

Approved: March 18, 1993

Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson August Bogina at 11:00 a.m. on March 10, 1993 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Leah Robinson, Legislative Research Department
Scott Rothe, Legislative Research Department
Norm Furse, Revisor of Statutes
Judy Bromich, Administrative Assistant
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Mike Johnston, appointee to the Kansas Public Employees' Retirement System Board of Trustees
Secretary Whiteman, Department of Social and Rehabilitation Services
John Johnson, Kansas Trial Lawyers Association

Others attending: See attached list

INTRODUCTION OF BILLS

Senator Salisbury moved. Senator Rock seconded the introduction of bill draft 3 RS 0320 as requested by Secretary Parrish, Department of Revenue. The motion carried on a voice vote.

It was moved by Senator Morris and seconded by Senator Rock that bill draft 3 RS 1154 as requested by the Board of Regents be introduced. The motion carried on a voice vote.

Senator Salisbury moved that bill draft 3 RS 0102 as requested by SRS be introduced. The motion was seconded by Senator Lawrence and carried on a voice vote.

As requested by Senator Bogina, Senator Salisbury moved that the subject of 1993 HB 2013 be introduced. Senator Lawrence seconded the motion which carried on a voice vote.

APPROVAL OF MINUTES

It was moved by Senator Morris and seconded by Senator Salisbury that the minutes of March 1, 2, and 3, 1993 be approved. The motion carried on a voice vote.

CONFIRMATION HEARING OF MIKE JOHNSTON TO THE KANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

Chairman Bogina welcomed Secretary Johnston and requested that he review his qualifications for the position. Copies of a statement of substantial interests (Attachment 1) and of a Senate confirmation questionnaire (Attachment 2) were distributed to members. Secretary Johnston stated that he had owned and operated a mortgage brokerage company from 1983 until January 1, 1990 at which time he sold it to a bank. He stated that he served as a consultant to the bank until January 1, 1993 and no longer has direct interest in any financial business. The Secretary identified this investment background and his legislative experience as qualifications for service on the Board. Secretary Johnston stated that the question of whether he would be qualified under the new statutes which become effective July 1, 1993 would depend upon whether the qualification provisions were strictly construed. He expressed support for an adjustment to the language, stating that the provisions seem restrictive to the point that the pool of persons available to serve on the Board would be severely limited to the detriment of the retirement system and the state at large. The Secretary stated

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at 11:00 a.m. on March 10, 1993.

that he hoped the Legislature and the Governor would be able to resolve the question regarding the qualification provisions, adding that he would withdraw from consideration to avoid a dispute over his qualifications.

Senator Karr reminded members that this confirmation would serve until July 1, 1993. He expressed his opinion that the issue of qualifications should be addressed by the 1993 Legislature. The Secretary added that he would visit with the Governor and the chairman of the KPERS Board about qualifications and the transition of the Board that is scheduled to take place July 1, 1993.

It was moved by Senator Karr and seconded by Senator Morris that the Senate Committee on Ways and Means recommend that the Senate approve and consent to the appointment of Mike Johnston, to the Kansas Public Employees' Retirement Board of Trustees. The motion carried on a roll call vote.

SB 317 -- Resource determination for medical assistance purposes

Secretary Whiteman, Department of Social and Rehabilitation Services, appeared before the Committee in support of SB 317 and stated that SRS requested the bill to close a loophole in the statutes relating to disclaiming an inheritance. She explained that the bill puts into statute the current policy of the Department which is that any person who is eligible for nursing care or Medicaid support must report and apply all resources to his/her own support. The bill would prohibit disclaiming an inheritance. She noted that Medicaid eligible clients receive 60% reimbursement of nursing care costs from the Federal government and 40% from the state. The Secretary stated that provisions of the bill are applicable only to Medicaid eligible clients and that those clients, once the inheritance is exhausted, could again meet eligibility guidelines for assistance. In answer to a concern, Secretary Whiteman stated that if a client were to receive an inheritance, he/she would be required to apply it toward nursing costs, although there are certain exemptions under the current law. She told members that she had not visited with the Kansas Bankers' Association regarding the impact of this bill on estate planning.

