

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The 2003 Omnibus session was called to order by Chairperson Stephen Morris in Room 123-S of the Capitol at 10:10 a.m. on April 24, 2003. The times were as follows:

10:10 a.m. on April 24, recessed 12:00 p.m. and reconvened at 1:15 p.m., recessed 4:45 p.m.  
Reconvened 9:10 a.m. on April 25, recessed 12:00 p.m., reconvened 1:35 p.m., recessed 4:05 p.m.  
Reconvened 9:30 a.m. on April 28, recessed 12:00 p.m., reconvened 3:15 p.m., recessed 4:15 p.m.

All members were present except: Senator Bill Bunten - excused April 25 and 28, 2003  
Senator Christine Downey - excused April 24, 2003

Committee staff present:

Alan Conroy, Director, Kansas Legislative Research Department  
J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department  
Leah Robinson, Kansas Legislative Research Department  
Nicoletta Buonasera, Kansas Legislative Research Department  
Melissa Calderwood, Kansas Legislative Research Department  
Amy Deckard, Kansas Legislative Research Department  
Martha Dorsey, Kansas Legislative Research Department  
Julian Efird, Kansas Legislative Research Department  
Debra Hollon, Kansas Legislative Research Department  
Becky Krahl, Kansas Legislative Research Department  
Carolyn Rampey, Kansas Legislative Research Department  
Audrey Nogle, Kansas Legislative Research Department  
Amy VanHouse, Kansas Legislative Research Department  
Robert Waller, Kansas Legislative Research Department  
Paul West, Kansas Legislative Research Department  
Norman Furse, Revisor of Statutes  
Michael Corrigan, Assistant Revisor of Statutes  
Judy Bromich, Administrative Analyst  
Mary Shaw, Committee Secretary

Conferees appearing before the committee: none

Others attending: See attached list

**Bill Introduction**

Senator Feleciano moved, with a second by Senator Barone, to introduce a bill concerning the Department of Commerce and Housing; relating to changing the name of such agency; relating to other changes required by 2002 ERO 30 (3rs1052). Motion carried on a voice vote.

Staff distributed and discussed the following information with the Committee:

- State General Fund Receipts, Expenditures and Balances, April 2003 Consensus Revenue Estimates In Millions, Kansas Legislative Research Department ([Attachment 1](#))
- FY 2004 Approved Budget Highlights as of First Adjournment, Kansas Legislative Research ([Attachment 2](#))
- Expenditures From All Funding Sources, Kansas Legislative Research Department ([Attachment 3](#))
- Items for Omnibus Consideration (Referred by the Senate Committee), Kansas Legislative Research Department ([Attachment 4](#))
- Items for Omnibus Consideration (Referred by the House Committee), Kansas Legislative Research Department ([Attachment 5](#))
- Economic Development Initiatives Fund, Omnibus Consideration, Kansas Legislative Research Department ([Attachment 6](#))
- State Water Plan Fund: FY 2003 and FY 2004, Kansas Legislative Research Department

(Attachment 7)

- FY 2003 / FY 2004 Children's Initiatives Fund (Tobacco), Kansas Legislative Research Department ([Attachment 8](#))
- Consensus Caseload Estimate, April 17, 2003 ([Attachment 9](#))
- Family Preservation Consensus Estimate, Kansas Legislative Research Department ([Attachment 10](#))
- Office of the Governor, Governor's Budget Amendments, April 23, 2003 ([Attachment 11](#))
- Additional Items for Potential Action, April 24, 2003 ([Attachment 12](#))
- Items for Omnibus Consideration, April 23, 2003 ([Attachment 13](#))

### ITEMS FOR OMNIBUS CONSIDERATION - (Refer to Attachment 13)

#### Kansas Lottery

**A. Additional Revenues (Omnibus Review – House and Senate and GBA No. 3, Item 1, Page 2).** Review sales estimates during Omnibus and adjust revenue estimate as needed in FY 2003 and FY 2004. Information supplied by the Kansas Lottery indicates that FY 2003 transfers to the State Gaming Revenues Fund (SGRF) will total \$3.5 million higher than the \$59.0 million previously estimated in the *Governor's Budget Report*. The legislative action in 2003 **SB 6** increased the estimate by \$2.5 million each year in FY 2003 and in FY 2004. Although no adjustment is made in FY 2004, the Lottery reports an additional \$1.0 million SGRF transfer will be made in FY 2003. This money will be net to the State General Fund (SGF) on June 25, 2003, when by statute all amounts in excess of \$50.0 million accrued in the SGRF are transferred to the SGF. The FY 2003 amount may be increased from \$9.0 million to a total of \$12.5 million, or \$1.0 million more than the amount approved in **SB 6**, according to the agency.

Sales have totaled \$152,637,729 since July 1, 2002. To date, transfers to the SGRF have totaled \$47,950,000 for monthly amounts from August 15 to April 15 this fiscal year. Remaining transfers in FY 2003 are scheduled from May 15 to July 15, with a total of three, and the agency assumes monthly amounts of \$4.85 million, for a total of \$14.55 million.

	<u>Totals</u>	<u>Avg. Monthly</u>
Aug. to Apr. – Actual	\$ 47,950,000	\$ 5,327,778
May to Jul. – Estimated	14,550,000	4,850,000
FY 2003 Transfers	<u>\$ 62,500,000</u>	<u>\$ 5,208,333</u>

The Governor recommends increasing the estimated FY 2003 transfers by \$1.0 million that will enhance the SGF per GBA No. 3 Item 1.

*The Committee concurred with this item.*

**B. Veterans Benefit Game (HB 2400 – Conference Committee).** The bill, as amended, would permit a new instant ticket game, designated as a veterans benefit game, to be conducted by the Kansas Lottery. Net profits from this game would be dedicated for National Guard scholarship assistance and the Kansas Commission on Veterans Affairs. The bill would direct 50 percent to the State Board of Regents to be used for Kansas National Guard Educational Assistance Act scholarships and the other 50 percent to Kansas Commission on Veterans Affairs, to be used for either operating expenditures or capital improvements for the two soldiers and veterans homes and for the state Veterans Cemetery System. The bill would exempt the Veterans Benefit Game from a statutory requirement that the Governor must approve all new games. A second exemption would reference the statutory provision that pertains to transfers to the State Gaming Revenues Fund and would allow proceeds to be used for purposes specified in the bill. The Senate Committee amendment would limit the new game to the periods of between May 1 and November 30, in 2003 and in 2004. The bill would be effective upon publication in the *Kansas Register*.

The Lottery's Executive Director reports that preliminary planning for a Veterans Benefit Game (as authorized in **SB 280** and **HB 2400**) includes the use of \$2.00 tickets and two runs of tickets in batches of 900,000 per run. Printing costs are estimated at \$65,000 for each run which would supply tickets in two three-month periods. Prizes representing 60 percent (or 1:3.6 odds) would be paid on each run of tickets. Merchants' sales commissions of 5.0 percent and a cashing commission of 1.0 percent would be allowed. Based on projected FY 2004 sales of \$3.6 million, as much as \$1,094,000 could be generated for the designated purposes, after subtracting expenses of \$2,506,000. There might be available \$547,000 for National Guard scholarship assistance and \$547,000 for the Kansas Commission on Veterans Affairs for

FY 2005 since revenue accounting will take place on June 25, 2004, under SGRF transfer provisions.

*The Committee concurred with a Proviso to add \$500,000 transfer in FY 2004 for Veteran's Benefit Game for January 2004 in order to fund the Board of Regents scholarships and Veterans Commission programs per **HB 2400** (Attachment 14).*

## **Kansas Racing and Gaming Commission**

**A. Commissioner's Salaries (Omnibus Review – Senate).** Review during Omnibus information about compensation and work loads of commissioners per **SB 6**. The bill, as amended by the House Committee of the Whole, would alter the statute governing compensation for members of the Kansas Racing and Gaming Commission and repeal the current requirement for a yearly financial compliance audit of the Commission. The bill would change current law which allows the Governor to set compensation for Commissioners and would set future commissioner compensation to the per diem rate paid to legislators. The bill would be effective upon publication in the *Kansas Register*. (Staff Note: **SB 6** was gutted and became the Mega Appropriation bill for 2003.) The House Committee of the Whole amendment would change how compensation for members of the Racing and Gaming Commissions is set. Under current law, the Governor fixes the amount of compensation. Since the original Commissioners were appointed in the 1980s, compensation has been set at \$2,000 per month by each Governor. Total budgeted amount for five commissioners is \$120,000 in FY 2004. The agency plans to present materials on this subject.

*The Committee did not accept this item.*

**B. Ending Balance (Omnibus Review -- House).** Review status of the Horse Fair Racing Benefit Fund and whether any money above \$300,000 may be transferred to the SGF. (Staff Note: The Conference Committee on 2003 **SB 6** concurred with a Senate offer and increased the transfer to \$500,000 for the SGF in order to fund operating costs of Halsey Hall at the Kansas Soldiers Home. The transfer would occur on or after October 1, 2003, in order to allow receipts to augment any ending balance.)

For FY 2003, there was a beginning balance of \$349,192, and monthly receipts have averaged \$79,000 through March. Assuming the average monthly receipts continue, a total of \$1.3 million would be available in FY 2003. The Governor's recommended expenditures are \$950,184 in FY 2003 and \$950,795 in FY 2004. Included in expenditures are \$773,000 for grants and \$243,942 for state operations. The ending FY 2003 balance would be \$284,000 based on the Governor's recommendations. Staff for the Commissions have indicated expenditures may total \$170,000 for administration and \$800,000 for grants in FY 2003.

In recent years, the Commission has increased the amount of state operations financing for administrative expenses charged against this fund that historically has awarded grants to two race tracks. Prior the FY 1996, no administrative expenses were charged and only grants were paid. The FY 1996 budget included \$53,404 for administrative expenses. By FY 2002, the administrative charges had risen to \$213,920 when grants totaling \$918,907 were awarded. For FY 2004, the estimated budget includes \$244,553 for administration and \$773,000 for grants. The agency plans to present materials on this subject.

*The Committee reviewed this item, but took no action.*

## **Department of Wildlife and Parks**

**A. Cheyenne Bottoms (House and Senate – Omnibus Review).** Review at Omnibus any Governor's Budget Amendment on Cheyenne Bottoms grant of \$1,999,264 and news that the project may involve expenditures of \$8.5 million from various funding sources.

*The Committee reviewed this item, but took no action.*

**B. Fee Increases (SB 43, HB 2078 – Law).** These bills increase fees collected by the agency, but were not part of the Governor's recommended FY 2004 fee increases.

**1. SB 43 (Law).** The bill, as amended, would increase service fees charged for issuing licenses, permits and stamps provided by the Department of Wildlife and Parks. County clerks, private vendors and the agency currently sell the various documents and the service fee would rise from \$.50 to \$1.00 on licenses, permits and stamps, and from \$.25 to \$.50 on state migratory waterfowl stamps. In addition, the bill would authorize the agency to contract with private vendors to sell licenses and other documents over the telephone or internet, and also would allow additional service fees to be charged under the provisions of a contract with the agency. The bill also would repeal sunset of a provision which allows persons with unpaid camping or vehicle entry fees at State Parks to avoid being issued a citation if they either (1) pay both the permit fee and a \$15 late payment fee within 24 hours; or (2) purchase an annual vehicle or camping permit.

The fiscal note indicates that the agency would receive an estimated \$300,000 increase in services fees and that the vendors, including county clerks, would receive an estimated \$640,000 increase. Fees for the agency would be prorated between the Park Fee Fund with \$200,000 and Wildlife Fee Fund

with \$100,000. The *Governor's FY 2004 Budget Report* does not anticipate this new revenue.

*The Committee reviewed this item, but took no action.*

**2. HB 2078 (Law).** The bill establishes different maximum fees for big game tags for residents and nonresidents. For residents the maximum fee would be \$20 and for nonresidents the fee will be \$30. The maximum fee for nonresident applicants also increases from \$5 to \$25. The bill provides that beginning in 2003 and thereafter, the number of nonresident firearm and deer archery permits issued by KDWP will increase by 2 percent each year. Fines are increased on a number of wildlife species as values are increased in the bill.

The bill also directs the agency to develop a report containing recommendations for the establishment of a landowner deer management program. The bill requires the Secretary of KDWP to identify local geographical areas in which deer populations are causing significant property damage. The Secretary is authorized and directed to take actions necessary to reduce deer populations in these areas. Finally, the bill directs the agency to sell seized items, including wildlife parts with a dollar value, and certain firearms as described by the bill. The money will be credited to the Wildlife Fee Fund. The effective date for the bill is January 1, 2004. The fiscal notes indicates that \$296,102 may accrue to the Wildlife Fee Fund with most of the money collected as a result of this legislation during FY 2005.

*The Committee reviewed this item, but took no action.*

**C. HB 2036 (Law).** The bill would require that all bulk motor-vehicle fuels purchased by state agencies be fuel blends containing at least 10 percent ethanol as long as the price is not more than \$0.10 cents per gallon greater than regular fuel. Also, the bill requires that, where available under current state purchasing agreements, individual motor-vehicle purchases for state-owned motor vehicles are to be motor-vehicle blends containing at least 10 percent ethanol as long as the price is not more than \$0.10 per gallon greater than regular fuel. Lastly, the bill requires that when there are diesel fuel purchases for state-owned diesel powered vehicles and equipment, those purchases are to be a 2 percent or higher blend of biodiesel, where available, as long as the price is not greater than \$0.10 more per gallon than the price of diesel fuel. The agency's fuel consumption is shown according to bulk and pump purchases for FY 2002 and as estimated for FY 2003. An average is projected to FY 2004 by category to show the possible fiscal impact on expenditures for fuel purchases.

<u>Fuel (Gallons)</u>	<u>Total Fuels</u>	<u>Bulk Gasoline</u>	<u>Bulk Diesel</u>	<u>All Other Pump</u>
FY 2002 actual	\$ 515,365	\$ 118,766	\$ 24,519	\$ 372,080
FY 2003 est.	495,700	114,234	23,583	357,882
FY 2004 proj.	505,533	116,500	24,051	364,981
Max. \$0.10 diff.	\$ 50,553	\$ 11,650	\$ 2,405	\$ 36,498

*Chairman Morris mentioned that the Committee needs to visit with the Department of Administration and other state agencies affected by this item to negotiate with people that are already contracting and are offering ethanol at the same price as regular fuel.*

**D. Technical Item (and GBA No. 3, Item 32, Page 15).** The Division of the Budget raised a question about the dollar amount appropriated from the SGF in FY 2004 as being inconsistent between the *Governor's Budget Report* and the Governor's appropriations bills as introduced. Ultimately, **HB 2444** (the Governor's bill as introduced) with the original SGF dollar amount was incorporated into **SB 6** with an amount of \$3,189,583 for the FY 2004 SGF appropriation. The GBR had included a recommended amount of \$3,159,583 SGF. The additional \$30,000 amount was included in **SB 6** as approved by the 2003 Legislature.

The Governor recommends increasing the Wildlife Fee Fund by \$30,000 in FY 2003 in order to offset a reduction in SGF associated with one of the allotments. (**Staff Note:** The additional \$30,000 SGF noted previously was appropriated in FY 2004.)

*The Committee concurred with this item for technical changes.*

**Kansas Public Employees Retirement System (KPERS)**

**A. Review Investment Management Costs (Omnibus Review – House and Senate).** Adjust estimated expenditures in FY 2003 and FY 2004 based on latest KPERS projections for payments to investment managers. Based on poorer than expected market performance, investments and the related fee paid investment managers have been adjusted downward. For FY 2003, the estimate is reduced from \$17,843,762 to \$16,872,480. For FY 2004, the estimate is reduced from \$18,660,611 to \$16,887,452.

*The Committee concurred with this item to adjust the expenditure estimate for payments to investment managers.*

**B. 13th Check (Omnibus Review – House and GBA No. 3, Item 9, Page 4).** Review during Omnibus the status of **HB 2325** or any other legislation that addresses the shortfall in FY 2004 funding estimated at \$5.7 million for the 13th check payment due in October 2003. **HB 2325** remains in the House Select Committee on Pensions after being withdrawn from the House Appropriations Committee on March 7, 2003, and referred to the new Select Committee.

The Governor recommends providing that the divided payment would not be dependent on investment performance and that the full 13<sup>th</sup> check would be paid in FY 2004.

Senator Adkins mentioned that he would offer a motion in terms to honor the commitment under current law which does not entitle the retirees to a 13<sup>th</sup> check except as prorated based on investment performance.

*Senator Adkins moved, with a second by Senator Kerr, that the Senate position be that the 13<sup>th</sup> check be paid pursuant to current statute and that no further action be taken by the Committee in that regard. Division was requested, the vote was taken by a show of hands and the motion carried 5 in favor and 4 opposed.*

**C. Redirect SGF Savings (Omnibus Review -- House).** Pending passage of **SB 47** or similar death and disability moratorium legislation, review the \$6.1 million FY 2003 savings and \$24.0 million FY 2004 savings as an alternative source of SGF financing for other programs.

*The Committee reviewed this item, but took no action.*

**D. HB 2014 (Conference Committee).** The KPERS Omnibus bill has three items with fiscal impact in FY 2003 and FY 2004 that need to be addressed during deliberations on the Omnibus appropriations bill.

**1. Death and Disability Lapse (HB 2014 – Conference Committee and GBA No. 3, Other Issues, Page 18).** One section of the bill pertains to the FY 2003 and FY 2004 budgets for all state agencies. The Governor proposes a moratorium for the fourth quarter in FY 2003 and for four quarters in FY 2004 on payments by KPERS participating employers who provide for death and disability coverage of public employees. The fiscal note indicates that savings of \$6,123,070 million for the state were estimated in FY 2003, including \$5,265,070 million in SGF and \$858,000 in special revenue fund expenditures. In addition, local units of government will save an estimated \$1.59 million, according to KPERS. FY 2004 savings for the state will total an estimated \$21,144,360 from all funds, with \$17,758,360 in State General Fund and \$3,386,000 in special revenue funds. In addition, local units of government will save an estimated \$6.6 million, according to KPERS. Excluded from the FY 2003 and FY 2004 estimated SGF savings is money in Regents institutions budgets for death and disability payments since the Governor recommends holding these budgets harmless to preserve the operating grant concept.

For FY 2003, the Director of the Budget reports SGF reductions totaled \$5,135,913 and all other funds reductions totaled \$858,000 that were collected for the SGF. A shortfall of \$129,570, compared with the projection for the SGF receipts, is noted in the actual moneys lapsed and collected for the SGF.

Not included in the SGF amount is money from the Board of Regents institutions. Regents fee fund money was collected, but no SGF money is lapsed. The Governor's FY 2003 recommendation was to leave SGF financing for death and disability payments in the Regents budgets, as was the recommendation in FY 2004, in order to protect the operating grant concept. (Staff Note: The proviso exempting the Regents institutions from SGF lapses was included in **HB 2444** for FY 2004, but not in **HB 2026** for FY 2003.)

Included in the FY 2003 SGF amount is \$4,600,000 in reductions for the KPERS school group. The KPERS certification for the first quarter of CY 2003 indicates that \$3,810,552.46 for the school group was the calculated amount for the death and disability transfer had the moratorium not been in place. (Staff Note: A difference of \$789,447.54 is noted between the two amounts. The \$789,447.54 represents an unpaid amount that was due April 1, 2003, and would be included in the \$6,227,618 recognized in the *Governor's Budget Report* as a shortfall in FY 2003 financing for the KPERS school group contributions. The total amount of retirement financing shifted to FY 2004 is \$5,337,766 SGF. The revised total amount is \$6,127,214, including death and disability financing of \$789,448 that was underpaid in FY 2002. This total is \$100,404 less than the Governor's recommended amount in **SB 6**.)

The Governor urges passage of legislation to enact the five quarter moratorium on death and disability benefits payments.

*The Committee reviewed this item, but took no action.*

**2. Regents \$2,000,000 Payment (HB 2014 – Conference Committee).** As part of 2003 **SB 6**, a plan to reduce Regents expenditures from \$9.0 million to \$2.0 million was included relative to designating a closed group comprised of Regents and Hospital Authority employees as special members of the KPERS in order to fund their retirement benefits. If **HB 2014** does not pass, then the \$9.0 million will be owed in FY 2004 to KPERS. Alternatively, if **HB 2014** passes, then a payment of \$2.0 million will be owed KPERS as part of the bonding plan to finance the remaining \$15.5 million unfunded liability over 10 years with pension obligation bonds. In order to complete the FY 2004 transaction, a transfer of \$2.0 million from the Regents Clearing Fund in 2003 **SB 6** needs to be included in the Omnibus bill to pay the KPERS Fund an amount to partially fulfill the final payment on the unfunded liability, contingent upon passage of **HB 2014** with the bonding provision included. The other payment will be \$15.5 million in bond money to be remitted after issuance. If **HB 2014** does not pass with bonding, then a payment of \$9.0 million needs to be made for KPERS as the annual payment for amortizing the unfunded liability.

