clinic served 121 individuals in FY 2006 and expects to serve 135 individuals in FY 2007. Assistive technology was provided to 112 people in FY 2006 and the agency anticipates serving 120 in FY 2007.
  - Dental services are provided to persons living in the community who are unable to access needed care. Thus far in FY 2007, 107 people have utilized these services. KNI has staff with unique skills and experience that can be used to assist with developing new community-based dental services made possible by funding approved by the 2006 Legislature for persons on the Medicaid Home and Community Based Services waivers when the plan to provide services is approved by the federal government.
  - Beginning in FY 2006, KNI began providing behavioral consultation and support to people receiving community based services. Thus far in FY 2007, 17 people have used these services.
4. The Budget Committee notes the severity of the disabilities of the population living at KNI, as described in item 3 above, and is concerned whether there is capacity in the community to serve these individuals appropriately. In addition, the Budget Committee notes that the severity of the disabilities, and the required medical care, makes it costly to serve these individuals at the institution. These factors would make it difficult to move these persons into the community.

- 5. The Budget Committee notes the services provided to persons living in the community including a seating clinic, dental services and behavioral consultations (described in item 3 above) and notes the importance of these services.

**House Committee Recommendation**

The House Committee concurs with the Budget Committee recommendation.

**Senate Subcommittee Report**

**Agency:** Kansas Neurological Institute      **Bill No.** SB 357      **Bill Sec.** 55

**Analyst:** Kannarr      **Analysis Pg. No.** Vol. I - 246      **Budget Page No.** 254

<u>Expenditure Summary</u>	<u>Agency Request FY 08</u>	<u>Governor's Recommendation FY 08</u>	<u>Senate Subcommittee Adjustments</u>
<b>Operating Expenditures:</b>			
State General Fund	\$ 12,675,161	\$ 13,257,791	\$ (820,730)
Other Funds	<u>14,902,427</u>	<u>14,970,790</u>	<u>(68,363)</u>
Subtotal - Operating	<u>\$ 27,577,588</u>	<u>\$ 28,228,581</u>	<u>\$ (889,093)</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 55,534	\$ 55,534	\$ 0
Other Funds	<u>64,466</u>	<u>64,466</u>	<u>0</u>
Subtotal - Capital Improvements	<u>\$ 120,000</u>	<u>\$ 120,000</u>	<u>\$ 0</u>
 TOTAL	 <u>\$ 27,697,588</u>	 <u>\$ 28,348,581</u>	 <u>\$ (889,093)</u>
 FTE Positions	 575.2	 575.2	 0.0
Non FTE Uncl. Perm. Pos.	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
TOTAL	<u>575.2</u>	<u>575.2</u>	<u>0.0</u>

**Agency Request**

The agency requests FY 2008 expenditures of \$27,577,588, including \$12,675,161 from the State General Fund. The request is an all funds increase of \$390,417, or 1.4 percent, and a State General Fund increase of \$390,052, or 3.2 percent, above the revised FY 2007 estimate. The request includes a State General Fund enhancement of \$238,100 for replacement vehicles. The remainder of the increase from FY 2007 is related to increases in salaries and wages expenditures as a result of the annualization of the salary plan approved by the 2006 Legislature for FY 2007.

## **Governor's Recommendation**

The Governor recommends expenditures of \$28,228,581, including \$13,257,791 from the State General Fund. The recommendation is an all funds increase of \$650,993, or 2.4 percent, and a State General Fund increase of \$582,630, or 4.6 percent, above the agency request. The Governor recommends \$857,793, including \$789,430 from the State General Fund, for step movement for classified state employees, a 4.0 percent merit pool for unclassified employees, a 1.5 percent base salary adjustment, and an increase in longevity pay. The recommendation includes funding of \$31,300 from the State General Fund for the purchase of two vehicles which represents a portion of the agency's enhancement request.

## **Senate Subcommittee Recommendation**

The Senate Subcommittee concurs with the Governor's recommendation with the following exceptions:

1. Delete \$857,793, including \$789,430 from the State General Fund for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$31,300 from the State General Fund to remove recommended funding to replace two vehicles for consideration at Omnibus.

## House Budget Committee Report

**Agency:** Osawatomie State Hospital **Bill No.** HB 2541

**Bill Sec.** 33

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I - 307

**Budget Page No.** 314

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 10,928,135	\$ 9,743,729	\$ 0
Other Funds	13,568,214	13,568,214	0
Subtotal - Operating	\$ 24,496,349	\$ 23,311,943	\$ 0
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
<b>TOTAL</b>	<b>\$ 24,496,349</b>	<b>\$ 23,311,943</b>	<b>\$ 0</b>
FTE Positions	436.6	404.6	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<b>436.6</b>	<b>404.6</b>	<b>0.0</b>

### Agency Estimate

The agency estimates FY 2007 operating expenditures of \$24.5 million, including \$10.9 million from the State General Fund. The estimate is an all funds increase of \$1.4 million, or 6.3 percent, and a State General Fund increase of \$1.4 million, or 15.3 percent, above the budget approved by the 2006 Legislature. The estimate includes:

- A supplemental request of \$1,406,620 from the State General Fund and 37.0 FTE positions.
- Additional State General Fund financing of \$42,447 to fully fund the salary plan approved by the 2006 Legislature.
- An increase of 38.0 FTE positions which reflects the supplemental request for 37.0 FTE and 1.0 FTE position shifted from the Department of Social and Rehabilitation Services central office to address federal survey issues.
- A shift of \$1,571,255 from Title XIX to Fee Fund expenditures due to concerns about the availability of sufficient Title XIX funding.

## Governor's Recommendation

The Governor recommends expenditures of \$23.3 million, including \$9.7 million from the State General Fund. The recommendation is an all funds increase of \$264,661, or 1.1 percent, and a State General Fund increase of the same amount, which equates to an increase of 2.8 percent above the amount approved by the 2006 Legislature. The Governor's recommendation is an all funds decrease of \$1,184,406, or 4.8 percent, and a State General Fund decrease of the same amount which equates to a decrease of 10.8 percent below the agency estimate. The Governor recommends supplementals of \$222,214 from the State General Fund to cover holiday and overtime pay and 5.0 FTE positions to increase active treatment. This is a decrease of \$1,184,406 below the agency's requested supplementals and represents the entire change from the agency estimate.

## House Budget Committee Recommendation

The Social Services Budget Committee concurs with the Governor's recommendation.

## House Committee Recommendation

The House Committee concurs with the Budget Committee recommendation.

## Senate Subcommittee Report

**Agency:** Osawatomi State Hospital **Bill No.** SB 358

**Bill Sec.** 33

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I - 307

**Budget Page No.** 314

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	Senate Subcommittee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 10,928,135	\$ 9,743,729	\$ 255,000
Other Funds	13,568,214	13,568,214	0
Subtotal - Operating	<u>\$ 24,496,349</u>	<u>\$ 23,311,943</u>	<u>\$ 255,000</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
<b>TOTAL</b>	<u><u>\$ 24,496,349</u></u>	<u><u>\$ 23,311,943</u></u>	<u><u>\$ 255,000</u></u>
FTE Positions	436.6	404.6	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<u><u>436.6</u></u>	<u><u>404.6</u></u>	<u><u>0.0</u></u>



## Agency Estimate

The agency estimates FY 2007 operating expenditures of \$24.5 million, including \$10.9 million from the State General Fund. The estimate is an all funds increase of \$1.4 million, or 6.3 percent, and a State General Fund increase of \$1.4 million, or 15.3 percent, above the budget approved by the 2006 Legislature. The estimate includes:

- A supplemental request of \$1,406,620 from the State General Fund and 37.0 FTE positions.
- Additional State General Fund financing of \$42,447 to fully fund the salary plan approved by the 2006 Legislature.
- An increase of 38.0 FTE positions which reflects the supplemental request for 37.0 FTE and 1.0 FTE position shifted from the Department of Social and Rehabilitation Services central office to address federal survey issues.
- A shift of \$1,571,255 from Title XIX to Fee Fund expenditures due to concerns about the availability of sufficient Title XIX funding.

## Governor's Recommendation

The Governor recommends expenditures of \$23.3 million, including \$9.7 million from the State General Fund. The recommendation is an all funds increase of \$264,661, or 1.1 percent, and a State General Fund increase of the same amount, which equates to an increase of 2.8 percent above the amount approved by the 2006 Legislature. The Governor's recommendation is an all funds decrease of \$1,184,406, or 4.8 percent, and a State General Fund decrease of the same amount which equates to a decrease of 10.8 percent below the agency estimate. The Governor recommends supplementals of \$222,214 from the State General Fund to cover holiday and overtime pay and 5.0 FTE positions to increase active treatment. This is a decrease of \$1,184,406 below the agency's requested supplementals and represents the entire change from the agency estimate.

## Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following exception:

1. Add \$255,000 from the State General Fund to address overtime and holiday pay costs. The Governor recommended \$85,052 for this purpose in FY 2007 as compared to the agency request for \$340,209. The Subcommittee recommends total funding of \$340,052 from the State General Fund for this purpose.

# House Budget Committee Report

**Agency:** Osawatomie State Hospital **Bill No.** HB

**Bill Sec.**

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I - 307

**Budget Page No.** 314

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 12,152,621	\$ 11,619,198	\$ (818,948)
Other Funds	13,568,214	13,582,428	(14,214)
Subtotal - Operating	\$ 25,720,835	\$ 25,201,626	\$ (833,162)
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
<b>TOTAL</b>	<b>\$ 25,720,835</b>	<b>\$ 25,201,626</b>	<b>\$ (833,162)</b>
<b>FTE Positions</b>			
FTE Positions	436.6	419.6	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<b>436.6</b>	<b>419.6</b>	<b>0.0</b>

## Agency Request

The agency requests FY 2008 operating expenditures of \$25.7 million, including \$12.2 million from the State General Fund. The request is an all funds increase of \$1.2 million, or 5.0 percent, and a State General Fund increase of the same amount which equates to an 11.2 percent increase, above the FY 2007 estimate.

The request includes an enhancement package of \$2.5 million from the State General Fund and 37.0 FTE positions which is described below. Absent the enhancement, the request is an all funds decrease of \$1.3 million, or 5.3 percent, and a State General Fund decrease of the same amount, which equates to a 12.0 percent decrease below the FY 2007 estimate.

