

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:40 A.M. on March 18, 2008, in Room 123-S of the Capitol.

All members were present except:

Senator Donald Betts, Jr. - excused

Committee staff present:

Jill Wolters, Senior Assistant, Revisor of Statutes  
Kristen Clarke Kellems, Assistant Revisor of Statutes  
Gordon Self, First Assistant Revisor of Statutes  
Amy Deckard, Kansas Legislative Research Department  
Audrey Dunkel, Kansas Legislative Research Department  
Julian Efird, Kansas Legislative Research Department  
J. G. Scott, Kansas Legislative Research Department  
Michael Steiner, Kansas Legislative Research Department  
Amy VanHouse, Kansas Legislative Research Department  
Jarod Waltner, Kansas Legislative Research Department  
Melinda Gaul, Chief of Staff, Senate Ways & Means  
Mary Shaw, Committee Assistant

Conferees appearing before the committee:

Jennifer Schwartz, Executive Director, Kansas Association of Centers for Independent Living  
Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services  
Kathy Greenlee, Secretary, Kansas Department on Aging  
Tom Laing, Executive Director, InterHab  
Mike Oxford, Executive Director, Topeka Independent Living Resource Center

Others attending:

See attached list.

**Bill Introduction**

Senator Morris moved, with a second by Senator Steineger, to introduce a bill concerning left lane passing zones (7rs2447). Motion carried on a voice vote.

The Chairman acknowledged Julian Efird, Kansas Legislative Research Department, who provided a briefing on the Kansas Development Finance Authority appropriation and status of the Expanded Lottery Act Revenues Fund (Attachment 1). Discussion followed.

Senator Emler moved, with a second by Senator Schodorf, to amend the Expanded Lottery Act Revenues Fund and delete the \$3 million transfer in the Kansas Development Finance Authority budget and consider at Omnibus. Motion carried on a voice vote.

Senator Teichman moved, with a second by Senator Emler, to amend the Expanded Lottery Act Revenues Fund for making technical adjustments in various operating agency budgets regarding debt service payments and interest related to bonding for consistency in the Mega bill. Motion carried on a voice vote.

Copies of the Kansas Legislative Research Department Budget Analysis Report for FY 2008 and FY 2009 were available to the committee.

**Subcommittee reports on:**

**Kansas Public Employees Retirement System Budget and Issues (Attachment 2)**

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on March 18, 2008, in Room 123-S of the Capitol.

Subcommittee Chairman Steve Morris reported that the subcommittee on the Kansas Public Employees Retirement System Budget concurs with the Governor's recommendation in FY 2008 and concurs with the Governor's FY 2009 recommendation.

Senator Morris moved, with a second by Senator Kelly, to adopt the subcommittee budget report on the Kansas Public Retirement System Budget in FY 2008 and FY 2009. Motion carried on voice vote.

**Kansas Public Employees Retirement System Issues**

Subcommittee Chairman Steve Morris reported the recommendations made by the subcommittee. Hearings were held on **SB 662** and **SB 663** and the subcommittee folded some provisions of **SB 663** into **SB 662**. The subcommittee also recommended folding **HB 2077** into **SB 662**. The information is detailed in the subcommittee report.

**SB 662--KPERs Act of 2009**

**SB 663--KPERs plan compliance with federal law**

**HB 2077--KPERs, withdrawal of accumulated contributions and service credit between systems; KP&F disability benefits, earnings limitation; and certain retirement distributions for health and long-term insurance for public safety officers**

Senator Morris moved, with a second by Senator V. Schmidt, to incorporate all items in the subcommittee report into **SB 662** and fold some provisions of **SB 663** into **SB 662**, fold provisions of **HB 2077** into **SB 662** and adopt the Kansas Public Employees Retirement System Issues subcommittee report in FY 2008 and FY 2009. Motion carried on a voice vote.

Senator Morris moved, with a second by Senator Emler, to recommend **Senate Substitute for SB 662** favorable for passage. Motion carried on a roll call vote.

**Kansas Lottery (Attachment 3)  
Kansas Racing and Gaming Commission**

Subcommittee Chairwoman Jean Schodorf reported that the subcommittee on the Kansas Lottery concurs with the Governor's recommendation in FY 2008 and concurs with the Governor's FY 2009 recommendation with additional adjustments.

Senator Schodorf moved, with a second by Senator Teichman, to adopt the subcommittee budget report on the Kansas Lottery in FY 2008 and FY 2009. Motion carried on a voice vote.

Subcommittee Chairwoman Jean Schodorf reported that the subcommittee on the Kansas Racing and Gaming Commission concurs with the Governor's recommendation in FY 2008 with additional adjustments and concurs with the Governor's FY 2009 recommendation with additional adjustments.

Senator Schodorf moved, with a second by Senator Emler to adopt the subcommittee budget report on the Kansas Racing and Gaming Commission in FY 2008 and FY 2009. Motion carried on a voice vote.

Chairman Umbarger opened the public hearing on:

**SB 656--Home and community based services, long-term care**

Staff briefed the committee on the bill.

The Chairman welcomed the following conferees:

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on March 18, 2008, in Room 123-S of the Capitol.

Jennifer Schwartz, Executive Director, Kansas Association of Centers for Independent Living, testified in support of **SB 656** (Attachment 4). Ms. Schwartz also testified on behalf of Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas (see written testimony) and Joy Robinson, Consumer (see written testimony). In reference to Ms. Jones testimony, Ms. Schwartz explained an amendment offered by Shannon Jones which is detailed in her written testimony. Ms. Robinson is a consumer of services. **SB 656** will provide the statutory framework for Money Follows the Person as state policy.

Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services, spoke in favor of **SB 656** with amendments (Attachment 5). Secretary Jordan provided copies of the amendment that would be a good step forward. He noted that the bill provides for a comprehensive, statewide system for long-term care services.

Kathy Greenlee, Secretary, Kansas Department on Aging, testified as a proponent on **SB 656** (Attachment 6). Secretary Greenlee mentioned that it is important that the Department of Social and Rehabilitation Services and Department on Aging work closely together. She noted that it is less expensive to serve people in the home. Secretary Greenlee encouraged the amendment of the bill to remove the second sentence in Section 1 (a), "Utilization of services to all long-term care consumers shall be through a single point of entry." Kansas does not currently have a single point of entry system.

Tom Laing, Executive Director, InterHab, testified in support of **SB 656** (Attachment 7). Mr. Laing provided wording of an amendment in his written testimony which is a concern of the Big Tent Coalition. He noted that without the amendment, current language could receive, at a future date, an interpretation that negatively impacts the rights of individual persons served; and therefore, they do oppose the bill without the amendment. He mentioned that Kansas does not have a single point of entry system.

Mike Oxford, Executive Director, Topeka Independent Living Resource Center, spoke as a neutral conferee on **SB 656** (Attachment 8). Mr. Oxford mentioned that the Topeka Independent Living Resource Center's commitment to the ADA and lack of an Olmstead plan keeps them extra vigilant in the arena of long term services and supports home and community based alternatives to facilities and institutions. Mr. Oxford noted that he also agrees with the Big Tent Coalition amendment.

Written testimony was submitted by:

Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas (Attachment 9)  
Joy Robinson, Consumer, Kansas City, Kansas (Attachment 10)  
Ernest Kutzley, Advocacy Director, AARP (Attachment 11)

The Chairman closed the public hearing on **SB 656**.

The meeting adjourned at 12:10 p.m. The next meeting is scheduled for March 18, 2008, at the rail.

SENATE WAYS AND MEANS  
GUEST LIST

Date March 18, 2008

NAME	REPRESENTING
Jeff Appin	Division of the Budget
Sean Toub	"
Barb Conant	KDOA
Kathyn Greenlee	KDOA
Glenn Decker	KPERS
Faith Loretto	"
John McElroy	KSOA
Ed Van Petten	Lottery
Carol Brock	Lottery
Mike Oxford	TILRC
Nancy Pierce	KHCA
Jeff Borzage	Kansas Sheriff's Ass'n
Ryan Vincent	KHRC
Gary Allsup	KHRC
TERRY FORSYTH	KWEA
John Clements	Child Welfare Companies
Luke Bell	Ks Assoc. of REALTORS
Lindsey Douglas	Hein Law Firm
Neyssa Thomas	KRBC
Karl Winger	Kearney & Assoc.
Pat Eaker	KEDC
Doug Lawrence	Ks Geographical Assn
Will Lawrence	Capitol Consulting





**EXPANDED LOTTERY ACT REVENUES FUND  
FY 2009**

Agency/Program	Governor's Recommendation FY 2009	Bill Ref.
<b>Department of Administration</b>		
Statehouse Renovation Bonds (Debt)	\$ 10,052,858	* CI-2a
SGF KDOT Bonds (Debt)	16,148,175	* CI-2a
Judicial Center Improvements (Debt)	101,170	* CI-2a
Capitol Complex Maintenance	3,000,000	CI-2a
Docking Bldg. Renovation Planning	1,000,000	CI-2a
Subtotal - Administration	<u>\$ 30,302,203</u>	
<b>Adjutant General</b>		
Armory Renovation (Debt)	\$ 2,226,807	* CI-25b
Regional Training Center	4,000,000	CI-25b
Subtotal - Adjutant General	<u>\$ 6,226,807</u>	
<b>Department of Commerce</b>		
Bioenergy Research Program	\$ 2,000,000	M-24c
<b>Department of Corrections</b>		
Prision Capacity Expansion (Debt)	\$ 3,679,303	* CI-21a
Corrections Repair & Rehab. CIBF Transfer	1,689,697	CI-21d
Subtotal - Corrections	<u>\$ 5,369,000</u>	
<b>Department of Wildlife and Parks</b>		
Ongoing Parks Rehabilitation	\$ 3,000,000	CI-27a
Disaster Damage & Green Space Development	1,500,000	CI-27a
Subtotal - Wildlife and Parks	<u>\$ 4,500,000</u>	
<b>Kansas Bureau of Investigation</b>		
Headquarters Acquisition (Debt)	\$ 311,850	* CI-23b
Site Planning and Property Acquisition	250,000	CI-23b
Subtotal - KBI	<u>\$ 561,850</u>	
<b>Kansas Development Finance Authority</b>		
Housing Trust Fund Transfer	\$ 3,000,000	M-82b
<b>Kansas Public Employees Retirement System</b>		
Retirement Benefits 13th Check Bonds (Debt)	\$ 3,210,948	* M-15
<b>Kansas State Fair</b>		
Master Plan (Debt)	\$ 1,840,821	* M-63
<b>Kansas State Historical Society</b>		
Historic Site Preservation and Development	\$ 500,000	CI-10b
<b>Board of Regents</b>		
Regents Crumbling Classrooms EBF Transfer	\$ 15,000,000	CI-20d
Technical Education Equipment Grant	2,500,000	M-50g
Subtotal - Regents	<u>\$ 17,500,000</u>	
<b>University of Kansas</b>		
School of Pharmacy Expansion	\$ 1,000,000	CI-17j
<b>University of Kansas Medical Center</b>		
Energy Conservation (Debt)	\$ 908,000	* CI-18i
<b>Wichita State University</b>		
Aviation Research (Debt)	\$ 1,644,208	* CI-19a
NAIR -- Aviation Infrastructure	2,500,000	M-49e
Subtotal - State Conservation Commission	<u>\$ 4,144,208</u>	
<b>Pittsburg State University</b>		
Readiness Center (Debt)	\$ 326,999	* CI-16c
<b>TOTAL TRANSFERS AND EXPENDITURES</b>		
	<b>\$ 81,390,836</b>	

ELARF Resource Estimate	Governor's Recommendation FY 2009
Beginning Balance	\$ 9,338,700
Gaming Revenues	72,432,320
Other Income**	-
Total Available	<u>\$ 81,771,020</u>
Less: Expenditures and Transfers	81,390,836
<b>ENDING BALANCE</b>	<b>\$ 380,184</b>

CI -- SB 652, HB 2936  
M -- SB 658, HB2946

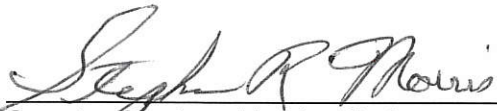
\* Replaces State General Fund debt service totaling \$40,451,139 for all agencies.  
\*\* Other income includes interest, transfers, reimbursements and released encumbrances.

FY 2008 and FY 2009


SENATE WAYS AND MEANS SUBCOMMITTEE

Kansas Public Employees Retirement System Budget and Issues

March 18, 2008



Senator Stephen Morris, Chair



Senator Laura Kelly



Senator David Wysong

Senate Ways and Means  
3-18-08  
Attachment 2





1. Lapse \$621,700, all from the State General Fund, of \$7.0 million in financing for the \$300 one-time lump-sum payment approved by the 2007 Legislature. The agency reports that after 21,261 payments have been made to eligible state and school retirees and beneficiaries, the balance remaining in the account of \$621,700 can be lapsed. A total of \$6,378,300, all from the State General Fund, was paid by KPERS to eligible state and school retirees and beneficiaries under provisions of the 2007 legislation. For retirees and beneficiaries of local units of government, KPERS paid 6,508 eligible members a total of \$1,952,400, all from the KPERS Trust Fund (to be repaid by a contribution increase for local units). For disability benefit recipients who were eligible, KPERS paid \$212,700 from the Death and Long-Term Disability Benefits Fund. In total, there were 28,478 eligible recipients of the \$300 one-time bonus payment, with a total cost of \$8,543,400 paid by KPERS in FY 2008.