*The Committee reviewed this item, but took no action.*

**3. Legislator Retirement Benefits (HB 2014 – Conference Committee).** Two provisions in the bill address legislator retirement. First, the bill authorizes retroactive payments for previous years when no contributions had been made for legislative service while legislators are on leave from a Regents institution. It is estimated to cost less than \$20,000 by the Division of Legislative Administrative Services, and the payment would be made by a Regents institution. Second, the bill authorizes a defined contribution plan for legislator retirement to assist members of the Legislature who have retired from a KPERS participating employer and now serve in the Legislature. Currently, they are unable to "unretire" and join KPERS again. No employer contributions are paid for retirement, death, or disability insurance for these legislators. Likewise, they do not pay the 4.0 percent employee contribution to KPERS. The fiscal note for participating in the 8.0 percent defined contribution plan is less than \$10,000 if all seven eligible members elect to participate. The bill permits a choice by legislators regarding participation. It would be possible to opt out of participating in the defined contribution plan. (Staff Note: A technical issue has arisen regarding legislator participation in the KPERS Death and Disability Plan if they are already retired. Currently, the bill would allow these retired members to have coverage, if they select the defined contribution plan. This provision would add 0.6 percent to the costs of participating in a defined contribution plan.)

*The Committee reviewed this item, but took no action.*

## Department of Revenue

**A. Electronic Databases Fee Fund Increase (GBA No. 3, Item 6, page 3).** The Governor recommends increasing the expenditure limitation in FY 2003 by \$324,327 in order to offset a reduction in SGF financing included in the *FY 2004 Governor's Budget Report*.

*The Committee concurred to authorize a no limit fund for FY 2003.*

**B. Executive Reorganization (Omnibus Review -- House).** Review ABC transfer issue during Omnibus and the status of any pending legislation, such as **HB 2458**. That bill remains in the House Appropriations Committee. (Staff Note: **SB 6**, as amended by the Conference Committee, was approved by the Governor.) The bill includes financing for the ABC Division from the State Highway Fund, and the program is left in the Department of Revenue. Staffing of 38.0 FTE positions was authorized for the ABC Division.

*This item was already addressed.*

**C. Information on Tax Collections Omnibus Review -- Senate).** Review during Omnibus period the budget cuts and effect on collecting taxes. Review during Omnibus period collections of accounts receivable and projections for other years. The agency plans to present materials on these subjects.

Information was distributed from Joan Wagon, Secretary, Kansas Department of Revenue, regarding requests for information from the Committee ([Attachment 15](#)).

*The Committee reviewed this item, but took no action.*

**D. Fee Increases (HB 2192, SB 16, HB 2193 – Law).** These bills increase fees collected by the agency and redirect the disposition of some receipts.

**1. HB 2192 (Law)** establishes the Photo Fee Fund and redirects \$1.5 million in photo fees previously deposited into the State Highway Fund to the new Photo Fee Fund. The new fund needs to be appropriated for the agency (see item 2 below for further details). **HB 2192** also increases the costs of driver licenses and identification cards by \$1.00 per year. Estimated new revenue is \$2,074,000 in FY 2004, which by statute is apportioned as follows: \$1.4 million to the State Highway Fund, \$657,000 to the State Safety Fund, and \$17,000 to the Motorcycle Safety Fund.

The Governor's FY 2004 budget recommendations included estimated revenue increases to the State Highway Fund of \$2,075,000, and likewise used that figure in offsetting SGF financing with DOV

Operating Fund money. This bill implements one of the Governor's revenue proposals in FY 2004 as recommended. Proviso language was included in 2003 **SB 6** to expand the permitted uses of money in keeping with the Governor's FY 2004 budget recommendations in replacing \$2.0 million of SGF financing for the agency. (Staff Note: Money deposited into the State Safety Fund and Motorcycle Safety Fund generally has been used for state aid to driver training courses in schools, but expenditures may be made for the administration of the drivers' license laws, according to KSA 8-267. Another statute, KSA 8-272 limits the amount of state aid that may be expended to \$1,540,000 from the State Safety Fund and \$210,000 from the Motorcycle Safety Fund. The Governor's recommended transfer from the State Highway Fund may be reduced by \$674,000 in FY 2004, and the expenditures from the State Safety Fund and Motorcycle Safety Fund may be appropriated to replace financing from the DOV Operating Fund. Another alternative would be to replace SGF financing with fee fund money, at the expense of the State Highway Fund. The State Safety Fund had an unencumbered balance of \$2,912,142 on June 30, 2002, and the Governor's recommended budget for FY 2003 and FY 2004 would reduce the amount to \$2,017,840 on June 30, 2004, if revenue projections are realized in both fiscal years.)

*The Committee reviewed this item, but took no action.*

**2. SB 16 (Law)** requires collection of social security numbers for all applicants of drivers licenses and identification cards, and the bill increases the photo fees by \$2.00, yielding an additional \$1.5 million in revenue. Total revenue in FY 2004 is estimated at \$3.0 million for the Photo Fee Fund, which needs to be appropriated since it is a new fund established by **HB 2192**. This bill was not introduced as part of the Governor's FY 2004 budget recommendations. Included in the Governor's FY 2004 budget recommendations is a transfer of \$1,050,750 in FY 2004 from the State Highway Fund for production of 685,000 driver licenses with photos. (Staff Note: Previously, these photo fee revenues would have been deposited into the State Highway Fund, and in the Governor's FY 2004 budget recommendation, no expenditures are financed from this new fund. The Governor's recommended transfer from the State Highway Fund may be reduced by an amount up to \$3.0 million in FY 2004, and the expenditures from the Photo Fee Fund may be appropriated to replace financing from the DOV Operating Fund. Another alternative would be to replace SGF financing with fee fund money, at the expense of the State Highway Fund, since funding already has been transferred in **SB 6** for FY 2004 to produce drivers licenses with photos.)

The agency's fiscal note for **SB 16** requests that a portion of the new revenues from the \$2.00 photo fee increase be used to pay administrative costs associated with verifying social security numbers. The estimated cost is \$1.25 per application, with an estimated annual cost of between \$937,500 and \$1,125,000 for these contracted services, depending upon bids and contract negotiations. These expenditures were not included in the Governor's recommended FY 2004 expenditures.

*The Committee reviewed this item, but took no action.*

**3. HB 2193 (Law)** amends existing law in regard to motor vehicle title fees and disposition of those fees. Specifically, the bill would: increase the cost of a motor vehicle title from \$8.00 to \$10.00; increase from \$4.50 to \$6.50 the fee for a reassignment form; repeal a provision in existing law whereby the title fee will be reduced from \$8.00 to \$3.50 on July 1, 2004; repeal the June 30, 2004, sunset of the transfer of \$3.50 of each title fee to the Kansas Highway Patrol Motor Vehicle Fund; and increase from \$1 to \$3 the amount of each title fee transferred to the VIPS/CAMA Technology Hardware Fund. This bill implements one of the Governor's revenue proposals in FY 2004 as recommended.

The Department of Revenue estimates an increase of \$1.6 million of receipts to the VIPS/CAMA Technology Hardware Fund in FY 2004, with revenue rising from \$800,000 to \$2.4 million. The estimate of revenue to the Highway Patrol's Motor Vehicle fund is \$2.8 million annually after FY 2004 by removing the sunset. The VIPS/CAMA Technology Hardware Fund has been a source of financing for the Department of Revenue's Vehicle Information Processing System (VIPS) and the Division of Property Valuation's Computer Assisted Mass Appraisal System (CAMA) since 1993. KSA 74-2021 establishes this fund, and limits the use of money for the purpose of upgrading the VIPS/CAMA hardware for the state or for the counties. Proviso language was included in 2003 **SB 6** to expand the permitted uses of money in keeping with the Governor's FY 2004 budget recommendations in replacing \$1.6 million of SGF financing for the agency.

*The Committee concurred with this item.*

**E. SB 130 (Law).** The bill concerns apportioned registration of fleet vehicles and requires registration of a converter gear. An annual fee of \$1.00 shall be charged for each registration. The fiscal note indicates additional revenue of approximately \$20,000 will be deposited in the State Highway Fund as a result of this bill. The agency indicates administrative costs of reprogramming will be absorbed.

*This was an information item.*

**F. SB 159 (Law).** The bill requires the Secretary of Revenue to make drivers' licenses and identification cards issued to persons under the age of 21 readily distinguishable by formatting them to be oriented vertically. The requirement would become effective on July 1, 2004. According to the agency, there is no administrative cost since implementation will coincide with installing a new driver's licensing system, and the changes required by this bill can be made at no additional cost.

*This was an information item.*

**G. HB 2220 (Law).** The bill makes numerous changes to the Uniform Commercial Drivers' Licenses Act to comply with recent federal regulations. New provisions implement a "S" endorsement for a commercial drivers licenses (CDL) that adds school bus drivers. In complying with federal regulations, the number and type of violations that can result in either new or longer sanctions against driving privileges will substantially increase the workload of the agency. The most significant change will include major and serious traffic violations, while operating a non-commercial motor vehicle, as a consideration towards disqualification from operating a commercial motor vehicle and holding a CDL. The agency's fiscal note suggests that the increase in workload can be accommodated with existing resources.

*This was an information item.*

**H. HB 2208 (Law).** The bill amends tax increment financing (TIF) laws to provide statewide authority for sales tax and revenue (STAR) bonds to be used for special bond projects of regional or statewide importance. The bill defines a special bond project as a project with at least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales revenues. The bill includes in this definition projects located outside of metropolitan statistical areas, which have been found by the Secretary of Commerce to be in an eligible area under TIF law and of regional or statewide importance. The bill specifically excludes a project including a gambling casino from the definition of special bond project.

The bill modifies prior law as it relates to areas eligible for TIF to include a major commercial entertainment and tourism area as determined by the Secretary of Commerce and Housing. The bill also includes a major multi-sport athletic complex in the definition of major commercial entertainment and tourism area. Under the bill, river walk canal facilities are included in the list of redevelopment project costs which may be financed by STAR bonds. The bill is effective upon publication in the *Kansas Register*.

The agency requests \$300,000 SGF for administrative costs associated with the bill. Included is a software package for \$250,000 to track businesses in a redevelopment district. The application would be used for mapping business addresses. An annual software maintenance fee is estimated at \$20,000 and modifications to the electronic tax filing systems will require contract programming estimated at \$30,000.

*The Committee concurred to allow \$300,000 State General Fund associated with **HB 2208**.*

**I. HB 2005 (Conference)** would implement streamlined sales tax and numerous other tax changes. Fiscal impact estimated at up to \$71 million net gain to SGF in FY 2004, based on providing potential state sales tax revenue from remote sales not currently collected and submitted by out-of-state retailers. In a fiscal note for implementing the streamlined sales tax, the agency estimates costs of \$28,580 would be absorbed.

*This was an information item.*

**J. HB 2205 (Conference)** would implement streamlined sales tax. Fiscal impact estimated at up to \$71 million net gain to SGF in FY 2004, based on providing potential state sales tax revenue from remote sales not currently collected and submitted by out-of-state retailers. In a fiscal note for implementing the streamlined sales tax, the agency estimates costs of \$28,580 would be absorbed.

*This was an information item.*

**K. HB 2416 (Conference)** would implement a tax amnesty program. Fiscal impact estimated at net gain to SGF in FY 2004 of \$19.5 million. An earlier phase of the amnesty program that did not require legislation was estimated to yield \$12.5 million for the SGF in FY 2003. In the original fiscal note, the agency stated that any administrative costs would be absorbed within existing resources. That original fiscal note anticipated net gain to SGF in FY 2004 of \$4.5 million.

*This is an information item.*

Staff noted that the bills listed above are in conference committees and some fiscal impact is possible.



## Economic Development Agencies

### A. GBA No. 3, Item 12, Page 5 – Kansas, Inc. Independent Agency

Staff distributed copies of the Comparison of FY 2004 Funding Proposals, Kansas, Inc., Kansas Legislative Research Department (Attachment 16).

*The Committee concurred with the original Senate position which leaves approximately \$20,000 difference as to how much money was left in the Department of Commerce versus how much was transferred to the independent Kansas, Inc.*

**B. FY 2004 Funding (Conference Committee).** The Conference Committee on **Senate Bill 6** (Mega Appropriations Bill) delayed FY 2004 funding for the Department of Commerce and Housing, the Kansas Technology Enterprise Corporation, and Kansas, Inc. pending the outcome of Executive Reorganization Order No. 30. ERO 30 transfers the Division of Housing from the Department of Commerce and Housing to the Kansas Development Finance Authority. The deadline for legislative action on the ERO was April 11. As the ERO was not disapproved by the Legislature, the transfer will take place on July 1.

The following tables note the Governor's FY 2004 recommendation and the House and Senate changes from that recommendation. The Governor's FY 2004 recommendation included the proposal to transfer the duties and responsibilities of Kansas, Inc. to the Department of Commerce and Housing and abolish the agency. The Senate's recommendation maintains Kansas, Inc. as an independent agency.

### Economic Development Agencies – FY 2004 Funding

Agency	Governor's Rec.	House Changes	Senate Changes
Department of Commerce and Housing			
EDIF	\$ 14,026,980	\$ 0	\$ (525,320)
Other Funds	98,110,325	0	(114,022)
All Funds	<u>\$ 112,137,305</u>	<u>\$ 0</u>	<u>\$ (639,342)</u>
FTE	147.5	0.0	(1.0)
Kansas Technology Enterprise Corporation			
EDIF	\$ 10,604,188	\$ 0	\$ 325,320
Other Funds	3,349,632	0	0
All Funds	<u>\$ 13,953,820</u>	<u>\$ 0</u>	<u>\$ 0</u>
FTE	27.0	0.0	0.0
Kansas, Inc.			
EDIF	\$ 0	\$ 0	\$ 200,000
Other Funds	0	0	251,755
All Funds	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 451,755</u>
FTE	0.0	0.0	4.0

*The Committee came to a consensus to keep the Senate position to restore FY 2004 funding for the Kansas Department of Commerce, Kansas Technology Enterprise Corporation and Housing and Kansas, Inc.*

*The Committee concurred to carry over \$3,000,000 and reduce the Economic Development Initiatives Fund by the amount budgeted for the Division of Housing.*

**C. Senate Substitute for House Bill No. 2208 (Law).** **Senate Substitute for HB 2208** would amend tax increment financing law to provide statewide authority for sales tax and revenue (STAR) bonds to be used for special bond projects of regional or statewide importance. To be eligible, a project must have at least a \$50.0 million capital investment and \$50.0 million in projected gross annual sales revenues. These requirements could be waived by the Secretary of Commerce if located outside of the metropolitan statistical areas and the project is of regional or statewide importance.

The bill would require that each special bond project be approved by the Secretary of Commerce based upon a feasibility study. In addition, Kansas, Inc. is required to include an analysis of STAR bonds in its annual report on the cost effectiveness of economic development tax exemptions and credits. Kansas, Inc. estimates that it would need an additional \$600 to implement the requirements of the bill.

The Department of Commerce and Housing states that the fiscal impact of the bill would depend upon the number of applications received. The agency would be able to absorb the additional work within its existing resources if only one or two applications for STAR bond authority were received each year. If

three or more applications were received, the agency would contract for the required analysis at a cost of \$30,000 per year.

*The Committee reviewed this item, but took no action.*

**Board of Indigents’ Defense Services**

**A. GBA No. 3, Item 7, Page 4 – Assigned Counsel**

*The Committee concurred with this item .*

**B. FY 2003 Funding (Senate Subcommittee and House Budget Committee).** The Senate Subcommittee requested a review of the agency’s anticipated cash balances for the Death Penalty Defense Unit. The House Budget Committee requested a review of the agency’s cash balances for the Death Penalty Defense Unit and the Assigned Counsel Program. The agency notes that it stopped paying assigned counsel on April 7.

The following table outlines the agency’s revised FY 2003 expenditure estimates.

April 18, 2003	Agency Revised Estimate	Current Legislative Approved	Estimated Shortfall
Assigned Counsel Program	\$ 5,925,165	\$ 4,925,165	\$ 1,000,000
Death Penalty Defense Unit	2,728,489	2,728,489	0
<b>TOTAL</b>	<b>\$ 8,653,654</b>	<b>\$ 7,653,654</b>	<b>\$ 1,000,000</b>

*Chairman Morris suggested, and the Committee concurred, that this should be considered as an item for study in the Legislative Budget interim committee.*

Senator Bunten moved, with a second by Senator Jackson, to increase the appropriation \$750,000 for the Board of Indigents’ Defense Services budget in FY 2003. Motion carried on a voice vote.

**C. FY 2004 Funding (Senate Subcommittee and House Budget Committee).** The Senate Subcommittee requested a review of the agency’s budget for the Death Penalty Defense Unit and Legal Services for Prisoners. The House Budget Committee requested a review of the agency’s entire FY 2004 budget.

The 2003 Legislature passed House Bill 2121 which establishes an application fee for indigent defendants of \$50 in FY 2004 and \$100 in FY 2005 and beyond.

The following table outlines the agency’s revised FY 2004 expenditure estimates.

	Agency Revised Estimate	Current Legislative Approved	Estimated Shortfall*	Estimated Revenue HB 2121
Administration	\$ 702,705	\$ 702,705	\$ 0	
Assigned Counsel Program	5,794,869	4,794,869	1,000,000	
Legal Services for Prisoners	533,605	353,605	180,000	
Appellate Defender Program	1,497,324	1,497,324	0	
Public Defender Program	5,898,403	5,898,403	0	
Death Penalty Defense Unit	2,184,406	1,384,406	800,000	
<b>TOTAL</b>	<b>\$ 16,611,312</b>	<b>\$ 14,631,312</b>	<b>\$ 1,980,000</b>	<b>\$ 117,000</b>

\* Estimated shortfall for FY 2004 assumes that the \$1,000,000 shortfall in FY 2003 is addressed. It does not take the revenue from **HB 2121** into consideration.

Senator Adkins moved, with a second by Senator Feleciano, to add \$1,500,000 to the Board of Indigents’ Defense Services budget in FY 2004. A vote was taken, division requested and the motion carried (5 in favor and 3 opposed).

*The Committee concurred with a Proviso to give the Board of Indigents’ Defense Services the flexibility to shift funds between State General Fund accounts.*

Copies were distributed of information regarding the Kansas Department of Health and Environment (Attachment 17).

**A. GBA No. 3, Item 17, Page 8 – Nursing Transfer Correction**

*The Committee concurred with this item.*

**B. GBA No. 3, Item 18, Page 9 – Expenditure of Federal Funds and 1.0 Non-FTE Unclassified Permanent Position**

*The Committee concurred with this item.*

**C. GBA No. 3, Other Issues, Page 17 – Health and Environment - Vital Statistics**

*The Committee concurred with this item.*

**D. Special Revenue Funds (Technical adjustment).** The line items for several of the agency's special revenue and federal funds were omitted from **Senate Bill 6** (Mega Appropriations Bill). In addition, a proviso specifying expenditures from the District Coroners Fee Fund was removed in error.

*The Committee concurred with this item.*

**E. Balances of the Underground Petroleum Storage Tank Release Trust Fund (House Budget Committee).** **House Bill 2026** (Supplemental Appropriations Bill) transferred \$10,000,000 from the Underground Petroleum Storage Tank Release Trust Fund to the State General Fund. The House Budget Committee requested continued monitoring of the balances of the fund so that adjustments in the transfer may be made if necessary. The balance of the fund as of March 31 was \$4,707,564. The one cent per gallon fee on gasoline and related products is triggered when the fund balance dips below \$2,000,000.

*The Committee concurred with this item.*

**F. FY 2003 Funding - Infant Toddler Program (Senate Subcommittee).** The Senate Subcommittee recommended that a source of revenue be found to replace the \$120,695 reduced in the Governor's November, 2002, allotment. **Senate Bill 6** (Mega Appropriations Bill) included an additional \$300,000 from the Children's Initiatives Fund in FY 2004 for this program. It was specified that \$120,000 of the additional funding was to replace the allotted funds.

*The Committee concurred with this item.*

**G. Transfer of the Nursing Facility Regulation Function from KDHE to the Department on Aging (Senate Subcommittee and House Budget Committee).** The Governor's recommendation for FY 2004 included the transfer of the nursing facility regulation function from the Department of Health and Environment to the Department on Aging. The two agencies formed a transition team to work on the details and logistics of the transfer. The Senate Subcommittee and the House Budget Committee requested an update from that transition team in order to more clearly understand the policy implications and budgetary effect of the transfer. The agency is still gathering information on this issue.

*The Committee concurred with this item.*

**H. Funeral Assistance Program (Senate Subcommittee and House Budget Committee).** The Governor's FY 2004 recommendation did not include funding for the Funeral Assistance Program in either the KDHE budget or the budget of the Department of Social and Rehabilitation Services. The Senate Subcommittee and House Budget Committee recommended a review of potential funding sources for the program. (See information from KDHE, page 1.)

*See Item "X" under the Department of Social and Rehabilitation Services.*

**I. Tobacco Use Prevention Program (House Budget Committee).** The House Budget Committee recommended a review of the possibility of increasing funding for this program and requested information from the agency on total funding received (including grants from the American Legacy Foundation) as well as effectiveness measures for the program. (See information from KDHE, page 2.)

The following table outlines the amounts and sources of funding for the program for FY 2003.