## Governor's Recommendation

The Governor recommends expenditures of \$25.2 million, including \$11.6 million from the State General Fund. The recommendation is an all funds increase of \$1,889,683, or 8.1 percent, and a State General Fund increase of \$1,875,469, or 19.2 percent, above the FY 2007 recommendation. As compared to the agency request, the recommendation is an all funds decrease of \$519,209, or 2.0 percent, and a State General Fund decrease of \$533,423, or 4.4 percent. The following adjustments are made to the agency request:

- The Governor's FY 2008 recommendation includes the addition of \$729,309, including \$715,095 from the State General Fund, for the 1.5 percent base salary

adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement.

- The Governor recommends enhancements of \$1,286,202 from the State General Fund and 20.0 FTE positions to cover holiday and overtime pay, increase active treatment and purchase a replacement vehicle. The recommendation is a decrease of \$1,248,518, or 49.3 percent, and 17.0 FTE positions below the agency's enhancement request.

## House Budget Committee Recommendation

The Social Services Budget Committee concurs with the Governor's recommendation with the following exceptions and comments:

1. Delete \$729,309, including \$715,095 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$18,800, all from the State General Fund, to remove recommended funding to replace one vehicle for consideration at Omnibus.
3. Delete \$85,053, all from the State General Fund, to remove recommended funding for overtime and holiday pay for consideration at Omnibus.
4. The Budget Committee notes the funding and positions included in the Governor's recommendation to help maintain federal certification and continue receiving Medicaid funding. According to testimony, OSH was cited by the Centers for Medicare and Medicaid Services (CMS) in its May 2006 survey for deficiencies in the level of active treatment for patients. The hospital was able to implement a corrective action plan using internal resources and received certification. The hospital requested additional resources in FY 2007 and FY 2008 to address the need for more staff to maintain minimal staff coverage on each unit, continue to provide active treatment to meet the needs of the patients and comply with CMS rules, and serve the increased number of admissions and increased census at these facilities. The Budget Committee recommends these positions be retained to address these issues and ensure continued federal funding for the hospital. The Budget Committee is concerned that without these additional resources, the hospital may not be able to sustain the required level of treatment and be decertified by the CMS, resulting in the loss of Federal Medicaid funding for the hospital which is estimated to be \$8.7 million in FY 2008. In contrast, additional recommended funding is \$960,135 from the State General Fund and 15.0 FTE positions.
5. The Budget Committee notes the significant amount of testimony received expressing concern about the availability of inpatient treatment for mentally ill adults and children. Highlighted in the testimony is the critical role the state mental health hospitals play in the mental health treatment system. Conferees commented on the increasing admissions to the state hospitals which must operate within a set budget and number of beds regardless of the demand. As a result, many conferees expressed concern over the need to accommodate the increased demand by reducing the length of stay for individuals. One issue

discussed in relation to increasing admissions was the significant decrease in the private psychiatric beds that was not anticipated when mental health reform downsizing was initiated. Several conferees noted the interim Legislative Budget Committee report which recommended that SRS and stakeholders work to determine what the role of the state mental health hospitals should be and the number of inpatient beds needed to provide services to meet the needs of the citizens of Kansas.

6. In addition to increasing capacity at state hospitals, the Budget Committee notes testimony it received in support of increasing inpatient psychiatric capacity in communities and stresses the importance of these resources as a part of the continuum of mental health services.

The interim Legislative Budget Committee recommended additional funding for SRS to enter into contractual relationships with local hospitals who have the capacity to provide inpatient services. In response, SRS testified to the Budget Committee that it has begun discussions with other providers regarding the possibility of entering into contractual arrangements to provide acute care, inpatient mental health services. The agency reported that these discussions are promising, especially for children and youth with preliminary cost estimates between \$375 and \$450 per day per youth. The estimated total to provide these types of services is \$2.5 million. In its testimony, SRS indicated that if these contractual arrangements are successful and are funded, children and adolescent services provided by Rainbow Mental Health Facility (RMHF) and Larned State Hospital (LSH) could be shifted to private providers and the units freed up to serve more adults thereby relieving census issues at all the state mental health hospitals. The Budget Committee was also informed that SRS intends to retain access to at least an equal number of children's inpatient beds as are at the state hospitals currently if the external contracting is successful. In addition, the agency reported that it has worked with ComCare and Via Christi in Wichita to ensure Via Christi continues to provide care to civilly committed individuals and to provide an overflow capability when OSH and LSH are both at capacity.

The Budget Committee believes that bringing additional inpatient resources into the system is critical. In addition, having beds for youth that may be closer to home than the current state hospitals (RMHF and LSH) provide would help alleviate concerns about access to mental health services for those families.

### **House Committee Recommendation**

The House Committee concurs with the Budget Committee recommendation.

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### Senate Subcommittee Report

**Agency:** Osawatomie State Hospital **Bill No.** SB 357

**Bill Sec.** 55

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I - 307

**Budget Page No.** 314

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	Senate Subcommittee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 12,152,621	\$ 11,619,198	\$ (1,207,083)
Other Funds	13,568,214	13,582,428	(14,214)
Subtotal - Operating	<u>\$ 25,720,835</u>	<u>\$ 25,201,626</u>	<u>\$ (1,221,297)</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
<b>TOTAL</b>	<u><u>\$ 25,720,835</u></u>	<u><u>\$ 25,201,626</u></u>	<u><u>\$ (1,221,297)</u></u>
<b>FTE Positions</b>			
FTE Positions	436.6	419.6	(6.0)
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<u><u>436.6</u></u>	<u><u>419.6</u></u>	<u><u>(6.0)</u></u>

### Agency Request

The agency requests FY 2008 operating expenditures of \$25.7 million, including \$12.2 million from the State General Fund. The request is an all funds increase of \$1.2 million, or 5.0 percent, and a State General Fund increase of the same amount which equates to an 11.2 percent increase, above the FY 2007 estimate.

The request includes an enhancement package of \$2.5 million from the State General Fund and 37.0 FTE positions which is described below. Absent the enhancement, the request is an all funds decrease of \$1.3 million, or 5.3 percent, and a State General Fund decrease of the same amount which equates to an 12.0 percent decrease below the FY 2007 estimate.

### Governor's Recommendation

The Governor recommends expenditures of \$25.2 million, including \$11.6 million from the State General Fund. The recommendation is an all funds increase of \$1,889,683, or 8.1 percent, and a State General Fund increase of \$1,875,469, or 19.2 percent, above the FY 2007 recommendation. As compared to the agency request, the recommendation is an all funds decrease of \$519,209, or 2.0 percent, and a State General Fund decrease of \$533,423, or 4.4 percent. The following adjustments are made to the agency request:

- The Governor's FY 2008 recommendation includes the addition of \$729,309, including \$715,095 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement.
- The Governor recommends enhancements of \$1,286,202 from the State General Fund and 20.0 FTE positions to cover holiday and overtime pay, increase active treatment and purchase a replacement vehicle. The recommendation is a decrease of \$1,248,518, or 49.3 percent, and 17.0 FTE positions below the agency's enhancement request.

### **Senate Subcommittee Recommendation**

1. Delete \$729,309, including \$715,095 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$18,800, all from the State General Fund, to remove recommended funding to replace one vehicle for consideration at Omnibus.
3. Delete \$85,053, all from the State General Fund, to remove recommended funding for overtime and holiday pay for consideration at Omnibus.
4. Delete \$388,135, all from the State General Fund, and 6.0 FTE positions, to remove funding for some of the additional staff recommended by the Governor to address active treatment issues at the hospital. After this adjustment, the budget includes 9.0 new FTE positions in FY 2008 at the hospital. In total, the Governor recommended 20.0 FTE positions in FY 2008, including 5.0 FTE carried forward from FY 2007.
5. The Subcommittee recommends that the Subcommittee considering the budget of Social and Rehabilitation Services add \$2.0 million from the State General Fund to allow the agency to enter into contractual agreements with local hospitals to provide acute care, inpatient mental health services in order to help relieve stress on the inpatient resources at the state mental health hospitals.
6. The Subcommittee acknowledges the importance of stakeholder involvement in planning for the future of the mental health system and notes the following recommendation made by the 2006 Interim Legislative Budget Committee:

“SRS and mental health stakeholders shall work together to define what the future role of the State Mental Health Hospitals (SMHH) is going to be; to determine what the appropriate number of inpatient beds that is necessary to meet the needs of the citizens of Kansas based on the State's current population and respective population growth projections (either SMHH beds or a combination of SMHH beds and local acute care inpatient resources); and to propose a plan as part of the agency's budget hearings in 2007 to the Ways and Means and Appropriations Committees that would support the needs identified in the plan.”

During budget hearings, the agency informed the Subcommittee that it is proceeding with discussions with stakeholders on these issues but that the work is not expected to be completed until Summer 2007.

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## House Budget Committee Report

**Agency:** Rainbow Mental Health Facility **Bill No.** HB 2541

**Bill Sec.** 33

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I - 328

**Budget Page No.** 324

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	\$ 4,454,799	\$ 4,057,197	\$ 0
Other Funds	3,686,974	3,686,974	0
Subtotal - Operating	\$ 8,141,773	\$ 7,744,171	\$ 0
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
 TOTAL	 \$ 8,141,773	 \$ 7,744,171	 \$ 0
 FTE Positions	 126.2	 117.2	 0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	126.2	117.2	0.0

### Agency Estimate

The agency estimates FY 2007 operating expenditures of \$8.1 million, including \$4.5 million from the State General Fund. The estimate is an all funds increase of \$510,968, or 6.7 percent, and a State General Fund increase of \$520,968, 13.2 percent, above the budget approved by the 2006 Legislature. The estimate includes a supplemental request of \$508,472 from the State General Fund and 11.0 FTE positions and \$12,496 from the State General Fund to fund the pay plan approved by the 2006 Legislature.