### House Committee Recommendation

The Committee concurs with the Budget Committee report.

### Senate Subcommittee Report

**Agency:** Kansas Public Employees Retirement System    **Bill No.** SB 655    **Bill Sec.** 5

**Analyst:** Efirid    **Analysis Pg. No.** II - 1120    **Budget Page No.** 253

<u>Expenditure Summary</u>	<u>Agency Estimate FY 08</u>	<u>Governor's Recommendation FY 08</u>	<u>Senate Subcommittee Adjustments</u>
<b>Operating Expenditures:</b>			
State General Fund	\$ 10,214,217	\$ 10,214,217	\$ (621,700)
Other Funds	44,395,731	44,395,731	0
Subtotal - Operating	<u>\$ 54,609,948</u>	<u>\$ 54,609,948</u>	<u>\$ (621,700)</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>\$ 54,609,948</u></u>	<u><u>\$ 54,609,948</u></u>	<u><u>\$ (621,700)</u></u>
FTE Positions	86.3	86.3	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<u><u>86.3</u></u>	<u><u>86.3</u></u>	<u><u>0.0</u></u>

## **Agency Estimate**

The agency's revised estimate of \$54.6 million, including \$10.2 million from the State General Fund. The revised estimate includes an increase of 1.0 FTE position and \$1.2 million, all from special revenue funds, in reportable expenditures from the approved amount, primarily for fees paid to investment managers and carryover for a computer project. A transfer moved the State Deferred Compensation Program with administrative costs of \$138,755, all from special revenue funds, and 1.0 FTE to KPERS from the Department of Administration.

## **Governor's Recommendation**

The Governor concurs with the revised FY 2008 estimate of \$54.6 million, including \$10.2 million from the State General Fund. The transfer of 1.0 FTE position and \$138,755, all from special revenue funds, is recommended by the Governor for the State Deferred Compensation Plan.

## **Senate Subcommittee Recommendation**

The Subcommittee concurs with the Governor's recommendation, with the following adjustment:

1. Lapse \$621,700, all from the State General Fund, of \$7.0 million in financing for the \$300 one-time lump-sum payment approved by the 2007 Legislature. The agency reports that after 21,261 payments have been made to eligible state and school retirees and beneficiaries, the balance remaining in the account of \$621,700 can be lapsed. A total of \$6,378,300, all from the State General Fund, was paid by KPERS to eligible state and school retirees and beneficiaries under provisions of the 2007 legislation. For retirees and beneficiaries of local units of government, KPERS paid 6,508 eligible members a total of \$1,952,400, all from the KPERS Trust Fund (to be repaid by a contribution increase for local units). For disability benefit recipients who were eligible, KPERS paid \$212,700 from the Death and Long-Term Disability Benefits Fund. In total, there were 28,478 eligible recipients of the \$300 one-time bonus payment, with a total cost of \$8,543,400 paid by KPERS in FY 2008.



beneficiaries. The Governor also recommends funding the implementation costs of 2007 SB 362 with \$228,000, all from special revenue funds.

## House Budget Committee Recommendation

The House Budget Committee concurs with the Governor's FY 2009 recommendation, with the following adjustments:

1. **Pay Plan Adjustments.** Delete \$212,246, all from special revenue funds, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
  - a. **State Employee Pay Increases.** Delete \$122,387, all from special revenue funds, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
  - b. **Classified Employee Pay Plan.** Delete \$51,709, all from special revenue funds, to remove the amount recommended by the Governor for FY 2009 pay increases for basic vocational classes and for those employees identified as having the most disparity relative to market rate.
  - c. **Longevity Pay.** Delete \$38,150, all from special revenue funds, to remove the amount recommended by the Governor for longevity bonus payments.
2. **COLA Funding.** Delete \$6,400,000, all from the State General Fund, to remove the amount recommended by the Governor for a 1.0 percent post-retirement benefit adjustment in FY 2009 and review the Governor's COLA proposal during Omnibus. The Budget Committee also recommends deleting \$13.1 million in FY 2010 and \$20.2 million in FY 2011, all from the State General Fund, for review of the Governor's COLA proposal during Omnibus.
3. **Bond Funding.** Delete \$3,210,948, all from the Expanded Lottery Act Revenues Fund (ELARF), and add \$3,210,948, all from the State General Fund, for bond payments, with a review during Omnibus of the status of ELARF revenue. The Budget Committee would note that the State General Fund (SGF) makes the initial bond payments during the fiscal year, KPERS collects employer contributions throughout the fiscal year for the purpose of reimbursing the SGF, and will transfer a reimbursement equal to the initial SGF payment by the end of the fiscal year. The Governor's recommendation to use ELARF financing also would have maintained the SGF reimbursement transfer in FY 2009 from the KPERS Trust Fund of the monies collected for bond payments. Since monies in the KPERS Trust fund are intended for the exclusive benefit of its members, the Budget Committee expresses concern that the Governor's proposal could have the effect of diverting monies collected for a lawful purpose (reimbursement of the SGF for bond payments) and would enhance revenues to the State General Fund if ELARF had been used to make bond payments.
4. **New Staffing.** Add \$86,713, all from special revenue funds, and 2.0 FTE positions for an enhancement requested by the agency but not included in the Governor's recommendation. The Budget Committee believes that the increasing



workload for KPERS staff as the baby boomers begin retiring in larger numbers each year require additional staffing to assist members with retirement. The following table illustrates the growing work load for KPERS:

**Projected Increase in Retirees**

<u>Fiscal Year</u>	<u>Net New Retirees</u>	<u>Retirees at End of Year</u>
2006	2,417	65,765
2007	2,121	67,886
2008	2,190	70,076
2009	2,261	72,337
2010	2,333	74,670

**House Committee Recommendation**

The Committee concurs with the Budget Committee report and adds the following item:

1. Review during Omnibus alternative post-retirement budget adjustments that would address older retired members who were long-term public employees.



### Senate Subcommittee Report

**Agency:** Kansas Public Employees Retirement System **Bill No.** SB 658 **Bill Sec.** 15

**Analyst:** Efird **Analysis Pg. No.** II - 1120 **Budget Page No.** 253

Expenditure Summary	Agency Request FY 09	Governor's Recommendation FY 09	Senate Subcommittee Adjustments*
<b>Operating Expenditures:</b>			
State General Fund	\$ 3,210,948	\$ 6,400,000	\$ (3,189,052)
Other Funds	<u>46,620,155</u>	<u>46,707,538</u>	<u>(3,336,481)</u>
Subtotal - Operating	<u>\$ 49,831,103</u>	<u>\$ 53,107,538</u>	<u>\$ (6,525,533)</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>\$ 49,831,103</u></u>	<u><u>\$ 53,107,538</u></u>	<u><u>\$ (6,525,533)</u></u>
FTE Positions	88.3	86.3	2.0
Non FTE Uncl. Perm. Pos.	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<b>TOTAL</b>	<u><u>88.3</u></u>	<u><u>86.3</u></u>	<u><u>2.0</u></u>

\* Of the Subcommittee's recommended reductions, \$212,246, all from special revenue funds, is related to pay plan adjustments.

**Note:** Additional State General Fund reductions of \$13.1 million in FY 2010 and \$20.2 million in FY 2011 are recommended.

#### Agency Request

The agency request includes \$49.8 million of reportable expenditures, including \$3.2 million from the State General Fund for bond payments. The agency requests two enhancements, including \$228,000, all from special revenue funds, for implementation of 2007 SB 363, and \$86,713, all from special revenue funds, plus 2.0 FTE positions for new staff to handle increased workloads and member services.

#### Governor's Recommendation

The Governor recommends \$53.1 million, including \$6.4 million from the State General Fund. The Governor's FY 2009 recommendations delete \$3.2 million, all from the State General Fund, and add \$3.2 million, all from the Expanded Lottery Act Revenues Fund (ELARF), for bond payments. In addition, the Governor recommends the first-year financing of \$6.4 million, all from the State

General Fund, for a three-year cost-of-living adjustment (COLA) for KPERS retirees and beneficiaries. The Governor also recommends funding the implementation costs of 2007 SB 362 with \$228,000, all from special revenue funds.

### Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's FY 2009 recommendation, with the following adjustments:

1. **Pay Plan Adjustments.** Delete \$212,246, all from special revenue funds, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
  - a. **State Employee Pay Increases.** Delete \$122,387, all from special revenue funds, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
  - b. **Classified Employee Pay Plan.** Delete \$51,709, all from special revenue funds, to remove the amount recommended by the Governor for FY 2009 pay increases for basic vocational classes and for those employees identified as having the most disparity relative to market rate.
  - c. **Longevity Pay.** Delete \$38,150, all from special revenue funds, to remove the amount recommended by the Governor for longevity bonus payments.
2. **COLA Funding.** Delete \$6,400,000, all from the State General Fund, to remove the amount recommended by the Governor for a 1.0 percent post-retirement benefit adjustment in FY 2009. The Subcommittee also recommends deleting \$13.1 million in FY 2010 and \$20.2 million in FY 2011, all from the State General Fund, for the second and third year funding recommended by the Governor. The Subcommittee requests KPERS staff to develop an alternative post-retirement benefit payment in FY 2009 that would incorporate the Governor's recommended first-year funding of \$6.4 million from the State General Fund. The Subcommittee would recommend reviewing this alternative when SB 661 (the Governor's COLA proposal) is heard by the Senate Ways and Means Committee.
3. **Bond Funding.** Delete \$3,210,948, all from the Expanded Lottery Act Revenues Fund (ELARF), and add \$3,210,948, all from the State General Fund, for bond payments, with a review during Omnibus of the status of ELARF revenue.
4. **Deferred Compensation.** Add as a technical adjustment to the appropriations bill (SB 658) the line item to reflect the Governor's recommendation for expenditures from the Kansas Public Employees Deferred Compensation Fees Fund that was inadvertently left out of the bill. The Subcommittee would observe that this program was transferred to KPERS from the Department of Administration and KPERS will be integrating the program into more comprehensive retirement planning to assist public employees in saving for their own self-funded retirement supplement.
5. **New Staffing.** Add \$86,713, all from special revenue funds, and 2.0 FTE positions for an enhancement requested by the agency but not included in the Governor's recommendation. The Subcommittee believes that the increasing

work load for KPERS staff as the baby boomers begin retiring in larger numbers each year require additional staffing to assist members with retirement. The following table illustrates the growing work load for KPERS:

**Projected Increase in Retirees**

Fiscal Year	Net New Retirees	Retirees at End of Year
2006	2,417	65,765
2007	2,121	67,886
2008	2,190	70,076
2009	2,261	72,337
2010	2,333	74,670

6. **Long Term Trends.** As increasing numbers of public employees retire, the benefit payments will increase. The Subcommittee would note that most of the retirement benefits payments are considered nonreportable and do not appear in certain parts of the *Governor's FY 2009 Budget Report*. However, because the magnitude of these payments is significant, the Subcommittee points out that benefits totaling \$877.3 million were paid in FY 2007, and those payments are estimated to increase \$143.1 million by FY 2009 to \$1.020 billion. The **one billion dollars** is a milestone that reflects the magnitude of the financial impact that KPERS has on the Kansas economy since approximately 85 percent goes to people living in the state. The projected payments in future years increase dramatically as more people retire:

**Projected Increase in Benefit Payments  
In Millions**

Fiscal Year	Benefits Paid	Increase In Benefits
2008	\$ 954.9	\$ 77.6
2009	1,020.4	65.5
2010	1,078.3	57.9
2011	1,139.2	60.9
2012	1,203.2	64.0
2013	1,265.7	62.5
2014	1,382.4	116.6
2015	1,452.8	70.5



**SENATE WAYS AND MEANS SUBCOMMITTEE**

**Kansas Public Employees Retirement System Issues**

**March 18, 2008**

## SUBCOMMITTEE ON KPERS ISSUES REPORT

The Subcommittee on KPERS Issues recommends the four items to be amended into SB 662 as the 2008 Omnibus KPERS Bill. The first two items (SB 662, SB 663) were introduced this Session as the requested of the KPERS Board of Trustees. The third item (HB 2077) was introduced last Session at the request of the KPERS Board of Trustees, but has never passed the House. The fourth item (retirement contribution exemption) was introduced in 2001 and 2004 at the request of Washburn University, but has never passed the House.

### 1. **2008 SB 662** Recommended by the Joint Committee on Pensions, Investments and Benefits.

SB 662 would make technical amendments to the statutory provisions relating to a new plan design for future KPERS members. The 2007 Legislature enacted K.S.A. 2007 Supp. 74-49,201 *et seq.*), to modify KPERS retirement benefits for future members and to provide certain benefit enhancements for current employees. Future members who will be covered by the new plan design are (1) those employees first employed on or after July 1, 2009; (2) former non-vested members first employed on and after July 1, 2009; and (3) former members who forfeited their accounts before July 1, 2009, and return to covered employment on or after that date.