Children's Initiatives Fund	Centers for Disease Control and Prevention	American Legacy Foundation*	TOTAL
\$ 500,000	\$ 1,204,700	\$ 500,000	\$ 2,204,700

\* 1:1 match of state funds

*The Committee reviewed this item, but took no action.*

Senator Feleciano requested a breakdown on how the \$2 million dollars is spent.

**J. Pregnancy Maintenance Initiative (House Budget Committee).** The House Budget Committee recommended a review of potential funding sources for the Pregnancy Maintenance Initiative Program which was not funded in the Governor's FY 2004 recommendation. **Senate Bill 6** (Mega Appropriations Bill) included funding of \$300,000 SGF for this program. The agency was also requested to provide information concerning effectiveness measures. (See information from KDHE, page 13.)

*This was an information item.*

**K. Community Based Primary Care Clinics (House Budget Committee).** The House Budget Committee recommended adding \$1,000,000 for community based primary care clinics should additional funds be available. These clinics provide access to comprehensive primary health care for uninsured and under insured individuals. The House Budget Committee specified that any addition of funds to the program would include the following requirements as to the use of those funds:

- Implementation, expansion, and maintenance of access to general primary care; expansion of dental care; integration of mental health services; provision of pharmacy services; expansion of services in certain specialty areas; continuance of outreach and enabling services;
- Development of new access points in high risk areas of the state; and
- Purchase of equipment and development of infrastructure.

*The Committee did not agree with this item.*

**L. Transfer of the Day Care and Foster Care Regulation Function from KDHE to the Department of Social and Rehabilitation Services (House Budget Committee).** The House Budget Committee requested information from the Department of Health and Environment and the Department of Social and Rehabilitation Services on the possibility of transferring the day care and foster care regulation function to avoid potential duplication. The agency is still gathering information on this issue.

*This was an information item.*

**M. Fees for Criminal Background Checks (House Budget Committee).** The House Budget Committee recommended a review of fees charged by the Kansas Bureau of Investigation for criminal background checks required for employment applicants of adult care homes, home health agencies, and staffing agencies. The agency requested an enhancement of \$37,500 SGF to cover a July 1 increase in those fees from \$3.75 to \$5.00. The Governor did not recommend the enhancement. (See information from KDHE, page 18.)

The following table outlines the fees charged to agencies by the Kansas Bureau of Investigation for fingerprints or record checks as of February, 2003.

Agency	Charge per Record Check	Charge per Fingerprint
State Gaming Agency (on behalf of Tribal Nations)		\$ 54.00
Kansas State Gaming Commission		\$ 54.00
Kansas Racing Commission		\$ 54.00
Kansas State Lottery		\$ 54.00
Department of Revenue		\$ 54.00
Department of Education		\$ 44.00
Board of Nursing	\$ 15.00	
Department of Social and Rehabilitation Services	\$ 15.00	
Department of Administration	\$ 15.00	
Adjutant General	\$ 15.00	
State Bank Commissioner	\$ 15.00	
Insurance Department	\$ 15.00	
Department of Human Resources	\$ 15.00	
Pittsburg State University	\$ 10.00	
Department of Health and Environment	\$ 3.75	

*The Committee concurred to not allow the Kansas Bureau of Investigation to change the fee charged to the Kansas Department of Health and Environment.*

**N. Federal Bioterrorism Funding (House Budget Committee).** Neither the agency's request nor the Governor's recommendation included expenditures from federal bioterrorism funds for FY 2004 due to the uncertainty of continuation of that funding. The House Budget Committee requested an update on the status of the funding.

According to the agency, the US Department of Health and Human Services has announced that Kansas would be eligible for a total of \$15,564,925. There has been no official notice, however, of the grant awards or required objectives for expenditures. (See information from KDHE, page 19.)

*This was an information item.*

**O. Child Care Licensure Program (Senate Subcommittee).** The Senate Subcommittee noted the staffing levels within the Child Care Licensure Program and requested a Legislative Post Audit of those staffing levels. The National Association for Regulatory Administration and the National Association for the Education of Young Children both recommend one licensing surveyor for every 75 child care facilities. The current rate in Kansas is one licensing surveyor for every 161 child care facilities. The Senate Subcommittee recommended the addition of funds for staffing for this program should resources be available.

*This was an information item.*

**P. House Bill 2247 (Law).** **HB 2247** would establish a process by which owners of environmentally contaminated property could apply to the Department of Health and Environment for approval of an "environmental use control" to prohibit or restrict use of that property. The program would be funded through a one-time fee which would be based upon the classification of each site. The bill would establish the Environmental Use Control Fund, but does not set an expenditure limitation on the fund.

*The Committee concurred with this item to authorize a no limit fee fund.*

Information was distributed to the Committee regarding Communities Receiving Smoking Prevention Funds ([Attachment 18](#)).

## Adjutant General

**A. Increased Insurance Costs. (House Budget Committee and Senate Subcommittee).** During the 2003 Legislative Session, The House Budget Committee and Senate Subcommittee were informed of current law which mandates the agency to maintain fire and extended coverage insurance on armories. Subsequently, Senate Bill 240 was introduced to repeal the law mandating the agency maintain insurance on all armories. However, the agency would still maintain insurance on selected armories as dictated by bond covenant agreements in FY 2004, and self insure all other armories. The item was flagged by both the House Budget Committee and Senate Subcommittee's for Omnibus consideration at a cost of \$115,000 (from the State General Fund) in FY 2003 to finance costs associated with the increase in extended coverage insurance on armories. In passing **SB 240**, the Committee's noted that some "savings"

would be held for FY 2004. However, that amount is still indeterminate at this time. Lastly, it was noted that the Governor concurred with the repeal of the law, and reduced the agency's operating budget by \$50,000 in FY 2004 with the belief the bill would be passed.

*The Committee concurred that the Revisor check into a Proviso to have the Department of Administration include the National Guard Armories in the State blanket insurance coverage at some point and cancelling the private policy for the National Guard Armories and request a refund.*

## **Sentencing Commission**

### **A. GBA No. 3, Item 30, Page 14 – Coverdell Forensic Federal Grant**

*The Committee concurred with this item.*

**B. Senate Bill 123 (Law). Senate Bill 123** enacts a new sentencing policy for a defined target group of non-violent offenders convicted of drug possession that mandates drug treatment for up to 18 months and supervision through Community Corrections in lieu of incarceration. The bill contains specific provisions relating to failure/discharge from treatment and sets forth provisions for incarceration for third and subsequent drug possession convictions. The provisions of the bill are designated to be in effect for those offenders sentenced on or after November 1, 2003. Based on calendar year 2002 data, it is projected that approximately 1,318 offenders a year would be eligible for treatment under the bill, at an average cost of \$4,700. The bill would require modification to the sentencing database and re-programming of Prophet Projection Simulation Projection Software Model to accommodate the sentencing changes for drug offenders outlined in the bill at a cost of \$18,650. The agency states that those costs will be absorbed within existing sources.

**SB 123** sets forth the Sentencing Commission as the administrator of monies distributed from the newly established Substance Abuse Fund created by the bill to Community Corrections facilities at an average cost of \$6.2 million per year. The Sentencing Commission estimates \$4.6 million (from the State General Fund) would be needed to finance the provisions of the bill in FY 2004 due to the delayed implementation. The agency also requests \$46,550 (from the State General Fund) and 1.0 FTE position to administer the newly created fund. Additionally, the Sentencing Commission will utilize a Federal Statistical Analyst Grant (SAG) in the amount of \$50,000 to complete an 18 month evaluation of the impact and effectiveness of the drug sentencing policy set forth in **SB 123**. The grant would be sufficient to cover the cost of data collection, software, and equipment necessary to produce an evaluation report to Legislature.

(See Attachment A for a summary of the total FY 2004 fiscal impact of the bill.)

**Staff Note: Senate Bill 6** (the Mega Appropriations Bill), grants the Sentencing Commission the authority to expend the \$50,000 in SAG grant funding, in lieu of transferring the remaining federal law enforcement related grants to the Governor's Office.

*The Committee concurred to add 1 FTE.*

**C. Criminal Justice Information System (CJIS) Project Manager (Senate Subcommittee).** During testimony, the Senate Subcommittee was informed that the CJIS Project Manager's position and the funding associated with the position (\$97,632 from the State General Fund) were eliminated within the Governor's FY 2004 Budget Report. The Senate Subcommittee flagged the item for Omnibus consideration in the event additional funding became available to restore the position.

*The Committee concurred to fund the position out of current resources in the Department Administration in DISC, monitor it through the next year and research the possibility of the availability of federal money to replace State General Fund money and that Staff brief the Committee on its findings.*

**D. Operating Expenditures (House Budget Committee).** Due to the Governor's recommendation to transfer federal Byrne grants from the Sentencing Commission to the Governor's Office, the House Budget Committee was informed of a reduction in agency operating funds. In transferring the administrative Byrne Grant funding (\$256,532), financing utilized by the agency for operating expenses was reduced. Consequently this placed the agency in the position of not being able to fully fund its operations. In addressing the issue, the House Budget Committee drew attention to the Senate Committee's recommendation to transfer \$147,505 (\$167,311 from the State General Fund) to provide additional funding for the agency, and the recommendation to transfer the remaining federal grants to the Governor's office, those being: Local Law Enforcement Block (LLEBG), Residential Substance Abuse Treatment (RSAT), and National Criminal Improvement Program (NCHIP) grants. Additionally, the Senate Committee recommended the elimination of 4.0 positions (2.0 FTE and 2.0 other unclassified positions) due to the transfer of the federal funds, thereby reducing the Sentencing Commission's mandated duties to providing prison projections. Therefore, the House Budget Committee flagged the item for Omnibus consideration, and requested a Governor's Budget Amendment (GBA) to provide financing for the Sentencing Commission.

**Staff Note:** Senate Bill 6 (the Mega Appropriations Bill), provided the Sentencing Commission with \$147,194 (\$167,000 from the State General Fund), and eliminated 4.0 positions (2.0 FTE). Thus, made the Sentencing Commission solely a prison population projection/fiscal impact agency.

*The Committee concurred with this item for technical adjustments.*

## **Kansas Bureau of Investigation**

**A. Criminal Justice Information System (CJIS) Project Manager (House Budget Committee).** During testimony, personnel from the Kansas Bureau of Investigation informed the House Budget Committee of the importance of the CJIS Project Manager in providing information to the Legislature relating to CJIS, managing the numerous state and local “connections” to the project, and maintaining the operation of the criminal justice database. The House Budget Committee flagged the item for Omnibus consideration to review the restoration of the \$97,632, with the possibility of adding the position to the Division of Information Systems and Communications (DISC).

*This item was already addressed under the Sentencing Commission section (Item C).*

## **Kansas Highway Patrol**

**A. GBA No. 3, Item 4, Page 3 – Transfer to the State General Fund**

*The Committee concurred with this item.*

**B. Transferring the Division of Alcohol Beverage Control to the Kansas Highway Patrol (House Committee).** Within the *Governor’s FY 2004 Budget Report*, the Department of Revenue Division of Alcohol Beverage Control, \$1,805,122 (\$1,603,590 from the State Highway Fund and \$201,632 from other special revenue sources), and 38.0 FTE positions were recommended to be transferred to the Kansas Highway Patrol. During testimony to the House Budget Committee, conferees stated that transferring only the enforcement segment of state alcohol administrative functions to KHP leaves important functions still residing within the Department of Revenue. The conferee raised concerns that due to the enforcement function relying heavily on licensing and compliance functions, ABC may not function effectively as compared to its current operation. The House Budget recommended the Governor research the possibility of transferring both the licensure and compliance functions to the Kansas Highway Patrol in FY 2005 (along with associated personnel and funding) to enhance the continued efficient operation of ABC. However, the House Budget Committee discussing the budget of the Department of Revenue recommended the transfer not take place, thus transferring ABC back to the Department of Revenue. Therefore, the House Committee flagged the item for Omnibus consideration for further discussion.

**Staff Note:** With the passage of Senate Bill 6 (the Mega Appropriations Bill), the Conference Committee recommended the Division of Alcohol Beverage Control remain under the Department of Revenue, with financing from the State Highway Fund being paid by the State General Fund beginning in FY 2007.

*The Committee concurred with this item.*

## **Kansas Department of Transportation**

**A. GBA No. 3, Item 33, Page 15 – Change Special City and County Highway Fund Transfer Dates**

*The Committee concurred with this item.*

**B. House Bill 2036 (Law). HB 2036** would add a new provision to the illegal acts section of the Petroleum Products Inspection Act. The bill would make it a violation of the Act to represent that diesel fuel is or contains biodiesel fuel blend or that diesel fuel is made from renewable resources. The bill also would provide that biodiesel fuel used in biodiesel fuel blends would conform to specifications by the American Society of Testing and Materials, issued in March of 2002, or later versions adopted through rules and regulations of the Secretary of Agriculture. In addition, the bill would require that all bulk motor-vehicle fuels purchased by any state agency or individual purchases for use in state-owned motor vehicles be fuel blends containing at least 10 percent ethanol as long as the price is not more than 10 cents per gallon greater than regular fuel. Lastly, the bill would require that when there are diesel fuel purchases for state-owned diesel powered vehicles and equipment, those purchases are to be a 2 percent or higher blend of biodiesel. The Kansas Department of Transportation estimates that an increase of \$0.009 per gallon for ethanol fuel and \$0.06 per gallon for biodiesel fuel. The agency estimates an increase in expenditures of approximately \$10,896 and \$173,571 more per fiscal year as compared to regular unleaded fuel and biodiesel fuel respectively. The cost analysis is based on the FY 2002 actual fuel consumption. In addition, according to the Kansas Highway Patrol, using ethanol fuel in high-speed police vehicles could result in a long-range fiscal effect because of the increased wear and tear on engine parts.

*Chairman Morris mentioned that possibly a proviso would be necessary changing the amount*

of the differential to something less than \$.10 (see information under the Department of Wildlife and Parks) and he requested that the Department of Transportation get information back to the Committee as soon as possible.

## Department of Corrections and Correctional Facilities

A. GBA No. 3, Item 22, Page 11, Food Service Contract Savings

*The Committee concurred with this item.*

B. GBA No. 3, Item 23, Page 11, Contract for Leasing Prison Beds

*The Committee concurred with this item.*

C. GBA No. 3, Item 24, Page 11, Offender Program Contract Savings

*The Committee concurred with this item.*

D. GBA No. 3, Item 25, Page 12, Visitor Centers

*The Committee concurred with this item.*

E. GBA No. 3, Item 26, Page 12, Bond Rebate Liability Overpayment

*The Committee concurred with this item.*

F. GBA No. 3, Item 27, Page 12, Community Corrections State General Fund Financing Offset

*The Committee did not concur with this item.*

G. GBA No. 3, Item 28, Page 13, Shift Interstate Compact Dues

*The Committee concurred with this item.*

H. GBA No. 3, Item 29, Page 13, Local Jail Cost Recalculation

*The Committee concurred with this item.*

**I. Report amount needed to pay in full the sum owed by the Department of Corrections (KDOC) in local jail payments (House Budget Committee).** The House Budget Committee asked the Secretary of Corrections to report regarding the amount that would be needed to pay off the entire amount owed in local jail payments. Because of the recent fluctuation in the number of "jail days," or the number of days inmates spent in county jails upon their arrest due to parole violation, some question existed as to whether the entire amount budgeted would be needed.

For several years, KDOC had experienced a growing gap between the amount expended for payment to the counties for incarcerating parole violators and the amount appropriated for this purpose. This situation arose because more was encumbered (*i.e.*, more "jail day" reimbursements were billed by counties) than was appropriated for that purpose. The Department operated under this situation by delaying payment for the last quarter of the previous fiscal year until the first quarter of the new fiscal year. However, the amount carried into the next fiscal year grew, leaving increasingly less remaining in the current year appropriation to pay for current year charges, once the previous year's charges were paid.

At the time of its FY 2004 budget request, KDOC estimated that FY 2002 costs deferred for payment in FY 2003 totaled \$671,000. KDOC further estimated the liability for deferred FY 2002 and new FY 2003 costs, adjusted by the amount budgeted for FY 2003, would result in a deficit of \$1.3 million at the end of the current fiscal year. If no relief were received, KDOC predicted the entire \$1.3 million would be deferred for payment in FY 2004. To help counteract this growing deficit, KDOC requested an enhancement package of \$671,000. The Governor recommended this enhancement package and added another \$200,000 to the amount, for a total of \$871,000 in additional funding for local jail payments. This additional recommended funding resulted in a total recommended of \$2,605,000 for local jail payments.

Since then, the Secretary of Corrections has reported a significant reduction in the number of jail days for parole violators. Jail days for the third and fourth quarters of FY 2002 totaled 13,045 and 9,648, respectively. Preliminary estimates of jail days for the first and second quarters of the current fiscal year are 9,100 and 7,400, respectively.

As a result, the Secretary anticipates a reduction in the need for jail payment funding, ranging from \$344,000 to \$644,000 less than the recommended sum of \$2,605,000. The actual amount will depend on the actual number of jail days experienced during FY 2004. (The smaller, more conservative estimated savings amount assumes a higher cost per FY 2004 quarter of \$450,000. The larger amount assumes the



cost per quarter will be equal to the average amount per FY 2003 quarter, or \$375,000.) Both estimates assume the current reduction in jail days will continue through the end of FY 2003.

The Secretary cautions that these costs can be volatile; they will depend upon actual revocation experience and the ability of KDOC to transfer parole violators to a state correctional facility. If future bed space is less available, resulting in backlogs in county jails, then local jail costs will increase and the Secretary's estimates will be affected accordingly. Also, should the FY 2004 amount become insufficient to fully fund local jail payments, a supplemental appropriation would be required or payments would have to be deferred to FY 2005.

*This item was addressed earlier. Information was distributed regarding the Kansas Department of Corrections Offender Evaluations Program (Attachment 19).*

**J. Review options that would help restore substance abuse services in the communities in FY 2004 (House Budget Committee).** The Budget Committee noted the FY 2003 allotment decisions resulted in a reduction in substance abuse treatment services in both the facilities and the community. These reductions were preceded by an earlier reduction in FY 2002. Given the number of offenders with substance abuse issues, the Budget Committee noted its belief that restoration of offender management beds and substance abuse services in the community would assist the Department in reducing condition violations and returns to the prison system. The Budget Committee therefore asked the Secretary of Corrections to examine options to restore these services in the communities.

If sufficient funding were to become available, the Secretary indicated KDOC would restore substance abuse treatment services based on priorities supported by effective interventions research, principles and practice. The priorities analysis involves consideration of offender risk and need levels, the goal being to target the more intensive services to the higher risk-need offenders and the use of evidence-based program service models to which offender populations are more responsive.

Based on these criteria, KDOC would first seek to restore therapeutic community (TC) capacity, which would include both facility and community transition (TTC) components. Community residential transition services (CRB) to assist in safe and effective offender re-entry would be the next priority for restoration. The third set of priority programs would restore some capacity of intermediate residential treatment in community settings, and the fourth priority would be to restore some capacity for less intensive outpatient services in facilities as another part of the treatment continuum. The program priorities with estimated capacities and costs are outlined below:

<b>KDOC Program Priorities, Capacities, and Costs</b>			
Program	Estimated Capacity	Cost/Fiscal Year	Notes
<b>1(a) --</b> Male TC Facility - Medium Custody	65-75 beds	\$285,000	
<b>1(b) --</b> Community Transitional TC (TTC) - Med./Max.	24 beds	\$245,000*	*The community component would be a second- and subsequent-year cost for the above TC.
<b>2(a) --</b> Male TC Facility - Med./Max.	65-75 beds	\$285,000	
<b>2(b) --</b> Community Transitional TC (TTC)	24 beds	\$245,000*	*This component would be a second- and subsequent-year cost for TC #2 (above).
<b>3 --</b> Community Residential Transition Services (CRB)	Multiple sites, approx. 180 additional beds	\$1,445,500	
<b>4 --</b> Community-based Intermediate Residential Treatment	48 beds	\$700,800	
<b>5 --</b> Short-term Facility-based Treatment	96 slots	\$475,000*	*This treatment modality is comparable to community-based outpatient treatment.

Funding options available to the Department to restore treatment services are primarily from three potential sources: State General Fund (SGF) appropriations, Inmate Benefit Fund (IBF) money, and federal or private grant funds. Given the state's current fiscal challenges, the Secretary notes it seems unlikely KDOC would receive additional SGF appropriations for restoring offender treatment services in FY

2004. Following is the Secretary's synopsis of the status of the remaining sources:

- □ KDOC has utilized a significant portion of IBF money to support various offender programs for many years. For FY 2004, after the proposed utilization of an additional amount of \$240,000 to restore funding for Outside Connections' visitor centers, IBF money has been committed and is not available for restoring substance abuse treatment services.
- □ KDOC currently supports a 100-bed male TC program with federal Residential Substance Abuse Treatment (RSAT) grant funds.
- □ The Department will seek to restore a 65- to 75-bed TC program using federal Byrne Grant funding and has submitted an application to that end.
- □ KDOC will continue to explore potential grant funding for treatment services.