### Governor's Recommendation

The Governor recommends expenditures of \$7,744,171, including \$4,057,197 from the State General Fund. The recommendation is an all funds increase of \$113,366, or 1.5 percent, and a State General Fund increase of \$123,366, or 3.1 percent, above the amount approved by the 2006 Legislature. As compared to the agency estimate, the recommendation is an all funds decrease of \$397,602, or 4.9 percent, and a State General Fund decrease of \$397,602, or 8.9 percent. The Governor recommends supplemental funding of \$110,870 from the State General Fund and 2.0 FTE, a decrease of \$397,602 and 9.0 FTE below the supplemental funding requested by the agency.

### House Budget Committee Recommendation

The Social Services Budget Committee concurs with the Governor's recommendation.



### House Committee Recommendation

The House Committee concurs with the Budget Committee recommendation.

### Senate Subcommittee Report

**Agency:** Rainbow Mental Health Facility **Bill No.** SB 358

**Bill Sec.** 33

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I - 328

**Budget Page No.** 324

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 4,454,799	\$ 4,057,197	\$ 0
Other Funds	3,686,974	3,686,974	0
Subtotal - Operating	<u>\$ 8,141,773</u>	<u>\$ 7,744,171</u>	<u>\$ 0</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
<b>TOTAL</b>	<u><u>\$ 8,141,773</u></u>	<u><u>\$ 7,744,171</u></u>	<u><u>\$ 0</u></u>
FTE Positions	126.2	117.2	
Non FTE Uncl. Perm. Pos.	<u>0.0</u>	<u>0.0</u>	
<b>TOTAL</b>	<u><u>126.2</u></u>	<u><u>117.2</u></u>	<u><u>0.0</u></u>

### Agency Estimate

The agency estimates FY 2007 operating expenditures of \$8.1 million, including \$4.5 million from the State General Fund. The estimate is an all funds increase of \$510,968, or 6.7 percent, and a State General Fund increase of \$520,968, 13.2 percent, above the budget approved by the 2006 Legislature. The estimate includes a supplemental request of \$508,472 from the State General Fund and 11.0 FTE positions and \$12,496 from the State General Fund to fund the pay plan approved by the 2006 Legislature.

### Governor's Recommendation

The Governor recommends expenditures of \$7,744,171, including \$4,057,197 from the State General Fund. The recommendation is an all funds increase of \$113,366, or 1.5 percent, and a State General Fund increase of \$123,366, or 3.1 percent, above the amount approved by the 2006

Legislature. As compared to the agency estimate, the recommendation is an all funds decrease of \$397,602, or 4.9 percent, and a State General Fund decrease of \$397,602, or 8.9 percent. The Governor recommends supplemental funding of \$110,870 from the State General Fund and 2.0 FTE, a decrease of \$397,602 and 9.0 FTE below the supplemental funding requested by the agency.

### **Senate Subcommittee Recommendation**

The Senate Subcommittee concurs with the Governor's recommendation.

# House Budget Committee Report

**Agency:** Rainbow Mental Health Facility **Bill No.** HB 2542

**Bill Sec.** 55

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I - 328

**Budget Page No.** 324

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 4,738,659	\$ 4,593,937	\$ (244,117)
Other Funds	3,686,974	3,741,994	(55,020)
Subtotal - Operating	\$ 8,425,633	\$ 8,335,931	\$ (299,137)
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
<b>TOTAL</b>	<b>\$ 8,425,633</b>	<b>\$ 8,335,931</b>	<b>\$ (299,137)</b>
FTE Positions	126.2	122.2	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<b>126.2</b>	<b>122.2</b>	<b>0.0</b>

## Agency Request

The agency requests FY 2008 operating expenditures of \$8.4 million, including \$4.7 million from the State General Fund. The request is a State General Fund increase of \$283,860, or 6.4 percent, which equates to an overall all funds increase of 3.5 percent above the FY 2007 estimate. Included in the request is an enhancement package of \$759,672 from the State General Fund and 11.0 FTE positions. The difference between the FY 2007 estimate and the FY 2008 request is almost entirely the result of the full year funding of the 11.0 FTE positions as opposed to the half-year of funding in the supplemental request.

## Governor's Recommendation

The Governor recommends expenditures of \$8,335,931, including \$4,593,937 from the State General Fund. The recommendation is an all funds decrease of \$89,702, or 1.1 percent, and a State General Fund decrease of \$144,722, or 3.1 percent, below the agency request. As compared to FY 2007, the Governor's recommendation is an all fund increase of \$591,760, or 7.6 percent, and a State General Fund increase of \$536,740, or 13.2 percent.

- The Governor's FY 2008 recommendation includes the addition of \$231,594, including \$176,574 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement.

- The Governor recommends enhancements of \$438,376 from the State General Fund and 7.0 FTE positions to fund overtime and holiday pay and increase active treatment standards.

## House Budget Committee Recommendation

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

1. Delete \$231,594, including \$176,574 from the State General Fund for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$67,543, all from the State General Fund, to remove funding for overtime and holiday pay recommended by the Governor for review at Omnibus.
3. The Budget Committee notes the funding and positions included in the Governor's recommendation to help maintain federal certification and continue receiving Medicaid funding. According to testimony, RMHF was cited by the Centers for Medicare and Medicaid Services (CMS) in its May 2006 survey for deficiencies in the level of active treatment for patients. The hospital was able to implement a corrective action plan using internal resources and received certification. The hospital requested additional resources in FY 2007 and FY 2008 to address the need for more staff to maintain minimal staff coverage on each unit, continue to provide active treatment to meet the needs of the patients and comply with CMS rules, and serve the increased number of admissions and increased census at these facilities. The Budget Committee recommends these positions be retained to address these issues and ensure continued federal funding for the hospital. The Budget Committee is concerned that without these additional resources, the hospital may not be able to sustain the required level of treatment and be decertified by the CMS, resulting in the loss of Federal Medicaid funding for the hospital. In FY 2008, this funding is estimated to be approximately \$2.7 million. The Governor's recommendation for the additional positions for FY 2008, is \$259,963 from the State General Fund and 5.0 FTE positions.
4. The Budget Committee notes the significant amount of testimony received expressing concern about the availability of inpatient treatment for mentally ill adults and children. Highlighted in the testimony is the critical role the state mental health hospitals play in the mental health treatment system. Conferees commented on the increasing admissions to the state hospitals which must operate within a set budget and number of beds regardless of the demand. As a result, many conferees expressed concern over the need to accommodate the increased demand by reducing the length of stay for individuals. One issue discussed in relation to increasing admissions was the significant decrease in the private psychiatric beds that was not anticipated when mental health reform downsizing was initiated. Several conferees noted the interim Legislative Budget Committee report which recommended that Social and Rehabilitation Services (SRS) and stakeholders work to determine what the role of the state mental health hospitals should be and the number of inpatient beds needed to provide services to meet the needs of the citizens of Kansas.

5. In addition to increasing capacity at state hospitals, the Budget Committee notes testimony it received in support of increasing inpatient psychiatric capacity in communities and stresses the importance of these resources as a part of the continuum of mental health services.

The interim Legislative Budget Committee recommended additional funding for SRS to enter into contractual relationships with local hospitals who have the capacity to provide inpatient services. In response, SRS testified to the Budget Committee that it has begun discussions with other providers regarding the possibility of entering into contractual arrangements to provide acute care, inpatient mental health services. The agency reported that these discussions are promising, especially for children and youth with preliminary cost estimates between \$375 and \$450 per day per youth. The estimated total to provide these types of services is \$2.5 million. In its testimony, SRS indicated that if these contractual arrangements are successful and are funded, children and adolescent services provided by Rainbow Mental Health Facility (RMHF) and Larned State Hospital (LSH) could be shifted to private providers and the units freed up to serve more adults thereby relieving census issues at all the state mental health hospitals. The Budget Committee was also informed that SRS intends to retain access to at least an equal number of children's inpatient beds as are at the state hospitals currently if the external contracting is successful. In addition, the agency reported that it has worked with ComCare and Via Christi in Wichita to ensure Via Christi continues to provide care to civilly committed individuals and to provide an overflow capability when Osawatomie State Hospital (OSH) and LSH are both at capacity.

The Budget Committee believes that bringing additional inpatient resources into the system is critical. In addition, having beds for youth that may be closer to home than the current state hospitals (RMHF and LSH) provide would help alleviate concerns about access to mental health services for those families.

### **House Committee Recommendation**

The House Committee concurs with the Budget Committee recommendation.

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## Senate Subcommittee Report

**Agency:** Rainbow Mental Health Facility **Bill No.** SB 357

**Bill Sec.** 55

**Analyst:** Kannarr **Analysis Pg. No.** Vol. I-328

**Budget Page No.** 324

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	Senate Subcommittee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 4,738,659	\$ 4,593,937	\$ (331,080)
Other Funds	3,686,974	3,741,994	(55,020)
Subtotal - Operating	\$ 8,425,633	\$ 8,335,931	\$ (386,100)
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
<b>TOTAL</b>	<b>\$ 8,425,633</b>	<b>\$ 8,335,931</b>	<b>\$ (386,100)</b>
FTE Positions	126.2	122.2	(2.0)
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<b>126.2</b>	<b>122.2</b>	<b>(2.0)</b>

### Agency Request

The agency requests FY 2008 operating expenditures of \$8.4 million, including \$4.7 million from the State General Fund. The request is a State General Fund increase of \$283,860, or 6.4 percent, which equates to an overall all funds increase of 3.5 percent above the FY 2007 estimate. Included in the request is an enhancement package of \$759,672 from the State General Fund and 11.0 FTE positions. The difference between the FY 2007 estimate and the FY 2008 request is almost entirely the result of the full year funding of the 11.0 FTE positions as opposed to the half-year of funding in the supplemental request.

### Governor's Recommendation

The Governor recommends expenditures of \$8,335,931, including \$4,593,937 from the State General Fund. The recommendation is an all funds decrease of \$89,702, or 1.1 percent, and a State General Fund decrease of \$144,722, or 3.1 percent, below the agency request. As compared to FY 2007, the Governor's recommendation is an all fund increase of \$591,760, or 7.6 percent, and a State General Fund increase of \$536,740, or 13.2 percent. The Governor's FY 2008 recommendation includes the addition of \$231,594, including \$176,574 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. The Governor recommends enhancements of \$438,376 from the State General Fund and 7.0 FTE positions to fund overtime and holiday pay and increase active treatment standards.

## Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following exceptions and comments:

1. Delete \$231,594, including \$176,574 from the State General Fund for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$67,543, all from the State General Fund, to remove funding for overtime and holiday pay recommended by the Governor for review at Omnibus.
3. Delete \$86,963, all from the State General Fund, and 2.0 FTE positions to remove a portion of the additional staff recommended to address active treatment issues at the hospital. After this adjustment, the budget includes 5.0 FTE new positions for this purpose 2.0 of which are continued from FY 2007. The total Governor's recommendation for FY 2008 was 7.0 FTE including the 2.0 FTE carried forward from FY 2007.
4. The Subcommittee recommends that the Subcommittee considering the budget of Social and Rehabilitation Services add \$2.0 million from the State General Fund to allow the agency to enter into contractual agreements with local hospitals to provide acute care, inpatient mental health services in order to help relieve stress on the inpatient resources at the state mental health hospitals.
5. The Subcommittee acknowledges the importance of stakeholder involvement in planning for the future of the mental health system and notes the following recommendation made by the 2006 Interim Legislative Budget Committee:


"SRS and mental health stakeholders shall work together to define what the future role of the State Mental Health Hospitals (SMHH) is going to be; to determine what the appropriate number of inpatient beds that is necessary to meet the needs of the citizens of Kansas based on the State's current population and respective population growth projections (either SMHH beds or a combination of SMHH beds and local acute care inpatient resources); and to propose a plan as part of the agency's budget hearings in 2007 to the Ways and Means and Appropriations Committees that would support the needs identified in the plan."

During budget hearings, the agency informed the Subcommittee that it is proceeding with discussions with stakeholders on these issues but that the work is not expected to be completed until Summer 2007.

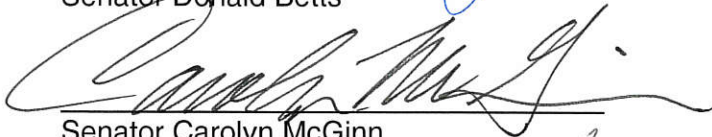
FY 2007 and FY 2008


SENATE WAYS AND MEANS SUBCOMMITTEE

Kansas Health Policy Authority

  
\_\_\_\_\_  
Senator Dwayne Umbarger, Chair

  
\_\_\_\_\_  
Senator Donald Betts

  
\_\_\_\_\_  
Senator Carolyn McGinn

  
\_\_\_\_\_  
Senator Jean Schodorf

  
\_\_\_\_\_  
Senator Ruth Teichman



# House Budget Committee Report

**Agency:** Kansas Health Policy Authority **Bill No.** HB 2541

**Bill Sec.** 32

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I - 192

**Budget Page No.** 187

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 426,744,298	\$ 443,403,541	\$ 0
Other Funds	959,732,879	875,429,935	0
Subtotal - Operating	\$ 1,386,477,177	\$ 1,318,833,476	\$ 0
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
<b>TOTAL</b>	<b>\$ 1,386,477,177</b>	<b>\$ 1,318,833,476</b>	<b>\$ 0</b>
FTE Positions*	206.8	193.7	0.0
Non FTE Uncl. Perm. Pos.	9.9	9.9	0.0
<b>TOTAL</b>	<b>216.7</b>	<b>203.6</b>	<b>0.0</b>

## Agency Estimate

The **agency** estimates FY 2007 operating expenditures of \$1.4 billion, including \$426.7 million from the State General Fund, and 206.8 FTE positions. The estimate is an all funds increase of \$14.2 million, or 1.0 percent, and a State General Fund increase of \$9.7 million, or 2.3 percent, above the amount approved by the 2006 Legislature. The State General Fund estimate includes:

- supplemental requests of \$3.5 million;
- reappropriations and transfers of \$4.6 million;
- additional expenditures of \$1.9 million;
- additional funding of \$13,474 for the pay plan approved by the 2006 Legislature; and
- net transfers of \$346,560 to the Department of Social and Rehabilitation Services.

## Governor's Recommendation

The **Governor** recommends expenditures of \$1,318,833,477, including \$443,403,541 from the State General Fund. The recommendation is an all funds decrease of \$67,643,700, or 4.9 percent, and a State General Fund increase of \$16,659,243, or 3.9 percent, from the agency

estimate. As compared to the approved budget, the recommendation is an all funds decrease of \$53,381,908, or 3.9 percent, and a State General Fund increase of \$26,329,153, or 6.3 percent. The recommendation includes the following:

- The Governor recommends a portion of the supplementals requested by the agency totaling \$3,310,255, including \$1,471,402 from the State General Fund, and 12.0 FTE positions. The recommendation is a decrease of \$4,265,338 all funds and a State General Fund decrease of \$2,027,568 below the agency's supplemental request.
- The Governor recommends Medicaid assistance expenditures of \$1,182,000,000, including \$405,000,000 from the State General Fund, which reflects the revised estimates of the November 2006 consensus caseload estimating group. The revised estimate is an all funds decrease of \$46,081,600, or 3.8 percent, and a State General Fund increase of \$25,344,329, or 6.7 percent, above the amount approved by the 2006 Legislature.
- The Governor recommends State Children's Health Insurance Program (SCHIP) expenditures of \$69,302,363, including \$19,130,917 from the State General Fund, the same amount requested by the agency. No supplementals are recommended for the SCHIP program.

### **House Budget Committee Recommendation**

The Social Services Budget Committee concurs with the Governors recommendation for FY 2007.

### **House Committee Recommendation**

The House Committee concurs with the Budget Committee recommendation.

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## Senate Subcommittee Report

**Agency:** Kansas Health Policy Authority **Bill No.** SB 358

**Bill Sec.** 32

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I -192

**Budget Page No.** 187

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	Senate Subcommittee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 426,744,298	\$ 443,403,541	\$ 0
Other Funds	959,732,879	875,429,935	0
Subtotal - Operating	\$ 1,386,477,177	\$ 1,318,833,476	\$ 0
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
<b>TOTAL</b>	<b>\$ 1,386,477,177</b>	<b>\$ 1,318,833,476</b>	<b>\$ 0</b>
FTE Positions	206.8	193.7	0.0
Non FTE Uncl. Perm. Pos.	9.9	9.9	0.0
<b>TOTAL</b>	<b>216.7</b>	<b>203.6</b>	<b>0.0</b>

### Agency Estimate

The agency estimates FY 2007 operating expenditures of \$1.4 billion, including \$426.7 million from the State General Fund, and 206.8 FTE positions. The estimate is an all funds increase of \$14.2 million, or 1.0 percent, and a State General Fund increase of \$9.7 million, or 2.3 percent, above the amount approved by the 2006 Legislature. The State General Fund estimate includes:

- supplemental requests of \$3.5 million;
- reappropriations and transfers of \$4.6 million;
- additional expenditures of \$1.9 million;
- additional funding of \$13,474 for the pay plan approved by the 2006 Legislature; and
- net transfers of \$346,560 to the Department of Social and Rehabilitation Services.

## **Governor's Recommendation**

The Governor recommends expenditures of \$1,318,833,477, including \$443,403,541 from the State General Fund. The recommendation is an all funds decrease of \$67,643,700, or 4.9 percent, and a State General Fund increase of \$16,659,243, or 3.9 percent, from the agency estimate. As compared to the approved budget, the recommendation is an all funds decrease of \$53,381,908, or 3.9 percent, and a State General Fund increase of \$26,329,153, or 6.3 percent. The recommendation includes the following:

- The Governor recommends a portion of the supplementals requested by the agency totaling \$3,310,255, including \$1,471,402 from the State General Fund, and 12.0 FTE positions. The recommendation is a decrease of \$4,265,338 all funds and a State General Fund decrease of \$2,027,568 below the agency's supplemental request.
- The Governor recommends Medicaid assistance expenditures of \$1,182,000,000, including \$405,000,000 from the State General Fund, which reflects the revised estimates of the November 2006 consensus caseload estimating group. The revised estimate is an all funds decrease of \$46,081,600, or 3.8 percent, and a State General Fund increase of \$25,344,329, or 6.7 percent, above the amount approved by the 2006 Legislature.
- The Governor recommends State Children's Health Insurance Program (SCHIP) expenditures of \$69,302,363, including \$19,130,917 from the State General Fund, the same amount requested by the agency. No supplementals are recommended for the SCHIP program.

## **Senate Subcommittee Recommendation**

The Senate Subcommittee concurs with Governor's recommendation with the following addition:

1. The Subcommittee recommends Omnibus consideration of funding and positions required by the establishment of an Office of the Inspector General at the agency should legislation creating such an office be passed by th 2007 Legislature.

# House Budget Committee Report

**Agency:** Kansas Health Policy Authority **Bill No.** HB 2542

**Bill Sec.** 54

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I - 192

**Budget Page No.** 187

Expenditure Summary	Agency Request FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 431,457,689	\$ 489,339,735	\$ (11,062,782)
Other Funds	958,584,575	900,414,180	(3,001,050)
Subtotal - Operating	<u>\$ 1,390,042,264</u>	<u>\$ 1,389,753,915</u>	<u>\$ (14,063,832)</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
<b>TOTAL</b>	<u><u>\$ 1,390,042,264</u></u>	<u><u>\$ 1,389,753,915</u></u>	<u><u>\$ (14,063,832)</u></u>
<b>FTE Positions</b>	233.8	204.7	(11.0)
<b>Non FTE Uncl. Perm. Pos.</b>	9.9	0.0	0.0
<b>TOTAL</b>	<u><u>243.7</u></u>	<u><u>204.7</u></u>	<u><u>(11.0)</u></u>

## Agency Request

The **agency** requests FY 2008 expenditures of \$1,390,042,264, including \$431,457,689 from the State General Fund. The request is an all funds increase of \$3,565,087, or 0.3 percent, and a State General Fund increase of \$4,713,391, or 1.1 percent, above the FY 2007 estimate. The request includes:

- Enhancements of \$33,323,642, including \$14,264,273 from the State General Fund, and 52.0 FTE positions which are described following this summary.
- Medicaid assistance expenditures of \$1,248,050,759, including \$387,467,851 from the State General Fund. The request is an all funds increase of \$3,972,397, or 0.3 percent, and a State General Fund increase of \$2,054,602, or 0.5 percent, above the revised FY 2007 estimate.
- State Children's Health Insurance Program (SCHIP) expenditures of \$69,302,363, including \$17,130,917 from the State General Fund, the same amount as FY 2007.

