

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chair Sharon Schwartz at 9:00 A.M. on March 17, 2008, in Room 514-S of the Capitol.

All members were present except:

- Representative Tom Sawyer - excused
- Representative Kevin Yoder - excused
- Representative Jason Watkins - excused
- Representative Ty Masterson - excused
- Representative JoAnn Pottorff - excused
- Representative Jerry Henry - excused

Committee staff present:

- Alan Conroy, Legislative Research Department
- J. G. Scott, Legislative Research Department
- Reed Holwegner, Legislative Research Department
- Amy Deckard, Legislative Research Department
- Jim Wilson, Revisor of Statutes
- Nobuko Folmsbee, Revisor of Statutes
- Nikki Feuerborn, Chief of Staff
- Shirley Jepson, Committee Assistant

Conferees appearing before the committee:

- Richard Morrissey, Interim Director of Health, Department of Health and Environment (KDHE)
- Linda Kinney, KDHE
- Paula Marmet, KDHE
- Lois Weeks, Director, Office Financial Management, Department of Social and Rehabilitation Services (SRS)
- Representative Steve Huebert
- Ron Gaches, Executive Director, Kansas Society for Professional Engineers
- Mark A. Burghart, Benchmark Industries, Inc.

Others attending:

See attached list.

- Attachment 1 Testimony on Block Grants by Richard J. Morrissey
- Attachment 2 Testimony on Block Grants by Lois Weeks
- Attachment 3 Fiscal Note on **SB 534**
- Attachment 4 Testimony on **SB 534** by Mark Burghart

Hearing on Federal Block Grants

Chair Schwartz opened the public hearing on the proposed use and distribution of funds required as a condition of receipt of funding for federal block grant programs administered by the following state agencies:

- Department of Health and Environment-Health (KDHE)**
- Department of Social and Rehabilitation Services (SRS)**

Richard J. Morrissey, Interim Director of Health, Department of Health and Environment (KDHE), provided testimony on the Preventive Health and Health Services Block Grant and the Maternal and Child Health Services Block Grant, both administered by the Department of Health and Environment-Health (Attachment 1).

Preventive Health and Health Services Block Grant:

- Supports preventive health programs that address preventable risk factors that contribute to the leading causes of premature death and disability. Objectives and activities must be consistent with the Year 2010 Health Objectives for the nation.

CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on March 17, 2008, in Room 514-S of the Capitol.

- Total amount of grant is approximately \$900,000.

Maternal and Child Health (MCH) Services Block Grant:

- Authorized under Title V of the Social Security Act and intended to improve the health of all mothers and children consistent with the applicable health status goals and national health objectives established by the Secretary under the Public Health Service Act.
 - MCH block grant rules require that every 5 years each recipient State must conduct an assessment of State maternal and child health needs. Kansas has set priorities for the MCH block grant for 2005-1020.
 - Total funding for the grant is approximately \$5 million.
 - The grant moneys fund activities internal to the Department, such as staffing and purchased services for the Children Special Health Needs program. Some uses for the funds include approximately \$1.8 million distributed to local health departments to fund local programs, which are tied to state programs; approximately \$90,000 is directed to newborn screening; \$398,000 is directed at cardiovascular disease with smaller amounts directed at preventive grants - nutrition, fitness and injury through the safe kids program.
 - Extensive rules, regulations and objectives are set by the federal government.
- ◆ The Committee requested a break-down on the total funding for each grant.

Responding to questions from the Committee, Linda Kinney, KDHE, indicated that presently there are 10 local grantee agencies working with teen pregnancy preventive programs. Funding for these programs is available through Medicaid and other state funding but not through the block grant. Funding for those programs is distributed on a competitive application process.

Responding to another question, Paula Marmet, KDHE, stated that approximately \$65,000 is set aside for sexual offenses and transferred to the Governor's grants' office where it is used in conjunction with other funds for local grant programs.