The Chairman closed the hearing on the bill.

SB 318 -- RECOVERY OF MEDICAL ASSISTANCE PAID AND CREATING LIEN THEREFOR

Secretary Whiteman testified in support of SB 318 and reviewed the information contained in Attachment 3. She informed the Committee that SRS collects approximately \$783,000 in medical subrogation which represents third party reimbursement for medical expenses paid under the medical assistance programs. She added that in approximately 12 cases last year, attorneys argued that, without written notice, the recipient is not obligated to reimburse SRS for the claims.

John Johnston appeared before the Committee and reviewed concerns of the Kansas Trial Lawyers Association outlined in Attachment 4. In answer to his concern regarding language in the bill providing for a lien for the full amount of the medical assistance paid regardless of the amount the medical provider would normally charge, Secretary Whiteman stated that hospitals are reimbursed under the Diagnosis Related Group according to a formula which occasionally is more than the provider's customary charge. It is the Department's opinion that the state should be reimbursed the full amount spent on the client. In answer to Senator Karr, the Secretary stated that the state loses \$15,000 to \$20,000 annually because of the differential between what is paid by SRS under the DRG system and what is reimbursed through third party payments.

{ Attachments 5 and 6 were distributed at a later date regarding SB 317 and SB 318. }

Chairman Bogina called attention to a report from the Department of Administration on the classification and salary study of direct care and correctional classes (Attachment 7). The meeting was adjourned at 12:05 P.M.

The next meeting is scheduled for March 11, 1993.

GUEST LIST

COMMITTEE: SENATE WAYS AND MEANS

DATE: March 10, 1993

[illegible]



APR 13 1992

BILL GRAVES
SECRETARY OF STATE

APPOINTMENT TO STATE OFFICE IS SUBJECT TO SENATE CONFIRMATION

Please read the "Guide" and "Definition" section provided with this form for additional assistance in completing sections "C" through "G". If you have questions or wish assistance, please contact the Commission office at 109 West 9th, Topeka, KS or call 913-296-4219.

PLEASE TYPE OR PRINT

First Name

Spouse's Name

Number & Street Name, Apartment Number, Rural Route, or P.O. Box Number

City. State. Zip Code

Home Phone Number

Business Phone Number

B. APPOINTED POSITION SUBJECT TO SENATE CONFIRMATION:

List Name of Agency, Commission or Board

Position

★	9	7	6	9
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SWAIN
02 March 10, 1993
Attachment 1

- C. **OWNERSHIP INTERESTS:** List any corporation, partnership, proprietorship, trust, joint venture and every other business interest, including land used for income in, which either you or your spouse has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5%, whichever is less. If you or your spouse own more than 5% of a business, you must disclose the percentage held. Please insert additional page if necessary to complete this section.
- If you have nothing to report in Section "C", check here .

BUSINESS NAME AND ADDRESS		TYPE OF BUSINESS	DESCRIPTION OF INTERESTS HELD	HELD BY WHOM	PERCENT OF OWNERSHIP INTERESTS
1.	Midwest Mortgage Corporation P. O. Box A Parsons, KS 67357	Mortgage Lending	Stockholder	<u>X</u> ____ ____	<u>100</u> You ____ Spouse ____ Jointly
2.				____ ____ ____	____ You ____ Spouse ____ Jointly
3.				____ ____ ____	____ You ____ Spouse ____ Jointly
4.				____ ____ ____	____ You ____ Spouse ____ Jointly
5.				____ ____ ____	____ You ____ Spouse ____ Jointly
6.				____ ____ ____	____ You ____ Spouse ____ Jointly
7.				____ ____ ____	____ You ____ Spouse ____ Jointly

- D. **GIFTS OR HONORARIA:** List any person or business from whom you or your spouse either individually or collectively, have received gifts or honoraria having an aggregate value of \$500 or more in the preceding 12 months.
- If you have nothing to report in Section "D", check here X.

NAME OF PERSON OR BUSINESS FROM WHOM GIFT RECEIVED	ADDRESS	RECEIVED BY:
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

E. RECEIPT OF COMPENSATION: List all places of employment in the last calendar year, and any other businesses from which you or your spouse received \$2,000 or more in compensation (salary, thing of value, or economic benefit conferred on in return for services rendered, or to be rendered), which was reportable as taxable income on your federal income tax returns.