## Governor's Recommendation

The **Governor** recommends expenditures of \$1,389,753,915, including \$489,339,735 from the State General Fund. The recommendation is an all funds decrease of \$288,349 and a State

General Fund increase of \$57,882,046, or 13.4 percent, from the agency request. As compared to FY 2007, the recommendation is an all funds increase of \$70,920,438, or 5.4 percent, and a State General Fund increase of \$45,936,194, or 10.4 percent. The recommendation includes the following:

- The addition of \$375,024, including \$143,671 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement.
- Enhancements requested by the agency totaling \$16,749,063, including \$7,265,513 from the State General Fund, and 23.0 FTE positions.
- Medicaid assistance expenditures of \$1,255,737,483, including \$447,294,993 from the State General Fund, reflecting November 2006 initial estimates for FY 2008 expenditures, an enhancement for the Healthy Kansas First Five initiative and an enhancement for the Childhood Obesity initiative.
- State Children's Health Insurance (SCHIP) expenditures of \$69,302,363, including \$19,130,917 from the State General Fund, the same amount requested by the agency.
- Additional expenditures of \$5.0 million from the State General Fund to replace a reduction of funding of the same amount from the Children's Initiatives Fund (CIF) in the Medicaid assistance and State Children's Health Insurance program.

### **House Budget Committee Recommendation**

The Social Services Budget Committee concurs with the Governor's recommendation with the following exceptions and comments:

1. Delete \$375,024, including \$143,671 from the State General Fund for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$86,545, including \$40,553 from the State General Fund, and 1.0 FTE position to remove additional staff recommended by the Governor for the HealthWave Clearinghouse and review at Omnibus.
3. Delete \$385,796, including \$141,027 from the State General Fund, and 10.0 FTE positions to remove additional administrative staff recommended by the Governor and review at Omnibus. The KHPA provided testimony that the additional positions are needed to fulfill the mission assigned to it by the 2005 Legislature. In addition, the Budget Committee received detailed information from the agency about the specific staff needed. The Budget Committee notes the importance of the additional staff but recommends an examination of the number of staff transferred from other agencies and organizations before determining the number of additional FTE's needed.
4. Delete \$478,984, including \$192,538 from the State General Fund, to remove additional funding for data management activities recommended by the Governor

and review at Omnibus. These activities are intended to develop a common data analytic interface to consolidate multiple data sets and help the agency analyze data to support decision making regarding health programs.

5. Delete \$1.0 million, including \$500,000 from the State General Fund, to remove funding for the Enhanced Care Management program recommended by the Governor and review at Omnibus. This program is a pilot project in Sedgwick County to provide enhanced primary care case management services to high-risk Medicaid beneficiaries.
6. Delete \$1.0 million, including \$750,000 from the State General Fund, to remove funding for Health Information Exchange Initiatives recommended by the Governor and review at Omnibus. These initiatives are designed to improve efficiency, quality of care, and patient safety, as well as to help inform health care consumers.
7. Delete \$10.0 million, including \$4.0 million from the State General Fund, to remove funding for the Healthy Kansas First Five Initiative and review at Omnibus. This initiative would expand HealthWave coverage to children in families with incomes up to 235 percent of the federal poverty level and allow families with higher incomes to purchase coverage with no state participation for families above 300 percent of the poverty level.
8. Delete \$737,483, including \$294,993 from the State General Fund, to remove funding for the Childhood Obesity initiative recommended by the Governor and review at Omnibus. The Budget Committee notes the importance of addressing obesity both as a health issue and as a way to address health care costs. The Budget Committee believes that addressing the issue with children is critical to the success of efforts to address obesity in the population. Further, the Budget Committee notes that the agency requested \$1,474,965, including \$589,986 from the State General Fund for this initiative and believes the full amount should be considered for inclusion.
9. Delete \$5.0 million from the State General Fund and increase Children's Initiatives Fund (CIF) expenditures by the same amount to reverse recommendations by the Governor to shift Medicaid and State Children's Health Insurance Program expenditures from CIF to the State General Fund financing. The Governor's recommendation used the \$5.0 million CIF freed up by the shift to finance early childhood initiatives at the Department of Social and Rehabilitation Services.
10. The Budget Committee expresses continued concern about the effect of the new Presumptive Disability on vulnerable populations and recommends Omnibus review. Further, the Budget Committee recommends that MediKan benefits should be continued until further discussions can be had to determine the appropriate actions to be taken to address persons who are encountering difficulties completing the current screening and eligibility process. The Budget Committee notes the very vulnerable nature of the population seeking these services who may be required to seek services at community clinics or emergency rooms. Finally, the Budget Committee notes that KHPA began studying the issue once it was discovered the number of people who were not successful under the current process and that they are committed to continuing MediKan until issues with the process can be resolved or alternatives developed.

11. The Budget Committee is concerned about the number of persons who have left Medicaid because of new federal citizenship and identification rules and recommends additional review of the issue at Omnibus. According to information received by the Budget Committee, the Deficit Reduction Act of 2005 requires verification of both citizenship and identification of all new federally funded medical benefits applicants and current recipients effective July 1, 2006. The rules apply to Medicaid, State Children's Health Insurance Program and MediKan programs. Applicants or current beneficiaries can prove their citizenship and identity through providing primary documents. If a primary document is not provided, two separate documents must be obtained—one to establish identity and one to establish citizenship. According to KHPA, the increased level of documentation required has dramatically increased the workload of eligibility determination staff and created delays for persons attempting to enroll in the programs. The Budget Committee was told that between 18,000 and 20,000 Kansans have lost their Medicaid benefits due to the state's compliance with a new federal law. The agency testified that staff have re-engineered enrollment and utilized electronic verification where appropriate, but will not be able to address the new workload without additional resources. Further, the Budget Committee was informed that many of the people who have lost coverage will be eligible for the program once the eligibility process is completed and that the agency will work to get these persons enrolled. In addition, the Budget Committee was informed that additional dollars may be needed for primary care safety net clinics to provide services to people awaiting eligibility determination. The KHPA is preparing to send a letter to those awaiting determination to inform them of the location and availability of safety net clinics. Finally, the Budget Committee was informed that representatives from KHPA and others will be meeting with the Kansas Congressional delegation to express concerns about the effect these provisions have on the ability of the state to provide services and on the citizens of Kansans who are affected.
12. The Budget Committee notes that the agency requested \$8.8 million, including \$3.5 million from the State General Fund, to provide dental services to adults in the Medicaid program but that the Governor did not recommend the funding. Further, the Budget Committee recommends a review of oral health issues in Omnibus as it believes dental services are critically important to the overall health of individuals.
13. The Budget Committee was informed that the President's budget for FY 2008 contains cuts for Medicaid and for rural hospitals and requests additional information regarding these issues in Omnibus.
14. The Budget Committee notes that the federal Deficit Reduction Act poses both opportunities and challenges for states for their Medicaid programs.

### **House Committee Recommendation**

The House Committee concurs with the Budget Committee recommendation.

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**Senate Subcommittee Report**

**Agency:** Kansas Health Policy Authority **Bill No.** SB 357

**Bill Sec.** 54

**Analyst:** Kannarr

**Analysis Pg. No.** Vol. I - 192

**Budget Page No.** 187

<u>Expenditure Summary</u>	<u>Agency Request FY 08</u>	<u>Governor's Recommendation FY 08</u>	<u>Senate Subcommittee Adjustments</u>
<b>Operating Expenditures:</b>			
State General Fund	\$ 431,457,689	\$ 489,339,735	\$ (7,006,799)
Other Funds	<u>958,584,575</u>	<u>900,414,180</u>	<u>2,220,910</u>
Subtotal - Operating	<u>\$ 1,390,042,264</u>	<u>\$ 1,389,753,915</u>	<u>\$ (4,785,889)</u>
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
<b>TOTAL</b>	<u><u>\$ 1,390,042,264</u></u>	<u><u>\$ 1,389,753,915</u></u>	<u><u>\$ (4,785,889)</u></u>
FTE Positions	233.8	204.7	12.0
Non FTE Uncl. Perm. Pos.	<u>9.9</u>	<u>9.9</u>	<u>0.0</u>
<b>TOTAL</b>	<u><u>243.7</u></u>	<u><u>214.6</u></u>	<u><u>12.0</u></u>

**Agency Request**

The agency requests FY 2008 expenditures of \$1,390,042,264, including \$431,457,689 from the State General Fund. The request is an all funds increase of \$3,565,087, or 0.3 percent, and a State General Fund increase of \$4,713,391, or 1.1 percent, above the FY 2007 estimate. The request includes:

- Enhancements of \$33,323,642, including \$14,264,273 from the State General Fund, and 52.0 FTE positions which are described following this summary.
- Medicaid assistance expenditures of \$1,248,050,759, including \$387,467,851 from the State General Fund. The request is an all funds increase of \$3,972,397, or 0.3 percent, and a State General Fund increase of \$2,054,602, or 0.5 percent, above the revised FY 2007 estimate.
- State Children's Health Insurance Program (SCHIP) expenditures of \$69,302,363, including \$17,130,917 from the State General Fund, the same amount as FY 2007.

## **Governor's Recommendation**

The Governor recommends expenditures of \$1,389,753,915, including \$489,339,735 from the State General Fund. The recommendation is an all funds decrease of \$288,349 and a State General Fund increase of \$57,882,046, or 13.4 percent, from the agency request. As compared to FY 2007, the recommendation is an all funds increase of \$70,920,438, or 5.4 percent, and a State General Fund increase of \$45,936,194, or 10.4 percent. The recommendation includes the following:

- The addition of \$375,024, including \$143,671 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement.
- Enhancements requested by the agency totaling \$16,749,063, including \$7,265,513 from the State General Fund, and 23.0 FTE positions.
- Medicaid assistance expenditures of \$1,255,737,483, including \$447,294,993 from the State General Fund, reflecting November 2006 initial estimates for FY 2008 expenditures, an enhancement for the Healthy Kansas First Five initiative and an enhancement for the Childhood Obesity initiative.
- State Children's Health Insurance (SCHIP) expenditures of \$69,302,363, including \$19,130,917 from the State General Fund, the same amount requested by the agency.
- Additional expenditures of \$5.0 million from the State General Fund to replace a reduction of funding of the same amount from the Children's Initiatives Fund (CIF) in the Medicaid assistance and State Children's Health Insurance program.