Lois Weeks, Director, Office Financial Management, Department of Social and Rehabilitation Services (SRS), provided testimony on the 5 block grants administered by SRS (Attachment 2). These grants include:

- Social Services Block Grant (SSBF) - \$22.5 million
- Block Grant for the Prevention and Treatment of Substance Abuse - \$12.2 million
- Community Mental Health Services Block Grant - \$3.2 million
- Low Income Energy Assistance Program (LIEAP) Block Grant - \$13.5 million
- Block Grant for Projects for Assistance in Transition from Homelessness (PATH) - \$300,000

Ms. Weeks stated that the Department is concerned about the future funding of several of these block grants because of a possible 30 percent reduction by the federal government. This could reduce the state's allotment by over \$4.6 million for FFY 2009, as well as a possible cut of 14 percent in the LIEAP block grant. Responding to a question from the Committee concerning action being taken to address the concern, Ms. Weeks noted that the Department has not addressed the situation and is in a "wait and see" mode at this time.

- ◆ The Committee requested additional information on:
- (1) Federal application requirements for receiving weatherization assistance.
 - (2) Amount of funding allocated to each program under the Social Services Block Grant, number of individuals served and the success rate of each program.
 - (3) Treatment program for substance abuse that works best, individual cost of treatment program and who pays for cost - whether paid entirely from grant funds.

Chair Schwartz closed the public hearing on the proposed use and distribution of funds required as a condition of receipt of funding for federal block grant programs administered by the following state agencies:

Department of Health and Environment-Health (KDHE)
Department of Social and Rehabilitation Services (SRS)

CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on March 17, 2008, in Room 514-S of the Capitol.

Hearing on SB 534

Hearing on SB 534 - Claims against the state.

Representative Steve Huebert, a member of the Joint Committee on Special Claims Against the State, presented testimony on SB 534. The fiscal note on SB 534 was distributed to the Committee (Attachment 3). Representative Huebert noted that 132 claims were presented to the Joint Committee with 123 of the claims against the Department of Corrections. SB 534 authorized expenditures for 23 of the claims, totaling \$193,982.63 with \$21,832.99 from the State General Fund (SGF). One claims approved by the Joint Committee pertains to payment to Eldon Ray for reimbursement of attorney's fees and associated expenses related to claimant's defense of a claim of practicing architecture or engineering without a license. The Senate Ways and Means Committee amended SB 534 to appropriate this awarded amount from the SGF.

Representative Huebert also brought the Committee's attention to the claim of Mark Jordan in the amount of \$9,500 for reimbursement of attorney's fees and associated expenses related to the claimant's defense with regard to child in need of care proceedings.

The Committee expressed concern pertaining to the claim regarding the child of the claimant, Mark Jordan, noting that an existing program provides tuition for a child who has "aged-out" of foster care, allowing the individual to continue with post-secondary education. It was also noted that the child had been returned to the family and not in foster care.

Ron Gaches, Executive Director, Kansas Society for Professional Engineers, stated that he appeared before the Senate Ways and Means Committee and requested the change of the payment to Eldon Ray from the SGF rather than the fee fund. Mr. Gaches indicated that his reasoning for this is because when the State Board of Technical Professions launched their investigation against Mr. Ray for practicing design work without a license, the Board was doing what the law requires them to do. Subsequent action by the Legislature in adding a proviso to the Omnibus Appropriations bill, blocked the Board from taking any further action against Mr. Ray. Mr. Gaches stated that the Kansas Society for Professional Engineer members did not oppose the reimbursement for Mr. Ray's expenses; however, felt that the professional licensees should not be held responsible for the reimbursement through their payment of fees into the fee fund.

Mark A. Burghart, Benchmark Industries, Inc. presented testimony on the claim of \$70,000 presented by Benchmark Industries, Inc. for overpayment of sales tax to Kansas that should have been paid to the state of Missouri (Attachment 4).

The hearing on SB 534 was closed.

The meeting was adjourned at 10:20 a.m. The next meeting of the Committee will be held at 9:00 a.m. on March 18, 2008.