*This was an information item.*

**K. Review past and future costs of not establishing a day reporting center or its equivalent in the Kansas City area; determination of whether costs are reduced when day reporting centers are operational.** KDOC presently has two operational day reporting centers. The first to be established is located in Topeka; the second, in Wichita, opened toward the end of calendar year 2002. Although a third day reporting center was intended for the Kansas City area (specifically, Wyandotte County), plans for this one were never realized due to difficulties in securing an acceptable location for the center. As a result, the former Secretary of Corrections released the contractor from responsibility for establishing the Kansas City site. The current Secretary of Corrections has indicated he is pursuing a new effort to establish a service in the Kansas City area that would achieve similar outcomes to the day reporting centers while operating in a manner and location acceptable to the local community. The House Budget Committee requested the Secretary report on the cost of not establishing a day reporting center or its equivalent in the Kansas City area. As part of this report, the Committee also asked that the Secretary report on the cost benefit of such operations.

Based upon information received from the Kansas Sentencing Commission (KSC), a 60-slot day reporting center would reduce the need for additional bed capacity by an average of 150 beds annually over the fiscal year period 2004-2013. As long as KDOC's bed capacity is sufficient to house the inmates that otherwise would have been diverted from prison, there is not any cost associated with the absence of a day reporting center in the Kansas City area. The Secretary of Corrections explains this conclusion is based upon a comparison of the estimated marginal cost incurred to incarcerate 150 additional inmates (\$300,000) and the estimated FY 2004 cost to operate a 60-slot day reporting center (\$929,000). Once additional bed capacity is required, it can be assumed that a portion of the additional capacity would be attributable to the absence of a day reporting center. A detailed summary of the issue by the Secretary of Corrections will be distributed.

*This was an information item.*

*Copies of a letter from Roger Werholtz, Secretary, Kansas Department of Corrections, regarding Information Requested by the House Public Safety Budget Committee was distributed to the committee, dated April 16, 2003 (Attachment 20).*

**L. Explore possible mechanisms to control inmate healthcare costs/use of Medicaid or similar model to control inmate healthcare costs (Senate Subcommittee).** The Senate Subcommittee noted it was cognizant of potential cost changes with respect to renewal of the systemwide contract for inmate health and medical care. The current contract will expire at the end of FY 2005. This impending contract change caused the Subcommittee to identify as a possible point of comparison the payment practices of other state agencies (such as the Department of Social and Rehabilitation Services and the Juvenile Justice Authority) for hospital care for their clients. Specifically, the Subcommittee was questioning whether it would be possible to utilize Medicaid rates, or a similar rate model, as a basis for payment. If such a plan were possible, the Subcommittee asked the Secretary to comment regarding whether the healthcare contractor should be required to implement similar practices.

According to the Secretary, it appears such a decision would not result in immediate savings for the state *with respect to the current contract*, but it would improve the contract's profitability for Prison Health Services, the current contractor, by decreasing hospital payments. In addition, it would establish a cost history that would be of benefit to the state when negotiating for medical services for inmates in the next contract cycle. A complete explanation of the issue by the Secretary of Corrections will be distributed.

*This was an information item.*

**M. Examine options to restore funding for the Visitors' Centers (House Appropriations Committee).** The House Appropriations Committee requested the Secretary of Corrections report on any options that might be developed to restore funding for the Visitors' Centers operated by Outside Connections

at Lansing, Hutchinson, Ellsworth and Norton. According to the Secretary, KDOC has identified Inmate Benefit Fund (IBF) resources to sustain a reduced funding level of \$240,000. The amount that would have been expended in FY 2003, if the program had not been terminated, is \$261,375.

The Secretary notes this reduced amount of \$240,000 will be financed by using balances that were estimated to be available in KDOC and facility funds based upon the approved FY 2004 IBF budgets and by additional resources that were freed up in the Department's IBF budget (a) by freezing a position that was financed with IBF money, and (b) adding the \$15,000 that would have been transferred to the Ombudsman for Corrections, had the Ombudsman office's funding not been eliminated for FY 2004.

In addition, KDOC has taken several steps to reduce the actual operating costs of the Visitors' Centers:

- Norton Correctional Facility -- Five buildings are located east of the medium-security compound that served as staff housing when the facility was a state hospital. If Outside Connections could obtain donated materials, which would allow KDOC to renovate three of those buildings, they could be made available at no cost for use by Outside Connections, with the capacity to provide overnight accommodations. It would be necessary for Outside Connections to maintain liability insurance as well as coverage for the repair of any damage beyond normal wear and tear. The Secretary notes this location would actually be more convenient for both visitors and the facility.
- Ellsworth Correctional Facility -- The City of Ellsworth rented an old motel, located across the street from the correctional facility, to Outside Connections for use as a visitors' center. When KDOC terminated the contract, the city agreed to make the building available to the program at no cost for the balance of the fiscal year. The Secretary states he has contacted the city to determine if the city would be willing to make the building available at no cost on a permanent basis, if the Department agreed to conduct the routine maintenance on the building. As has occurred in the past, the building could also be made available to the city to house stranded travelers or others needing shelter on a short-term basis, when it is not occupied by visitors to the facility.
- Lansing Correctional Facility (LCF) -- The federal government has made available to LCF some surplus buildings that can be disassembled and moved to the facility site. These are primarily small warehouse-type buildings. LCF will work to identify a building that could be used to house a visitors' center if materials could be donated to remodel and repair the interior as required to convert the building to such a purpose. It should be noted that the visitors' centers at Lansing and Hutchinson have not provided overnight shelter in the past, so the types of interior finishes required would not be as great as if it were planned to provide overnight accommodations. The building would be erected on facility property, and it could be provided rent free to Outside Connections.
- Hutchinson Correctional Facility -- A similar strategy using a surplus federal building is contemplated for HCF.

In order to align the operations of the Visitors' Centers more closely with the core functions of KDOC's public safety mission, the Secretary states Outside Connections would be expected to maintain and expand the recent effort to partner with KDOC's sex offender treatment contractor, DCCCA, to work with families of sex offenders regarding re-entry and management issues. Likewise, the Secretary indicates KDOC will encourage Outside Connections to develop programming (and pursue the appropriate revenue streams for that programming) targeted at youth offenders who are statistically much more likely to be incarcerated as adults than children who do not have an offender as a parent.

According to the Secretary, this plan, if implemented successfully, would bring two centers on line in July (Lansing and Ellsworth), and the others would be restored based on the availability of donated materials and construction/renovation schedules permitting.

*This item was addressed earlier.*

**N. SB 110 (Law).** As determined in Conference Committee, **SB 110** amends the Kansas Securities Act to (a) create graduated penalties for certain existing crimes – including violations of securities fraud statutes and the broker-dealer or agent registration statute – depending on the dollar amount at issue; (b) create several new crimes, and (c) increase civil penalties for violations of the Securities Act or a rule or order of the Securities Commissioner.

The Kansas Sentencing Commission (KSC) estimates that passage of this bill could increase prison admissions by two to twelve per year from FY 2004 through FY 2013. Based on this estimate, KDOC predicts the inmate population would be increased by four inmates in FY 2004 and by four to forty-three

inmates by the end of FY 2013. KDOC estimates additional costs, for the gain of four inmates predicted for FY 2004, at the marginal cost level of \$2,000 per inmate, or \$8,000 for the year. Further, the Department states additional beds might be needed to implement the bill. One-time construction project costs for new housing units, as well as additional annual operating costs, would occur in this case. Construction costs are estimated to be \$28,000 per bed for a double-celled (*i.e.*, medium security) or \$56,000 per bed for a single-celled (*i.e.*, maximum security) unit. Annual operating costs would range from approximately \$14,000 to \$25,000 per inmate.

*This was an information item.*

**O. HB 2088 (Law).** HB 2088 amends current law in regard to the provision of a release gratuity of \$100 to offenders released from a KDOC facility to a detainer, if the offender is subsequently released from the detainer into the community within 30 days. The current restrictions for eligibility for a release gratuity for inmates released from prison but not to a detainer would apply to those offenders released to a detainer and subsequently returned to the community within 30 days.

KDOC estimates its expenditures would be increased by \$33,400 as a result of authorizing gate pay eligibility for inmates released through a detainer, if released within 30 days. This amount, the agency states, could be absorbed within existing resources.

*This was an information item.*

**P. HB 2271 (Conference).** HB 2271 amends several statutes regarding criminal offenses and their penalties:

- Theft – Increases sentences on the high-dollar end and decreases sentences on the low-dollar end, relating to the value of the theft of either property or services.
- Endangering a child – Expands the definition of the crime to include knowingly and intentionally causing or permitting a child under 18 to be present at a site where various activities regarding methamphetamine are taking place.
- Rape – Makes the penalty for a second or subsequent conviction of rape punishable under the persistent sex offender provisions, allowing up to a doubling of the sentence.
- Battery of a law enforcement officer – Expands the crime to include battery against a state, county, or city law enforcement officer with a motor vehicle, if the offender has actual knowledge that the person is a law enforcement officer and the offender intended to commit the injury because the person is a law enforcement officer.

***Fiscal Impact – House Version:*** HB 2271 as amended by the House would revise graduated penalties in the cases of criminal damage to property, in addition to the other changes. KSC estimates a net savings of 44 to 84 beds in FY 2004 under the House version of the bill. This translates into a KDOC marginal cost savings (\$2,000 per inmate) of \$88,000 to \$168,000. By FY 2013 KSC projects a savings of 39 to 80 beds.

***Fiscal Impact – Senate Version:*** The Senate Committee struck a section that would have made revisions to the graduated penalties for criminal damage to property. According to KSC, a net savings of 15 to 27 beds is projected for FY 2004 under the Senate version of the bill. This translates into a KDOC marginal cost savings (\$2,000 per inmate) of \$30,000 to \$54,000. By FY 2013, KSC projects 26 to 108 additional prison beds will be needed.

*This was an information item.*

**Q. HB 2090 (Law).** HB 2090 clarifies that organizations using inmates on work crews for public service are not agents of the state, except for the purpose of maintaining the confinement of the inmates, and, therefore, any negligence on the part of the organization or entity benefitting from the work performed would not be imputed to the state or KDOC.

According to KDOC, the bill's passage could have a fiscal effect, because it would reduce the Department's legal liability by making it difficult for the Department to be sued for negligence on the part of another agency in the supervision of inmate work crews.

*This was an information item.*

**R. SB 123 (Law).** SB 123 authorizes a new sentencing policy for a defined group of nonviolent offenders convicted of drug possession. These offenders are required to participate in a mandated treatment program in lieu of incarceration or other penalties currently employed. Penalties are established for

offenders failing to complete the mandated treatment program. KDOC is required to certify treatment programs, which will be supervised through Community Corrections, and KSC is required to award funding to the programs KDOC certifies. **SB 123** contains a delayed implementation date of November 1, 2003.

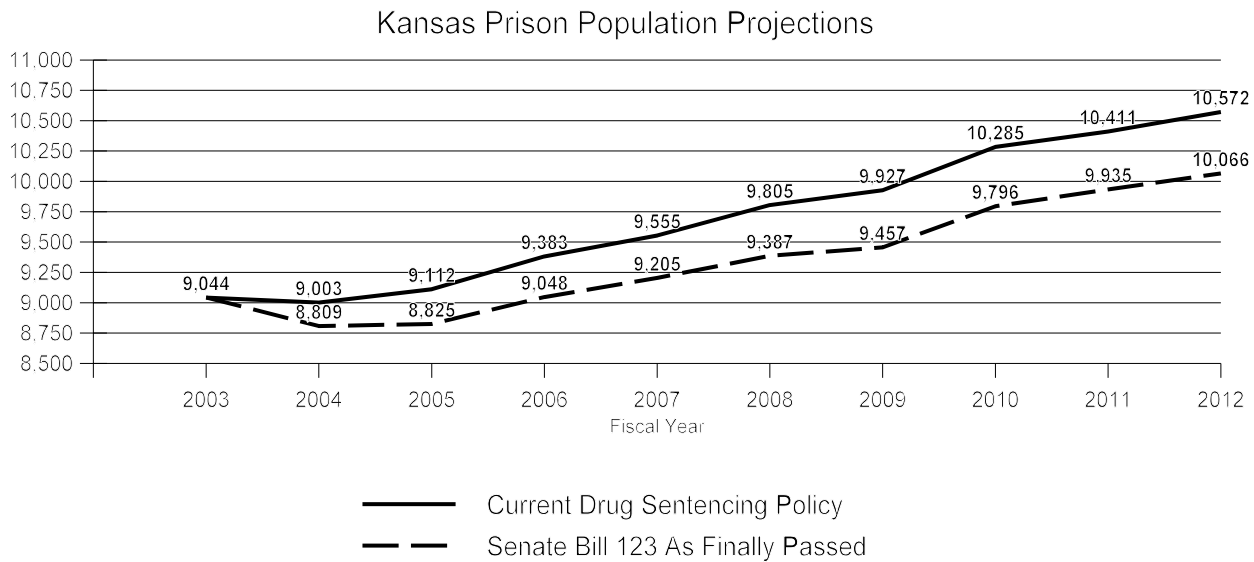
The bill is projected to result in lower per capita costs than for incarceration in the future, and it is projected to delay the need for constructing a new correctional facility. The bill also results in the need for additional funding if its provisions are to go into effect. (The bill contains a provision that renders the act ineffective if no funding is provided for the nonprison sanction of certified drug abuse treatment and supervision programs.) KDOC estimates it will need 3.0 FTE staff to certify drug treatment programs throughout the state. The estimated cost for the 3.0 FTE staff is \$178,000.

According to KDOC, the average annual supervision cost per offender for Community Corrections is \$2,906. The total increased funding for the Community Corrections' net caseload increase of 843 offenders, expected under the bill's provisions in FY 2004 after adjusting for the delayed implementation date, is \$1,641,340 for the period from November 1, 2003 through June 30, 2004.

**SB 123** also would require duties of the KSC. These duties and their expected costs are discussed elsewhere in this document under the Sentencing Commission.

**Bed Space Impact of SB 123.** KSC and KDOC estimate **SB 123**, as sent to the Governor, would save 194 beds in the first year of implementation (FY 2004), if the bill were to be effective at the beginning of the fiscal year. By FY 2013, the number of beds saved will be 517. Taking into account (a) the fact that the 194-bed savings will add up over the course of the year and (b) the delayed implementation date of November 1, 2003, KDOC estimates marginal costs totaling approximately \$130,000 will be saved in FY 2004.

The following chart illustrates the effect of this projected bed space savings on the state's inmate population:



**Source:** Kansas Sentencing Commission

Once it is determined additional bed space is required, legislation and funding will be needed to commence construction on the new cell house(s). Earlier this Legislative session the Joint Committee on Corrections and Juvenile Justice Oversight introduced **SB 10**, which authorizes KDOC to initiate and complete capital improvements for the construction of two additional cell houses at the El Dorado Correctional Facility, subject to appropriation. The bill was referred to the Senate Ways and Means Committee and has received no hearing as of yet. If **SB 10** were passed and funds were appropriated for this construction, KDOC estimates a total of approximately \$14.4 million in construction costs would be needed. The cell houses would have a capacity of 256 maximum-custody or 512 medium-custody inmates. Additional annual operating costs for the facilities are estimated to average \$20,200 per maximum-custody inmate or \$14,100 per medium-custody inmate.

(See Attachment A for a summary of the total FY 2004 fiscal impact of the bill.)

*Copies of the Byrne Grant Funding Budgeted for FY 2004, Residential Substance Abuse Treatment (RSAT) Grant and Funding Options, Kansas Legislative Research Department, were distributed to the committee (Attachment 21).*

Senator Adkins moved to allocate \$500,000 from the Community Corrections Fund instead of the \$1,300,000 and that \$425,000 be taken from that, and that \$6,000,000 dollars SGF be allocated for this purpose in FY 2004. The motion died due to the lack of a second.

Senator Adkins explained that he felt that the Byrne Grant money is all being used for the purposes that are needed and this is an obligation that the State has and it needs to be funded. He also indicated that the alternative to this is to not fund it at any amount so that it does not become effective because if the State is going to take on the obligations the State needs to take on the responsibility of funding it.

Senator Adkins moved that no money be provided to fund **SB 123** in FY 2004. The motion died due to the lack of a second.

Chairman Morris suggested that the Committee consider taking \$652,000 Byrne Grant Fund money from the GBA No. 3, Item 27: \$200,000 RSAT: and \$1,300,000 from Community Corrections which would leave \$4,300,000 from the State General Fund for FY 2004.

The Committee concurred to take \$5,600,000 State General Fund; \$200,000 RSAT and \$650,000 Byrne Grant Fund money to fund **SB 123** in FY 2004.

## Ombudsman for Corrections

**A. Determine whether sufficient funding exists to continue the agency's operation from any source(s) associated with the Kansas Department of Corrections (Senate Subcommittee).** Although the Senate Subcommittee concurred with the Governor's recommendation to not fund the Ombudsman's budget from the State General Fund (SGF), the Subcommittee noted its belief in the Ombudsman's value as an objective evaluator of inmate complaints and claims and recommended the Legislature pursue other sources of funding. The Subcommittee therefore requested the Secretary of Corrections evaluate whether funding exists from any source(s) related to the Kansas Department of Corrections (KDOC), including the Inmate Benefit Fund (IBF).

Because of the Governor's recommendation to eliminate the Ombudsman's budget, that agency's funding was actually considered at several different junctures during the Legislature's budget deliberations, in addition to being considered on its own by the Senate and House committees established for that purpose. Other recommendations were made to fund the budget – for example, by using newly generated SGF money from a net increase of 62 work release beds into the state's adult correctional system (from required room and board reimbursements). However, the Conference Committee for **SB 6** (Mega budget bill) agreed to not fund the Ombudsman's budget. Amounts adding up to the total new work release money were committed to other agencies.

In response to the original request by the Senate Subcommittee, the Secretary of Corrections indicates no additional funding is available, given previous analyses and extant priorities for KDOC as reported elsewhere in this document.

A memorandum was distributed by Staff to the Committee regarding Potential Funding Source for the Ombudsman for Corrections (Attachment 22).

*The Committee concurred to restore the Ombudsman of Correction funds to the FY 2003 level from the two-tier fee system and the Inmate Benefit Fund.*

## Real Estate Commission

**A. Supplemental Request (House Budget Committee).** The House Budget Committee recommended that the agency's FY 2003 supplemental request of \$29,500 for the purchase of an electronic data base system be considered in the Omnibus Bill. The supplemental request was funded by the Senate and the House concurred with the Senate in Conference Committee. The agency's FY 2003 expenditure limitation increased in **SB 6** to provide funding for the supplemental request.

*This item was taken care of in Conference Committee.*

## Securities Commissioner

**A. Current Financial Status (Senate Subcommittee).** The Senate Subcommittee recommended a review of the financial status of the Office of the Securities Commissioner during Omnibus to determine if the 5.9 percent reduction (\$128,461) might force the agency to layoff employees. The agency reported to the Senate Subcommittee in a letter dated April 11, 2003, that the agency would prefer a lesser cut than the 5.9 percent. The agency has indicated they would be able to manage the 5.9 percent reduction, however, the reduction may require the agency to layoff two employees.

*The Committee concurred with this item.*

## Kansas Corporation Commission

**A. Well Plugging Status (House Committee).** The House Committee recommended the agency report back before Omnibus to update the House Budget Committee on the current status of well plugging activities. The agency reported to the House Budget Committee the procedures for processing/sale of salvage materials at State funded well plugging operations, the current number of wells being plugged, the bid process for awarding contracts to plug wells, and well plugging activities in the Chanute area. The agency then presented to the House Committee written testimony of those items presented to the House Budget Committee.

Copies of a letter regarding the status of the well plugging of abandoned wells in Kansas from Susan Duffy, Kansas Corporation Commission, addressed to a House Subcommittee on Appropriations, was distributed ([Attachment 23](#)).

*This item has already been completed.*

**B. HB 2018 (Law).** **HB 2018** would create the Renewable Energy Electricity Generation Cooperative Act. In addition, the bill would authorize the Kansas Development Finance Authority (KDFA) to issue revenue bonds to finance the construction, upgrade, or acquisition of electric transmission lines. The bill would also impose duties on KCC related to interconnection agreements between electric utilities and generators of electricity from renewable resources. The KCC anticipates contracting with consultants to determine prudent fees for interconnection agreements. The anticipated cost for such consultants is \$25,000.

*The Committee concurred to raise the limitation on the KCC's fee fund.*

## Department of Human Resources

**A. Governor's Budget Amendment.** Governor's Budget Amendment No. 1, Item 1, placed a moratorium on the one week waiting period in FY 2004. The GBA included \$13,906,097 for additional unemployment benefits and \$1,892,855 for administrative costs, for a total of \$15,798,952 from federal Reed Act funds. Due to concerns about constitutionality, the language pertaining to the moratorium was deleted from the appropriations bill by both the House and Senate Committees. The House Committee recommended the adoption of the funding portion of the GBA. The Senate Committee did not recommend the GBA and recommended the introduction of bills (**SB 269** and **SB 270**) to provide for the moratorium language and to place the waiting period at the end of the unemployment benefits instead of the beginning. Also, the Senate Committee recommended reviewing the status of the GBA at Omnibus. In a floor amendment on **SB 263**, the Senate added the \$1,892,855 in administrative costs. In the Conference Committee, the House concurred with the Senate to delete the remaining \$13,906,097 of the GBA. The Senate Committee of the Whole amended **HB 2332** to add the provisions extending unemployment benefits by two additional weeks at the end of the benefit period for a one-year period (provisions similar to the contents of **SB 269**). In the Conference Committee on **HB 2332**, the House concurred with the amendment. The Department of Human Resources anticipates a fiscal impact of additional unemployment benefits to be paid from Employment Security Benefit Fund to be \$9 million.