KPERS staff in reviewing the new plan design in order to prepare for the administrative implementation by July 1, 2009, have identified a number of technical amendments that are necessary to address several transition issues. The amendments include provisions that:

- Clarify that employees covered under the new plan, who have forfeited prior and participating service credit under the existing plan due to termination of employment and withdrawal of contributions, may purchase that service credit under the new plan;
- Clarify the rules of service and its portability between the current plan and the new plan to determine membership applicability and vested benefits;
- Expand the definition of "employee" for new plan members to distinguish what elements of the current definition of "employee" are applicable, or not, to new plan members;
- Preserve membership in the existing plan for employees who experience temporary breaks in service but return to covered positions with participating employers within established time frames;
- Amend early retirement provisions for the state correctional officers group to clarify that retirement benefits are actuarially reduced for members taking an early retirement option before their normal retirement date; and
- Allow non-vested members of the existing plan, who complete five or more years of service and remain employed without termination in a non-covered position with the same participating employer, to be granted a vested benefit.

These technical amendments are not anticipated to have any significant fiscal impact on the Retirement System, and the KPERS-related provisions of SB 662 can be implemented within currently approved staffing and operating expenditure levels.

**2. 2008 SB 663** Recommended by the Joint Committee on Pensions, Investments and Benefits.

SB 663 would make a number of amendments relating to Internal Revenue Service (IRS) compliance matters. KPERS is a qualified plan under Internal Revenue Code §401(a). As a qualified plan, KPERS secures favorable federal tax treatment for its members, such as sheltering employee retirement contributions and deferring federal tax on the interest credited to employee accounts. KPERS is seeking an updated IRS determination letter stating that KPERS is a qualified plan. An updated determination letter will provide KPERS with IRS approval of two significant changes – the new plan design scheduled to go into effect on July 1, 2009, and the transfer to KPERS of the state's deferred compensation plan and its administration. Governmental Section 457(b) plans seeking an updated determination letter must file a request during the period beginning on February 1, 2008, and ending on January 31, 2009.

In preparation for submitting a request to the IRS for an updated determination letter, KPERS contracted with outside tax counsel, Ice Miller, to review the KPERS statutes and to compare them with current qualified plan guidelines in order to determine if the KPERS plan complies with IRS rules and regulations. After comparing the KPERS statutes to current IRS guidelines, the outside tax counsel recommends several technical amendments to the statutes. The technical amendments would accomplish the following:

- Updating references to the Internal Revenue Code (IRC) and other pertinent federal laws (such as USERRA) as they currently are in effect;
- Incorporating IRS model language, such as model language provided by the IRS regarding minimum distributions under IRC Section 401(a)(9); and
- Reflecting amendments to IRS regulations, such as the final regulations issued by the IRS regarding maximum benefits and contributions under IRC Section 415(b) and 415(c).

These technical amendments are not anticipated to have any fiscal impact on the Retirement System, and the KPERS-related provisions of SB 663 can be implemented within currently approved staffing and operating expenditure levels.

**3. 2007 HB 2077** Recommended by the Joint Committee on Pensions, Investments and Benefits.

HB 2077, as introduced last year, would provide for two technical amendments to retirement statutes governing certain withdrawals of contributions and service credit between retirement systems.

**Improper Withdrawals.** KPERS members must wait 30 days after leaving employment to withdraw their contributions. If a member goes to work for another KPERS employer during that 30-day period, and KPERS is not notified, an "improper" withdrawal may occur.

When KPERS staff become aware of an improper withdrawal, current state law requires collection of the withdrawn amount. Frequently members are unable to return the withdrawn amount because they have spent the funds or rolled them over to another retirement account. In such cases, KPERS staff must wait and collect the amount from life insurance proceeds upon the member's death or from retirement benefit payments. This process is difficult to administer because of the lengthy period between the improper withdrawal and collection.

HB 2077 would provide that members may retain the funds from improper withdrawals and forfeit service credit related to the withdrawal. Members would have the option of reinvesting the withdrawn funds at any time by purchasing the withdrawn service.

**Service Credit between Systems.** HB 2077 would alter the way service credit is applied between retirement systems for a select group of members. Occasionally members retire from the Kansas Public Employees Retirement System using service credit from their inactive Kansas Police and Firemen's Retirement System accounts. Because the KP&F service is used to vest in KPERS, the members are not allowed to withdraw their KP&F account balance even though they will never be eligible to retire under KP&F. Under current state law, these KP&F accounts are "frozen," meaning the accounts continue to earn interest but can only be paid out when the member dies. HB 2077 would require members retiring under these circumstances to withdraw their KP&F account balance during the month immediately following retirement. This would allow members to access their funds and eliminate the necessity for maintaining these accounts until the member's death.

**4. Retirement Contribution Exemption.** This item would exempt retirement benefits from Kansas income tax for the retired employees of Washburn University who were covered by the university's 403(b) retirement plan.

## Background

The Senate Ways and Means Subcommittee on KPERS Issues met March 5 and March 6, 2008, to review the KPERS budget and issues related to KPERS, including SB 662 and SB 663 which were scheduled for public hearing on March 6, 2008. The KPERS Executive Director testified in support of the two 2008 bills requested by the KPERS Board of Trustees and also addressed 2007 HB 2077 which had been requested by the KPERS Board of Trustees. A member of the Subcommittee asked to include the retirement contribution exemption in the Subcommittee's report.

The fiscal note for the items in the three bills (SB 662, SB 663 and HB 2077) would be negligible, according to KPERS. The fiscal note for the retirement benefit exemption would be a \$140,000 reduction of taxes in FY 2009 collected for the State General Fund, according to the Department of Revenue, with increasing amounts in future years as additional employees retire.

Under current law, 403(b) retirement plan contributions made by employees are not taxed by state governments. Both the Kansas Board of Regents and Washburn University offer 403(b) retirement plans. Under current law, KPERS employees' contributions are added back to adjusted federal gross income and subject to Kansas income tax. There is no Kansas income tax add back provision for Washburn employees or Regents unclassified employees since they are covered by a 403(b) retirement plan. Since Regents unclassified employees are considered state employees, their retirement benefits are exempt from Kansas income tax, just as KPERS retired employees do not pay Kansas income tax on their retirement benefits. Under current law, Washburn retired employees' retirement benefits are subject to Kansas income tax.

**Summary of Current Law.** For the three groups of public employees:

- KPERS employees pay Kansas income tax on contributions, but not on retirement benefits.
- Washburn University employees do not pay Kansas income tax on contributions, but do pay Kansas income tax on retirement benefits.



- Regents unclassified employees do not pay Kansas income taxes on either their contributions or on their retirement benefits.

**5. Other Items.** The Subcommittee recommends two interim studies to be undertaken during 2008, with reports to be made to the 2009 Legislature. These studies do not need to be included in legislation since the Joint Committee on Pensions, Investments and Benefits may determine its own agenda for the 2008 Interim.

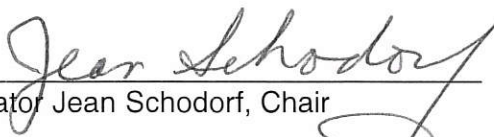
- Review the concept of an employee self-funded cost-of-living adjustment (COLA) as an alternative to benefit adjustments paid by state and local funds.
- Review the issue of working after retirement as it pertains to school districts and the impact that current laws have on the problem of retaining and recruiting teachers and administrators.

FY 2008 and FY 2009


SENATE WAYS AND MEANS SUBCOMMITTEE

Kansas Lottery  
Kansas Racing and Gaming Commission

March 18, 2008

  
\_\_\_\_\_  
Senator Jean Schodorf, Chair

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

  
\_\_\_\_\_  
Senator Jay Emler

Senate ways and means  
3-14-08  
Attachment 3

## House Budget Committee Report

**Agency:** Kansas Lottery

**Bill No.** 2947

**Bill Sec.** 8

**Analyst:** Efird

**Analysis Pg. No.** Vol. II - 1137

**Budget Page No.** 307

Expenditure Summary	Agency Estimate FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	52,698,058	57,930,168	0
Subtotal - Operating	<u>\$ 52,698,058</u>	<u>\$ 57,930,168</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>
 TOTAL	 <u><u>\$ 52,698,058</u></u>	 <u><u>\$ 57,930,168</u></u>	 <u><u>\$ 0</u></u>
 FTE Positions	 94.0	 94.0	 0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>94.0</u></u>	<u><u>94.0</u></u>	<u><u>0.0</u></u>

### Agency Estimate

The agency requests \$52.7 million, all from special revenue funds, a reduction of \$4.5 million from the amount approved by the 2007 Legislature. The revised estimate includes a decrease of \$5.2 million for regular operations and an increase of \$0.7 million for expanded lottery operations. An additional 7.0 FTE positions are requested.

**Regular Lottery.** The agency's sales estimate for this fiscal year is revised to \$250.0 million, a reduction of \$5.5 million from the approved projections. The approved transfer of \$72.0 million to the State Gaming Revenues Fund (SGRF) is maintained despite the estimated reduction in sales. A reduction of \$3.9 million in prizes is estimated agency due to the decline in sales. Also a net reduction of \$1.3 million in contractual services is estimated due to the reduced sales.

**Expanded Lottery.** To implement 2007 SB 66 (the Kansas Expanded Lottery Act), the agency requests a net increase of \$687,000 in expenditures and 7.0 new FTE positions, plus a transfer of 1.0 FTE position from regular lottery to expanded lottery duties. All financing would be from the Lottery Operating Fund, with subsequent reimbursements anticipated from the race track facility manager contracts and other charges associated with expanded lottery activities.

### Governor's Recommendation

The Governor recommends \$57.9 million, all from special revenue funds, an increase of

\$733,862 from the amount approved by the 2007 Legislature. The Governor's recommendation includes a reduction of \$5.2 million for regular lottery operations and an increase of \$5.9 million for expanded lottery operations, including 7.0 FTE positions.

**Regular Lottery.** The Governor concurs with the revised FY 2008 sales of \$250.0 million, the transfer of \$72.0 million to the SGRF, and a reduction of \$5.2 million in expenditure estimates, plus the shift of 1.0 FTE position to the new expanded lottery operations unit.

**Expanded Lottery.** The Governor recommends expenditures of \$5.9 million associated with implementation of 2007 SB 66, including \$5,290,290 from the Expanded Lottery Receipts Fund and the balance of \$628,820 from the Lottery Operating Fund. Most of the increased expenditures are associated with contractual services (contracts with race track facility managers) for the startup of expanded lottery at two race tracks. The Governor concurs with adding 7.0 FTE positions and with the transfer of one other staff to this unit.

The Governor also recommends transferring \$9,338,700 from the Expanded Lottery Receipts Fund to the Expanded Lottery Act Revenues Fund (ELARF) in FY 2008, an amount which corresponds to the consensus estimate for the state's share of the gaming revenue for this fiscal year. The Governor recommends a number of other statutory transfers totaling \$2,091,510 in FY 2008. The Governor's recommendations included in HB 2947 would:

1. Increase 7.0 FTE positions for expanded lottery operations;
2. Rename a fund as the Expanded Lottery Receipts Fund to correct a mistake; and
3. Reduce the expenditure limitation from no limit to \$0 for the Expanded Lottery Act Revenues Fund.

### **House Budget Committee Recommendation**

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

### **House Committee Recommendation**

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

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### Senate Subcommittee Report

**Agency:** Kansas Lottery

**Bill No.** SB 655

**Bill Sec.** 8

**Analyst:** Efird

**Analysis Pg. No.** Vol. II - 1137

**Budget Page No.** 307

<u>Expenditure Summary</u>	<u>Agency Estimate FY 08</u>	<u>Governor's Recommendation FY 08</u>	<u>Senate Subcommittee Adjustments</u>
<b>Operating Expenditures:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	52,698,058	57,930,168	0
Subtotal - Operating	<u>\$ 52,698,058</u>	<u>\$ 57,930,168</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>\$ 52,698,058</u></u>	<u><u>\$ 57,930,168</u></u>	<u><u>\$ 0</u></u>
<b>FTE Positions</b>	94.0	94.0	0.0
<b>Non FTE Uncl. Perm. Pos.</b>	0.0	0.0	0.0
<b>TOTAL</b>	<u><u>94.0</u></u>	<u><u>94.0</u></u>	<u><u>0.0</u></u>

#### Agency Estimate

The agency requests \$52.7 million, all from special revenue funds, a reduction of \$4.5 million from the amount approved by the 2007 Legislature. The revised estimate includes a decrease of \$5.2 million for regular operations and an increase of \$0.7 million for expanded lottery operations. An additional 7.0 FTE positions are requested.

**Regular Lottery.** The agency's sales estimate for this fiscal year is revised to \$250.0 million, a reduction of \$5.5 million from the approved projections. The approved transfer of \$72.0 million to the State Gaming Revenues Fund (SGRF) is maintained despite the estimated reduction in sales. A reduction of \$3.9 million in prizes is estimated agency due to the decline in sales. Also a net reduction of \$1.3 million in contractual services is estimated due to the reduced sales.