Sharon Schwartz, Chair



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

**Testimony on
PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT
MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT**

**To
House Appropriations Committee**

Richard J. Morrissey, Interim Director of Health

March 17th, 2008

Chairperson Schwartz and members of the House Appropriations Committee, my name is Dick Morrissey. I serve as the Interim Director of the Division of Health for the Kansas Department of Health and Environment. Thank you for the opportunity to talk with you about the Preventive Health and Health Services Block Grant and the Maternal and Child Health Services Block Grant.

In the early 1980's, the federal block grant programs were initiated. Funding from a number of programs was consolidated into block grants to provide centralized administrative oversight. The Kansas Department of Health and Environment participates in two federal block grant programs, the Preventive Health and Health Services Block Grant (PHB) and the Maternal and Child Health Services Block Grant (MCH). By federal regulation, public hearings are required for both block grants. This hearing meets public review and comment requirements for these grant programs for public input into expenditure of block grant funds toward priority state health needs.

The Preventive Health and Health Services Block Grant

This block grant supports preventive health programs that address preventable risk factors that contribute to the leading causes of premature death and disability. Program objectives and activities must be consistent with the Year 2010 Health Objectives for the nation. A 1992 amendment to Title XIX, Part A, of the PHS Act significantly changed the Block Grant application process and reporting rules, limiting previous state flexibility in spending from this grant and requiring linkage of program activities to the National Health Objectives. Beginning with the fiscal year 1993 application, KDHE responded to the new requirements by:

- a. Establishing a process to assess Kansas health status relative to the Healthy People objectives and targets;

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- b. Using these data to establish a state implementation plan to respond to critical preventive health needs and provide support for priority activities not adequately supported from categorical funding sources;
- c. Providing a description of the programs and projects that are funded with the PHB Block Grant and estimating the number of individuals to be served;
- d. Establishing a state Preventive Health Block Advisory Committee, chaired by the state health officer, to make recommendations relative to the state plan, and holding public hearings on the state plan as stipulated by law;
- e. Establishing an ongoing process for public review and comment; and
- f. Measuring progress towards meeting preventive health objectives, including developing the necessary surveillance systems.

Current law stipulates that Preventive Health and Health Services Block Grant funds be used to supplement and increase the level of state, local and other non-federal funds; supplantation of non-federal funds is not allowed. State expenditures for the selected health activities are to be maintained at a level that is not less than the average level of the two years preceding the fiscal year for which the federal funds to supplement that activity are requested.

Section 1904 of the governing law stipulates that Preventive Health Block Grant funds may be used for the following:

- a. Activities consistent with making progress toward achieving the National Health Objectives for the health status of the population;
- b. Preventive health service programs for the control of rodents and for community and school based fluoridation programs;
- c. Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems;
- d. Providing services to victims of sex offenses and for prevention of sex offenses; and
- e. Program activities related to planning, administration and education, including evaluation of the Year 2010 Health Objectives addressed in the state plan.

A state may not use the Block Grant funds to:

- a. Provide inpatient services;
- b. Make cash payments to intended recipients of health services;
- c. Purchase or improve land, purchase, construct, or permanently improve any building or other facility, or purchase major medical equipment;
- d. Satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds; or,
- e. Provide financial assistance to any entity other than a public or non-profit private entity.

The Maternal and Child Health (MCH) Services Block Grant

The Maternal and Child Health Services Block Grant is authorized under Title V of the Social Security Act. It is intended "to improve the health of all mothers and children consistent with the applicable health status goals and national health objectives established by the Secretary under the Public Health Service Act." As the recipient agency for these funds, KDHE's role is to provide leadership and to work in partnership with communities, public-private partners, and families to strengthen the maternal and child health (MCH) infrastructure, assure the availability and use of "medical homes", and build knowledge and human resources in order to assure continued improvement in the health, safety, and well-being of the maternal and child health population. The MCH population includes all Kansas women of reproductive age, infants, children, adolescents, and their families including fathers. Programs for children with special health care needs are specifically identified as part of the MCH block grant scope. Funds are allocated to Kansas through the national MCH block grant formula. In recent years, enhanced planning and reporting requirements have been implemented in order to improve accountability for these funds. As part of that accountability, state grants and plans are posted to the federal website: <https://performance.hrsa.gov/mchb/mchreports/tvisreports.asp>.