*This item has already been completed.*

**B. HB 2332 (Law).** In addition to extending unemployment benefits by two weeks, **HB 2332** also amends the Employment Security Law by doing away with the current requirement that a person's unemployment benefits have 50 percent of Social Security and Railroad Retirement Act benefits deducted from unemployment benefit payments. The Department of Human Resources indicates the fiscal impact to be that unemployment benefits from the Employment Security Trust Fund would increase by \$1.2 million.

*This was an information item.*

## Department of Administration

**A. GBA No. 3, Item 5, Page 3 – Public Broadcasting Grants**

*The Committee concurred with this item.*

**B. KANS-A-N Long Distance Rates (House Budget Committee).** The House General Government and Human Resources Budget Committee indicated it wished to further consider the issue of KANS-A-N long distance rates. The Division of Information Services and Communications (DISC) of the Department of Administration had announced a per-minute increase for KANS-A-N long distance calls (from \$0.035 to \$0.055) and for KANS-A-N calling card calls (from \$0.055 to \$0.075) in FY 2004. This increase was included in the budget cost indices used by agencies at the time their budgets were submitted. Several state agencies, during the course of budget presentations, had expressed concern with the rate increase and the overall impact on their individual budgets. Subsequent to the Budget Committee's recommendation, the Secretary of Administration directed DISC to hold the increases at the FY 2003 rate for FY 2004. DISC estimates FY 2004 savings to agencies of approximately \$710,000, with approximately one-half of that

amount (\$355,000) from the State General Fund.

*The Committee concurred to authorize the Budget Director to identify the savings listed in this item.*

*The Committee concurred for a Proviso that adds language requiring the Department of Administration to provide, upon written request, paper payroll advises to state employees. (Request for this proviso came from the Judicial Branch.)*

## **Legislative Post Audit**

**A. SB 8 (Law). Senate Bill 8** was recommended by the Legislative Post Audit Committee. It would add language to the Legislative Post Audit Act (KSA 46-1106) to make the scope of the annual statewide financial-compliance audit and the scope of the biennial investment performance audit for the Pooled Money Investment Board identical, thus eliminating the separate biennial audit. The Board's practices are currently reviewed as part of two separate audits, with the investment performance audit contracted out by the Board and the financial-compliance audit performed under a contract with the Legislative Division of Post Audit. The audit is conducted by an outside accounting firm hired by the Legislative Division of Post Audit. According to the fiscal note by the Division of the Budget and testimony provided by the Board, enactment of **SB 8** would save \$10,000 in special revenue funds every other year beginning in FY 2004.

*The Committee concurred with this item.*

## **Legislature**

**A. Veto: Information Technology Projects Proviso.** Section 133 of **SB 6** was line item vetoed in its entirety. The proviso restricted expenditures for technology hardware, software, and networks until the Director of the Budget certified to the Director of Accounts and Reports that an agency had complied with all statutory reporting requirements. In the veto message, the Governor indicated the reason for the veto was the duplication of existing budget instructions, an unduly burdensome certification process, and a possible loss of time and money.

*This was an information item.*

**B. Proviso (Technical Adjustments).** A proviso in **SB 6** requiring the Legislative Coordinating Council to approve the number of meeting days for any joint committee of the Legislature inadvertently omitted an exemption for the Joint Committee on State Building Construction which was intended to be included by the Conference Committee on **SB 6**.

*The Committee concurred with this item for technical corrections.*

## **Board of Barbering**

**A. GBA No. 3, Item 8, Page 4 – Special Project Position.**

*The Committee concurred with this item.*

## **Parole Board**

**A. GBA No. 3, Item 31, Page 14 – Change Parole Board Member Reduction Date.**

*The Committee concurred with this item.*

## **Board of Regents**

**A. Salary Savings Proviso Review (House Budget Committee).** The House Budget Committee recommended Omnibus review of a proviso adopted during the 2002 Legislative Session which prohibits the shifting of any salary savings in FY 2003 to other areas of expenditure. Subsequent to the Budget Committee's recommendation, the Conference Committee on **SB 6** agreed to eliminate the proviso in question.

*This item was addressed in conference committee.*

**B. Allocation Of New Comprehensive Grant Funding (House Budget Committee).** During budget review for the Board, the Budget Committee received testimony that in prior years increased funding for the Comprehensive Grant program has been allocated 57 percent to State Universities, 38 percent to private institutions and 5 percent to Washburn University. The Budget Committee recommended that the Board and representatives of the various sectors meet to review this allocation method and that the Board report to the Budget Committee on the allocations of new program monies by Omnibus. Subsequent to the Budget Committee's recommendation, the Board testified to the Senate Ways and Means Subcommittee that



the current allocation formula would be retained for FY 2004.

*This was addressed in conference committee.*

**C. Alternative Teacher Certification Program Expansion (House Budget Committee).** The Budget Committee recommended Omnibus review of expansion of alternative teacher certification programs which help address the need for teachers by providing teacher training to people who have degrees in areas besides teaching. The Board of Regents has requested \$900,000 in FY 2004 to establish alternative teacher certification programs at FHSU and ESU and to expand the PSU program.

Copies of the Governor's Budget Amendment regarding the Alternative Teacher Certification Program, dated April 24, 2003, were distributed to the Committee ([Attachment 24](#)).

*The Committee concurred with allocating \$450,000 for the Alternative Teacher Certification Program with \$150,000 for each school mentioned above using \$225,000 School Violence Prevention Funds and \$228,000 from Smart Start Fund with the Board of Regents having the ability to use this money with the best use as they see fit.*

**D. Technical Education Issues (House Budget Committee).** The House Budget Committee directed the Board to study several issues relating the current technical education funding system and to report back to the Budget Committee on the progress of the analysis.

*This was an information item.*

**E. Community College Flexibility (Senate Subcommittee).** The Senate Subcommittee recommended that the Trustees of the community colleges explore what the Legislature might do to give them additional flexibility in meeting budgetary challenges without reducing services or increasing the burden on local property tax payers and to report back to the Subcommittee by Omnibus.

Copies of a memorandum addressed to Chairman Stephen Morris, Senate Ways and Means Committee, from Sheila Frahm, Executive Director, Kansas Association of Community Colleges, were distributed to the committee ([Attachment 25](#)).

*This was an information item.*

**F. HB 2009 (Law).** **HB 2009** increases registration fees for proprietary schools and general educational development (GED) credentials. The Board requests \$35,000 from the proprietary school fees and 0.5 FTE positions in FY 2004 to increase the oversight of proprietary schools as recommended in a recent Division of Post Audit analysis. The Board requests \$24,000 from GED fees for the provisions of GED-related services, primarily the certification of GED credentials.

*This was an information item.*

**G. Governor's Veto.** The Governor vetoed a proviso included in **SB 6** which would have required the Board to remove the funding of any department or division of any state university which expends funds for the purchase or display of any videos in an undergraduate human sexuality class which are legally obscene.

*This was an information item.*

## State Universities Systemwide

**A. Substitute for House Bill 2036 (Law).** **Sub. for HB 2036** includes a provision which requires that all bulk motor-vehicle fuels purchased by any state agency or individual purchases for use in state-owned motor vehicles be fuel blends containing at least 10 percent ethanol as long as the price is not more than 10 cents per gallon greater than regular fuel. In addition, the bill requires that when there are diesel fuel purchases for state-owned diesel powered vehicles and equipment, those purchases are to be a 2 percent or higher blend of biodiesel. The University of Kansas indicates that compliance with this provision will cost an additional \$8,100 in FY 2004. Emporia State University reported that the provision would result in an unidentified cost increase. The other State Universities did not submit a fiscal note on the provision but presumably would also face increased costs in the operation of their vehicles.

*This was an information item.*

## Wichita State University

**A. Aviation Research Initiative. (House Budget Committee).** The House Budget Committee recommended that FY 2004 funding for aviation research at WSU be considered during Omnibus. Subsequent to the Budget Committee's recommendation, the Conference Committee on **SB 6** agreed to provide \$1.0 million from the EDIF for the program.

*This item had been addressed earlier.*

## **Kansas State University Experimental Stations and Agriculture Research Programs**

**A. Sustainable Agriculture Research (House Budget Committee).** During budget review the Budget Committee received testimony which questioned the level of resources committed by KSU-ESARP to sustainable agriculture initiatives. The Budget Committee also learned that KSU-ESARP is currently in the process of developing their five year research plan. The Budget Committee recommended that KSU-ESARP meet with those parties interested in sustainable agriculture and report back to the Budget Committee on the opportunities for inclusion of sustainable agriculture in future research activities and their five year plan by Omnibus.

*This was an information item.*

## **University of Kansas**

**A.** GBA No. 3, Item 3, Page 2 – Transfer from Construction Defects Recovery Fund

*The Committee concurred with this item.*

**B.** GBA No. 3, Item 21, Page 10 – Bonding Authority for Hashinger Hall

*The Committee concurred with this item.*

## **University of Kansas Medical Center**

**A.** GBA No. 3, Other Issues, Page 17 – Children's Initiatives Fund

*The Committee concurred with this item.*

**B. Medical Student Loan Program (House Budget Committee).** The House Budget Committee recommended that consideration be given during Omnibus on FY 2004 funding for the Medical Student Loan Program. At the time of the Budget Committee's review, no funding was available for any new loans in FY 2004. Subsequent to the Budget Committee's recommendation, the Conference Committee on **SB 6** agreed that sufficient loan repayment funds were available to support at least 20 new loans in FY 2004.

*This item was addressed earlier.*

**C. Pediatric Biomedical Research (House Budget Committee).** The House Budget Committee recommended that consideration be given during Omnibus on FY 2004 funding for the Pediatric Biomedical Research program. The University had requested \$1.0 million from the CIF to continue state support for the program while the Governor recommended no state funding for the program. Subsequent to the Budget Committee's recommendation, the Conference Committee on **SB 6** agreed to provide \$700,000 CIF for the program in FY 2004.

*This item was related to Item A and was an information item.*

## **State Department of Education**

**A.** GBA No. 3, Item 19, Page 9 – School Finance Consensus Adjustments

*This item was related to Items D and E and was dealt with there.*

**B.** GBA No. 3, Item 20, Page 10 – KPERS School

*This item was related to Items D and E and was dealt with there.*

**C.** GBA No. 3, Other Issues, Page 17 – Renewal of Mill Levy

*This item was a reminder that the 20 Mill Levy has not been renewed and needs to be renewed every two years.*

**D. Revised School Finance Estimates and GBA No. 3, Item 19, Page 9.** Staff from the State Department of Education, the Division of the Budget, and the Legislative Research Department met April 16, 2003, to reevaluate school finance estimates that had been made in November for FY 2003 and FY 2004. For the current year, actual information on enrollments and local resources caused the staff to revise the estimates by adding 1,399 weighted full-time equivalent (FTE) students and by increasing available local resources by about \$2,400,000.

The increase in local resources almost exactly offsets the amount of additional resources needed for general state aid in FY 2003 in order to fund the increased enrollment, falling short by only \$4,000. The amount of money available for supplemental general state aid is estimated to be \$427,000 more than necessary. Pursuant to the authorization contained in **SB 6**, which allows the State Department to reappropriate savings from one year to the next, the \$427,000 would be carried forward and be used to fund supplemental general state aid in FY 2004.

For FY 2004, the estimators again increased both the number of FTE students and local resources from the original estimate made in November 2002. This time, the increase in local resources is not considered to be enough to offset the increase in enrollments and it is estimated that a total of \$3,268,000 from the State General Fund would be needed in FY 2004 to fund BSAPP and supplemental general state aid at the allotment rate of \$3,863. Of the total, \$2,901,000 would be for general state aid and \$367,000 would be for supplemental general state aid. Failure to appropriate the additional amount for general state aid would result in a reduction of about \$5.01 per FTE student.

The table below summarizes revisions made to the school finance estimates. (Amounts are in thousands.)

	Approved FY 2003	Revised FY 2003	Difference FY 2003	Approved FY 2004	Revised FY 2004	Difference FY 2004
Gen. State Aid	\$ 1,792,480	\$ 1,792,484	\$ 4	\$ 1,777,788	\$ 1,780,689	\$ 2,901
Supp. State Aid	148,427	148,000	(427)	156,383*	156,750	367
TOTAL	<u>\$ 1,940,907</u>	<u>\$ 1,940,484</u>	<u>\$ (423)</u>	<u>\$ 1,934,171</u>	<u>\$ 1,937,439</u>	<u>\$ 3,268</u>

\* Assumes the reappropriation of \$427,000 in savings from FY 2003.

*The Committee concurred to reappropriate the \$423,000 additional allotment rate and wait on Base State Aid.*

**E. Revised Estimates for KPERS-School and GBA No. 3, Item 20, Page 10.** The staff that met April 16 to consider school finance estimates did not change the estimate for KPERS-School in the current year. The amount available for FY 2003 is \$112,147,986 from the State General Fund and takes into account a reduction of \$4,600,000 due to the approved death and disability moratorium. The total is \$6,127,214 less than is estimated to fully fund the entitlement, but because of the state's revenue situation, that amount has been added to the appropriation for FY 2004 and will be paid after the end of the current fiscal year, plus \$72,461 as a late payment charge.

For FY 2004, the staff determined that, because the salary base is expected to be smaller than originally estimated, \$3,000,000 from the State General Fund that was appropriated in 2003 **SB 6** for KPERS-School can be lapsed. Another \$15,400,000 will be lapsed from the appropriation due to the death and disability moratorium. Assuming these lapses, the KPERS-School appropriation would be \$120,540,758, which includes \$6,127,214 for the money that is part of the FY 2003 entitlement, plus \$72,461 for the late payment charge.

*The Committee concurred with this item.*

**F. No Child Left Behind Waiver.** The Conference Committee on **SB 6** decided to defer to Omnibus Bill consideration the matter of requiring the State Department of Education to seek a waiver from the provisions of the No Child Left Behind Act. The requirement was contained in a House floor amendment to the State Department's budget and stipulated that no expenditures could be made in FY 2004 for agency operations unless the State Department makes a request to the U.S. Department of Education for a waiver.

*The Committee reviewed this item, but took no action.*

**G. Statutory Programs That Are Unfunded or Underfunded.** The House Budget Committee that considered the budget of the State Department of Education recommended that, in the event additional revenues become available, consideration should be given in the Omnibus Bill to adding funding for statutory programs that are unfunded or underfunded. Statutory programs that are not fully funded in FY 2004 are the following:

- Mentor Teacher Program—Not funded. The State Department requests \$2,500,000 in FY 2004 to fund mentors of teachers in the three-year probationary period.
- Inservice Education Program—Not funded. The State Department requests \$7,500,000, which would fully fund the state's share of the program in FY 2004. Of that total, \$4,900,000 is part of the State Department's enhancement request.

- Governor's Teaching Excellence Awards—Funded at \$56,000. A total of \$150,000 is requested to fully reimburse school districts in FY 2004 for \$1,000 bonuses for teachers who attain National Board certification.
- Base State Aid Per Pupil—Funded at \$3,863 (this amount does not reflect the revised school finance estimates). In order to fully fund BSAPP at the statutory rate of \$3,890, an additional \$15,620,553 for general and supplemental general state aid is needed in FY 2004 in order to increase BSAPP by \$27 to the statutory rate.

*This was an information item.*

**H. USD 423 (Moundridge).** The House Appropriations Committee recommended that issues relating to funding for USD 423 be considered in the Omnibus Bill. At the time of the recommendation, the school district was suing the State Board of Education because the State Board had disallowed state aid payments of approximately \$1.0 million for 360 students who were enrolled in the Mid-Kansas Independent Academy.

In early April, the State Board of Education and the board of education of USD 423 reached an agreement that ended the lawsuit which was pending in McPherson County District Court. The agreement specifies that the district's Academy will be closed and its charter revoked effective at the end of the current school year. Its current enrollment will be counted in determining the amount of state aid due to the district for this year. However, the district will not be allowed to include the Academy's enrollment in the preparation of its budget for any future school year.

*This was an information item and has been settled.*

**I. SB 74 (Law).** **SB 74** requires the State Board of Education to develop curriculum, materials, and guidelines for personal literacy programs at all grade levels for use in public and accredited nonpublic schools. Implementation of the programs is optional at the local level. The State Department of Education estimates it will cost \$16,000 in FY 2004 to develop the materials and for printing and postage. In testimony before the House and Senate Education Committees, Jill Docking informed members that Financial Fitness Foundation, a 501(c)(3) organization, will pledge to raise \$15,000 in support of the program.

*This was an information item.*

**J. SB 83 (Law).** **SB 83** concerns schools and school district budgets. It implements recommendations of the School District Budget Task Force, including the consolidation of some funds and the abolition of others. It also authorizes school districts to carry forward unexpended balances in all funds except the general and the supplemental general funds instead of showing the money as being spent. Beginning on July 1, 2004, the bill requires that changes be made in forms for annual school district budgets, requires that a form for a summary of proposed school district budgets be developed, and mandates school district profiles based on the district's adopted budget.

The State Department will have to develop and rewrite computer programs to implement the changes and requirements imposed by the bill. The State Department's costs to implement the bill are estimated to be \$16,000 in FY 2004. It is the State Department's plan that school districts will access the forms on the Internet. Implementation costs to the districts of **SB 83** are expected to be minimal.

*The Committee concurred to add the \$15,000 to implement the bill (the \$16,000 figure that was listed was incorrect).*

## **Attorney General**

**A. Attorney General Veto.** The Governor vetoed Section 29(d) of **SB 6** which would have given the Attorney General flexibility to transfer money in FY 2004 from State General Fund agency operating accounts to water litigation accounts or from one water litigation account to the other. The Legislature added the provision to give the Attorney General flexibility to fund Colorado and Nebraska water litigation and made the policy permanent by enacting substantive legislation (**HB 2456**). Because **HB 2456** has been signed by the Governor, the provision in **SB 6** is unnecessary.

Copies of the Attorney General, Kansas v. Colorado FY 2003 Supplemental Request and FY 2004 Budget Request, Kansas v. Colorado, were distributed to the committee (Attachment 26).

*The Committee concurred with the FY 2003 Supplemental Appropriation plus the \$605,000 in FY 2004.*

**Board of Veterinary Examiners**

**A. Review expenditure levels (House Budget Committee).** The Governor’s recommendation included operating reductions of \$15,000 in FY 2004 and \$65,000 in FY 2005 resulting from the agency’s initial revenue projections. Following the hearing on the agency’s budget, the agency provided revised revenue projections to the House Budget Committee. The agency estimates revenue to be \$37,200 higher for FY 2004 and FY 2005 than originally anticipated. Due to the Budget Committee receiving the information after the hearing, the Budget Committee recommended that this item be deferred to Omnibus consideration.

The agency lowered revenue projections for FY 2004 and FY 2005 in response to discussion at the national level to shift licensure exam applications from the state to national level. The agency reported that the national testing organization met in January 2003, and officials with the national organization confirmed that discussion on moving the applications to a national system appear to be dead. As a result of this meeting, the agency submitted a revised revenue estimate to the Legislature and requested an increase in operating expenditures from the Governor’s recommendation. The following table shows the agency’s revenue and expenditure levels based on the revised request.

**Fee Fund Analysis: Agency Revised Estimate**

Resource Estimate	Actual FY 2002	Agency Estimate FY 2003	Agency Request FY 2004	Agency Request FY 2005
Beginning Balance	\$ 373,277	\$ 277,736	\$ 181,631	\$ 114,608
Net Receipts	193,101	180,324	187,200	202,199
Total Funds Available	\$ 566,378	\$ 458,060	\$ 368,831	\$ 316,807
Less: Expenditures	288,642	276,429	254,223	279,047
Ending Balance	<u>\$ 277,736</u>	<u>\$ 181,631</u>	<u>\$ 114,608</u>	<u>\$ 37,760</u>
Ending Balance as Percentage of Expend.	96.2%	65.7%	45.1%	13.5%

*The Committee concurred to maintain the original Senate position and concurred with this item.*

**Kansas Commission on Veterans’ Affairs**

**A. Kansas Soldiers’ Home staffing levels (House Budget Committee and Senate Subcommittee).** The Committees heard testimony regarding the staffing levels at the Kansas Soldiers’ Home. For FY 2004, the shrinkage rate at the Home is at 21.5 percent. For FY 2003, the shrinkage rate is set at 18.6 percent, with 25 FTE positions currently being held vacant. This results in 20 beds being left unfilled. The agency reported to the Senate Subcommittee that for FY 2004 a shrinkage rate of 12.5 percent would be adequate to fill all of the vacant beds. For FY 2004, \$442,108 would be required to meet this rate. (Note: In **SB 6**, the Legislature added \$440,000 to the Kansas Soldiers’ Home directing that the funding be used for salaries and wages for direct care personnel for Halsey Hall at the Kansas Soldiers’ Home)

*This item had been addressed earlier.*

**Kansas Department of Agriculture**

**A. Information Technology Support (House Budget Committee).** The Committee heard testimony that the Department of Agriculture (KDA) provides information technology support and staffing for the Kansas Water Office (KWO) and the State Conservation Commission (SCC). During FY 2000, \$20,100 from the State General Fund and \$6,700 from the SCC’s Land Reclamation Fee Fund were added to KDA’s budget for this service. The KDA included the elimination of this support in a reduced resources package for FY 2004 citing that the KWO and the SCC have not provided the KDA with continued funding for service. Some disagreement regarding the funding for this service exists between the three agencies. The Committee recommended that the three agencies work with the Division of the Budget to resolve the issue and to report on the progress or resolution of this issue during Omnibus. A no limit information technology fund was created for the KDA in Senate Bill 6 in the event that it is determined that a transfer from the KWO and the SCC to the KDA is necessary to maintain the IT support. According to a letter from the Division of the Budget to the Chair of the Agriculture and Natural Resources Budget Committee dated April 15, 2003, the issue has been resolved.