## **Senate Subcommittee Recommendation**

The Senate Subcommittee concurs with the Governor's recommendation with the following exceptions and notations:

1. Delete \$375,024, including \$143,671 from the State General Fund, for the 1.5 percent base salary adjustment and a 2.5 percent step movement for classified employees, a 4.0 percent merit pool for unclassified employees, and the longevity enhancement. Funding for pay plan adjustments and longevity payments will be considered later.
2. Delete \$10.0 million, including \$4.0 million from the State General Fund, for the Healthy Kansas First Five program and review at Omnibus.
3. Add \$915,888, including \$450,658 from the State General Fund, and 2.0 FTE positions to increase staffing, both state employees and contract staff, at the HealthWave Clearinghouse to the level requested by the agency.
4. Add \$708,453, including \$193,676 from the State General Fund, and 10.0 FTE positions to increase administrative staffing at the agency to support its role as an independent state agency. This would provide funding for a total of an additional 31.0 FTE positions compared to the Governor's recommendation for

an additional 21.0 FTE and the agency's request for 42.0 FTE. Of these positions, 11.0 are continued from the FY 2007 Governor's recommendation.

5. Add \$2,437,838, including \$1.3 million from the State General Fund, to address shortfalls in administrative contracts for the Medicaid and State Children's Health Insurance Program. The recommendation reflects total funding of \$4.6 million, including \$2.3 million from the State General Fund, for this purpose. The agency had requested \$7.0 million, including \$3.5 million from the State General Fund, and the Governor recommended \$2,162,162, including \$1.0 million from the State General Fund.
6. Add \$1,526,956, including \$192,538 from the State General Fund to support data management activities at the agency. This recommendation provides total additional funding of \$2,005,940, including \$385,076 from the State General Fund, for this item, the same as the agency enhancement request.
7. Delete \$5.0 million from the State General Fund and increase Children's Initiatives Fund (CIF) expenditures by the same amount to reverse the Governor's recommendation to shift Medicaid and State Children's Health Insurance Program expenditures from CIF to the State General Fund. The Governor's recommendation used the \$5.0 million CIF freed up by the shift to finance early childhood initiatives at the Department of Social and Rehabilitation Services.
8. The Subcommittee acknowledges testimony it received expressing concern about the effect of the Presumptive Disability program on vulnerable Kansans. In particular, conferees noted the significant number of persons who left the MediKan program after the implementation of Presumptive Disability. The Subcommittee notes that the agency began studying the functions of the program once these drops in enrollment were discovered to determine the reasons for the enrollment decreases.

The Subcommittee recommends the MediKan program be funded at FY 2007 levels to ensure adequate funding to continue serving Kansans eligible for MediKan through FY 2008. The Subcommittee recommends the agency expedite the Presumptive Disability determination process with a goal of determination within 30 days. Further, the agency should identify what resources are needed to meet this goal prior to Omnibus. The Subcommittee recommends the agency report back at Omnibus with suggestions policy changes, developed in partnership with stakeholders, for those Kansans currently served by the MediKan program.

Finally, the Subcommittee recommends the functioning of the Presumptive Disability Determination process be studied during the interim.

9. The Subcommittee notes the agency's request for \$8.8 million, including \$3.5 million from the State General Fund, to expand dental coverage to all adults in Medicaid which was not recommended by the Governor. The Subcommittee notes that the Governor did recommend \$1.3 million from the State General Fund to provide dental services to persons on the Medicaid Home and Community Based Services (HCBS) waiver for the Frail Elderly operated by the Department on Aging. In addition, the 2006 Legislature funded dental services for adults in the HCBS waivers serving persons with developmental and physical disabilities and persons with traumatic brain injury. The Subcommittee acknowledges the

importance of oral health as a part of the overall health of individuals and recommends the funding be reviewed at Omnibus.

10. The Subcommittee notes testimony it received on the Medicaid Hospital Provider Assessment and its value to the state in bringing in needed federal matching funds to support increased payments to hospitals and physicians.
11. The Subcommittee notes positive testimony it received regarding the shift in managed care providers from First Guard to Family Health Partners and Unicare.
12. The Subcommittee notes testimony it received regarding the agency's ongoing evaluation of the current Medicaid Disproportionate Share Hospital program to determine whether the payment formula needs to be updated to meet current hospital needs.
13. The Subcommittee recommends Omnibus consideration of funding and positions required by the establishment of an Office of the Inspector General at the agency should legislation creating such an office be passed by th 2007 Legislature.

Testimony for the Senate Ways and Means Committee

Glenn Deck  
Executive Director  
Kansas Public Employees Retirement System

March 8, 2007

Mr. Chairman, Members of the Committee:

Thank you for this opportunity to appear in support of House Bill 2385 which transfers administration of the State's Deferred Compensation Plan from the Department of Administration to KPERS.

**Plan Overview**

Established in 1980, the Deferred Compensation Plan is a voluntary, tax-deferred retirement savings program for state employees. In addition, about 240 local units of government have adopted the terms of the plan as the basis for deferred compensation plans offered to their employees. At this time, the Plan has approximately 26,000 total participants (15,250 State employees and 10,850 local employees) with total assets of \$650 million.

Since its inception, the Plan has been administered by the Department of Administration with recordkeeping services and investment options provided through a third-party service provider (currently ING). The Director of Accounts and Reports and the Deferred Compensation Oversight Committee appointed by the Secretary of Administration (currently the Deputy Secretary of Administration, the Director of Accounts and Reports, and myself) oversee the Plan with Plan management and staffing assistance provided by various divisions within the Department of Administration. With the exception of deducting payroll deferrals for State employees and final approval for emergency withdrawals, ING staff are responsible for most day-to-day Plan communications, recordkeeping and investment transactions.

**Recommended Transfer to KPERS**

In 2006, the Secretary of Administration established a working group comprised of Department of Administration and KPERS staff to review the Plan and make recommendations for improving retirement education, planning and savings for State and local employees. Based on that group's findings and recommendations, the Secretary of Administration and the KPERS Board of Trustees recommended to the Joint Committee on Pensions, Investments and Benefits that Plan administration be transferred to KPERS.

Following a 2006 interim study, the Joint Committee recommended introduction of a bill transferring Plan administration to KPERS. Under the provisions of HB 2385, KPERS' Board and staff would assume responsibility for Plan administration and oversight, similar to responsibilities currently held by the Department of Administration and the Oversight Committee, effective January 1, 2008. The Board would oversee Plan administration including a) selecting and managing service providers; b) monitoring service levels and performance; c) selecting and monitoring investment options; d) selecting and working with independent consultant and auditors; and e) entering into participation agreements with local units of



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government. In addition, the Board would coordinate communications with participants regarding retirement issues generally and deferred compensation in particular.

As part of the regular payroll system, HB 2385 provides that the Director of Accounts and Reports would continue to deduct the payroll deferrals from state employees' salaries each pay period and to remit those funds to the service provider. The Plan would continue to use a service provider for account recordkeeping and services such as enrollments, phone inquiries, education and investment options.

◆ **Key Reasons for Transfer**

- Both the Deferred Compensation Plan and KPERS have the same goal of preparing public employees for retirement.
- KPERS' Board of Trustees and staff have expertise and resources in the areas of retirement benefit administration, investments and fiduciary issues that could improve Plan administration and options.
- KPERS and the Deferred Compensation Plan have significant overlap of participants and employers, providing additional opportunities for expanding outreach and services.
- Combined resources could maximize and integrate retirement education and planning.
- Joint communication and education could increase emphasis on the importance of personal savings for retirement.

◆ **Fiscal Impact of Transfer**

State law requires that the Deferred Compensation Plan's management and administrative expenses be self-funded through participant fees or recovery of costs from service providers. Under the current contract, during the last two years ING has paid \$175,000 annually as a credit allowance (based on average plan assets) plus \$85,000 annually to reimburse the Plan for investment consultant and auditing services. These funds are deposited into the Deferred Compensation Fund and are available to pay for the State's administrative costs. If Plan administration is transferred to KPERS, we would anticipate that:

- The Plan would continue to be self-funded, resulting in no net fiscal impact on KPERS or the State of Kansas.
- Separate budgetary and accounting systems would be maintained for the Plan's expenditures.
- Estimated Plan expenditures for fiscal year 2008 (January 1 to June 30) would be \$116,500 to \$129,000. Estimated expenditures for fiscal year 2009 would be \$208,000 to \$233,000. These estimates include investment consultant, auditing and administrative expenses.
- KPERS fiscal year 2008 budget would need to be amended to provide spending authority for Plan expenditures.

**Conclusion**

The KPERS Board and staff believe HB 2385 would be beneficial for our members as well as members of the Deferred Compensation Plan because it provides for improved coordination of retirement benefits and increased emphasis on personal savings for retirement. I would respectfully ask the Committee to recommend HB 2385 favorably for passage.

Thank you for your consideration. I would be happy to respond to any questions you may have.

## Deferred Compensation Plan Highlights

<b>Assets</b>	\$649.7 million total portfolio invested by participants in 20 investment options. (State - \$435.8 million & Local - \$213.9 million)
<b>Participants</b>	16,540 Active Participants (State – 8,994 & Local – 7,546) 26,098 Total Participants (State – 15,252 & Local – 10,846)
<b>Employers</b>	State agencies & 239 local governments (counties, municipalities, special districts)
<b>Investment Management</b>	ING provides range of investment options by 10 fund providers. Segal Advisors, investment consultant, assists with performance monitoring.
<b>Communication &amp; Education Resources</b>	ING provides various participant publications and brochures, toll-free customer service number, website, financial and retirement seminars, on-line counseling and Plan representatives statewide.

\* Plan information as of 9-30-2006.