MCH block grant rules require that every five years each recipient State must conduct an assessment of State maternal and child health needs. There are detailed requirements concerning the conduct of the state needs assessment. Based on this detailed review of data from multiple sources, the State must specify between 7 and 10 priority needs. In 2004, a panel of experts from around the state was convened on three separate occasions to determine, based on detailed data, the MCH priorities for 2005-2010. The final report called MCH 2010 is available on the KDHE website at www.kdhe.state.ks.us/bcyf. For the period 2005-2010, the priority Kansas maternal and child health (MCH) needs are:

Pregnant Women and Infants

- Increase early and comprehensive health care before, during, and after pregnancy
- Reduce premature births and low birthweight
- Increase breastfeeding

Children and Adolescents

- Improve behavioral/mental health
- Reduce overweight
- Reduce injury and death

Children with Special Health Care Needs (CSHCN)

- Increase care within a medical home
- Improve transitional service systems
- Decrease financial impact on families

In addition, through 2010, teen pregnancy, oral health, and asthma rated as continued focal areas. Allocation of resources from the Kansas MCH block grant must reflect these priorities.

MCH grants are provided to local agencies and they use state needs assessment data and other data to prioritize their own needs. Grant funds may be spent for local priority maternal and child health needs. Reporting is structured to retain accountability while providing flexibility for communities.

Description of Services Funded in SFY 2007

A. Aid to Local Agencies

MCH - *Maternal and Child Health Grants* - All 105 Kansas counties provide maternal and child health services to optimize the health of Kansas families, in particular for uninsured families and those with limited access to care. Counties must provide comprehensive services by coordinating with all available community resources. Based on a community health assessment, counties provide services, including prenatal care coordination, home visits, child health services, and others. Up to 30 percent of the funding can be used flexibly to address state and locally identified MCH priorities through appropriate interventions.

PHB - *Chronic Disease Risk Reduction (CDRR) Grants* - These grants are awarded to support development and implementation of community-based programs to decrease premature death and disability due to cardiovascular disease and cancer, the two leading causes of death in Kansas. Program interventions are designed to decrease the leading modifiable risk factors for cardiovascular disease and cancer, including tobacco use, physical inactivity, and poor nutrition. Currently, PHB funds support CDRR activities in 43 counties. Interventions are delivered through schools, work sites, churches, community organizations and other community settings.

PHB - *Special Health Promotion Grants* - Health Promotion projects fund specific services based on identified need. Funds are awarded to the Center for Health and Wellness in Wichita to coordinate a Black Churches Hypertension/Cholesterol reduction project and to Pittsburgh State University for facilitation of a Governor's Council on Fitness statewide initiative to promote physical activity among children.

B. Transfers of Funding to Other State Agencies

PHB - *Rape and Sexual Offenses Prevention Education* - A specified amount of PHB funding awarded to Kansas is designated, per federal mandate, for sexual offenses programming. To avoid duplication and inefficiency, KDHE transfers the funds to the Governor's Office to be used for local programs.

C. State Operations

MCH - *Center for Health and Environmental Statistics* - Data support to the MCH programs per memorandum of agreement.

MCH and PHB - *Division of Health* - Offsets costs for program and fiscal support to MCH and PHB programs.

MCH - *Office of Oral Health* - Dental hygienist coordination of open mouth survey of Kansas children, sealant project, and other maternal and child health education and interventions.

MCH and PHB - *Local Health Department Support Services* - Support services for local health departments including, but not limited to, consultation, education and technical assistance provided by community nurse/public health specialists for maternal and child health and risk reduction/health promotion activities.