*This item had been resolved.*

## Animal Health Department

**A. Update on status of HB 2443 (House Budget Committee).** The Committee recommended the introduction of HB 2443 which would require all dogs, cats, and ferrets in the state to be vaccinated for rabies and a two dollar surcharge be assessed for the vaccination. The revenue from the surcharge would be used to support the agency's animal facilities inspection program. The bill was introduced and referred to the House Appropriations Committee. A hearing has not been held on the bill.

*The Committee concurred to recommend this item for an interim study.*

**B. Review Payment of Humane Society Relinquishment Fee (Senate Subcommittee).** The Subcommittee noted that the agency request included an enhancement package of \$5,000 to pay a relinquishment fee to humane societies for animals in state custody which are surrendered to the societies. Once the animal is surrendered, the humane society bears the cost of veterinary treatment, housing, and food. Most humane societies charge a \$7 to \$10 fee to accept an animal from the general public. The pounds and shelters have not charged this fee to the agency, but several have asked the agency to consider providing compensation.

*This was an information item.*

**C. Review Funding for Kennel Inspector Positions (Senate Subcommittee).** The Subcommittee noted that the agency is currently holding one animal facility inspector position open to meet funding reductions in the agency. Funding of \$34,246 (\$13,305 SGF) would be needed to fund this position. In addition, the agency requested funding of \$66,124 SGF and 2.0 FTE for additional animal facility inspectors. According to the agency, inspectors in the program are already working overtime to handle the workload. The agency does not have enough funding to pay overtime, so inspectors currently use their overtime hours as compensatory time. This allows them to take additional time off creating a further backlog of inspections and other work. In addition, when the agency is required to make an animal seizure, inspectors from across the state are sometimes required to help with the seizure, taking them from their regular work duties and requiring them to work additional overtime hours.

*This was an information item.*

## State Conservation Commission

**A. Information Technology Support (House Budget Committee).** The Committee heard testimony that the Department of Agriculture (KDA) provides information technology support and staffing for the Kansas Water Office (KWO) and the State Conservation Commission (SCC). During FY 2000, \$20,100 from the State General Fund and \$6,700 from the SCC's Land Reclamation Fee Fund were added to KDA's budget for this service. The KDA included the elimination of this support in a reduced resources package for FY 2004 citing that the KWO and the SCC have not provided the KDA with continued funding for service. Some disagreement regarding the funding for this service exists between the three agencies. The Committee recommended that the three agencies work with the Division of the Budget to resolve the issue and to report on the progress or resolution of this issue during Omnibus. A no limit information technology fund was created for the KDA in Senate Bill 6 in the event that it is determined that a transfer from the KWO and the SCC to the KDA is necessary to maintain the IT support. According to a letter from the Division of the Budget to the Chair of the Agriculture and Natural Resources Budget Committee dated April 15, 2003, the issue has been resolved.

*This was an information item and was related to the Department of Agriculture item and is Item B under the State Water Office.*

## Kansas Water Office

**A. Authority for Internal Transfer of Funds (Veto).** The Governor vetoed the proviso granting the Kansas Water Office the authority to shift funds between line-item appropriations of the State Water Plan Fund (SWPF) with the approval of the Kansas Water Authority. Other state agencies, including other agencies with multiple line-item appropriations of the SWPF, have this authority with approval by the Director of the Budget. The Governor states that this proviso departs from the authority granted to other agencies and grants authority to make budgetary decisions entirely to the Kansas Water Authority. The Governor requests that the Legislature restore the original language placing the approval of the transfer with the Director of the Budget.

*The Committee concurred with this item to restore the original language placing the approval of the transfer with the Director of the Budget.*

**B. Information Technology Support (House Budget Committee).** The Committee heard testimony that the Department of Agriculture (KDA) provides information technology support and staffing for the Kansas Water Office (KWO) and the State Conservation Commission (SCC). During FY 2000, \$20,100 from the State General Fund and \$6,700 from the SCC's Land Reclamation Fee Fund were added to KDA's budget for this service. The KDA included the elimination of this support in a reduced resources package for

FY 2004 citing that the KWO and the SCC have not provided the KDA with continued funding for service. Some disagreement regarding the funding for this service exists between the three agencies. The Committee recommended that the three agencies work with the Division of the Budget to resolve the issue and to report on the progress or resolution of this issue during Omnibus. A no limit information technology fund was created for the KDA in Senate Bill 6 in the event that it is determined that a transfer from the KWO and the SCC to the KDA is necessary to maintain the IT support. According to a letter from the Division of the Budget to the Chair of the Agriculture and Natural Resources Budget Committee dated April 15, 2003, the issue has been resolved.

*This item had been resolved.*

*The Committee concurred to increase the State General Fund transfer by \$8,020 to balance the fund as a result of the pay plan adjustment.*

## **Board of Healing Arts**

**A. Information Technology Projects (Senate Subcommittee and GBA No. 3, Item 10, Page 5 – Upgrade Computer System).** The Senate Subcommittee noted the Board's efforts to upgrade its computer system and recommended a review of the upgrade plan prior to Omnibus. The Board outlined its need for computer upgrade and cost estimates in a proposal submitted to the Division of the Budget requesting a Governor's Budget Amendment for an increase in the Board's expenditure limitation for FY 2004 by \$300,000 and for FY 2005 by \$250,000. The Board is not requesting a supplemental for the current year expenditure limitation.

The cost estimates for the upgrade, the Board states, includes on-line renewals for all practitioners, making all forms available on-line, complaint tracking system, investigation and case management system, an expanded practitioner database, and an electronic document management system to support public access, paperless meetings and records preservation. The Board states that its current computer system was installed in 1990. The Board also states that it is in the process of developing an IT project plan and is seeking approval by the Executive Chief Information Technology Officer prior to Omnibus.

*The Committee concurred with this item.*

**B. SB 225 (Law). Senate Bill 225** changes the level of credentialing for physical therapists from registration to licensure. For FY 2004, the Board estimates that the implementation of the bill would increase its operating expenditures by \$5,150. The Board would continue to use its current fee schedule for physical therapists and does not expect to see an increase in its fee revenue from the issuance of licenses or temporary permits associated with the passage of **SB 225**. The Board states that the increased expenditures would require an increase in its expenditure limitation for FY 2004.

*The Committee concurred with this item to increase the expenditure limitation for FY 2004.*

## **Kansas Dental Board**

**A. Move-related expenses (Senate Subcommittee).** The Senate Subcommittee recommended a review of the Board's FY 2004 budget prior to Omnibus to look at any necessary adjustments related to move costs. The Board estimates one time costs associated with the move to the Landon State Office Building of \$10,372. In addition, the Board notes an 11.1 percent increase (\$1,675) in annual operating expenses associated with the move to the state building, including increased rent, DISC and e-mail fees.

*The Committee concurred with this item to increase the expenditure limitation.*

Copies of a letter from the Kansas Dental Board addressed to Senator Larry Salmans regarding this item were distributed to the committee ([Attachment 27](#)).

Chairman Morris suggested that the Dental Board visit with support staff on some of these items to look at recouping expenses.

## **Kansas Guardianship Program**

**A. Review of FY 2004 Funding (Senate Subcommittee).** The Senate Subcommittee recommended a review of the agency's FY 2004 funding level at Omnibus. The Subcommittee recommended an addition of \$30,000 from the State General Fund be considered for addition at Omnibus to bring the funding to a level that the agency believes will ensure the program's integrity.

*The Committee concurred with this item.*

## SRS State Hospitals

**A. Federal Funding (House Budget Committee).** The Social Services Budget Committee recommended a review of the federal funding for the state hospitals, including Disproportionate Share (DSH) and Title XIX, prior to Omnibus. The Department of Social and Rehabilitation Services stated that the amount of federal funds available to the state hospitals is declining. The primary reasons cited for the decline were declining Disproportionate Share Funding and Adverse Medicaid Findings by the Centers for Medicare and Medicaid Services (CMS). The following chart shows a summary of the actual and budgeted sources and uses of federal funds for FY 2002, FY 2003, and FY 2004.

Title XIX Medicaid	FY 2002	FY 2003 GBR	FY 2004 GBR
Balance Forward from Previous Year	\$ 23,242,552	\$ 11,129,376	\$ 3,430,149
Collections from Medicaid Fee for Service	25,845,761	34,337,023	26,375,413
Collections from Disproportionate Share	18,429,320	15,300,265	14,948,104
Collections/(Pay Back) from Audit Settlements	6,597,633	(6,268,032)	0
Expenditures for Hospital Services and Operations, Physician Malpractice, and Consultants	(62,985,890)	(51,068,483)	(44,360,825)
Balance	\$ 11,129,376	\$ 3,430,149	\$ 392,841

The agency states that over the next two budget years, Title XIX revenue is projected to meet budgeted expectations while citing two concerns that may have a negative impact on these projections.

**Disproportionate Share for Hospitals.** The agency cited developments in this program that allows qualified hospitals, including the state mental health hospitals, to collect additional federal Medicaid funding if the hospital serves a much higher than usual percentage of indigent persons for whom it receives no other reimbursement. In 2000, Congress limited the amount of each state's DSH allotment that is allowed to be transferred to state mental health institutions. In 2003, Congress passed another law that allowed for increased access to DSH, but kept the limitation on the transfer to the state mental health hospitals. SRS noted that it has studied the federal rules and sought input from independent consultants to maximize the amount of DSH that can be transferred. The agency further noted that "not only can no additional DSH funds be accessed, but the amount of DSH funds is likely to decline even further in FY 2005 as we experience the full effect of the new federal rules."

**Adverse CMS Findings.** SRS had noted in its testimony to the committees that the Centers for Medicare and Medicaid Services (CMS) had deferred a \$11.2 million Medicaid claim for the state mental health hospitals. SRS noted that it has "responded to the deferral with the necessary information to validate the claim." The agency further noted that if CMS persisted in their position and denied the claim, the agency plans to appeal their denial, while noting that federal rules allow would allow the state to keep federal funds while the appeal is being processed. If the appeal is not successful, SRS noted that there will be "a significant shortfall in Title XIX funds in FY 2004, and SRS may be required to pay interest to CMS."

*This was an information item.*

**B. Education Services for Children and Adolescents (House Budget Committee).** The Social Services Budget Committee recommended a review of education services provided for children and adolescents within the state hospitals' setting, prior to Omnibus. SRS noted that two state laws govern how children in the state hospitals are provided education services:

- KSA 72-970 requires every state institution to provide special education and related services for "exceptional" children in state institutions. These services must meet the standards and criteria set by the State Board of Education. State institutions, the department noted, may contract with local school districts or other appropriate agencies to provide education services. The requirements apply, the agency noted, to "nearly all children under 22 years of age served by the three state mental health and two developmental disability institutions".
- KSA 72-8223, the agency noted, further requires SRS to pay the local school district for children in state hospitals whose education is provided by a local school district. The tuition that SRS is charged is based on the individual district's operating costs minus any categorical aid the district receives from the Board of Education.

The laws, SRS also noted, mean that the state hospitals may contract with either local or inter-local school districts to provide education services. The districts apply for and receive categorical aid for the



education that are provided to the children in the state hospitals. This negotiated cost minus what the districts receive in categorical aid is paid out of the state hospitals' appropriations.

*This was an information item.*

**C. Teacher Salary.** The Department of Education estimates an average statewide salary increase for teachers of 2.0 percent. The Governor's recommendation and legislative action to date for FY 2004 includes teacher salary increase within the education contracts. The education contracts in the FY 2004 budgets show teacher salary adjustments at the following percentages: 0.0 percent change from FY 2003 for Parsons State Hospital and Training Center and 4.0 percent increase for Larned State Hospital in teacher salary. The numbers for Larned State Hospital have been adjusted to reflect the decrease in FTE positions from FY 2003 to FY 2004 due to the change in the educational contract created by the opening of the new Larned Juvenile Correctional Facility. The Kansas Neurological Institute and Rainbow Mental Health Facility also have education contracts, but due to the nature of the contracts, adjustments are not necessary. The following table illustrates the adjustment necessary to provide uniform salary increases across the institutions.

Percent Increase	Parsons State Hospital and Training Center	Larned State Hospital*	Total
0.5%	\$ 1,725	\$ 4,230	\$ 5,955
1.0%	3,450	8,460	11,910
1.5%	5,175	12,690	17,865
2.0%	6,899	16,920	23,819
2.5%	8,624	21,150	29,774
3.0%	10,349	25,380	35,729
3.5%	12,074	29,610	41,684
4.0%	13,799	33,840	47,639

\* The estimates for Larned State Hospital include the percentage amounts in addition to the budgeted increase.

*The Committee concurred with this item for \$6,900 for teacher salary at Parsons State Hospital.*

**D. Categorical Aid.** For FY 2003, the budget school contracts for the institutions include categorical aid based on a rate of \$19,000 for Parsons State Hospital and Training Center, and \$19,000 for Larned State Hospital. Due to the nature of the contract, an adjustment at Rainbow Mental Health Facility is not necessary. In addition, as part of a reduced resources package submitted to and approved by the 2002 Legislature, KNI no longer has expenditures for Special Education. An agreement was made with USD 609 that the school district would continue to provide education programs for the students who live at KNI in exchange for the use of classrooms in the Wheatland Building for the education programs the district provides to other Shawnee County school districts. The current FY 2003 categorical aid rate per eligible teaching unit is estimated to be at \$19,485. If this rate is maintained, the school contracts for FY 2003 at the institutions would need adjustments. The table below identifies the State General Fund adjustment required.

Institution	FY 2003 Change
Parsons State Hospital and Training Center	\$ 2,756
Larned State Hospital	1,370
<b>TOTAL</b>	<b>\$ 4,126</b>

For FY 2004, the categorical aid rate was budgeted at \$19,000 for Parsons State Hospital and Training Center, and \$19,000 for Larned State Hospital. Due to the nature of the contract, an adjustment at Kansas Neurological Institute and Rainbow Mental Health Facility is not necessary. The current FY 2004 categorical aid rate is estimated to be at \$19,150. The table below identifies the State General Fund adjustments required.

Institution	FY 2004 Change
Parsons State Hospital and Training Center	\$ 871
Larned State Hospital	7
TOTAL	<u>\$ 878</u>

*The Committee concurred with this item.*

## State Treasurer

**A. Review of FY 2004 Funding (House Budget and Senate Subcommittee).** The budget committees recommended a review of the agency's financing. The Governor did not recommend any State General Fund support for the agency and instead recommended an amount equal to the agency's SGF request to be funded from the Unclaimed Property Expense Fund. The House concurred with the Governor's recommendation, while the Senate recommended an alternative funding proposal through the creation of cash management and voucher processing fees. The Conference Committee removed the budget from **SB 6**, for consideration at Omnibus.

Fee Source(s)	Governor's Rec.	House Rec.	Senate Rec.
Unclaimed Property Claims Fee	\$ 1,475,545	\$ 1,475,545	\$ 0
Cash Management Fees:			
1) Banking Services	0	0	340,000
2) Non-payroll warrants/ direct deposits	0	0	973,000
Voucher Processing Fees	0	0	180,000
TOTAL	<u>\$ 1,475,545</u>	<u>\$ 1,475,545</u>	<u>\$ 1,493,000</u> *

\* The amounts for the fees are set at aggregate amounts.

*The Committee reviewed this item and concurred with the federal money for administrative purposes only.*

## Department of Social and Rehabilitation Services

Copies of a letter from Janet Schalansky, Secretary, Department of Social and Rehabilitation Services, regarding items for consideration for the Omnibus session were distributed to the committee ([Attachment 28](#)).

**A. GBA No. 3, Item 13, Page 6 - Additional Title IV-B Federal Grant**

*The Committee concurred with this item.*

**B. GBA No. 3, Item 14, Page 6 - Additional Pharmaceutical Savings**

*The Committee concurred with this item.*

**C. GBA No. 3, Item 15, Page 7 - Institutional Residents**

*The Committee concurred with this item.*

*Chairman Morris requested that SRS analyze this item closely and report back to the 2004 Legislature because there could be some side issues with this item.*

**D. GBA No. 3, Item 16, Page 7 - Medicaid Caseloads**

*The Committee concurred with this item.*

**E. Review \$10 fee for child abuse and neglect reports to not-for-profit organizations (Senate Committee).** The Senate Committee expressed concern that SRS has decided to initiate a fee of \$10 for providing a child abuse and neglect report to a not-for-profit organization seeking that information as part of a screening process for adult volunteers. This fee is estimated to raise over \$400,000. The Senate Committee directed SRS to consider the consequences of such a fee and to report back to the full committee at Omnibus as to other options available.

The agency indicates that the fee increase has not affected the number of requests for registry

checks, and does not believe the fee is placing children at risk.

*The Committee concurred with this item.*

**F. Review funding of the University of Kansas Graduate Medical Education Program (Senate Committee) (House Committee).** The Graduate Medical Education Program is funded through funds from Medicare and Medicaid, patient care revenue and state primary care support. Medicare funding is reduced for the program by \$1.9 million federal funds as part of the Balance Budget Act of 1997. The Department of Social and Rehabilitation Services further reduced funding for the program in January of 2003 by \$1.5 million SGF, which in turn reduced Medicaid funding by \$2.2 million federal funds. Options to address the cut include closing residency programs, reducing residency spots, cutting faculty positions, limiting Medicaid and uninsured patients. The Committees requested that the agency seek alternatives and report back at Omnibus.

The agency is currently working with stakeholders to develop a methodology to match the Medical School's SGF with federal dollars through certified match. The agency indicates that it will be able to replace the reduction without additional state dollars.

*The Committee reviewed this item and commended Dr. Bob Day and Laura Howard of the Department of Social and Rehabilitation Services for their work on this project.*

**G. Review the implementation of provider taxes (Senate Committee) (House recommended bill introduction).** The state of Missouri has implemented provider taxes, but run up against problems with the federal government based on the way the tax was structured. The Missouri tax holds nursing homes and hospitals harmless on the provider tax - they are reimbursed the amount of tax they are paid. Federal law does not allow the states to temporarily collect taxes. However, if the state modifies its tax to eliminate the guarantee that hospitals and nursing homes get back the taxed amount, that may bring them into compliance. More information will be available from the Center for Medicare and Medicaid Services at a later date.

Provider taxes are limited by four basic requirements:

1. The provider tax must be broad-based; the tax must apply to providers in the same permissible class of items and services.
2. The state must uniformly impose the provider tax rate for all services and items in the class.
3. The provider tax cannot be applied to a class of items and services that receives more than 50 percent of its revenues from Medicaid or 80 percent combined from Medicaid, Medicare, and other federal programs.
4. The provider tax must not include direct or indirect hold harmless provisions guaranteeing repayment of tax to provider is Medicaid rates or other payments.

**HB 2470**, which has been introduced in the house but has not yet been assigned to a committee, proposes a provider assessment for nursing facilities.

*The Committee reviewed this item but no action was taken.*

Chairman Morris indicated that there is a need to continue discussion on this issue.

**H. Review the exclusion of Children's Mercy Hospital from the pool of hospitals eligible to receive disproportionate share reimbursements (Senate Committee) (House Committee).** The Committees recommended that the agency review its disproportionate share policy for all hospitals, including those out of state hospitals that serve Kansans, and report back at Omnibus.

The agency indicates that it is developing a revised payments system to stay within budget but reduce the impact of the limited budget on large hospitals, including Children's Mercy Hospital. The revised system could result in a restoration of \$318,000 all funds for Children's Mercy Hospital, which received \$1.45 million all funds in FY 2002. The restoration of disproportionate share payments to out of state hospitals has an estimated cost of \$600,000 SGF.

*Senator Adkins suggested wording in a Proviso added to the disproportionate share allocation, "Provided that the department shall make disproportionate share payments to any out-of-state hospital, otherwise eligible for such funds under federal and state law, that maintains a licensed branch hospital within the state of Kansas". The Committee concurred with this Proviso language as proposed by Senator Adkins .*

**I. Review of the issue of locating a source of administrative funding for the Kansas**

**Children's Cabinet (Senate Committee).** The Committee requested that the agency and the Cabinet work together to find funding sources, while maximizing federal match dollars available to the cabinet for administrative expenditures.

The agency indicates that using Smart Start Kansas funds as match for the Community -Based Family Resource and Support (CBFRS) Grant would free up funds for administrative expenses. The agency and the Children's Cabinet continue to explore financing options.