**Expanded Lottery.** To implement 2007 SB 66 (the Kansas Expanded Lottery Act), the agency requests a net increase of \$687,000 in expenditures and 7.0 new FTE positions, plus a transfer of 1.0 FTE position from regular lottery to expanded lottery duties. All financing would be from the Lottery Operating Fund, with subsequent reimbursements anticipated from the race track facility manager contracts and other charges associated with expanded lottery activities.

## **Governor's Recommendation**

The Governor recommends \$57.9 million, all from special revenue funds, an increase of \$733,862 from the amount approved by the 2007 Legislature. The Governor's recommendation includes a reduction of \$5.2 million for regular lottery operations and an increase of \$5.9 million for expanded lottery operations, including 7.0 FTE positions.

**Regular Lottery.** The Governor concurs with the revised FY 2008 sales of \$250.0 million, the transfer of \$72.0 million to the SGRF, and a reduction of \$5.2 million in expenditure estimates, plus the shift of 1.0 FTE position to the new expanded lottery operations unit.

**Expanded Lottery.** The Governor recommends expenditures of \$5.9 million associated with implementation of 2007 SB 66, including \$5,290,290 from the Expanded Lottery Receipts Fund and the balance of \$628,820 from the Lottery Operating Fund. Most of the increased expenditures are associated with contractual services (contracts with race track facility managers) for the startup of expanded lottery at two race tracks. The Governor concurs with adding 7.0 FTE positions and with the transfer of one other staff to this unit.

The Governor also recommends transferring \$9,338,700 from the Expanded Lottery Receipts Fund to the Expanded Lottery Act Revenues Fund (ELARF) in FY 2008, an amount which corresponds to the consensus estimate for the state's share of the gaming revenue for this fiscal year. The Governor recommends a number of other statutory transfers totaling \$2,091,510 in FY 2008. The Governor's recommendations included in HB 2947 would:

1. Increase 7.0 FTE positions for expanded lottery operations;
2. Rename a fund as the Expanded Lottery Receipts Fund; and
3. Reduce the expenditure limitation from no limit to \$0 for the Expanded Lottery Act Revenues Fund.

## **Senate Subcommittee Recommendation**

The Subcommittee concurs with the Governor's recommendation.



## House Budget Committee Report

**Agency:** Kansas Lottery

**Bill No.** 2946

**Bill Sec.** 22

**Analyst:** Efirid

**Analysis Pg. No.** Vol. II - 1137

**Budget Page No.** 307

Expenditure Summary	Agency Request FY 09	Governor's Recommendation FY 09	House Budget Committee Adjustments*
<b>Operating Expenditures:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	52,401,399	97,418,681	(187,052)
Subtotal - Operating	<u>\$ 52,401,399</u>	<u>\$ 97,418,681</u>	<u>\$ (187,052)</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>\$ 52,401,399</u></u>	<u><u>\$ 97,418,681</u></u>	<u><u>\$ (187,052)</u></u>
<b>FTE Positions</b>	<u>99.0</u>	<u>99.0</u>	<u>0.0</u>
<b>Non FTE Uncl. Perm. Pos.</b>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<b>TOTAL</b>	<u><u>99.0</u></u>	<u><u>99.0</u></u>	<u><u>0.0</u></u>

\* All of the Budget Committee's recommended reductions, \$187,052, all from special revenue funds, is related to pay plan adjustments.

### Agency Request

The agency requests \$52.4 million, all from special revenue funds, a decrease of \$296,659 from the revised estimated for the current fiscal year. The FY 2009 request includes an increase of \$674,273 for expanded lottery operations and a decrease of \$930,032 for regular lottery operations. An additional 5.0 FTE positions are requested.

**Regular Lottery.** The sales estimate for next fiscal year is increased to \$254.0 million, which is \$4.0 million more than the revised FY 2008 estimate. The SGRF transfer is estimated at \$73.0 million, an increase of \$1.0 million from the FY 2007 amount. A net reduction of \$930,932, all from special revenue funds, in regular lottery expenditures is estimated in FY 2009, primarily due a new online vendor contract that reduces the payment rates.

**Expanded Lottery.** To continue implementation of 2007 SB 66, the agency requests \$1,321,273 for expanded lottery, an increase in expenditures of \$634,273 from the revised current fiscal year estimate, and an additional 5.0 FTE positions, bringing the total to 13.0 FTE positions next fiscal year for the expanded lottery operations unit.

## Governor's Recommendation

The Governor recommends \$97.4 million, all from special revenue funds, an increase of \$39.5 million from the revised FY 2008 recommendation, and \$45.0 million more than the agency's FY 2009 requested budget, primarily for costs associated with expended lottery operations and the addition of 5.0 FTE positions.

**Regular Lottery.** The Governor concurs with estimated FY 2009 sales of \$254.0 million and transfer of \$73.0 million to the SGRF. The Governor recommends adjustments for pay plan financing and replacement vehicles in FY 2009, but coupled with other requested reductions, there is a net decrease of \$851,087, all from special revenue funds, below the current fiscal year recommendation.

**Expanded Lottery.** The Governor recommends an increase of expenditures totaling \$40.3 million above the revised current fiscal year recommendation. Most of the increased expenditures are associated with contractual services for race track facility managers and the expanded lottery activities at race tracks, with financing of \$39.7 million from the Expanded Lottery Receipts Fund recommended. The Governor concurs with adding 5.0 FTE positions to increase staffing to 13.0 FTE positions in the expanded lottery operations unit, and recommends increased expenditures of \$0.6 million from the Lottery Operating Fund.

The Governor's recommendations include the following expenditures, all from special revenue funds:

1. Funding of \$112,800 for seven replacement vehicles, including one car and six vans, for the regular lottery operations;
2. Contracts up to a maximum of \$41.9 million from gaming revenues with race track facility managers;
3. Aid to certain local units totaling \$3.0 million from gaming revenues; and
4. Other operating costs of \$1.3 million for expanded lottery and new staffing of 5.0 FTE positions.

The Governor recommends transferring \$72,432,320 from the Expanded Lottery Receipts Fund to the Expanded Lottery Act Revenues Fund (ELARF) in FY 2009, an amount which corresponds to the consensus estimate for the state's share of the gaming revenue for next fiscal year. The Governor also recommends a number of other statutory transfers totaling \$14,632,070 in FY 2008 that are described in the table below.

## House Budget Committee Recommendation

1. **Pay Plan Adjustments.** Delete \$187,052, all from special revenue funds, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
  - a. **State Employee Pay Increases.** Delete \$121,973, all from special revenue funds, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.

- b. **Classified Employee Pay Plan.** Delete \$38,079, all from special revenue funds, to remove the amount recommended by the Governor for FY 2009 pay increases for basic vocational classes and for those employees identified as having the most disparity relative to market rate.
  - c. **Longevity Pay.** Delete \$27,000, all from special revenue funds, to remove the amount recommended by the Governor for longevity bonus payments.
2. **Expanded Lottery Receipts Fund.** Note the Governor's recommended cash flow in FY 2008 and FY 2009, including expenditures and transfers. The Budget Committee plans an Omnibus review of these items and to determine if any adjustments will be needed at that time.
3. **Expanded Lottery Act Revenues Fund.** Appropriate the Expanded Lottery Act Revenues Fund in FY 2009 with a \$0 expenditure limitation and prohibit any transfers from the fund, unless approved by the Legislature. This item will be reviewed during Omnibus after new revenue estimates are available from a consensus meeting scheduled in early April 2008.

### House Committee Recommendation

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

## Minority Report

### Kansas Lottery

#### Minority Recommendation – Expanded Lottery

The State of Virginia, when establishing its lottery, chose to not spend the State's share until the year after revenue was collected. The 2007 Kansas Legislature approved a loan of \$3.0 million and 25.0 FTE positions to implement expanded lottery. We believe that no additional expenditures and staff for expanded lottery operations should be approved in FY 2008 or FY 2009 until a thorough review during Omnibus considers new revenue estimates at that time. We are concerned that pending court action or new federal court action could delay or stop implementation of expanded lottery, and that no additional expenditures or staff for expanded lottery operations should be approved at this time. The Budget Committee's recommendation of a \$0 limitation for the Expanded Lottery Act Revenues Fund (ELARF) is only the first fund expenditure adjustment that should have been made.

#### Minority Recommendation – Kansas Lottery

In addition to the recommendations of the Budget Committee on General Government, the following adjustments are recommended, with review during Omnibus:

1. FY 2008 – Reduce 7.0 FTE positions.
2. FY 2008 – Reduce expenditures of \$5,290,290, all from special revenue funds, that would primarily pay race track facility managers after contracts are negotiated.
3. FY 2009 – Reduce 5.0 FTE positions.
4. FY 2009 – Reduce expenditures of \$44,978,610, all from special revenue funds that would primarily pay race track facility managers after contracts are negotiated.

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Representative Kasha Kelley, Vice-Chair

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Representative Virginia Beamer

## Minority Report

### Expanded Lottery Receipts and Expenditures

Resource Estimate	Gov. Rec. FY 2008	Minority Rec. FY 2008	Gov. Rec. FY 2009	Minority Rec. FY 2009
Beginning Balance	\$ 0	\$ 0	\$ 0	\$ 16,474,440
Slot Machine Privilege Fees	4,417,500	4,417,500	0	0
Gaming Facility Privilege Fees	0	0	30,500,000	30,500,000
Gaming Machine Revenue	12,303,000	12,303,000	101,543,000	101,543,000
Total Funds Available	\$ 16,720,500	\$ 16,720,500	\$ 132,043,000	\$ 148,517,440
Less: Lottery Expenditures*	5,290,290	0	44,978,610	0
Expanded Lottery Act Revenues Fund	9,338,700	0	72,432,320	0
Live Horse Fund	861,210	0	5,792,890	0
Live Greyhound Fund	861,210	0	5,792,890	0
Horse Fair Racing Benefit Fund	123,030	0	1,015,430	0
Problem Gambling and Addictions Grant Fund	246,060	246,060	2,030,860	2,030,860
Ending Balance	<u>\$ 0</u>	<u>\$ 16,474,440</u>	<u>\$ 0</u>	<u>\$ 146,486,580</u>

\* Includes payments to race track facility managers, cities and counties, to be determined by contractual agreements as to actual amounts and by statutory provisions.

### Senate Subcommittee Report

Agency: Kansas Lottery

Bill No. SB 658

Bill Sec. 22

Analyst: Efird

Analysis Pg. No. Vol. II - 1137

Budget Page No. 307

Expenditure Summary	Agency Request FY 09	Governor's Recommendation FY 09	Senate Subcommittee Adjustments*
<b>Operating Expenditures:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	52,401,399	97,418,681	(187,052)
Subtotal - Operating	<u>\$ 52,401,399</u>	<u>\$ 97,418,681</u>	<u>\$ (187,052)</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>\$ 52,401,399</u></u>	<u><u>\$ 97,418,681</u></u>	<u><u>\$ (187,052)</u></u>
FTE Positions	99.0	99.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<u><u>99.0</u></u>	<u><u>99.0</u></u>	<u><u>0.0</u></u>

\* All of the Subcommittee's recommended reductions, \$187,052, all from special revenue funds, is related to pay plan adjustments.

### Agency Request

The agency requests \$52.4 million, all from special revenue funds, a decrease of \$296,659 from the revised estimated for the current fiscal year. The FY 2009 request includes an increase of \$674,273 for expanded lottery operations and a decrease of \$930,032 for regular lottery operations. An additional 5.0 FTE positions are requested.

**Regular Lottery.** The sales estimate for next fiscal year is increased to \$254.0 million, which is \$4.0 million more than the revised FY 2008 estimate. The SGRF transfer is estimated at \$73.0 million, an increase of \$1.0 million from the FY 2007 amount. A net reduction of \$930,932, all from special revenue funds, in regular lottery expenditures is estimated in FY 2009, primarily due a new online vendor contract that reduces the payment rates.

**Expanded Lottery.** To continue implementation of 2007 SB 66, the agency requests \$1,321,273 for expanded lottery, an increase in expenditures of \$634,273 from the revised current fiscal year estimate, and an additional 5.0 FTE positions, bringing the total to 13.0 FTE positions next fiscal year for the expanded lottery operations unit.



## Governor's Recommendation

The Governor recommends \$97.4 million, all from special revenue funds, an increase of \$39.5 million from the revised FY 2008 recommendation, and \$45.0 million more than the agency's FY 2009 requested budget, primarily for costs associated with expended lottery operations and the addition of 5.0 FTE positions.

**Regular Lottery.** The Governor concurs with estimated FY 2009 sales of \$254.0 million and transfer of \$73.0 million to the SGRF. The Governor recommends adjustments for pay plan financing and replacement vehicles in FY 2009, but coupled with other requested reductions, there is a net decrease of \$851,087, all from special revenue funds, below the current fiscal year recommendation.