MCH - *Child Care Regulation* - Promotion of health and safety practices in out-of-home care settings through Child Care Facilities Licensing and Registration Program.

MCH - *Children with Special Health Care Needs* - Salaries and operating expenses to assure care coordination and also reimbursement to health care providers for medical specialty services and supplies.

MCH - *Nutrition* - Nutrition consultation to MCH programs.

MCH - *Newborn Screening* – Nursing followup on newborns with out-of-range screens.

MCH - *Compliance Monitoring* - Portion of salaries and operating expenses to provide clinical and administrative oversight of local agency contractual compliance in providing maternal and child health services.

PHB - *Chronic Disease and Injury Prevention/Health Promotion* - Portion of salaries and operating expenses for Office of Health Promotion (OHP). OHP staff plays a key role in assessing the current chronic disease burden and in facilitating consensus development of statewide goals and strategies to alleviate that burden in Kansas. In 2007, the Block grant funds enabled the staff and workgroups of the cancer program to enhance the Cancer Kansas website through monthly content reviews that ensure Kansans receive timely and reliable cancer information. In its first full year in operation the Cancer Kansas website received 19,000 'hits'. Additionally, the Block Grant represents the only source of funds dedicated to primary prevention of cardiovascular disease, the number one over all cause of death among Kansans. To address the risk factors for cardiovascular disease, the Block Grant assists local communities through the Chronic Disease Risk Reduction (CDRR) program. In 2007, staff responded to over 5,000 requests for technical assistance from Kansas communities participating in CDRR. Last year alone, CDRR communities hosted over 200 events aimed at improving the nutritional and physical health of their residents. Similarly, PHHSBG funds allow staff to facilitate activities of the SAFE KIDS Kansas Coalition, a private/public partnership that provides leadership for decreasing unintentional injuries, the number one cause of death in the 0-14 age group. SAFE KIDS Kansas activities include facilitating the BUCKLE UP program, the Mobile Child Safety Seat Check Up Van which provide safety seats to low income families, safety checks of seat installation (finding a misuse rate of 86%), and the CYCLE SMART program which has provided low-cost bicycle helmets to more than 85,000 Kansans to date. Safe Kids Kansas is having an impact on unintentional injury in Kansas. In a 2007 report published by the Centers for Disease Control and Prevention (CDC), Kansas was one of only thirteen states in the country to show a decrease in unintentional injury mortality rates between 1999 and 2004. The four contiguous states to Kansas all posted increases during the same time period.

Thank you for the opportunity to appear before this Committee. With the assistance of my staff, I will be happy to respond to any questions you may have on these matters.

Kansas Department of
Social and Rehabilitation Services
Don Jordan, Secretary



For Additional Information Contact:
Patrick Woods, Director of Governmental Affairs
Docking State Office Building, 6th Floor North
(785) 296-3271

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FY 2009 Federal Block Grants

House Appropriations Committee March 17, 2008

Chairperson Schwartz and members of the Committee, I am Lois Weeks, Director of the SRS Office of Financial Management, thank you for holding this hearing to meet our Federal Block Grant requirements and to provide you information on the Federal Block Grant programs administered by SRS.

Block grants are fixed-sum federal grants to state and local governments that give broad flexibility to design and implement designated programs. These grants have been part of the American federal system since 1966. Federal oversight and requirements are light, and funds are allocated among recipient governments by formula.

\$51.7 million funding from five different block grants are included in the SRS FY 2009 Governor's Budget. I will give you a brief description of the services provided by each of these grants.

SOCIAL SERVICES BLOCK GRANT (SSBG) - \$22.5 million

SSBG funds are to enable each state to furnish social services best suited to meet the needs of individuals of that state. Services funded by SSBG are directed at one or more of these five goals:

- achieving or maintaining economic self-support to prevent, reduce or eliminate dependency
- achieving or maintaining self-sufficiency, including reduction or prevention of dependency
- preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interest, or preserving, rehabilitating or reuniting families
- preventing or reducing inappropriate institutional care by providing for community-based care, home-based care or other forms of less intensive care
- securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

SSBG funds are budgeted in Child Care Assistance, Child Welfare - Foster Care and Field Operations and in Kansas Department on Aging's Senior Care Act.