## KPERS Highlights

<b>Assets</b>	\$13 billion investment portfolio including all major asset classes.
<b>Members</b>	149,073 Active Members 253,847 Total Members (149,073 active members; 63,348 retirees; 41,426 inactive members)
<b>Employers</b>	1,474 employers (State agencies, counties, municipalities, school districts, special districts)
<b>Investment Management</b>	Use 14 outside institutional investment managers and manage 25 percent of portfolio with in-house staff using index strategies.
<b>Communication &amp; Education Resources</b>	Various member publications and brochures, toll-free customer service InfoLine, statewide pre-retirement seminars and employer workshops and field services staff.

\* KPERS membership information as of 12-31-05; asset information as of 12-31-06.



State of Kansas

## Office of Judicial Administration

Kansas Judicial Center  
301 SW 10<sup>th</sup>  
Topeka, Kansas 66612-1507

(785) 296-2256

Senate Ways and Means Committee  
Thursday, March 8, 2007

Testimony on House Bill 2368

Kim Fowler, Assistant Fiscal Officer  
Office of Judicial Administration

Mr. Chairman and members of the Committee:

I am here to testify against Section 10 of House Bill No. 2368. This section would require the Judicial Branch to pay \$37,500 to a claimant for wrongful incarceration. This provision was added as a House floor amendment. Consequently, this is our first opportunity to testify on this issue.

We had not been requested to testify during hearings before the Joint Committee on Special Claims Against the State and were unaware of the issues involved. I have attached a copy of a memorandum from our attorney who researched this case after this bill came to the Senate. I will not go over the details in that memorandum, but I think it makes a clear case that we have no responsibility for this claim. In addition, we believe it would be a bad precedent to hold the Judicial Branch financially responsible for a judicial decision—especially one that was upheld on appeal.

If the Legislature chooses to pay this claimant, funding should come from sources other than the Judicial Branch budget.

I would be happy to answer any questions.

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State of Kansas

## Office of Judicial Administration

Kansas Judicial Center  
301 SW 10<sup>th</sup>  
Topeka, Kansas 66612-1507

(785) 296-2256

March 7, 2007

To: Kim Fowler

From: M.J. Willoughby

Re: Claims Bill Item Regarding Ms. Alice Buess

As amended by a House Committee of the Whole, Section 10 of House Bill 2368 authorizes and directs the Judicial Branch to pay \$37,500 to Alice Buess on her claim that she was "wrongfully incarcerated." As originally included in HB 2368, Ms. Buess' \$75,000 claim was funded from the State General Fund. The House Appropriations Committee deleted this claim from the bill. However, House Committee of the Whole action amended the bill to require the Judicial Branch and the Department of Corrections ("DOC") to each pay one-half of the \$75,000 claim from their respective budgets.

Prior to the House floor amendment placing responsibility for one-half of this claim on the Judicial Branch budget, the Judicial Branch had no notice of this claim and had no reason or opportunity to respond or offer any input on this claim.

Since learning of this claim only last week, we have had a chance to research the matter. As a result of that research, the Judicial Branch respectfully suggests that the claimant be awarded nothing, as her incarceration was not "wrongful." There was no error, judicial or otherwise. Rather, the length of time Ms. Buess spent in DOC custody was a product of her own actions and inactions in **twice violating her conditions of probation by continuing to use drugs and, according to DOC, three times violating her parole.**

In 1992, Ms. Buess was charged with a four-count Information, charging:

- (1) cultivation of marijuana in violation of K.S.A. 65-4127b(b)(3), K.S.A. 65-4105(d)(16)(24), and K.S.A. 21-4501(c);
- (2) possession of marijuana with intent to sell, K.S.A. 65-4127b(b)(3), K.S.A. 65-4105(d)(16)(24), and K.S.A. 21-4501(c);
- (3) failure to pay drug dealer tax, in violation of K.S.A. 79-5204 and K.S.A. 79-5208 (an Unclassified Felony); and

(4) possession of drug paraphernalia, in violation of K.S.A. 65-4152(a)(2) and K.S.A. 21-4502(1)(a).

Ms. Buess, who was of course represented by counsel, entered a plea of Nolo Contendere to Counts 2 and 3 and also stipulated that there was a sufficient factual basis to find her guilty of Counts 2 and 3, which she thereafter also provided to the court. The prosecution dismissed Counts 1 and 4.

By Journal Entry dated December 17, 1992, Ms. Buess was sentenced to the custody of the Secretary of Corrections. However, she was granted probation upon her compliance with certain conditions of probation, which included, but were not limited to, random urinalysis by court services, following the recommendations of the psychological evaluation, entering into counseling to deal with the issues noted, and attending and completing parenting class.

On April 29, 1993, court services filed a request for revocation of probation based upon Ms. Buess' failure to comply with conditions of probation. Specifically, Ms. Buess was still using marijuana, notwithstanding court orders. As stated by her probation officer in the request for revocation, **"Since being placed on probation on 12-10-92 this Defendant's attitude is she has been illegally placed on probation because the laws regarding marijuana usage are illegal."** Ms. Buess, who was represented by counsel, stipulated that she had violated probation and, after hearing, on July 19, 1993, an order was entered revoking her probation. She was not sent to prison, but rather was placed with community corrections.

On November 16, 1994, community corrections requested revocation of Ms. Buess' probation. Yet again, Ms. Buess **tested positive three times for use of marijuana.** On November 23, 1994, after a hearing at which Ms. Buess was once again represented by counsel, the court ordered revocation of the community corrections assignment and committed Ms. Buess to the custody of the Secretary of Corrections, nearly two years after the initial journal entry. She was delivered to the Secretary on November 29, 1994.

On December 22, 1994, DOC issued its sentencing guidelines report, finding that she was not eligible for sentence conversion. On or about January 22, 1996, Ms. Buess filed a motion to modify her sentence, claiming she was eligible for conversion pursuant to K.S.A. 21-4724(b) and K.S.A. 21-4705(c). The court appointed an attorney for her on this motion. On July 12, 1996, the district court denied the motion for conversion. Specifically, the district court found that Ms. Buess had failed to satisfy the conditions of the small sales exception "which require the following findings: a. an appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and b. the recommended treatment program is available and the offender can be admitted to the program within a reasonable period of time; c. the nonprison sanction will serve community safety interests by promoting offender reformation." In the journal entry denying the motion, the district court continued: **"Specifically, this court is aware of the many attempts by this court,**

**the court services department, and the community corrections department to do everything possible to keep this defendant from recidivism, with all efforts resulting in failure by the defendant. Because the defendant fails to satisfy the three subrequirements of the small sale exception, the defendant is ineligible [for] conversion.**” In his statements on the record, District Judge John Jaworsky stated:

“I don’t think I can in good conscience make any – make a finding that [defendant] is going to be helped by being placed in treatment. I think she was quite an abysmal failure when she was on community corrections. And I think she was given several chances and failed them. I don’t think I can make a finding that she’s going to do any better this time and so the motion will be denied.”

Ms. Buess appealed, with the assistance of the Appellate Public Defender’s Office. **The Court of Appeals affirmed the district court’s denial of sentence conversion.** As stated by the Court of Appeals in its opinion affirming the denial, “[o]n July 12, 1996, the district court heard defendant’s motion and found she did not qualify for the small sale exception to 21-4705(c) in that the court had tried numerous times to allow defendant treatment in an effort to avoid recidivism, and each time defendant failed.” The Court of Appeals cited the language of K.S.A. 21-4705(c) and the holding of the Court of Appeals in State v. Hackler, 21 Kan. App. 2d 289, 291, 898 P.2d 1175, *rev. denied*, 258 Kan. 860 (1995), that defendants were eligible for conversion only if the requirements of K.S.A. 21-4705(c) were met. Those statutory requirements included that she show that an appropriate treatment program existed, that the treatment program was available, and that a non-prison sanction would serve community interests.

In affirming the denial of conversion, the Court of Appeals stated: “[s]ince the conditions of K.S.A. 21-4705(c) were not met, the court did not err in denying defendant’s motion to convert.” The claimant’s petition for review was also denied by the state Supreme Court.

As the district court and Court of Appeals found, notwithstanding court orders and efforts by court services and community corrections to supervise and rehabilitate her, Ms. Buess simply and repeatedly chose to disobey the conditions of her probation and chose to continue to use drugs. Ms. Buess failed to satisfy the conditions for conversion as stated by the Legislature, as interpreted by the Kansas Court of Appeals in Hackler. There was no error in the denial of sentence conversion.

Ms. Buess evidently filed another motion for conversion in 2001, which was dismissed for lack of prosecution on her part.

By the time this matter came back before the district court for consideration in the form of a K.S.A. 60-1507 motion filed in 2003, the county attorney initially opposed the claimant’s motion for release, given the prior litigation of this issue. Ms. Buess was again represented by

counsel, as she was at all relevant stages of all proceedings. Ultimately, the district court granted the relief sought. However, that does not mean that the prior ruling denying conversion was in error. Notably, by this time, Ms. Buess was already out on parole, having been released in October 2003, and by her calculations as stated in her claim, she was about six months short of the original 10-year term, having been in and out of prison, but under sentence, for approximately 9.5 years. One might conclude this was an act of mercy, an act which she now uses to buttress her claim for damages against the State.

Having examined the record in this matter relating to the judicial proceedings, we are unable to conclude that there is any basis for compensating Ms. Buess, either in law or as a matter of equity. There was nothing “wrongful” about her incarceration. Notably, throughout her voluminous filings in support of her claim, Ms. Buess appears to take no responsibility for anything that occurred in this matter, blaming the prosecutor, DOC, lawyers, district judges, the Court of Appeals, the Supreme Court, and even, in her February 14, 2007, letter, the legislative claims committee for not acceding to her entire claim (although she later indicated that \$75,000, as ‘half a loaf of bread is better than no loaf at all.’).

As Mr. Corrigan points out in his memorandum dated December 5, 2006, to the Joint Committee on Special Claims Against the State, “[s]tate judges are granted absolute immunity when performing judicial functions.” This is a common law immunity, but one also codified by the Legislature in the Kansas Tort Claims Act, K.S.A. 75-6104(b). Awarding damages against the Judicial Branch budget on this claim by Ms. Buess is contrary to law and legislative intent as expressed in K.S.A. 75-6104(b).

If the Legislature chooses to compensate Ms. Buess, that compensation should be paid from the State General Fund, not from the Judicial Branch budget. If the claim is paid from the Judicial Branch budget, the message being sent is that the Judicial Branch may be liable for compensation to anyone making a request, regardless of whether any error occurred or whether there is any basis for compensation, and whomever complains the loudest and the longest will receive state money, a dangerous precedent to set.