**Expanded Lottery.** The Governor recommends an increase of expenditures totaling \$40.3 million above the revised current fiscal year recommendation. Most of the increased expenditures are associated with contractual services for race track facility managers and the expanded lottery activities at race tracks, with financing of \$39.7 million from the Expanded Lottery Receipts Fund recommended. The Governor concurs with adding 5.0 FTE positions to increase staffing to 13.0 FTE positions in the expanded lottery operations unit, and recommends increased expenditures of \$0.6 million from the Lottery Operating Fund.

The Governor's recommendations include the following expenditures, all from special revenue funds:

1. Funding of \$112,800 for seven replacement vehicles, including one car and six vans, for the regular lottery operations;
2. Contracts up to a maximum of \$41.9 million from gaming revenues with race track facility managers;
3. Aid to certain local units totaling \$3.0 million from gaming revenues; and
4. Other operating costs of \$1.3 million for expanded lottery and new staffing of 5.0 FTE positions.

The Governor recommends transferring \$72,432,320 from the Expanded Lottery Receipts Fund to the Expanded Lottery Act Revenues Fund (ELARF) in FY 2009, an amount which corresponds to the consensus estimate for the state's share of the gaming revenue for next fiscal year.

## Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation, and makes the following additional adjustments:

1. **Pay Plan Adjustments.** Delete \$187,052, all from special revenue funds, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.

- a. **State Employee Pay Increases.** Delete \$121,973, all from special revenue funds, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
  - b. **Classified Employee Pay Plan.** Delete \$38,079, all from special revenue funds, to remove the amount recommended by the Governor for FY 2009 pay increases for basic vocational classes and for those employees identified as having the most disparity relative to market rate.
  - c. **Longevity Pay.** Delete \$27,000, all from special revenue funds, to remove the amount recommended by the Governor for longevity bonus payments.
2. **Expanded Lottery.** The Subcommittee recommends review during Omnibus of the cash flow associated with the Expanded Lottery Act Revenues Fund (ELARF) and the Expanded Lottery Receipts Fund. The Subcommittee does **not** recommend a \$0 expenditure limitation on ELARF as the House Budget Committee recommended. The Subcommittee would note that other Senate Subcommittees' recommendations have either deleted expenditures and replaced transfers with State General Fund financing for bond payments and capital infrastructure projects on an individual agency basis. The \$0 limitation on ELARF and prohibition of transfers is unnecessary, the Subcommittee believes, since all funding and transfers have been removed.
  3. **Regular Lottery.** The Subcommittee commends the Executive Director for record sales last fiscal year and would note a slight lag in sales compared with revised estimates this fiscal year. The sales should be monitored during Omnibus, but no adjustments are recommended at this time.

## House Budget Committee Report

**Agency:** Kansas Racing and Gaming Commission    **Bill No.** HB 2947

**Bill Sec.** 9

**Analyst:** Efird

**Analysis Pg. No.** Vol. II - 1153

**Budget Page No.** 321

Expenditure Summary	Agency Estimate FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	12,203,835	11,871,778	(443,019)
Subtotal - Operating	\$ 12,203,835	\$ 11,871,778	\$ (443,019)
<b>Capital Improvements:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
 TOTAL	 \$ 12,203,835	 \$ 11,871,778	 \$ (443,019)
 FTE Positions	 146.0	 146.0	 (47.8)
Non FTE Uncl. Perm. Pos.	8.0	8.0	0.0
TOTAL	154.0	154.0	(47.8)

### Agency Estimate

The agency requests a revised FY 2008 budget totaling \$12.2 million, a net increase of \$1.7 million, or 16.4 percent, above the amount approved by the 2007 Legislature. There are no requested State General Fund expenditures. The request would fund 146.0 FTE positions, a net increase of 44.0 FTE positions from the number approved. Most of the increased funding and staffing would be for the Expanded Lottery Act Regulation Program, and the anticipated operation of gaming machines at two parimutuel locations during FY 2008.

Increased expenditures for the Expanded Lottery Act Regulation Program account for the net increase of \$1.7 million above the amount approved for expenditures. Most of the increase, all from special revenue funds, is attributed to \$1.4 million in higher purse supplements and other assistance payments, along with \$713,429 in additional contractual services. There are net reductions of \$0.4 million in salaries and wages due to hiring delays and a decrease in revenue to the State Racing Fund.

### Governor's Recommendation

The Governor recommends a revised FY 2008 budget totaling \$11.9 million, a net increase of \$1.4 million, or 13.2 percent, above the approved budget. The Governor concurs with the addition of 44.0 FTE positions above the approved number and with financing from special revenue funds for all agency operations. The Governor's recommendations generally concur with the

revised requested expenditures, except that new vehicle funding is deleted, totaling \$227,334, all from special revenue funds, and other assistance payments are reduced \$104,724, all from special revenue funds, to reflect consensus estimates in FY 2008. A reduction of \$2.4 million is recommended in the State Racing Fund as a result of declining revenues and the closing of one race track. Adjustments recommended by the Governor in HB 2947 would:

1. Decrease 3.75 FTE positions in State Racing Operations;
2. Increase 47.75 FTE positions in the Expanded Lottery Act Regulation Division;
3. Reduce \$2,423,245 in expenditures from the State Racing Fund;
4. Delete a transfer of 15.0 percent of monies in the Kansas Greyhound Breeding Development Fund to the Greyhound Tourism Fund in the Department of Commerce; and
5. Make a transfer of 15.0 percent of monies in the Kansas Greyhound Breeding Development Fund to the Greyhound Promotion and Development Fund.

### **House Budget Committee Recommendation**

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

1. Delete 47.75 FTE positions and \$443,019, all from special revenue funds, for the Expanded Lottery Act Regulation Division and review these additional positions during Omnibus. The Budget Committee notes that the 2007 Legislature authorized 25.0 FTE positions for this division in FY 2008.

### **House Committee Recommendation**

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

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### Senate Subcommittee Report

**Agency:** Kansas Racing and Gaming Commission **Bill No.** SB 655

**Bill Sec.** 9

**Analyst:** Efird

**Analysis Pg. No.** Vol. II - 1153

**Budget Page No.** 321

Expenditure Summary	Agency Estimate FY 08	Governor's Recommendation FY 08	Senate Subcommittee Adjustments
<b>Operating Expenditures:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	12,203,835	11,871,778	(443,019)
Subtotal - Operating	<u>\$ 12,203,835</u>	<u>\$ 11,871,778</u>	<u>\$ (443,019)</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>\$ 12,203,835</u></u>	<u><u>\$ 11,871,778</u></u>	<u><u>\$ (443,019)</u></u>
<b>FTE Positions</b>	146.0	146.0	(47.8)
<b>Non FTE Uncl. Perm. Pos.</b>	8.0	8.0	0.0
<b>TOTAL</b>	<u><u>154.0</u></u>	<u><u>154.0</u></u>	<u><u>(47.8)</u></u>

#### Agency Estimate

The agency requests a revised FY 2008 budget totaling \$12.2 million, a net increase of \$1.7 million, or 16.4 percent, above the amount approved by the 2007 Legislature. There are no requested State General Fund expenditures. The request would fund 146.0 FTE positions, a net increase of 44.0 FTE positions from the number approved. Most of the increased funding and staffing would be for the Expanded Lottery Act Regulation Program, and the anticipated operation of gaming machines at two parimutuel locations during FY 2008.

Increased expenditures for the Expanded Lottery Act Regulation Program account for the net increase of \$1.7 million above the amount approved for expenditures. Most of the increase, all from special revenue funds, is attributed to \$1.4 million in higher purse supplements and other assistance payments, along with \$713,429 in additional contractual services. There are net reductions of \$0.4 million in salaries and wages due to hiring delays and a decrease in revenue to the State Racing Fund.

#### Governor's Recommendation

The Governor recommends a revised FY 2008 budget totaling \$11.9 million, a net increase

of \$1.4 million, or 13.2 percent, above the approved budget. The Governor concurs with the addition of 44.0 FTE positions above the approved number and with financing from special revenue funds for all agency operations. The Governor's recommendations generally concur with the revised requested expenditures, except that new vehicle funding is deleted, totaling \$227,334, all from special revenue funds, and other assistance payments are reduced \$104,724, all from special revenue funds, to reflect consensus estimates in FY 2008. A reduction of \$2.4 million is recommended in the State Racing Fund as a result of declining revenues and the closing of one race track. Adjustments recommended by the Governor in HB 2947 would:

1. Decrease 3.75 FTE positions in State Racing Operations;
2. Increase 47.75 FTE positions in the Expanded Lottery Act Regulation Division;
3. Reduce \$2,423,245 in expenditures from the State Racing Fund;
4. Delete a transfer of 15.0 percent of monies in the Kansas Greyhound Breeding Development Fund to the Greyhound Tourism Fund in the Department of Commerce; and
5. Make a transfer of 15.0 percent of monies in the Kansas Greyhound Breeding Development Fund to the Greyhound Promotion and Development Fund.

### **Senate Subcommittee Recommendation**

The Subcommittee concurs with the Governor's recommendation, and makes the following additional adjustments:

1. Delete 47.75 FTE positions and \$443,019, all from special revenue funds, for the Expanded Lottery Act Regulation Division and review these additional positions during Omnibus. The Subcommittee notes that the 2007 Legislature authorized 25.0 FTE positions for this division in FY 2008 and implementation of expanded lottery has not proceeded as fast as anticipated in the Governor's FY 2008 recommendation to add more new staff this fiscal year.



## House Budget Committee Report

**Agency:** Kansas Racing and Gaming Commission    **Bill No.** 2946

**Bill Sec.** 23

**Analyst:** Efirid

**Analysis Pg. No.** Vol. II - 1153

**Budget Page No.** 321

Expenditure Summary	Agency Request FY 09	Governor's Recommendation FY 09	House Budget Committee Adjustments*
<b>Operating Expenditures:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	29,883,012	23,927,635	(1,646,614)
Subtotal - Operating	<u>\$ 29,883,012</u>	<u>\$ 23,927,635</u>	<u>\$ (1,646,614)</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>\$ 29,883,012</u></u>	<u><u>\$ 23,927,635</u></u>	<u><u>\$ (1,646,614)</u></u>
FTE Positions	200.0	160.5	(51.5)
Non FTE Uncl. Perm. Pos.	8.0	8.0	0.0
<b>TOTAL</b>	<u><u>208.0</u></u>	<u><u>168.5</u></u>	<u><u>(51.5)</u></u>

\* Of the Budget Committee's recommended reductions, \$190,606, all from special revenue funds, is related to pay plan adjustments.

### Agency Request

The agency requests FY 2009 expenditures of \$29.9 million, all from special revenue funds, an increase of \$17.7 million, or 144.9 percent, above the revised current fiscal year estimate. The request includes no State General Fund expenditures. Most of the increased expenditures result from higher estimated payments for race track purse supplements and other assistance that increase \$14.2 million in the FY 2009 budget. Another \$3.4 million of increased expenditures is attributed to higher state regulation costs and staff-related expenditures to conduct oversight duties assigned to the Expanded Lottery Act Regulation Program. The request includes enhancement funding of \$5.7 million, all from special revenue funds, and a net increase of 54.0 FTE positions. The agency indicates that cash flow will allow repayment of a loan previously authorized by the 2007 Legislature of up to the maximum amount of \$3.0 million if the total amount were borrowed.

### Governor's Recommendation

The Governor recommends expenditures of \$23.9 million, all from special revenue funds, in FY 2009, an increase of \$12.1 million, or 101.6 percent, above the current fiscal year recommended budget. The Governor's recommendations include a net increase of 14.5 FTE positions above the recommended number in the current fiscal year. The Governor's

recommendations include \$4.8 million for the Expanded Lottery Act Program, compared with \$8.2 million requested, a reduction of \$3.4 million, primarily for staffing. The other reduction of \$1.4 million from requested expenditures include adjustments in estimated purse supplements and other assistance payments.

The Governor recommends \$1.7 million, all from the Expanded Lottery Act Regulation Fund, for operating costs and additional staff of 14.5 FTE positions above the revised FY 2008 number of 146.0 FTE positions, continued funding of new staff added in FY 2008, and some additional operating expenditures. The Governor recommends \$416,153, all from the State Racing Fund, to fully fund vacant positions and \$3,990, all from the Horse Fair Racing Benefit Fund, for part-time staff. The Governor concurs with \$40,000, all from the Tribal Gaming Fund, for replacement vehicles. Finally, the Governor recommends repayment of any amounts borrowed up to the authorized amount of \$3.0 million from the Pooled Money Investment Board, with such repayment to be made no later than June 30, 2009. The 2007 Legislature approved the \$3.0 million for startup operations costs.