BLOCK GRANT FOR THE PREVENTION AND TREATMENT OF SUBSTANCE ABUSE - \$12.2 million

The funds from this grant are used for both Substance Abuse Prevention and Treatment services. Federal regulations require that at least 20 percent of the grant be used on prevention. We spend approximately 80 percent on treatment and 20 percent on prevention. Services are available to persons whose income is at or below 200% of the federal poverty level. Priority populations served are injecting drug users, pregnant women, women with children, anyone who has been exposed to or is at high risk for TB and/or HIV, involuntary commitments, and lastly, those who would not be able to afford treatment otherwise.

On July 1, 2007 SRS contracted with Value Options to provide managed care substance abuse services to all Kansans eligible for Medicaid and Block Grant funding. The block grant dollars along with other state funds pay for treatment services for individuals who are not eligible for Medicaid. Medicaid eligible individuals are covered under the new Prepaid Inpatient Health Plan (PIHP).

COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT - \$3.2 million

The Community Mental Health Service Block Grant is distributed to the 26 Community Mental Health Centers (CMHCs) for community services. Currently, the federal block grant money is funding programs across the state focusing on workforce development, evidence-based practices, two housing and homeless projects, consumer-run organizations and the youth initiative projects. The Mental Health Block Grant is also used to support the Presidents New Freedom Commission Report for transformation activities such as the anti-stigma campaign in Kansas.

LOW INCOME ENERGY ASSISTANCE PROGRAM (LIEAP) BLOCK GRANT - \$13.5 million

This block grant provides utility or fuel assistance to qualifying households whose income is under 130 percent of poverty. For a one-person household, the income limit is currently \$1,127 monthly. As a condition of eligibility, applicants must also demonstrate recent utility payments. This state-added requirement emphasizes the household's responsibility for paying its own fuel costs, promotes the importance of maintaining a regular payment history, and provides positive reinforcement.

The department receives energy assistance funding from two sources: a block grant and emergency funding. The emergency funds are highly variable, dependent on extreme weather conditions and energy process, and are released at the discretion of the President. About 42,300 households are expected to receive assistance in FY 2008 with a projected annual benefit averaging \$532 which includes emergency funding released by the President. The FY 2009 average benefit is budgeted at \$332 and assumes only block grant funding, due to the historical variability in this funding source and the wide difference in funding levels proposed by Congress and the Executive for FY 2009.

Weatherization Assistance (15 percent of the block grant) - Federal regulations allow States to use up to 15 percent of the LIEAP grant for weatherization improvements. Each year SRS transfer the full 15% of the block grant to the Weatherization Program administered by the Kansas Housing Resources Corporation.

BLOCK GRANT FOR PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS (PATH) - \$300,000

PATH provides funds to support services to individuals with serious mental illnesses, as well as individuals with serious mental illnesses and substance abuse disorders, who are homeless or at risk of becoming homeless. All Kansas PATH providers use PATH funds only for case management and homeless outreach. They refer clients to other CMHC or community programs to provide other services.

FEDERAL OUTLOOK

We are concerned about the future funding of several of these block grants. The Federal FY 2009 President's Budget recommends SSBG be cut by 30% and be completely phased out FFY 2010. This would reduce Kansas' allotment by over \$4.6 million for FFY 2009. The President's budget also includes a 14% cut in the LIEAP block grant that would result in a reduction in the benefit amount for each household as well as a reduction in the transfer to the Weatherization Program.

This concludes my testimony and I would be happy to answer any questions you have.

February 13, 2008

The Honorable Dwayne Umbarger, Chairperson
Senate Committee on Ways and Means
Statehouse, Room 120-S
Topeka, Kansas 66612

Dear Senator Umbarger:

SUBJECT: Fiscal Note for SB 534 by Joint Committee on Special Claims against the State

In accordance with KSA 75-3715a, the following fiscal note concerning SB 534 is respectfully submitted to your committee.

