

May 12, 2017

The Honorable Carolyn McGinn, Chairperson  
Senate Committee on Ways and Means  
Statehouse, Room 545-S

and

The Honorable Troy Waymaster, Chairperson  
House Committee on Appropriations  
Statehouse, Room 111-N

Dear Senator McGinn and Representative Waymaster:

The items contained in this memo, Governor's Budget Amendment No. 2, amend the budget that I submitted to you in January. The items reflect new issues that have arisen or changes that can be made based on new information. Total adjustments to expenditures and revenues are shown below.

### Various Agencies

#### 1. Fee Fund Lawsuit Settlement Agreement

The 2009 Legislature passed and Governor Mark Parkinson signed Senate Substitute for HB 2373 (Ch. 144 of the *2009 Session Laws of Kansas*), which transferred all remaining balances of each state agency's Kansas Savings Incentive Program (KSIP) account to the State General Fund in FY 2009. The authorization included transfers to the State General Fund from the Bank Commissioner Fee Fund at the Office of the State Bank Commissioner and the Real Estate Commission Fee Fund at the Kansas Real Estate Commission. Since 2010, the State has been defending litigation alleging that these were wrongful transfers and an improper use of the Kansas Legislature's authority to transfer monies held in state agency fee funds to the State General Fund. The Office of the Attorney General indicates that a settlement has been reached in this case. Therefore, I amend my budget to make the following transfers from the State General Fund to settle this lawsuit:

#### State General Fund Transfer Adjustments

	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Workers' Compensation Fee Fund	\$ --	\$(2,355,000)	\$ --
Bank Commissioner Fee Fund	--	(534,517)	--
Real Estate Commission Fee Fund	--	<u>(195,671)</u>	--
Total SGF Transfer Adjustments	\$ --	\$(3,087,543)	\$ --

The recommendation also increases the expenditure limitations of the Office of the State Bank Commissioner by \$76,650 and Kansas Real Estate Commission by \$28,350 to compensate the named plaintiffs in the case for their legal fees.

	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
State General Fund	\$ --	\$ --	\$ --
All Other Funds	<u>--</u>	<u>105,000</u>	<u>--</u>
All Funds	\$ --	\$ 105,000	\$ --

In addition, the following provisos should be included in the budgets of Office of the State Bank Commissioner and the Kansas Real Estate Commission to compensate the named plaintiffs in the case for their legal fees:

**Office of the State Bank Commissioner**

*And provided further, That during the fiscal year ending June 30, 2018, notwithstanding the provisions of any other statute, in addition to the other purposes for which expenditures may be made from the bank commissioner fee fund for fiscal year 2018 by the above agency by this or other appropriation act of the 2017 regular session of the legislature, expenditures shall be made by the above agency from such fund to pay attorney fees and litigation costs in an amount not to exceed \$76,650.*

**Kansas Real Estate Commission**

*And provided further, That during the fiscal year ending June 30, 2018, notwithstanding the provisions of any other statute, in addition to the other purposes for which expenditures may be made from the real estate commission fee fund for fiscal year 2018 by the above agency by this or other appropriation act of the 2017 regular session of the legislature, expenditures shall be made by the above agency from such fund to pay attorney fees and litigation costs in an amount not to exceed \$28,350.*

Sincerely,



Sam Brownback  
Governor