### House Budget Committee Recommendation

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

1. **Pay Plan Adjustments.** Delete \$190,606, all from special revenue funds, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
  - a. **State Employee Pay Increases.** Delete \$154,944, all from special revenue funds, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
  - b. **Classified Employee Pay Plan.** Delete \$19,362, all from special revenue funds, to remove the amount recommended by the Governor for FY 2009 pay increases for basic vocational classes and for those employees identified as having the most disparity relative to market rate.
  - c. **Longevity Pay.** Delete \$16,300, all from special revenue funds, to remove the amount recommended by the Governor for longevity bonus payments.
2. **Expanded Lottery Act Regulation Division Staffing.** Delete 51.5 FTE positions and \$1,456,008, all from special revenue funds, for the Expanded Lottery Act Regulation Division and review these additional positions during Omnibus. The Budget Committee notes that its recommendation would authorize 58.25 FTE positions in that division during FY 2009, an increase of 33.25 FTE positions from the 25.0 FTE positions approved in FY 2008. The other 51.5 FTE positions would be reconsidered during Omnibus since they are attributed to regulation for the casinos, while the other recommended positions are attributed to the race track gaming facilities (racinos).

### House Committee Recommendation

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

## Minority Report

### Kansas Racing and Gaming Commission

#### Minority Recommendation – Expanded Lottery

The State of Virginia, when establishing its lottery, chose to not spend the State's share until the year after revenue was collected. The 2007 Kansas Legislature approved a loan of \$3.0 million and 25.0 FTE positions to implement expanded lottery. We believe that no additional expenditures and staff for expanded lottery operations should be approved in FY 2008 or FY 2009 until a thorough review during Omnibus considers new revenue estimates at that time. We are concerned that pending court action or new federal court action could delay or stop implementation of expanded lottery, and that no additional expenditures or staff for expanded lottery operations should be approved at this time. The Budget Committee's recommendation of a \$0 limitation for the Expanded Lottery Act Revenues Fund ( ELARF) is only the first fund expenditure adjustment that should have been made.

#### Minority Recommendation – Kansas Racing and Gaming Commission

In addition to the recommendations of the Budget Committee on General Government, the following adjustments are recommended, with review during Omnibus:

1. FY 2008 – Reduce expenditures of \$1,845,450, all from special revenue funds, for a number of other statutory funds scheduled to receive revenue that is in addition to ELARF.
2. FY 2009 – Further reduce 33.25 FTE positions.
3. FY 2009 – Further reduce expenditures of \$12,601,210, all from special revenue funds, for a number of other statutory funds scheduled to receive revenue that is in addition to ELARF.

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Representative Kasha Kelley, Vice-Chair

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Representative Virginia Beamer

## Minority Report

### Expanded Lottery Receipts and Expenditures

Resource Estimate	Gov. Rec. FY 2008	Minority Rec. FY 2008	Gov. Rec. FY 2009	Minority Rec. FY 2009
Beginning Balance	\$ 0	\$ 0	\$ 0	\$ 16,474,440
Slot Machine Privilege Fees	4,417,500	4,417,500	0	0
Gaming Facility Privilege Fees	0	0	30,500,000	30,500,000
Gaming Machine Revenue	12,303,000	12,303,000	101,543,000	101,543,000
Total Funds Available	\$ 16,720,500	\$ 16,720,500	\$ 132,043,000	\$ 148,517,440
Less: Lottery Expenditures*	5,290,290	0	44,978,610	0
Expanded Lottery Act Revenues Fund	9,338,700	0	72,432,320	0
Live Horse Fund	861,210	0	5,792,890	0
Live Greyhound Fund	861,210	0	5,792,890	0
Horse Fair Racing Benefit Fund	123,030	0	1,015,430	0
Problem Gambling and Addictions Grant Fund	246,060	246,060	2,030,860	2,030,860
Ending Balance	\$ 0	\$ 16,474,440	\$ 0	\$ 146,486,580

\* Includes payments to race track facility managers, cities and counties, to be determined by contractual agreements as to actual amounts and by statutory provisions.

### Senate Subcommittee Report

**Agency:** Kansas Racing and Gaming Commission    **Bill No.** SB 658    **Bill Sec.** 23

**Analyst:** Efird    **Analysis Pg. No.** Vol. II - 1153    **Budget Page No.** 321

<u>Expenditure Summary</u>	<u>Agency Request FY 09</u>	<u>Governor's Recommendation FY 09</u>	<u>Senate Subcommittee Adjustments*</u>
<b>Operating Expenditures:</b>			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	29,883,012	23,927,635	(1,523,614)
Subtotal - Operating	<u>\$ 29,883,012</u>	<u>\$ 23,927,635</u>	<u>\$ (1,523,614)</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>
 TOTAL	 <u><u>\$ 29,883,012</u></u>	 <u><u>\$ 23,927,635</u></u>	 <u><u>\$ (1,523,614)</u></u>
 FTE Positions	 200.0	 160.5	 (41.0)
Non FTE Uncl. Perm. Pos.	8.0	8.0	0.0
TOTAL	<u><u>208.0</u></u>	<u><u>168.5</u></u>	<u><u>(41.0)</u></u>

\* Of the Subcommittee's recommended reductions, \$190,606, all from special revenue funds, is related to pay plan adjustments.

#### Agency Request

The agency requests FY 2009 expenditures of \$29.9 million, all from special revenue funds, an increase of \$17.7 million, or 144.9 percent, above the revised current fiscal year estimate. The request includes no State General Fund expenditures. Most of the increased expenditures result from higher estimated payments for race track purse supplements and other assistance that increase \$14.2 million in the FY 2009 budget. Another \$3.4 million of increased expenditures is attributed to higher state regulation costs and staff-related expenditures to conduct oversight duties assigned to the Expanded Lottery Act Regulation Program. The request includes enhancement funding of \$5.7 million, all from special revenue funds, and a net increase of 54.0 FTE positions. The agency indicates that cash flow will allow repayment of a loan previously authorized by the 2007 Legislature of up to the maximum amount of \$3.0 million if the total amount were borrowed.

#### Governor's Recommendation

The Governor recommends expenditures of \$23.9 million, all from special revenue funds, in FY 2009, an increase of \$12.1 million, or 101.6 percent, above the current fiscal year recommended

budget. The Governor's recommendations include a net increase of 14.5 FTE positions above the recommended number in the current fiscal year. The Governor's recommendations include \$4.8 million for the Expanded Lottery Act Program, compared with \$8.2 million requested, a reduction of \$3.4 million, primarily for staffing. The other reduction of \$1.4 million from requested expenditures include adjustments in estimated purse supplements and other assistance payments.

The Governor recommends \$1.7 million, all from the Expanded Lottery Act Regulation Fund, for operating costs and additional staff of 14.5 FTE positions, continued funding of new staff added in FY 2008, and some additional operating expenditures. The Governor recommends \$416,153, all from the State Racing Fund, to fully fund vacant positions and \$3,990, all from the Horse Fair Racing Benefit Fund, for part-time staff. The Governor concurs with \$40,000, all from the Tribal Gaming Fund, for replacement vehicles. Finally, the Governor recommends repayment of any amounts borrowed up to the authorized amount of \$3.0 million from the Pooled Money Investment Board, with such repayment to be made no later than June 30, 2009. The 2007 Legislature approved the \$3.0 million for startup operations costs.

### Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation, and makes the following additional adjustments:

1. **Pay Plan Adjustments.** Delete \$190,606, all from special revenue funds, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
  - a. **State Employee Pay Increases.** Delete \$154,944, all from special revenue funds, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
  - b. **Classified Employee Pay Plan.** Delete \$19,362, all from special revenue funds, to remove the amount recommended by the Governor for FY 2009 pay increases for basic vocational classes and for those employees identified as having the most disparity relative to market rate.
  - c. **Longevity Pay.** Delete \$16,300, all from special revenue funds, to remove the amount recommended by the Governor for longevity bonus payments.
2. **Expanded Lottery Act Regulation Division Staffing.** Delete 41.0 FTE positions and \$1,333,008, all from special revenue funds, for the Expanded Lottery Act Regulation Division and review these additional positions during Omnibus. The Subcommittee notes that its recommendation would authorize 68.75 FTE positions in that division during FY 2009, an increase of 43.75 FTE positions from the 25.0 FTE positions approved in FY 2008. The other 41.0 FTE positions would be reconsidered during Omnibus since they are attributed to regulation for three casinos, while the other recommended positions are attributed to one casino and two race track gaming facilities (racinos). The Subcommittee's recommendation includes 10.5 FTE positions based on the assumption that one casino might receive a contract and regulatory activities would begin in FY 2009.
3. **Clarifying Language.** Add a provision to clarify that transfers to the Greyhound Breeding Development Fund from the Live Greyhound Purse Supplement Fund shall be used exclusively for special stakes races supplements and to enhance



the amount per point paid to the owners of Kansas-whelped greyhounds which win live races at Kansas greyhound tracks as provided by 2007 SB 66.

4. **Startup Costs and Loan.** Review during Omnibus the cash flow for the start up costs of the Expanded Lottery Act Regulation Division and whether the \$3.0 million loan will be sufficient financing in FY 2009 and what impact the announced delays in implementing slots at the race tracks might have on financing regulatory activities.
5. **State Gaming Agency.** Note that this entity is reviewed in conjunction with the Kansas Racing and Gaming Commission's budget, although its source of funding is from the Tribal Gaming Fund and reimbursements paid by the four tribes per compacts with the state of Kansas. There are 24.0 FTE positions in this entity that may not be used for other activities, such as racing operations or expanded lottery regulation.47468~(3/17/8{9:59AM})

budget. The Governor's recommendations include a net increase of 14.5 FTE positions above the recommended number in the current fiscal year. The Governor's recommendations include \$4.8 million for the Expanded Lottery Act Program, compared with \$8.2 million requested, a reduction of \$3.4 million, primarily for staffing. The other reduction of \$1.4 million from requested expenditures include adjustments in estimated purse supplements and other assistance payments.

The Governor recommends \$1.7 million, all from the Expanded Lottery Act Regulation Fund, for operating costs and additional staff of 14.5 FTE positions, continued funding of new staff added in FY 2008, and some additional operating expenditures. The Governor recommends \$416,153, all from the State Racing Fund, to fully fund vacant positions and \$3,990, all from the Horse Fair Racing Benefit Fund, for part-time staff. The Governor concurs with \$40,000, all from the Tribal Gaming Fund, for replacement vehicles. Finally, the Governor recommends repayment of any amounts borrowed up to the authorized amount of \$3.0 million from the Pooled Money Investment Board, with such repayment to be made no later than June 30, 2009. The 2007 Legislature approved the \$3.0 million for startup operations costs.

### Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation, and makes the following additional adjustments:

1. **Pay Plan Adjustments.** Delete \$190,606, all from special revenue funds, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
  - a. **State Employee Pay Increases.** Delete \$154,944, all from special revenue funds, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
  - b. **Classified Employee Pay Plan.** Delete \$19,362, all from special revenue funds, to remove the amount recommended by the Governor for FY 2009 pay increases for basic vocational classes and for those employees identified as having the most disparity relative to market rate.
  - c. **Longevity Pay.** Delete \$16,300, all from special revenue funds, to remove the amount recommended by the Governor for longevity bonus payments.
2. **Expanded Lottery Act Regulation Division Staffing.** Delete 41.0 FTE positions and \$1,333,008, all from special revenue funds, for the Expanded Lottery Act Regulation Division and review these additional positions during Omnibus. The Subcommittee notes that its recommendation would authorize 68.75 FTE positions in that division during FY 2009, an increase of 43.75 FTE positions from the 25.0 FTE positions approved in FY 2008. The other 41.0 FTE positions would be reconsidered during Omnibus since they are attributed to regulation for three casinos, while the other recommended positions are attributed to one casino and two race track gaming facilities (racinos). The Subcommittee's recommendation includes 10.5 FTE positions based on the assumption that one casino might receive a contract and regulatory activities would begin in FY 2009.
3. **Clarifying Language.** Add a provision to clarify that transfers to the Greyhound Breeding Development Fund from the Live Greyhound Purse Supplement Fund shall be used exclusively for special stakes races supplements and to enhance



**Jennifer Schwartz**  
Executive Director

*Member Agencies:*

**Center for Independent Living for Southwest Kansas**  
Garden City, KS  
620/276-1900 Voice

**Coalition for Independence**  
Kansas City, KS  
913/321-5140 Voice/TT

**Independent Living Resource Center**  
Wichita, KS  
316/942-6300 Voice/TT

**Independence, Inc.**  
Lawrence, KS  
785/841-0333 Voice  
785/841-1046 TT

**Independent Connection/OCCK**  
Salina, KS  
785/827-9383 Voice/TT

**LINK, Inc.**  
Hays, KS  
785/625-6942 Voice/TT

**Prairie Independent Living Resource Center**  
Hutchinson, KS  
620/663-3989 Voice

**Resource Center for Independent Living, Inc.**  
Osage City, KS  
785/528-3105 Voice

**Southeast Kansas Independent Living, Inc.**  
Parsons, KS  
620/421-5502 Voice  
620/421-6551 TT

**The Whole Person, Inc.**  
Kansas City, MO  
816/561-0304 Voice  
816/627-2201 TT

**Three Rivers ILC**  
Wamego, KS  
785/456-9915 Voice

Senate Ways and Means Committee  
Senator Umbarger, Chair  
Testimony in support of SB 656-as amended  
March 18, 2008

Thank you for the opportunity to provide testimony in support of SB 656, as amended-legislation to put Money Follows the Person into Kansas state statute. I am Jennifer Schwartz the director of the Kansas Association of Centers for Independent Living (KACIL). KACIL represents Centers for Independent Living (CILs) across Kansas. KACIL provides a framework so that member Centers excel in advocacy and services ensuring that all Kansans with disabilities have opportunities for independent living and enjoy their civil and human rights.