SB 534 would direct agencies to pay claims against the state from their existing State General Fund accounts and special revenue funds in FY 2008. The claims in this bill affect the Department of Corrections, Pittsburg State University, the Judicial Branch, the Board of Technical Professions, the Department of Social and Rehabilitation Services, and the Department of Revenue. The bill also makes one direct appropriation from the State General Fund through the Legislature's budget.

Estimated State Fiscal Effect				
	FY 2008 SGF	FY 2008 All Funds	FY 2009 SGF	FY 2009 All Funds
Revenue	--	--	--	--
Expenditure	\$21,832.99	\$193,982.63	--	--
FTE Pos.	--	--	--	--

SB 534 would authorize expenditures totaling \$193,982.63 from all funding sources, of which \$21,832.99 is from the State General Fund. Of that \$193,982.63, \$186,491.63 is directed to be paid from state agency budgets, and \$7,491 consists of direct appropriations. This bill authorizes the payment of claims that have been heard and approved by the Special Committee on Claims against the State. The fiscal effect of this bill is not part of the Governor's budget recommendations.

Sincerely,



Duane A. Goossen
Director of the Budget

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MEMORANDUM

TO: Representative Sharon Schwartz, Chairperson
House Committee on Appropriations

FROM: Mark A. Burghart
Benchmark Industries, Inc.

DATE: March 17, 2008

RE: Senate Bill No. 534, Section 8

Thank you for the opportunity to appear in support Section 8 of S.B. 534 which authorizes a sales tax refund for Benchmark Industries, Inc. ("Benchmark") which would prevent double taxation of certain sales transactions. Benchmark paid Kansas retailers' sales tax on certain sales that were delivered to customers in the State of Missouri for the period September 1, 2002 through October 31, 2005. Those sales were properly subject to Missouri compensating use tax rather than Kansas retailers' sales tax. The Kansas Department of Revenue acknowledged that the sales should not be taxed by Kansas. The Missouri Department of Revenue assessed Benchmark for these same sales transactions. Refunds were paid by Kansas for all periods not barred by the applicable statute of limitations. Unfortunately, two of the periods at issue in Kansas were not subject to refund because the statute of limitations had expired for those months. Section 8 merely reimburses those taxes paid to Kansas by Benchmark for those periods that also were paid to the State of Missouri in the amount of \$70,000. A brief chronology of relevant events is set forth below:

- On August 19, 2005, the Missouri auditor came on site and commenced the audit of Benchmark for the periods September 1, 2002 through December 31, 2004, and February 1, 2005 through June 30, 2005.
- In October, 2005, the Kansas Department of Revenue advised Benchmark that it would commence a sales tax audit for the period November 1, 2002 through October 31, 2005.

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- On December 27, 2005, Benchmark's accounting office electronically filed amended sales tax returns with the Kansas Department of Revenue, seeking a total refund of \$148,584.71 for the period September 1, 2002 through October 31, 2005 to recover sales tax that should have been paid to Missouri.
- On March 9, 2006, Benchmark received the proposed audit results from the Kansas Department of Revenue reducing the requested refund amount to \$26,458; the reduced refund amount was paid by the Department.
- On April 10, 2006, Benchmark provided additional information to the Kansas Department of Revenue, including delivery tickets, documenting deliveries into the State of Missouri.
- On April 25, 2006, the assessment from the State of Missouri was received by Benchmark for \$142,780.56. Most of the Missouri assessment is attributable to the months of September and October of 2002.
- Benchmark appealed the Kansas Department of Revenue's notice of refund to the Secretary of Revenue and sought an additional refund of sales tax in the amount of \$121,386 plus statutory interest for the months of September and October of 2002.
- On October 29, 2007, the Secretary's Designee issued a Written Final Determination wherein Benchmark's appeal was denied stating that any additional refund for September and October of 2002 was barred by the applicable statute of limitations.
- Benchmark paid \$70,000 to resolve the assessment issued by the Missouri Department of Revenue.