*The Committee concurred with a Proviso to take operating dollars out of the Accountability Fund for Children's Cabinet administration.*

**J. Review the status of child protection needs and services (Senate Committee).** The Committee expressed concern that fiscal circumstances may compromise the ability of the agency to address critical child protection needs. In response to these concerns the agency has assured the Committee that SRS has reallocated resources to make certain child protection services are not compromised. As a result of this reallocation the agency's ability to keep children safe will not be adversely impacted according to the agency. The Committee directed the agency to strategically monitor the child protection assets and resources of the agency and community based resources and provide the committee with further testimony at Omnibus to fully document the status of child protection needs and services.

The agency indicates that reports of abuse and neglect have remained relatively stable over the past three years, workloads for case workers have decreased, as has the number of children in foster care.

*The Committee reviewed this item, but no action was taken.*

**K. Review the Policy Options Discussion Guide presented by the agency (Senate Committee).** The Committee recommended Omnibus review of the Policy Options Discussion Guide presented by the Secretary of SRS, which sets forth additional budget reductions and their impacts. (See hand-out.)

Copies of the Department of Social and Rehabilitation Services Policy Options Discussion Guide were distributed to the Committee ([Attachment 29](#)).

*This was an information item.*

**L. Review more cost effective options for purchasing durable medical equipment (House Committee).** The Committee requested the agency pursue more cost effective purchasing alternatives for durable medical equipment and report back to the committee at Omnibus. Current purchasing requirements, (*i.e.*, from a medical supplier) can be more expensive than allowing the consumer to purchase similar items from local discount stores.

Medicaid regulations require that durable medical equipment (DME) only Medicaid DME providers can fill DME prescriptions and they must bill Medicaid directly. The number of approved providers for a given geographic area is limited, reducing competition. This results in higher retail prices for DME. The agency is working to reduce the reimbursement on items with a set price, like adult diapers. Other items are reimbursed at manufacturers suggested retail price minus 15 percent, or wholesale price plus 35 percent.

*This was an information item.*

**M. Review isolating adoption services from foster care services (House Committee).** The Committee requested the agency report back at Omnibus on the concept of isolating adoption services with adoption providers and shifting all placement responsibility with the foster care contractors to expedite adoption placement, which currently has a delay of six months or more. In addition, the shift in services would eliminate disruption of changing placements, service providers, etc. In order to address concerns regarding conflict of interest, a statewide system of case management would be implemented.

The agency indicates that is has begun preparing to re-bid child welfare contracts and will evaluate this concept as it gathers information and analyzes data prior to re-bidding the contracts.

*This was an information item.*

**N. Review capping Home and Community Based Services (HCBS) waiver payments (House Committee).** The Committee requested the agency review capping HCBS waiver payments, to insure that waiver services are the most cost effective type of care for that client, as recommended in the August 2002 Post Audit Report "Medicaid Cost Containment: Controlling Costs of Long-Term Care. The report indicates that the agency spent \$9.0 million more on waiver services than they would have if the same persons had received institutional services.

Currently, the state of Kansas establishes cost effectiveness for the Home and Community Based Services (HCBS) waivers as compared to nursing facilities by showing, that in the aggregate, waiver

services are less expensive - an average of \$1,300 monthly per person as opposed to \$2,300 monthly per person in a nursing facility. Federal regulations would allow for capping the HCBS waiver rate, but at the nursing facility rate. Doing so would, in effect, force those whose waiver plan of care exceeded the average nursing facility rate into institutions. This would violate the Olmstead decision's principle that persons with disabilities should receive services in the least restrictive setting appropriate to their needs.

*This was an information item.*

**O. Review increasing Pre-Admission Screening and Resident Review (PASARR) Scores for the HCBS Physical Disability Waiver (House Committee).** The Committee recommended Omnibus review of increasing PASARR scores for the Physical Disabilities waiver from 26 to 32 and grandfathering in the increased score. This would result in a savings of \$457,278 SGF and \$1.2 million all funds. There are currently 636 persons receiving services and 165 persons on the waiting list with a PASARR score of 31 or lower.

The current PASARR score for waiver eligibility is 26. As of March 7, 2003, 3,884 persons were receiving PD waiver services, with 836 persons on the waiting list for services. If the score were increased from 26 to 32, 165 would be removed from the waiting list and 636 people would be grandfathered – they would continue to receive services even though their PASARR score falls below 32. The agency estimates savings of \$457,278 SGF (\$1,162,080 all funds), depending on the number of persons leaving the waiver in FY 2004.

*This was an information item.*

**P. Review policy change to eliminate the separation of spousal income for waiver eligibility assessment (House Committee).** The Committee recommended the agency review the policy of separating spousal income for waiver eligibility assessment and report back at Omnibus. Currently, based on federal regulations, a spouse's income is not counted in assessing Medicaid eligibility for waiver services. The Budget Committee requests that the agency explore options for assessing fees on a sliding fee scale based on the income of both spouses for those services.

Because nursing facility income rules are applied to the HCBS waivers, only the consumer's income is counted for eligibility. In addition, the division of assets law allows the HCBS consumer to provide a portion of his or her income (to a maximum level) which exempts it from eligibility calculations. The agency indicates that this method is less expensive to the state by allowing the consumer spouse to access less expensive services. State data indicates that only 15 cases or 0.2 percent involve spouses with income greater than \$50,000 a year, and only one spouse had income in the \$100,000 range.

*This was an information item.*

**Q. Review combining all of the HCBS Waivers into one waiver (House Committee).** The Committee recommended that Aging and SRS review combining all of the waivers into one waiver program and report back at Omnibus. The single waiver would provide the following three services:

- Training, to assist consumers in performing tasks independently;
- Personal Assistance Services (PAS), to provide services for people who cannot perform tasks due to their level of disability;
- Assistive Services, which would include durable medical equipment and other devices to allow consumers to perform tasks more independently.

The single waiver program would include review for Plans of Care by a neutral third party to assure that all efforts to utilize local natural support have been made, training options are used whenever possible, and every effort is being made to increase consumer independence.

The agencies indicate that implementing a single waiver would be difficult given that different assessment tools are used to determine eligibility for the waivers, that federal requirements regarding cost effectiveness for waivers would become more complex to address with one waiver and many types of institutional services, and the specialized staff training needed to deal with each population.

*This was an information item.*

**R. Maximize TANF Match (House Committee).** The Committee recommended review of child care funding methodologies to maximize TANF match opportunities and report back prior to Omnibus.

The agency indicates that all TANF match for child care match has been maximized.

*This item had been addressed earlier.*

**S. Review DD Waiver Eligibility (House Committee).** The Committee recommends Omnibus review of the eligibility criteria for the HCBS/DD waiver.

*This was an information item.*

**T. Maximize Federal funds for Job Training Programs (House Committee).** The Committee recommended that SRS work with all state agencies involved in providing and administering job training programs to maximize federal funding for those programs.

*This was an information item and the reporting should be available for the 2004 Legislative Session.*

**U. Review Child Support Enforcement program (House Committee).** The Committee recommended Omnibus review of the Child Support Enforcement program in regards to the effect of open positions on enforcement and the role of court trustees in addressing those challenges.

*This was an information item.*

**V. Interest on Child Support Payments (House Committee).** The Committee requested that the agency review models of charging interest on back child support payments and their effectiveness in motivating prompt support payments, with a report at Omnibus.

The agency indicates that federal law authorizes late fees of 3.0 to 6.0 percent, which can only be collected after all child support is paid in full. Late fees are considered program income, therefore 66.0 percent would be remitted to the federal government under federal law. Implementation of late fees would require enabling legislation as well as the Child Support Enforcement automated system would need to be modified to address the late fees.

*This was an information item.*

**W. Review Services for High Needs Foster Children (House Committee).** The Committee requested that the agency work with foster care providers to look at options, recommendations and ideas for providing services for high needs foster children to increase the probability and speed of returning these children to their families.

*This was an information item.*

**X. Review Funeral Assistance Program (House Committee).** The Committee recommended Omnibus review of funding for the Funeral Assistance program. The Budget Committee notes that the program was moved to the Department of Health and Environment in FY 2003, but not funded in either budget in FY 2004. The burden of burying indigent Kansans falls to the counties. Clarification of this responsibility is addressed in **SB 244** which was passed by the Senate and referred to House Appropriations.

*This item had been addressed earlier.*

***Governor's Budget Amendment regarding the Funeral Assistance Program (Attachment 30), Letter from the Governor dated April 25, 2003***

*The Committee concurred with this item.*

**Y. Review Liens on Medicaid Recipients Homes (House Committee).** The Committee requested that the agency report back at Omnibus on implementing legislation to allow the agency to place a lien on a Medicaid recipient's home after they have been in a nursing facility for one year or when they begin receiving HCBS waiver services. Typically, persons entering a nursing facility indicate that their plan is to return home, and often do so after several months of treatment. In addition, the Budget Committee requests that the agency explore the possibility of requiring reverse mortgages on property for persons in nursing facilities to assist in paying for their care.

**SB 272**, which was passed by the Senate Committee of the Whole and introduced in the House, includes lien provisions.

*This item had been addressed earlier.*

**Z. Review Policies to Address "Hiding" of Assets (House Committee).** The Committee requested the agency report back at Omnibus on implementing legislation to prevent the hiding of assets to achieve Medicaid spend-down in the following areas:

- a waiver to increase the number of years of “look-back” from three to five;
- amending the definition of estate to include jointly owned property;
- limiting property agreements that specify a percentage of ownership;
- preventing discretionary trusts that do not pay necessary medical expenses;
- limits on prepaid agreements between family members to provide basic services.

**SB 272**, which was passed by the Senate Committee of the Whole and introduced in the House, addresses the definition of estate, limiting of property agreements, preventing discretionary trusts and limiting prepaid agreements.

*This item had been addressed earlier.*

**AA. HB 2125 (Conference).** The bill provides for a pilot project to expire on July 1, 2005, to be established in one rural and one urban judicial district in which the court may not exclude foster parents, and up to two people designated by the child's parents, in CINC proceedings. Of the two people allowed to attend who are designated by the parent, both must have participated in an approved parent advocate program. The program would cost \$7,000 SGF.

*This was an information item.*

## Department on Aging

### A. GBA No. 3, Item 17, Page 8 - Nursing Transfer Correction

*The Committee concurred with this item.*

Copies of a letter addressed to Senator Stephen Morris, Chairman, Senate Ways and Means, from Pamela Johnson-Betts, Secretary, Kansas Department on Aging, regarding omnibus items were item was distributed to the Committee ([Attachment 31](#)).

**B. Review the difference between self-directed and agency directed reimbursement rates for the HCBS Frail Elderly waiver (House Committee).** The Committee expressed concern with the Frail Elderly Waiver reimbursement rate disparity between self-directed and agency directed services. The Committee noted that the disparity between these rates is even greater in the Department of Aging budget than it is in the SRS budget.

*This was an information item.*

Copies of a letter addressed to Representative Neufeld, Chairman, House Appropriations Committee, from Pamela Johnson-Betts, Secretary, Kansas Department on Aging, addressing the disparity between self-directed and provider-directed services and other items ([Attachment 31](#)).

**C. Review case management services for the HCBS/FE, DD, and PD waivers (House Committee).** As a matter of public policy, the Committee would like to review the provision of case management service for FE, DD , and PD waivers with state agencies (SRS, KDOA) and providers (Centers for Independent Living, Area Agencies on Aging, Community Developmental Disability Organizations, etc.). The Committee recommended that the review of case management include discussion of the development of a regional peer review system for quality assurance purposes among these providers, along with more global talks about how the quality of case management services can be improved statewide.

SRS and the Department on Aging are currently reviewing all case management services that are reimbursed by Medicaid, looking for any duplication of services. SRS and Aging continue to work with stakeholders to improve the current system and review new ideas regarding how to best assure the health and welfare of Kansans with disabilities.

*This was an information item.*

**D. Increase Pool for Healthcare (House Committee).** The Committee recommended that Aging and SRS review increasing the pool for healthcare and report back before Omnibus. There are two options to do this. The first option would increase the number eligible to get a medical card, by allowing consumers to pay premiums for the card. The second option would be to allow consumers of state services and as well as other providers (not for profit organizations like CDDO's are already allowed to participate) to become part of the state health care system. The working poor who currently cannot afford insurance for themselves or their families often end up utilizing expensive

emergency room services for lack of other options.

If the pool cannot be increased in the current fiscal year, the Budget Committee recommends interim review of the topic.

*This was an information item.*

**E. Review combining all of the HCBS waivers into one waiver (House Committee).** The Committee recommended that Aging and SRS review combining all of the waivers into one waiver program and report back before Omnibus. The single waiver would provide the following three services:

- Training, to assist consumers in performing tasks independently;
- Personal Assistance Services (PAS), to provide services for people who cannot perform tasks due to their level of disability; and
- Assistive Services, which would include durable medical equipment and other devices to allow consumers to perform tasks more independently.

The single waiver program would include review for Plans of Care by a neutral third party to assure that all efforts to utilize local natural support have been made, training options are used whenever possible, and every effort is being made to increase consumer independence

The agency indicates that implementing a single waiver would be difficult given that different assessment tools are used to determine eligibility for the waivers, that federal requirements regarding cost effectiveness for waivers would become more complex to address with one waiver and many types of institutional services, and the specialized staff training needed to deal with each population.

*This was an information item.*

**F. Review policies that allow dollars to follow clients from institutions to community services (House Committee).** The Committee recommended Aging and SRS review and report back at Omnibus on establishing regulations that allow dollars to follow clients as they move from institutions to community-based services and guarantee excess dollars from those clients remain in the waiver program.

SRS and the Department on Aging have requested a Governor's Budget Amendment for an appropriations bill proviso which will move money from the nursing facility budgets to the Home and Community Based Services waiver budgets. Both agencies stand ready to work with stakeholders to finalize the necessary details to ensure that funds follow people to community-based services when they leave nursing facilities.

*This item had been addressed earlier.*

**G. Review shifting Adult Protective Services from SRS to Aging (House Committee).** The Committee recommended that Aging and SRS review shifting Adult Protective Services from SRS to Aging and report back at Omnibus.

The agency indicates that more time is necessary to review the proposed shift.

*This was an information item.*

**H. Review transfer of the nursing facility regulations function from the Department of Health and Environment to the Department on Aging (House Committee) (Senate Committee).** The Committees noted the Governor's recommendation to transfer the nursing facility regulation function from the Department of Health and Environment to the Department on Aging and that the two agencies have formed a transition team to work on the details and logistics of the transfer. The Committee requested a report from this transition team prior to Omnibus in order to more clearly understand the policy implications and budgetary effects of the move before making a final decision. The Committee suggested that any FTE positions involved in the transfer be designated as unclassified positions so that adjustments to staffing levels may be made in the future if necessary.

In addition, the Committee noted the funding differential in the Governor's recommendation concerning this transfer (see table below) and requests that information on the funding be included in the transition team's report.



	SGF	All Funds
Removed from KDHE	\$ 568,750	\$ 6,069,202
Added to Dept. On Aging	\$ 1,197,965	\$ 6,848,288

The agency indicates that a short range plan is in place with a long range plan under development to identify future goals, compositions, and review criteria of the nursing home licensure unit once it is fully integrated in to the Department on Aging.

Copies of the Transition Plan, Transfer of the Kansas Department of Health and Environment Nursing Facility Survey and Certification Program and Consolidation within the Kansas Department on Aging were distributed to the Committee (Attachment 32).

*This was an information item.*

**I. Review increasing the PASARR score for the HCBS/FE waiver (House Committee).**

The Committee recommended Omnibus review of raising the PASARR (Pre Admission Screening and Resident Review) from 26 to 40 for FY 2004 for the frail elderly waiver and grand fathering those currently below 40 currently on services in. The estimated savings is \$1.8 million State General Fund. The Committee recommends that the additional funds go back into the FE waiver to address waiting lists.

In addition, the Committee recommended that the agency report back prior to Omnibus regarding the possibility of receiving a waiver from the federal government allowing the agency to use a lower PASARR score for the HCBS/FE waiver than for Nursing Facilities.

The agency indicates that if the score is raised to 40 and current customers with scores between 26 and 39 are grand fathered, there will be no cost-savings to the state in FY 2004 due to the size of the current waiting list. As of April 11, 2003, there were 1,257 individuals on the HCBS/FE waiting list of which 298 has a score of less than 40.

*This was an information item (it was reviewed under SRS).*

**Board of Nursing**

**A. Nurse Recruitment Initiative (House Committee).** The Committee wished to review the agency's proposed nurse recruitment initiative and any potential conflicts of interest that might be present. The agency was requested to present possible remedies concerning the conflict of interest. The Committee wished to review the initiative and the associated funding.

The agency indicated that they did not believe the campaign would be a conflict of interest because the campaign is not directed to a particular program or type of program. According to the agency: "All Kansas programs no matter what level would benefit from the campaign to interest grade and high school students and displaced workers or homemakers to the profession. It is a wise strategy to protect the public. It is the purpose of the board to protect the public and how better to protect the public then by leading the efforts to get more nurses to provide care." The agency cited the following statute:

K.S.A. 74-1106 c.) (4) states "The board SHALL promote improved means of nursing education and standards of nursing care through institutes, conferences, and other means." This statute gives the board of nursing the authority to promote nursing education and other standards of nursing care which would include promoting nursing as a profession.

*This was an information item.*

**B. Inactive Nurse Survey (House Committee).** The Committee requested that the Board survey all inactive nurses in Kansas as to why they left the profession and wished to review the results at Omnibus.

The Board indicated that surveys were mailed to ten percent of inactive nurses who were selected at random. The Board indicated that approximately 42 percent of the surveys were returned to them due to a lack of a current address. Of the 1,694 surveys which were delivered 383 were

returned with at least of portion of the questions answered. This equates to an approximately 22 percent return rate.

Question	RN Responses	LPN Responses
Reason your license is lapsed or inactive?	28- Family 20- Jobs outside nursing 152- Licensed in other state 20- Were a LPN, now RN 11- Retired 19- Health Reasons 19- Working Conditions 52- Other, Misc.	12- Family 10- Jobs outside nursing 26- Licensed in other state 28- Were a LPN, now RN 2- Retired 12- Health Reasons 8- Working Conditions 17- Other, Misc.

*This was an information item.*

**C. Long Range Plan and Resources (House Committee).** The Committee requested that the agency look at the long range plan and resources available for a nurse shortage issue and if there will be federal funds available to address the shortage.

The Board indicated that it is currently searching for funds to continue the campaign after it is initially started. The Nurse Reinvestment Act (Federal) was signed into law in August 2002. The Act amends Title VIII of the Public Health Service Act: Nursing Workforce Development (the primary authorization of existing Federal nursing programs) and authorizes new programs to increase the number of qualified nurses and the quality of nursing services in the U.S. Funding to implement the new programs was appropriated by Congress in February 2003. There are several new grants that should be made available to states and the Board is planning to apply for grant money to continue the campaign. If the campaign is successful, there will be the need to then look at increasing school capacity and increase the associated clinical sites that may also require funding.

*This was an information item.*

**D. Proposal to Resolve Open Cases (Senate Committee).** The Committee requested that the agency submit a proposal to resolve open cases and specify what a reasonable length of time to do this is. The Committee also requested information regarding the number of cases that are being forwarded to the Attorney General's Office.

Information provided by the agency indicates that 65.5 percent of cases are less than six months old and only 0.5 percent of cases have been open for greater than 36 months. The agency also noted that there was a Legislative Post Audit in FY 2000. The outcome of this post audit was a set of procedures and the goal that the majority of cases would be closed within six months and the remainder within nine months. The agency included a history of the investigative positions and noted that part of the backlog was due to some periods of not being fully staffed in this area for a variety of reasons. One case is currently referred to the Assistant Attorney General for review.

*This was an information item.*

**E. Impaired Provider Program (Senate Committee).** The Committee requested information regarding the success of the program, the number of participants, the results of the program, and the number of repeat offenders. In addition, the Committee requested that the agency address the issues presented in the KNAP (Kansas Nurse Assistance Program) report.

<u>Fiscal Year</u>	<u>Number of Participants</u>	<u>Percent that were Successful</u>	<u>Percent that were Unsuccessful</u>	<u>Total Cost</u>
2000	201	34%	66%	\$ 99,466
2001	214	48%	52%	\$ 99,466
2002	235	37%	63%	\$ 101,953

*This was an information item.*

## **Behavioral Sciences Regulatory Board**

**A. Capital Outlay Restoration (Conference Committee).** The agency requested restoration of \$5,000 (special revenue fund) in FY 2004 and \$7,200 (special revenue fund) in FY 2005 for capital outlay. The House deferred consideration to Omnibus while the Senate recommended the addition of the funds. The Conference Committee recommendation was to defer these items to Omnibus.

The capital outlay was requested by the agency in an ongoing effort to upgrade their computer equipment. The Governor's recommendation reduced capital outlay expenditures by

\$5,000 and \$7,200 in FY 2004 and FY 2005 respectively. The Governor's recommendation indicated that the levels were high due to enhanced funding in prior fiscal years.