Centers for Independent Living provide services to people with disabilities of all ages. CILs also provide information and assistance to businesses and other entities in the community to increase opportunities for people with disabilities to live, work and participate in all aspects of community life. We advocate at a state and national level for the rights of all people with disabilities to live in the communities of their choice.

KACIL stands in strong support of SB 656 with the amendments that have been offered. SB 656, as amended is simply legislation that supports a person's opportunity to choose where to receive their long term care services and has the money that supports that individual follow them to pay for those services in the community.

### **Background of Money Follows the Person**

At the beginning of FY 2004, the state of Kansas began affirming its belief that people have the right to live in the community and should not be discriminated against by having to live in a nursing home when that is not their choice. This was affirmed with the inclusion of a proviso in the FY 2004 Omnibus Budget bill – a proviso which ensures money will follow people when they transition from nursing homes to HCBS services. This change has had a significant impact in the lives of the people who have made the transition out of nursing homes, and has been included in appropriations bills since the first year.



**Purpose of SB 656**

SB 656, as amended, provides for Medicaid funds to follow a person currently residing in a nursing facility into the community for payment of long term care supports and services should he or she choose to move out of a nursing facility and live in the community.

SB 656, as amended is simple legislation that that provides people with disabilities, both young and old, the ability to move to community-living from a nursing facility and for that money to follow the individual thus allowing choice.

**Conclusion**

KACIL too urges this committee to favorably pass SB 656, as amended. It is good public policy, which will allow people who require long-term care services to receive them in the setting of their choice. Money Follows the Person can change a person's life. We believe a significant step to rebalancing the long term care system is to offer choice to individuals who utilize the long term care system. SB 656, as amended, codifies that choice for individuals into Kansas state statute.

Thank you for your thoughtful consideration of this important legislation and I would be glad to stand for questions.



Kansas Department of  
Social and Rehabilitation Services  
Don Jordan, Secretary



Senate Ways & Means Committee  
March 18, 2008

SB 656 – Home & Community Based Services – Long Term Care

Don Jordan, Secretary

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

Senate Ways and Means  
3-18-08  
Attachment 5

**SB 656 – Home & Community Based Services,  
Long Term Care**  
Senate Ways & Means Committee  
March 18, 2008

Chairman Umbarger, I am Don Jordan, Secretary of Social and Rehabilitation Services. Thank you for the opportunity to appear before you today to testify in favor of SB 656 with amendments.

Senate Bill 656 provides for a comprehensive, statewide system for long-term care services. In addition, the bill states that this system will be built on the values of self-direction, individual choice, home and community settings and privacy. The system would also be transparent and accountable while ensuring safety and timely access to high quality services. It further directs that money follows the person into the community when individuals receiving long-term care services move from nursing facilities to home and community-based services.

SB 656 stipulates that such a system be designed and implemented by Kansas Health Policy Authority (KHPA), Department on Aging (KDOA), and the Department of Social and Rehabilitation Services (SRS) in collaboration with stakeholders and advocates related to long-term care services

SRS supports SB 656 with amendments, and its customer centered values of self-direction, prompt access to high quality services, safety and accountability as well as the collaboration that will occur with KDOA, KHPA and other stakeholders to create and maintain a system of long term care that will serve one of our most vulnerable populations.

This concludes my testimony and I would be glad to answer any questions the Committee may have.

Kansas Department of  
Social and Rehabilitation Services  
Don Jordan, Secretary



Senate Ways & Means Committee  
March 18, 2008

SB 656 – Home & Community Based Services – Long Term Care

Don Jordan, Secretary

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



**SB 656 – Home & Community Based Services,  
Long Term Care  
Senate Ways & Means Committee  
March 18, 2008**

Chairman Umbarger, I am Don Jordan, Secretary of Social and Rehabilitation Services. Thank you for the opportunity to appear before you today to testify in favor of SB 656 with amendments.

Senate Bill 656 provides for a comprehensive, statewide system for long-term care services. In addition, the bill states that this system will be built on the values of self-direction, individual choice, home and community settings and privacy. The system would also be transparent and accountable while ensuring safety and timely access to high quality services. It further directs that money follows the person into the community when individuals receiving long-term care services move from nursing facilities to home and community-based services.

SB 656 stipulates that such a system be designed and implemented by Kansas Health Policy Authority (KHPA), Department on Aging (KDOA), and the Department of Social and Rehabilitation Services (SRS) in collaboration with stakeholders and advocates related to long-term care services

SRS supports SB 656 with amendments, and its customer centered values of self-direction, prompt access to high quality services, safety and accountability as well as the collaboration that will occur with KDOA, KHPA and other stakeholders to create and maintain a system of long term care that will serve one of our most vulnerable populations.

This concludes my testimony and I would be glad to answer any questions the Committee may have.

## SENATE BILL No. 656

By Committee on Ways and Means

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2-26

9 AN ACT concerning long-term care services; relating to home and com-  
10 munity based services.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) In the state of Kansas, long-term care services, includ-  
14 ing home and community based services, shall be provided through a  
15 comprehensive and coordinated system throughout the state. ~~Utilization~~  
16 ~~of services to all long-term care consumers shall be through a single point~~  
17 ~~of entry:~~

18 (b) The system shall:

19 (1) Emphasize a delivery concept of self-direction, individual choice,  
20 home and community settings and privacy;

21 (2) ensure transparency, accountability, safety and high quality  
22 services;

23 (3) increase expedited eligibility determination;

24 (4) provide timely services;

25 (5) utilize informal services; and

26 (6) ensure the moneys follow the person into the community.

27 (c) All persons receiving services pursuant to this section shall be **offered**  
28 ~~placed in~~ the appropriate services which are determined to be the most  
29 economical available with regard to state general fund expenditures. For  
30 those persons moving from a nursing facility to the home and community  
31 based services, the nursing facility reimbursement shall follow the person  
32 into the community.

33 (d) The department on aging, the department of social and rehabil-  
34 itation services, and the Kansas health policy authority shall design and  
35 implement the system, in consultation with stakeholders and advocates  
36 related to long-term care services.

37 (e) The department on aging, ~~in consultation with~~ **and** the department of  
38 social and rehabilitation services ~~and~~, **in consultation with** the Kansas  
39 health policy authority shall submit an annual report on the long-term  
40 care system to the governor and the legislature annually, during the first  
41 week of the regular session.

42 Sec. 2. This act shall take effect and be in force from and after its  
42 publication in the statute book.

**Testimony on  
SB 656/Long-Term Care Services**

**Senate Ways & Means**

**By Secretary Kathy Greenlee  
March 18, 2008**

Chairman Umbarger and Members of the Committee:

I am here today to testify in support of SB 656. At the Kansas Department on Aging (KDOA), we believe seniors should have the option of choosing the type of long term care services they receive. Our role is to provide the best support and services we can, regardless of setting.

Our goal at KDOA is to help ensure quality nursing home care. We encourage and focus on new models of care that are more resident centered; that support a better quality of life. For seniors who choose to live in a nursing home, we must provide quality care, nothing less. Nursing homes are and will continue to be an option for receiving long term care.

Seniors' first choice, however, is to stay home. They want community services to help them remain in their own home. We can provide those services and we can provide them at less cost than nursing home care.

SB 656 requires collaboration between three critical Medicaid agencies: Kansas Health Policy Authority (KHPA), Social and Rehabilitation Services (SRS) and Kansas Department on Aging (KDOA). I assure you this legislation would codify relationships that already exist. In fact, a few months ago, SRS Secretary Jordan and I made a presentation on long-term care reform to the KHPA Board.

Secretary Jordan and I are committed to supporting and expanding the choices we offer Kansas consumers. Our agencies work closely with the Centers for Independent Living and the Area Agencies on Aging. I encourage amendment of the bill to remove the second sentence in Section 1(a), "Utilization of services to all long-term care consumers shall be through a single point of entry." While I agree with the need for coordination and ease of use, Kansas does not currently have a single point of entry system. I also support some minor amendments to sections (c), (d) and (e).

Thank you for considering ways in which we can improve services to Kansas seniors and other individuals.



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March 18, 2008

TO: Senator Dwayne Umbarger, Chair, and  
Members, Senate Ways and Means Committee

FR: Tom Laing, Executive Director, InterHab  
(testifying on behalf of the Big Tent Coalition)

RE: In support of amendments to SB 656: An act concerning long-term care services.

Thank you, Senator Umbarger and members of the committee, for this hearing on Senate Bill 656. The Big Tent Coalition (BTC) supports the intent of the bill, to incorporate “money follows the person” policies into statute.

“Money follows the person” is a concept already effectively a part of the developmental disabilities service network, effective with the Developmental Disability Reform Act implementation in 1996. The concept has encouraged choice and promoted independence for persons with developmental disabilities, and thus is a proven policy which should be adopted for other networks with this bill. The BTC also supports the amendments offered today by the primary authors of the bill.

Additionally, the BTC urges the committee to adopt an additional amendment (beginning in line 28) to clarify the intent of the bill:

(c) All persons receiving services pursuant to this section shall be **offered** placed in the appropriate services ~~which are determined to be the most economical available with regard to state general fund expenditures~~ **in compliance with all state and federal law and which meet cost effectiveness requirements of the Medicaid HCBS Waivers.** For those persons moving from a nursing facility to the home and community based services, the nursing facility reimbursement shall follow the person into the community.

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The amendment addresses a concern of the BTC: i.e. the current language relating to “*services which are determined to be most economical*” can be construed to be applicable to each individual person. Such an interpretation would be a major change in current practice, in which the Federal standard applies, i.e. that waiver services may not cost more than institutional services, when examining the aggregated costs of the services received by all persons funded by each particular waiver.

The language in the amendment is derived from Federal law, more truly reflects the stated intent of the bill, and reflects the State’s current agreements with the Federal government which govern all such waiver programs.

The BTC believes, without the amendment, that the current language could receive, at a future date, an interpretation that negatively impacts the rights of individual persons served; therefore, we would oppose this bill without the amendment noted above.

Thank you for your thoughtful consideration.





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# Topeka Independent Living Resource Center

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501 SW Jackson Street • Suite 100 • Topeka, KS 66603-3300

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## Testimony Presented to the Senate Ways and Means Committee

SB 656

by Mike Oxford, Executive Director

March 18, 2008

Topeka Independent Living Resource Center (TILRC) is a human and civil rights organization with a mission to advocate for justice, equality and essential services for a fully integrated and accessible society for all people with disabilities. We thank the committee for the opportunity to appear before you today to discuss SB 656, the United States Supreme Court's freedom mandate in the Olmstead case that interpreted key provisions of the Americans with disabilities Act (ADA), and the role the Money Follows the Person program plays in supporting Kansans' Olmstead rights.

TILRC supports efforts to codify money follows the person into law, and eliminate limits on the number of people who may access the program to secure essential services. TILRC joins with recommendations for amending language in SB 656 as proposed by the Big Tent Coalition, to ensure that services are evaluated in the context of state and federal legal requirements, individual need, and aggregate expense, rather than the standard proposed in the existing language of SB 656.

The language in the bill (lines 28 & 29) can be found in the consolidated budget bills for KDOA. It is not found in the SRS consolidated budget. We believe the effect of this language can be traced to caps on number of service hours available to support people in their homes, especially during tight budget times under the FE Waiver. Such caps have meant that people exceeding the maximum allowed services have been determined to be ineligible for the FE Waiver and left with the nursing facility or nothing at all.

This example is exactly our concern with the existing language in lines 28 and 29 and this is why we request the amendments.

Our work and our mission are largely driven by the vision of the Americans with Disabilities Act, and its recognition of and redress for the historical segregation and isolation from society experienced by people with disabilities. In their Olmstead decision, the United States Supreme Court deemed one of the most fundamental forms of isolation and segregation to be the placement of people with disabilities in institutions instead of communities. They prohibited this illegal discrimination and went on to say that a state would have an affirmative defense against claims of discrimination if a comprehensive, effectively working plan to prevent unnecessary institutionalization were implemented by the states. These plans are know as "Olmstead Plans."

The state of Kansas has, as yet, decided not to develop and implement an "Olmstead plan." Notwithstanding our excellent track record of providing HCBS Waiver services and listening to the disability community around issues of self-direction, our state has no comprehensive, effectively working roadmap for ensuring that the

***Advocacy and services provided by and for people with disabilities.***

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## Topeka Independent Living Resource Center

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March 18, 2008

rights of people under the ADA to not experience undue isolation and segregation are protected. Kansas has no Olmstead plan. As a result, there are people who are in nursing facilities who are not in the most integrated setting appropriate to their needs.

Our mission, our commitment to the ADA and the lack of an Olmstead plan, keeps TILRC extra vigilant in the arena of long term services and supports and home and community alternatives to facilities and institutions.