Benchmark has in no way attempted to avoid the payment of tax on these sales transactions. Unfortunately, it finds itself paying tax twice on the same sales – once to Kansas and once to Missouri. Benchmark would respectfully request that the Committee remedy this inequitable situation for the taxpayer by reimbursing Benchmark \$70,000 which represents a portion of the sales tax inadvertently paid to Kansas for the months of September and October of 2002. A schedule prepared by the Kansas Department of Revenue setting forth the tax paid by Benchmark, requested refund amounts and actual refunds paid for all periods is attached for the Committee's consideration.

Thank you again for the opportunity to appear in support of Section 8 of the bill. I would be happy to respond to any questions that the members of the Committee may have.

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Benchmark Industries Inc
 FEIN 480777205
 Case #5915
 Refund Request

Date of Original Return	Amended Return Total Tax Paid	Refund Request Tax Due	Approved	Tax Refunded 9-14-05	Interest Refunded 9-14-06	Denied	Comments	Approved/Loss Refunded	
September-02	\$484,697.44	407,265.12	77,432.32	0.00		77,432.32	Beyond statute of limitations KSA 79-3609	0.00	
October-02	\$476,545.70	432,591.72	43,953.98	0.00		43,953.98	Beyond statute of limitations KSA 79-3609	0.00	
November-02	\$502,861.88	491,324.64	11,537.24	11,537.24	11,537.24	2,655.77		0.00	
December-02	\$423,830.43	421,039.35	2,791.08	2,791.08	2,791.08	624.96		0.00	
January-03	\$447,347.21	445,765.31	1,581.90	1,581.90	1,581.90	345.71		0.00	
February-03	\$466,107.65	465,077.62	1,030.03	1,030.03	945.37	201.54		84.66	
March-03	\$475,114.02	474,269.41	844.61	844.61	844.61	175.03		0.00	
April-03	\$386,282.13	384,233.63	2,015.50	2,015.50	2,015.50	405.30		0.00	
May-03	\$439,592.41	435,504.83	4,087.58	4,087.58	4,087.58	799.26		0.00	
June-03	\$382,379.44	381,823.80	555.64	555.64	555.64	105.45		0.00	
July-03	\$414,582.86	414,376.53	206.33	206.33	206.33	37.93		0.00	
August-03	\$283,131.30	282,924.03	207.27	207.27	207.27	36.88		0.00	
September-03	\$324,406.63	323,914.65	492.03	379.79	379.76	65.23	112.24	Additional return of \$112.24 received but not accompanied by payment	0.03
October-03	\$296,513.74	296,290.54	223.20	223.20	223.21	37.09	0.00		(0.01)
November-03	\$280,947.31	280,876.35	70.96	70.96	70.99	11.34	0.00		(0.03)
December-03	\$293,365.40	293,173.37	192.04	192.04	192.06	29.77	0.00		(0.02)
March-04	\$207,628.35	207,470.56	157.80	157.80	157.80	22.13	0.00		0.00
April-04	\$230,246.39	230,122.17	124.24	124.24	124.27	16.82	0.00		(0.03)
May-04	\$192,704.09	192,255.70	448.41	448.41	448.72	58.45	0.00		(0.31)
June-04	\$266,649.23	266,518.47	130.78	130.78	130.78	16.39	0.00		0.00
July-04	\$243,281.60	242,827.74	453.85	453.85	453.85	54.61	0.00		0.00
October-04	\$224,440.72	224,392.69	48.01	48.01	48.01	5.02	0.00		0.00
			148,584.80	27,086.26	27,001.97	5,704.68	121,498.54		84.29
					32,706.65				
February-03	\$466,107.65	465,077.62	1,030.03	1,030.03	945.37				
			Difference	84.66					
		Divided by 7.525% Tax Rate	1,125.05						