*The Committee concurred to maintain the original Senate position.*

## **Board of Tax Appeals**

**A. Contract with Norton Correctional Facility for Microfilming (House and Senate Committees).** The Committee wished to review the current contract that the Board of Tax Appeals has with the Norton Correctional Facility for microfilming its records.

The agency has indicated that at least since 1988, the microfilming services of Kansas Correctional Industries in Norton, Kansas have been utilized. At this time, the Regular Division files through calendar year 1996 have been microfilmed. The last billing the agency received from Kansas Correctional Industries indicated a cost for 45 boxes of \$26,543.45, which calculates to \$0.04 per item (page) microfilmed. In prior testimony, the agency indicated that the total cost to microfilm 1997 files would be \$11,000. However, that the estimate was only for the tax exemption and tax grievance files that have already been boxed and are ready to be sent to microfilming. The estimate did not include the other types of appeals and applications handled by the Board such as equalization and payment under protest appeals, which typically have more documents to be microfilmed. Therefore, the total cost for 1997, 1998 and 1999 is estimated to be \$115,100 (\$35,400 + \$35,400 + \$44,300).

The agency has checked their records and cannot locate a contract with Correctional Industries for the microfilming service. Additionally, it could not locate any procurement contracts through the Department of Administration's Division of Purchasing for these services. Apparently, a decision was made by the Board several years ago to use the microfilming services of Correctional Industries and the Board has continued to do so. The agency has been in contact with the Kansas Department of Revenue concerning their microfilming service and will be meeting with representatives from Revenue within the next week. At this time, the agency does not have any information concerning their charges for microfilming service.

*This was an information item.*

**B. Impact of SB 115 and HB 2147 (House and Senate Committees and GBA No. 3, Other Issues, Page 16 – Board Members and Filing Fees).** **SB 115** and **HB 2147** would reduce the number of Board of Tax Appeals members from five to three. The budget includes the savings associated with the reduction. The Committees wished to review the progress that the bills have made and any budget implications non-passage of the bill would have.

**SB 115**, currently in House Taxation, and **HB 2147** also currently in House Taxation, would reduce the number of Board of Tax Appeals members from five to three. The assumption that the budget was built on is that this action would occur in January 2003. Because of this the Governor's budget reduced the agency's salaries and wages request by \$100,000 in FY 2003 and \$229,486 in FY 2004. The stated fiscal impact of this bill as originally proposed was \$56,710 in FY 2003 and \$230,130 in FY 2004.

The agency has indicated that if the legislation removing the two board members does not become effective before the end of FY 2003, the board will require an additional \$70,000 (SGF). In addition, the board will need \$229,486 (SGF) if it is not enacted for FY 2004.

*This was an information item.*

**C. Filing Fees (Senate Committee).** The Committee wished to review the progress of legislation to allow the agency to assess filing fees. In addition the Committee wished to review any potential fiscal impact on the agency that would result from not passing the legislation.

**SB 115** was amended by the House Appropriations Committee to allow the agency to assess filing fees as approved by the Joint Committee on Administrative Rules and Regulations. The legislation is currently in the House Taxation Committee. If the legislation does not pass, the agency would not have the authority to assess the filing fees. The revenue from the filing fees is expected to generate \$300,000 in FY 2004. The agency's FY 2004 budget was built with the expectation that the agency would be able to generate this revenue.

*This was an information item.*

**D. Rent Increases in the Docking Building (House and Senate Committees).** The Committees wanted to review the issue of rent increases at the Docking State Office Building and the fiscal impact it had on the agency.

The agency indicated that their rent cost in FY 2003 was \$174,338 for 16,926 square feet and \$211,140 for 18,685 square feet in FY 2004. The Department of Administration has indicated that there was a methodology change regarding how the public areas such as hallways and lobbies are accounted for in determining rental rates. As a result, the agency's square footage increased in FY 2003. Rental rates, however, were reduced from the \$14.99 per square foot originally approved for FY 2003 to \$10.30 per square foot. This resulted in essentially no fiscal impact for the agencies located in the building. Subsequent to the change in methodology, the Department of Administration learned that some original square footage measurements were inaccurate. The inaccurate measurements were corrected in calculating the FY 2004 rent cost. For this agency an additional 1,759 in square footage was added. In addition, there was a \$1 per square foot increase in all rents in the Docking State Office Building from FY 2003 to FY 2004. As a result the agency's rent assessment increased by \$36,802. Of the increase \$16,926 (46.0 percent) is attributable solely to the \$1 per square foot increase and the remaining \$19,876 (54.0 percent) is attributable to the adjusted square footage.

*This was an information item.*

## Judicial Council

**A. Review Additional Funding Requirements (House Committee).** The Committee wished to review the agency's additional funding request. In order to accomplish this, the Committee requested that the agency submit a five-year financing plan that reviews the agency's projected Publications revenue.

In response, the agency submitted the following information. This information was developed prior to passage of **SB 36**. This bill would allow the agency to receive approximately \$250,000 from court docket fees.

FY	Current Budget	Additional Publication Expense	Total Budget	Publication Revenue	\$ from Publication Balance	\$ from SGF
2004	\$ 309,106	\$ 0	\$ 309,106	\$ 103,950	\$ 145,156	60,000
2005	315,288	35,000	350,288	144,029	0	206,259
2006	324,746	14,000	338,746	157,150	0	181,596
2007	334,488	14,280	348,768	154,813	0	193,955
2008	341,178	51,708	392,886	198,019	0	194,867

*The Committee concurred with this item and requested a Proviso for funding for the Judicial Council to study the issue of the Board of Indigents' Services funding regarding death penalty cases and compare them with other states that have recently executed individuals, including Texas and Florida, and paid the associated costs.*

**B. Need for \$60,000 in SGF (Senate Committee).** The Committee noted that the agency would have a \$60,000 revenue shortfall in FY 2004 and wished to review this issue at Conference or Omnibus. The Conference Committee added \$60,000 (SGF) in place of \$60,000 (fee fund). The Governor line item vetoed the \$60,000 (SGF) that was added in **SB 6** on April 21, 2003. The Governor's veto message stated: "**SB 6** appropriates \$60,000 from the State General Fund for FY 2004 for operating expenditures of the Council. However, **SB 36**, which has been signed into law, will raise \$230,000 of new revenue from docket fee increases. Therefore, the State General Fund appropriation is not needed."

*The Committee concurred to appropriate a no limit expenditure limitation.*

**C. SB 36 (Law).** **SB 36** raises docket fees by \$1 for a two-year period to help fund the operations of the Judicial Council. The moneys are to be deposited in a newly created Judicial Fund. The bill directs 1.33 percent of court docket fees to the Judicial Council. This is estimated to be \$250,331 (fee funds). The bill clarifies the Judicial Council as an independent agency within the Judicial Branch of state government. Membership of the Council is altered slightly to allow the Chairperson of the House Judiciary Committee to either serve on the Council or select a designee. In addition, the bill adds new members to the Council: the Ranking Minority Member of the Senate Judiciary Committee, Chair of the House Corrections and Juvenile Justice Committee, Ranking Minority Member of House Corrections and Juvenile Justice Committee. In addition the bill allows

money from the Publications Fee Fund to be used for operating expenditures. This has been done by proviso in the past.

*This was an information item.*

## Schools for the Blind and Deaf

**A. Advantages/ Disadvantages of School Financing Formula (Senate Committee).** The Committee requests that the Schools and the Department of Education discuss the advantages and disadvantages of the Schools being placed within the formula.

The Department of Education and the School for the Blind (KSSB) and the School for the Deaf (KSSD) indicated there are several reasons why these two schools would not fit well under the current school finance formula. The school finance formula was designed for public schools which consist primarily of students that are not exceptional. The costs for students at KSSD and KSSB are considerably higher than the average cost in the public schools. In addition the agencies noted the following issues with placing the Schools within the school financing formula:

- The KSSD and the KSSB are not part of a school district with taxing authority based on the assessed valuation of property. These schools, therefore, have no authority for a local option budget within the district.
- The general state aid the schools would receive would be a small percentage of the general fund appropriation that is currently made available to the KSSB and the KSSD.
- The base state aid per pupil of \$3,863 is inadequate even with pupil weightings as provided in the school finance formula to meet the needs of the pupils enrolled at the two schools. If the two schools were made a part of the school finance formula, it would still require a substantial appropriation from the state general fund.
- The KSSB and the KSSD are residential schools and their costs are considerably higher than in a public school since all children attending these schools have an individual education plan (IEP).

*This was an information item.*

*Senator Downey and Senator Schodorf requested that language be cleared up regarding paragraph number 2, sentence number 2, where: The School finance formula was designed for public schools which consist primarily of students that are not exceptional. Both Senators explained that those that have spent time in the public schools believe there are many exceptional students that attend there and there is an implication that special education language is not understood and it should be cleared up.*

**B. Review of Funding for Schools for the Blind and Deaf (Conference Committee).** The Senate Committee recommended adding \$219,318 (SGF) to the School for the Blind and adding \$362,735(SGF) to the School for the Deaf. The House recommended deferring the items to Omnibus. Both the Senate Committee and the House Committee noted that the manner in which the Schools for the Blind and Deaf were treated was inconsistent with how the rest of education was treated. The Conference Committee agreed to defer the item until Omnibus.

*The Committee concurred to remain with the original Senate position.*

**C. Additional Medicaid Funding for Schools for the Blind and Deaf (House Committee).** The Committee appointed a Special Subcommittee on Medicaid Funding for the Schools for the Blind and Deaf to review if the schools were leveraging all potential Medicaid funding. The Subcommittee has met; however, there have been no recommendations made at this time.

*This was an information item.*

**D. KAN-ED Utilization (House Committee).** The Committee requested that the Schools report back on the possibility of utilizing the KAN-ED program to maximize the effectiveness of their outreach programs.

The agency indicated that the School for the Blind is currently a member of KAN-ED and the School for the Deaf is currently in the application process. The Schools indicated that the KAN-ED program does provide opportunities for implementing distance learning as part of the School's outreach programs.

*This was an information item.*

**E. Difference in Cost per Pupil between the Schools for the Blind and Deaf (House Committee).** The Committee requested the that Schools report back concerning the differences in the per pupil cost at the respective schools.

The Schools indicated that there were two reasons that there was a difference in the per pupil costs: the School for the Deaf serves twice as many students on campus during the regular school year and the School for the Blind delivers much of its curriculum in very small groups or one-on-one instruction using expensive, specialized technology and Braille materials.

*This was an information item.*

## **Kansas Insurance Department**

**A. Review Details of Moving SHICK Program to Department of Aging (House Committee).** The Committee wished to review the details of the move of the Senior Health Counseling of Kansas (SHICK) Program to the Department of Aging and any anticipated impact on the agency's budget.

The agency has indicated that effective March 1, 2003, the SHICK Program was transferred from the Insurance Department to the Department on Aging at the Governor's request. Through March, 2003, SHICK expenditures totaled \$242,746.69. The Insurance Department, via an interfund transfer, gave \$47,000 of unspent SHICK funds back to the Department on Aging. There was no exchange of FTE in this transaction. The Insurance Department gave up square footage in the Wichita Office Building as a result of this program transfer.

*The Committee reviewed this item, but no action was taken.*

**B. Review of Rate Increases and "Loan" Repayment (House Committee and Senate Committee).** The Committee requested review of the amount that the insurance companies rates may have to be increased in FY 2005 if the "loans" from the Insurance Department's Special Revenue Funds are not repaid. The Senate Committee recommended that the transfers be considered a loan to be repaid in the future. The House Committee requested information regarding the amount that insurance companies rates would have to be increased in FY 2005 if the transfers were not repaid.

Based on estimated fund obligations, the Insurance Department will likely levy an assessment against insurance companies in FY 2004. This would not have been the case were it not for the transfers out of the Workers Compensation Fund into the State General Fund of \$7.0 million in FY 2002, \$4.0 million in FY 2003, and another \$75,000 anticipated.

The agency indicated that prior to the sweep of the Workers Compensation Fund, the balances were such that the Insurance Department may not have needed to assess companies for at least 3-5 years down the road. Based on current circumstances, an assessment in FY 2004 is possible and almost certain for FY 2005 and beyond.

Insurance companies, self-insureds, and pools that write workers' compensation premiums are assessed. The amount that each must pay depends on the paid losses of that company in the previous calendar year. The Insurance Department works with the Workers Compensation Division of the Department of Human Resources to gather paid loss information. Both agencies use the same base to determine the assessment rate.

The Insurance Department was unable to provide information on the rate that would need to be assessed. The agency is conducting an actuarial review of the Workers Compensation Fund to determine the fund's liabilities in subsequent fiscal years and should have that information soon.

The agency also noted that circumstances will require a larger assessment of insurance companies for the Regulation Fee Fund since the Department has been unable to keep the 1.0 percent of premium tax receipts as provided for by statute.

*This was an information item.*

## **Secretary of State**

**A. GBA No. 3, Item 11, Page 5 – Help America Vote Act Matching Funds**

*The Committee concurred with this item.*

**B. SB 205 (Law). SB 205** creates the Kansas Commemorative Coin Design Concept Act. The purpose of the act is to provide a method to select the design concepts and make a recommendation for the final design of the commemorative quarter dollar of the State of Kansas. The Secretary of State in conjunction with the Department of Education are to present the five finalist designs to all students enrolled in an accredited school in the State of Kansas who will vote for the

winner via an Internet ballot. The Kansas Arts Commission, the Kansas Humanities Council, and the Kansas Historical Society are required to publicize the act and provide assistance to the Council.

The Secretary of State's Office indicates that the fiscal impact to their agency in FY 2004 will be \$2,000 (SGF). The other agencies have indicated they will be able to absorb the costs associated with their participation.

*The Committee concurred that the Secretary of State would absorb the \$2,000 cost.*

### **Governmental Ethics Commission**

A. GBA No. 3, Item 2, Page 2 – Inaugural Expense Fund

*The Committee concurred with this item.*

### **All Agencies**

A. GBA No. 3, Item 34, Page 15 – COLA Recalculation

*The Committee concurred with the GBA, to take the \$339,083 savings plus \$95,607 Judicial Branch savings, run through the State Finance Council and separate in the Omnibus bill in each agency.*

### **Juvenile Justice Authority**

*The Committee concurred with the Proviso that should the Governor invoke allotments in FY 2004 that would affect the core programs in the Juvenile Justice Community Grants, the intervention grant, etc., prevention grant money could be expended to fund them.*

### **Senior Care Act**

*The Committee concurred to put the \$25,000 back in and designate it for the Foster Grandparent Program, Senior Care Act.*

### **Governor's Budget Amendments, Corrections and Technical Adjustments to the Budget Document submitted to the Legislature, Letter dated April 23, 2003 (Attachment 33)**

*The Committee concurred with a correction regarding Item No. 10 and the KPERS Death and Disability Adjustment with revising the calculation amount of lapses from State General Fund estimate totaled \$5,265,070 to \$5,135,070, including both regular KPERS and KPERS School.*

*The Committee concurred with remaining nine items listed in the document for technical changes and corrections.*

## ATTACHMENT A

### Estimated Fiscal Impact of **SB 123** FY 2004

A significant impact of **SB 123's** implementation is that it will delay the need for additional inmate capacity within the Kansas correctional system. KSC and KDOC estimate **SB 123**, as sent to the Governor, will save 194 beds in the first year of implementation (FY 2004). By FY 2013, the number of beds saved will be 517. Without **SB 123**, the agencies have projected KDOC will be out of bed space for male inmates by the end of FY 2004. For minimum-security bed space, renovation of existing buildings at Winfield and Osawatomie would cost between \$7,585 and \$9,948 per bed and constructing new units at Hutchinson, El Dorado or Lansing would cost between \$16,409 and \$20,144 per bed. Annual operating costs are in addition to the construction costs.

The following analysis examines the FY 2004-specific fiscal impacts of the bill, given that new construction will have been delayed. The explanation is supported by a brief table, which follows the text.

KDOC estimates it will need 3.0 FTE staff to **certify drug treatment programs** throughout the state. This figure represents the estimated cost for the 3.0 FTE staff.

KSC projects a total of 1,318 offenders will be subject to the provisions of **SB 123**. At the medium projected **treatment** cost per offender of approximately \$4,700, the total cost would be about \$6.2 million over the entire fiscal year. Because the bill's effective date is delayed until November 1, 2003, the total cost is estimated at approximately \$4.7 million. KSC's estimate takes into account services already being provided.

According to KDOC, the average annual Community Corrections **supervision** cost per offender is \$2,906. The total additional funding for the Community Corrections net caseload increase of 843 offenders, expected in FY 2004, is \$2,449,760. Adjusted for the delayed implementation date, the additional budget impact would be \$1,641,340 for the actual FY 2004 period from November 1, 2003 through June 30, 2004.

KSC is responsible for (a) modifying the sentencing data base and projection model, (b) **administering** the Substance Abuse Treatment (SAT) Fund, and (c) **evaluating** the impact and effectiveness of the policy set forth in the bill. The Commission estimates it will cost \$18,500 to modify the data base and projection model, all of which can be absorbed within the agency's current SGF allocation. Administering the SAT Fund is expected to cost \$46,550, of which \$45,175 will need to be added to the Commission's current SGF allocation. KSC plans to utilize a Federal Statistical Analysis Grant in the amount of \$50,000 to complete an 18-month evaluation of the program.

KSC and KDOC estimate **SB 123**, as sent to the Governor, would **save 194 beds** in the first year of implementation (FY 2004), if the bill were to be effective at the beginning of the fiscal year. By FY 2013, the number of beds saved will be 517. Taking into account (a) the fact that the 194-bed savings will add up over the course of the year and (b) the bill's implementation is delayed until November 1, 2003, KDOC estimates marginal costs totaling approximately \$130,000 will be saved in FY 2004.

Based on the understanding of the agencies involved in implementing the bill, the Office of Judicial Administration will have no additional duties and thus will require no additional funding because of **SB 123**.

Certification of Treatment Programs	\$	178,000
Treatment		4,691,000
Supervision by Community Corrections		1,641,340
Net Admin./Evaluation Costs by Kansas Sentencing Commission		45,175
Bed Capacity Savings		<u>(130,000)</u>
TOTAL	\$	<u>6,425,515</u>



Chairman Morris turned the Committee's attention to discussion of the Republican Leadership Proposal:

**Possibility FY 2004 Revenue and Expenditure Adjustments  
To Increase State General Fund Ending Balance (Attachment 34)**

Senator Kerr explained that there were \$1.8 million dollars in State General Fund savings.

**Savings Identified by the Governor's BEST Teams:**

**Mandate that all state agencies participate in Accounts Receivable Setoff Program.**

*The Committee concurred with this item.*

**Join multi-state Medicaid pharmaceutical purchasing compact.**

*The Committee concurred with this item.*

Senator Feleciano expressed concern that Michigan is having trouble with negotiations with CMS. Chairman Morris noted that if savings do not materialize regarding this item, then it will have to be added back in.

**Do not allow use of state-owned vehicles for commuting.**

*The Committee concurred with this item.*

**Stop printing of paper phone directories.**

*The Committee did not concur with this item and that the Chairman will write a letter to the Department of Administration that this savings was not included in the budget because the Committee feels strongly that in future years the directories need to be printed and a Proviso that the Department of Administration is allowed to charge for the directories if they wish to do so.*

**Renegotiate Department of Corrections food contract to achieve savings.**

*This item had already been adopted.*

**Savings and Revenue included in President's Medicaid Task Force Recommendation:**

**SB 272 Medicaid assistance repayment, liens, and voiding transfer of property.**

*The Committee concurred with this item.*

**Limit or lower the dollar value of property exemptions when calculating Medicaid eligibility.**

*The Committee concurred with this item.*

**Extend the look-back period for transfers of non-trust property to five years.  
(Needs federal waiver)**

*The Committee concurred with this item.*

**Other Savings and Revenue Adjustments: (Attachment 35)**

**SB 16 and HB 2192 raise user fees - replace State General Fund with additional revenue in photo fee fund.**

*The Committee concurred to take \$1.8 million plus the \$350,000 taken earlier.*

**HB 2192 raise user fees - replace State General Fund with safety fund (\$674,000) and reduce ending balance by (\$1,326,000).**

*See above item.*

**Expenditure and revenue adjustments included in the appropriation bill, SB 6.**

*The Committee concurred with this item.*

**Maintain telephone rates at the FY 2003 rate.**

*This item had already been adopted.*

Senator Adkins moved, with a second by Senator Jordan, to include technical amendments by the Revisor as necessary in the Omnibus Appropriations Bill. Motion carried on a voice vote.

Senator Schodorf moved, with a second by Senator Jackson, to recommend that **HB 2444** be amended by substituting a new bill to be designated **Senate Substitute for HB 2444**, the Omnibus Appropriations Bill, and recommend the bill favorable for passage as amended. Motion carried on a roll call vote.

Senator Adkins moved, with a second by Senator Jordan, to introduce a new bill to reconcile all statutes. Motion carried on a voice vote.

An update on the FY2003/FY2004 Children's Initiatives Fund (Tobacco) was distributed to the committee (Attachment 36).

Chairman Morris thanked everyone for all the work that was completed during the Omnibus session.

The Omnibus session adjourned at 4:15 p.m. on April 28, 2003. The next regular meeting of the Senate Ways and Means Committee was scheduled for May 1, 2003.