Kansas, to its credit however, has developed a money follows the person (MFP) budget proviso as part of its efforts to make sure home and community alternatives to facilities are available to those residing in nursing facilities who want them. The state MFP funds are available when there is a waiting list for the HCBS Waivers and people who reside in nursing facilities want out. MFP is a method to create and fund more Waiver slots in tight budget years.

However, the story of choice, freedom and long term services and supports for Kansans is not reflected in discussions about “slots” or “beds” or “cost efficiencies.” When the story of whether a person can choose to live in the community is predicated on what services are “the most economical available,” we fail to take into consideration aggregate cost efficiencies from Home and Community Based Services. More importantly, we fail to recognize that, as *Olmstead* reminds us, real people with real lives, real families, and real choices, live within these systems.

Thank you again for the opportunity to engage in a dialogue about the importance of building inclusive, integrated communities and service systems to support the freedom and independence of all people.

***Advocacy and services provided by and for people with disabilities.***



**Testimony to  
Senate Ways & Means Committee  
Support of  
SB 656**

Mr. Chairman and members of the committee, I am Shannon Jones, executive director of the SILCK. The SILCK is in support of SB 656 with the following changes:

- On lines 15-17, delete the sentence which reads, "Utilization of services ... single point of entry"
- On line 28, replace the words "placed in the" with the word "offered."
- On lines 33-34, subsection (d), reword to read "The department on aging AND the department of social and rehabilitation services, in consultation with Kansas health policy authority shall design.."
- On lines 37-38, subsection (e) reword to read "The department on aging AND the department of social and rehabilitation services, in consultation with the Kansas health policy authority, shall submit .... of the regular session.

SB 656 is straight forward in that it will provide the statutory framework for money follows the person as state policy.

The State of KS has been involved in the movement of persons from institutional care into the community for over 25 years. Home and Community Based Services (HCBS) is not an experimental program. It has a proven track record. In the mid-1970's, the state was paying for approximately 14,000 persons in institutional care. In the last fiscal year the number was 10,800. When consideration is given to the fewer dollars being spent as well as giving Kansas citizens, the opportunity for choice and independence; the outcome is impressive. Care in a nursing home facility is approximately \$31,000. per person annually; HCBS for the frail elderly is \$11,168. per person annually; HCBS for the physically disabled person is \$17,000. annually.

As consideration is being given to **health care reform** we suggest that HCBS is the one unique program which provides a critical service with fewer state dollars while at the same time giving the individuals needing the service, **choice and independence**. With the aging of our Kansas population there is the need to

think of human services which can be provided in a cost-effective way. HCBS needs to be seen as an integral part of the state's public policy in providing human services and it has the potential for providing a key component to **health care reform**.

The missing link in providing HCBS is that there has not be the statutory recognition of HCBS as one of the ways in which the state is going to respond to issues related to elderly persons and persons with a physical disability needing services. SB 656 provides the remedy to that omission. Informal networks, the spirit of cooperation between agencies and the front-line work of the Centers for Independent Living; hundreds of Kansans have been enabled to move out of an institutional setting and live in the community. We want to build on that good work. SRS has received a grant of \$37.5M to be spent over a period of five years to move 934 persons into community and home settings. This grant provides the state with the opportunity to formalize what we have done in the past and to transform long-term care funding into the kind of program which tailors to the individual needs of the Kansans needing long-term care services.

SB 656, if enacted into law, will provide for a coordinated delivery system involving SRS, KDOA, the KS health policy authority and the stakeholders. This system will emphasize self-direction and individual choice; it will ensure transparency and accountability; it will emphasize expedited eligibility and timely services and it will assure Money Follows the Persons as required by the federal grant.

All persons receiving services in this system shall be placed in the most appropriate service which has been determined to be the most economical available in regard to the expenditure of state general funds.

I urge the passage of SB 656 because it will provide the statutory framework for the delivery of long-term care services in Kansas. It will aid in keeping our state on the path of providing humane services in a cost effective way. It provides the legislature with one area of health care reform which saves state general fund money while at the same time providing choice and independence for the persons needing the service.

I am available for questions.

# SENATE BILL No. 656

By Committee on Ways and Means

2-26

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40 ernor and the legislature annually, during the first week of the regular  
41 session.

42 Sec. 2. This act shall take effect and be in force from and after its  
43 publication in the statute book.

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**1911 N. 77<sup>TH</sup> STREET**  
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2/27/08

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Prior to March 2001, I was basically like most working people. I had a job I liked; a house that I had just signed papers to make it mine. There was also a potential "significant other" than it changed overnight.

I had gone to a movie and came home about 10:30 PM. I woke up around 2AM with lightning like spasms in my legs but I was not "feeling" my legs. I waited till 6AM to call my friend to take me to the hospital. I had a hard time getting into my car and I basically fell out of the mini van into the wheel chair when we arrived. The next 48 hours are a blur.

When I woke up long enough to ask where I was and what happened it was Monday morning. The last thing I remembered was getting to the hospital on Saturday morning. I spent about a week in the hospital before they released me to a Nursing Home A.

I had good health insurance thru the hospital that I worked for but it did not cover a Rehab hospital. It did cover 30 days in a nursing home. At Nursing Home A I was fed and medicated but very little physical therapy was done until the week that I was returned to the hospital with a "suspected" blood clot. (This was a week before my insurance coverage was to end) The Nursing Home was not prepared to take me back. So the search for a new Nursing Home began.

The social worker found a Nursing Home 100 miles away, but the answer from me was no because that would move me away from my friends. . Then she found one in town that would take me knowing that I would be going to Medicaid coverage in less than two weeks. I was in Nursing Home B for 18 months. I received most of my rehab there. I had to start with being taught how to sit all over again. I was still on IV antibiotics until November when I was switched to oral antibiotics for another six months.

I was taking oral Baclofen for the spasms in my legs but they continued. I had been talking with a Dr. regarding a Baclofen Pump. I could not find a Dr. or hospital that would do the procedure for nine months due to being on Medicaid. Finally, I found a Dr. at the University of Florida – Gainesville who did the procedure in January 2003. After the procedure I found out that I was a good candidate for rehab but I would lose my bed at Nursing Home B.

In rehab I learned how to get in and out of bed using a sliding board. I was taught how to open closed doors, how to be comfortable in the wheelchair both inside and outside of a building. I also had my first contact with a support group that encouraged independence both at home and away. I became empowered even though I knew I would be going to another Nursing Home.

I ended up in Nursing Home C in a new town and for the first time away from people I knew. During the fifteen months that I was there I participated in a weekly support meeting for people with disabilities. I learned a lot about the services that were available to people with disabilities.

I found out that my youngest daughter would be moving in the fall with her husband who was in the army. I decided then that I would come back to Kansas to be with my family.

I started researching what might be available for me when I returned to Kansas. This was when I first heard about Home Care Based Services from an organization in Lawrence. I had thought that a nursing home was my only option. I now know that I might be able to leave the Nursing Home and live in the community.

I flew into Kansas City airport with my oldest daughter in May, 2004. We were met by transportation. Which took us to Delmar Gardens of Lenexa. This became my home from May, 1994 to March, 2007.

After I was admitted, I immediately got in touch with the Independence Center regarding the HCBS program and how to become a consumer. I started looking for a facility that I could move into as [part of the HSBC program. I was 57 years old and I did not realize that a lot of the accessible apartments available were for those that were at least 60. There are very few accessible apartments for those under 60. on a limited income.

In the fall of 2004, I requested an application from ten different locations in Johnson County. I filled out each one and complied with all the information requirements. (*Usual application was about seven pages of information with exhibits*). Within 30 days, I had gotten declined from three because I did not meet their criteria. and put on the waiting list for at least seven. Of those on the waiting list I needed to check back with every six months.

I did get call backs from three different facilities but they were "handicapped" accessible but they were not wheel chair accessible. So I was still waiting from the other facilities and checking to see if there were any more that became available. By this time I was working with Teresa at The Whole Person. She gave me a pamphlet about a new location in Kansas City, Kansas that was in the process of being built. I got the application for that building which is the Mid America Commons. It was only 4 pages to fill out; I filled it out in early spring of 2006.

Mid America Commons opened in October, 2006. I had not heard from them before the opening so I decided that I must not be a good candidate for the apartments either. However, in December I got a call to see if I was still interested in the apartment. They sent out the final application to me and I had returned it in three days. I got the call that my application was accepted for Mid America Commons and I signed the lease with a move in date of February 1, 2007.

Then the countdown began. I would need just about everything as I had sold or given away most of my furniture that my children has not wanted in 2003 when I had given up hope of ever living outside a nursing home. The first priorities were to acquire a fully electric hospital bed, a shower chair that had removable arms that could also be used as a commode and a wheelchair.



Medicare would cover a semi-electric bed and a wheel chair, as for the commode I was on my own. Teresa worked with me to get the needed equipment for the move in, the semi electric bed, wheel chair and shower chair. She helped to convince me that the important thing was to get out of the Nursing Home and then I would be able to get exactly what was needed thru one of the programs Medicaid provided.

Teresa was also very helpful to me regarding Care Givers. I utilized the list that The Whole Person had of available caregivers.. I also had bulletins put up at Delmar Gardens. I met with three people three days prior to the move in date to go over the job functions. Teresa was there to help with any questions that I could not answer about the payroll process thru The Whole Person. One of the interviewees decided that my needs were more than she was signing on for so I started out with only two people instead of three. However, one of the two had a friend who came to talk with me and I hired her for the last caregiver.

So the move from the Nursing Home to the apartment was made on March 6, 2007. Teresa continued to work with me to get the fully electric hospital bed, a shower/commode chair and a cushion for my wheel chair (which is also an item that is not covered under Medicare).

Teresa at The Whole Person has continued to help me meet my needs. She has given me helpful suggestions in regards to things that I have identified as lacking. Just lately we had talked about exercising and my lack of. She sent me a brochure for a study that Kansas University Hospital is doing on exercising for wheelchair bound people. I've had the first interview; I'll start the program March 1, 2008, which runs for 1 year.

I feel very comfortable in my apartment with the support structure that has my family, my friends my Care Givers and Theresa from The Whole Person.







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March 18, 2008

The Honorable Duane Umbarger, Chairman  
Senate Ways and Means Committee

Reference – SB 656

Good morning Chairman Umbarger and Members of the Senate Ways and Means Committee. My name is Ernest Kutzley and I am the Advocacy Director for AARP Kansas. AARP represents the views of our over 371,000 members in the state of Kansas. Thank you for allowing us to submit our written testimony in support of SB 656 which would require that long-term care services, including home- and community-based services be provided through a comprehensive and coordinated system throughout the state.

AARP Kansas promotes rules and regulations that will guide the deliberations of state policymakers and lawmakers in achieving meaningful long-term care reform for seniors and people with disabilities in Kansas.

Kansas must truly “balance” the use of financial resources so that more people can have access to quality care in the home and the community, as well as in institutions; design programs so that people can access long-term care services efficiently and in a timely way; and support people needing long-term care, as well as their families and caregivers.

AARP Kansas believes, as the starting point for long-term care reform, that:

- (1) The state of Kansas should strive to provide a comprehensive, integrated long-term care system throughout the state that is responsive to the varied long-term care needs of Kansans of any age or economic status.
- (2) The public policy related to long-term care should stress individual choice, autonomy, self-determination and privacy.
- (3) The administration of public programs and services to serve all long-term care populations should be integrated to ensure better, more coordinated policy making, and more efficient service delivery, thus maximizing the appropriate use of state resources.
- (4) The long-term care system eligibility requirements and provider reimbursements should work toward creating incentives to expand the most needed services; to serve people in the most appropriate care setting of their choice; and to provide quality care.
- (5) Elderly citizens and citizens with disabilities should receive the necessary care and services in the least costly and the least confining setting of choice possible.
- (6) Public funding should work toward improving access to and information about all institutional and residential long-term care options as well as the full range of care options in the home and community.

*Over*

(7) Any expanded and improved home- and community-based care services should be developed in a way that supports and complements the services provided by informal caregivers.

(8) The state of Kansas should strive to provide to all long-term care consumers access to services through a single point of entry as well as to current descriptive, relative performance and cost-related information about their various care options.

(9) The foundation of the long-term care service system should be strong reporting requirements to document quality and performance of all providers and the ability to electronically track people and their care across the entire health care and long-term care systems.

(10) Strong consumer protections and adequate public oversight, advocacy and enforcement should be available for all long-term care consumers to assist such consumers in receiving appropriate, timely and quality care.

(11) The state of Kansas should strive to expedite eligibility determination and service delivery to all persons eligible for services.

(12) The Department on Aging, the Department of Social and Rehabilitation Services, the Department of Administration and the Kansas Health Policy Authority should meet on a regular and as needed basis with stakeholders and persons representing individuals receiving long-term care services to review the ongoing adequacy and quality of care and services.

(13) Such state agencies should submit an annual report on the quality, adequacy and costs of all long-term care, as well as specific recommendations and benchmarks for needed reforms, to the governor and the legislature annually, during the first week of the regular session.

Therefore, AARP Kansas supports SB 656 and respectfully requests the support of the Senate Ways and Means Committee on this important piece of legislation.

Thank you.