Testimony on HB 2368  
to  
The Senate Ways and Means Committee

By Roger Werholtz  
Secretary  
Kansas Department of Corrections  
March 8, 2007

The Department of Corrections is opposed to the provisions of HB 2368 as amended by the House which provides a payment of \$37,500 from the Department's central administration operations and parole and postrelease supervision operations account of the state general fund to Alice Buess. This provision is found in HB 2368 on page 10 beginning at line 32.

While the Department is withholding an opinion as to whether any state funds should be given to Ms. Buess pursuant to Legislative grace on behalf of the State, it would like to take this opportunity to inform this Committee of the nature of Ms. Buess' claim for wrongful incarceration and the role that the Department played in the computation and execution of her sentence. The Department believes that due to the actions taken by the Department relative to Ms. Buess sentence, compensation if any is given to her, should not be from Department's funds.

In adopting guidelines sentencing, the legislature provided for limited retroactive application of guidelines sentencing to offender's whose crimes were committed prior to July 1, 1993. In order to carry out the limited retroactive application of guidelines sentencing the Department of Corrections was directed by K.S.A. 21-4724(c)(1) to conduct a review of all persons who committed crimes and were sentenced prior to July 1, 1993 and imprisoned in the department's custody. The Department was to determine the appropriate corresponding severity level for the crime committed prior to July 1, 1993 and the offender's criminal history and issue a report to the court, the inmate, and the county or district attorney.

The Department's reports are based upon a reasonable search of the inmate's file, presentence reports, KBI and FBI criminal history records. Recognizing that the record review conducted by the Department is done without the participation of the court, prosecutor, or the inmate, the legislature further provided that either the prosecutor or inmate could challenge the Department's findings and request a hearing before the sentencing court. Likewise, information that was not relevant for the sentencing of a defendant prior to July 1, 1993 would not be available to the Department in a record review but could be addressed by the judicial hearing provided for by the Guidelines Act. In Ms. Buess' case, the facts and issues involved the amount of marijuana she possessed for sale, her amenability to treatment and the appropriateness of a nonprison sanction were facts that were not part of her pre July 1, 1993 sentencing. (Although the Department did know that Ms. Buess' probation had been revoked twice before her being sentence to the Department of Corrections which might tend to weigh against a nonprison sanction). However,

those issues were addressed by the Court with Ms. Buess being represented by counsel pursuant to the hearing provided for by the sentencing conversion provisions of the Guidelines Act.

Ms. Buess was convicted of crimes committed prior to July 1, 1993 and was sentenced to a controlling indeterminate sentences of not less than 3 nor more than 10 years. She was convicted of possession of marijuana with intent to sell and failure to pay the drug tax. Pursuant to her plea, the charges of cultivation of marijuana and possession of drug paraphernalia were dismissed. The Department correctly determined the corresponding severity level for her offenses pursuant to the Guidelines Sentencing Act as Drug Level 3 offenses. Whether Ms. Buess was entitled to a court ordered sentence dispositional departure pursuant to K.S.A. 21-4705 based upon the amount of marijuana she intended to sell in addition to the existence of appropriate treatment programs in lieu of incarceration, the availability of such programs for her within a reasonable time, and whether a nonprison sanction would serve community interests and her reformation were beyond the Department's mandate and were issues for the sentencing court's determination.

Ms. Buess represented by counsel litigated the issue of whether she was entitled to the sentencing provisions of K.S.A. 21-4705(c). That litigation resulted in an order of the District Court filed October 22, 1996 which found that Ms. Buess' indeterminate sentences were not eligible for conversion to a determinate guidelines sentence pursuant to K.S.A. 21-4705.

In its order of October 22, 1996 the District Court which had originally sentenced Ms. Buess, found that while her offenses would have been severity level 3 drug offenses and that the amount of marijuana possessed for sale was less than 500 grams. However, the Court further found that she failed to meet the other requirements of K.S.A. 21-4705. The Court noted that she had violated the conditions of her probation, was then placed under community corrections supervision and also violated the conditions of her community corrections supervision. The Court found that despite the many attempts by the Court, the court services department, and community corrections to do everything possible to keep Ms. Buess from recidivism, she had failed. Thus, the District Court found that Ms. Buess did not meet the requirements of K.S.A. 21-4705 which required the Court to find that:

1. An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism;
2. The recommended treatment program is available and the offender can be admitted to the program within a reasonable period of time; and
3. The nonprison sanction will serve community safety interests by promoting offender reformation.

The District Court specifically denied Ms. Buess' motion to convert her indeterminate sentence. The Department of Corrections carried out this order and continued to execute Ms. Buess' indeterminate sentences. Ms. Buess indeterminate sentences were subject to release by decision of the Kansas Parole Board which had granted parole to her four times. Three of Ms. Buess' parole releases were revoked due to her continued illegal drug use. While on parole for the fourth time, the District Court in an order filed March 5, 2004 converted Ms. Buess'

indeterminate sentence. This order was likewise carried out by the Department and Ms. Buess' was discharged from parole.

The Department of Corrections carried out its statutory mandate of identifying the corresponding guidelines severity level for pre July 1, 1993 offenses and reporting its findings to the inmate, court and prosecutor so that those parties could if they so desired litigate the correctness of the severity level and criminal history or raise issues such as whether the court should invoke the judicial departure provisions of K.S.A. 21-4705. The Department carried out each and every order of the sentencing court which of course is its fundamental mandate.

The Department therefore urges the Committee to amend the provisions of HB 2368 to delete the requirement that Ms. Buess' claim be paid from Department funds.

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

COUNTIES  
ANDERSON, FRANKLIN,  
LINN & MIAMI

COMMITTEE ASSIGNMENTS

VICE CHAIR: UTILITIES  
MEMBER: ASSESSMENT AND TAXATION  
EDUCATION  
TRANSPORTATION  
JOINT COMMITTEE ON STATE  
BUILDING CONSTRUCTION

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LOUISBURG, KANSAS 66053  
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TOPEKA, KANSAS 66612  
(785) 296-7380  
1-800-432-3924

March 8, 2007

Senate Ways and Means Committee

Honorable Chairman Umbarger and members of the Committee

Good morning. Thank you for the opportunity to speak in support of an amendment to House Bill 2368. Attached is a copy of a message that I received from a constituent. Sharen Mead recently found a death benefit check issued by the State of Kansas from her mothers passing. Check #3688657 was issued on December 15,1995 in the amount of \$2000.00.

I have been advised by staff that this is the proper procedure to reissue the check.

Thank you for your consideration and help. I know Sharen Mead will be appreciative.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pat Apple'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Pat Apple  
Kansas Senate, District 12

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Dear Pat Apple,

Recently found a check from the State of Kansas for \$2000 that was issued Dec. 15, 1995, from KPERS for my mothers death benefit. It was a very emotional time and somehow the check was misplaced until now.

Called KPERS, they referred me to Amy Decker at legislature research. She told me the check had expired therefore could not be reissued because of the date. You may contact her if you have any questions about the details.

Please consider offering an amendment to claim bill during 07 session or whatever is necessary for payment. The check # is 3688657, date issued 12-15-1995. Check amount \$2,000.

Thanks so much for your help.

Sharen Mead

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1     ~~Sec. 6.~~ **6.** The ~~Kansas~~ state fair **board** is hereby authorized and directed  
2 to pay the following amount from the state fair fee fund as reimbursement  
3 for out-of-pocket medical expenses resulting from personal injuries sus-  
4 tained at the state fairgrounds, to the following claimant:

5 Georgina Wegele  
6 321 E 12th, Unit 202  
7 Newton, KS 67114 ..... \$302.69

8     ~~Sec. 7.~~ **7.** The Kansas commission on ~~veteran's~~ **veterans** affairs is  
9 hereby authorized and directed to pay the following amount from the  
10 veterans home fee fund as reimbursement for out-of-pocket dental ex-  
11 penses resulting from personal injuries sustained at the Kansas ~~veterans~~  
12 **veterans'** home, to the following claimant:

13 Denver Nelson Patchen  
14 305 E Windsor Rd.  
15 Arkansas City, KS 67005..... \$1,741.00

16     ~~Sec. 8.~~ **8.** Kansas state university is hereby authorized and directed to  
17 pay the following amount from the restricted fees fund for materials sup-  
18 plied by claimant, the payment for which was mistakenly sent to another  
19 contractor which was subject to garnishment, to the following claimant:

20 Hill & Company, Inc.  
21 1424 S Monroe  
22 Topeka, KS 66603 ..... \$4,660.00

23     ~~Sec. 9.~~ **9.** There is hereby appropriated the following amount from  
24 the state general fund as reimbursement expenses related to defending a  
25 ruling by the department of social and rehabilitation services that the  
26 claimants physically abused foster children which was overturned by a  
27 hearing officer on appeal, to the following claimant:

28 Patricia & Michael Mastel  
29 9530 Halsey, #200  
30 Lenexa, KS 66215 ..... \$10,000.00

31     **[Sec. 10. The judicial branch is hereby authorized and directed**  
32 **to pay the following amount from the judiciary operations account**  
33 **of the state general fund for payment of the final settlement of a**  
34 **claim of wrongful incarceration, to the following claimant:**

35 **[Alice Buess**  
36 **[2960 SW Butler Road**  
37 **[Benton, KS 67017 ..... \$37,500.00]**

38     ~~Sec. 11.~~ ~~10.~~ **[11.]** (a) Except as otherwise provided by this act, the  
39 director of accounts and reports is hereby authorized and directed to draw  
40 warrants on the state treasurer in favor of the claimants specified in this  
41 act, upon vouchers duly executed by the state agencies directed to pay  
42 the amounts specified in such sections to the claimants or their legal  
43 representatives or duly authorized agents, as provided by law.

Sec. 11. The Kansas public employees retirement system is hereby authorized and directed to pay the following amount from the Kansas public employees retirement fund as reimbursement for an expired warrant, to the following claimant  
Sharen Mead  
20275 E 1100 Road  
Pleasanton, KS 66075 ..... \$2,000.00

Renumber remaining sections accordingly