1. YOUR PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR. IF SAME AS SECTION "B", CHECK HERE ____.
If you have nothing to report in Section "E"1, check here ____.

NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1. Midwest Mortgage Corporation	PO Box A, Parsons, KS 67357	Mortgage Lending
2. First National Bank & Trust	PO Box 877, Parsons, KS 67357	Commercial Bank
3. State of Kansas (KDOT & Human Resources)	Topeka, KS 66612	State Government

2. SPOUSE'S PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.
If you have nothing to report in Section "E"2, check here ____.

NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1 Southwestern Bell Telephone Company	220 E. 6th, Topeka, KS 66603	Telephone Company
2.		

F. OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS: List any organization or business in which you or your spouse hold a position of officer, director, associate, partner or proprietor at the time of filing, irrespective of the amount of compensation received for holding such position. Please insert additional page if necessary to complete this section.
If you have nothing to report in Section "F", check here ____.

BUSINESS NAME AND ADDRESS	POSITION HELD	HELD BY WHOM
1. Midwest Mortgage Corporation PO Box A, Parsons, KS 67357	President and Director	Self
2. Midwest Mortgage Corp. PO Box A, Parsons, KS 67357	Secretary-Treasurer	Spouse
3.		
4.		
5.		

- G. **RECEIPT OF FEES AND COMMISSIONS:** List each client or customer who pays fees or commissions to a business or combination of businesses from which fees or commissions you or your spouse received an aggregate of \$2,000 or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "G", check here ____.

	NAME OF CLIENT / CUSTOMER	ADDRESS	RECEIVED BY
1.	First National Bank and Trust	PO Box 877, Parsons, KS 67357	Self
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			

H. **DECLARATION:**

I, Michael L. Johnston, declare that this statement of substantial interests (including any accompanying pages and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that the intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.

April 6, 1992

Date

Signature of Person Making Statement

NUMBER OF ADDITIONAL PAGES 0

Return your completed statement to the Secretary of State, State House, Topeka, Kansas 66612.

SENATE CONFIRMATION QUESTIONNAIRE
APPOINTMENTS BY GOVERNOR JOAN FINNEY

Name: Michael L. Johnston

Home Address: 5700 S.W. 31st Terrace

City, State, Zip Code: Topeka, Kansas 66614

Home Phone: 913 / 272-9339

Business Address: 7th Floor, Docking State Office Building

City, State, Zip Code: Topeka, Kansas 66612

Business Phone: 913 / 296-3461

Date of Birth: 07/29/45 Place of Birth Parsons, Kansas

Party Affiliation Democrat KBI Check(Yes/No) Yes

Appointed as: Member, Kansas Public Employees Retirement System Board of Trustees

(Pleasure of Governor)
Effective October 27, 1992 for the four-year term

ending April 30, 1996 Succeeding Robert Lane

Salary None Statutory Authority 74-4905

Statutory Requirements Responsible for the administration of the system,
establish rules and regulations for the transaction of its business and responsible

for a complete and adequate system of accounts and records and investments.

1. EDUCATION:

High School St. Patrick's, Parsons, Kansas

Year Graduated 1963

Postsecondary	Degree, etc.	Dates
<u>Parsons Junior College</u>	<u></u>	<u>1/64 - 5/66</u>
<u>Pittsburg State University</u>	<u>BSBA</u>	<u>9/68 - 5/71</u>
<u>University of Kansas</u>	<u>MPA</u>	<u>9/74 - 5/80</u>

SWAM
March 10, 1993
Attachment 2

2. MEMBERSHIP IN BUSINESS, TRADE AND PROFESSIONAL ORGANIZATIONS DURING PAST 10 YEARS:

Dates	Name	Location
<u>1984-1991</u>	<u>Chamber of Commerce</u>	<u>Parsons, Kansas</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

3. HAVE YOU EVER BEEN ELECTED OR APPOINTED TO ANY PUBLIC OFFICE IN KANSAS? xx Yes No
If so, please list dates and offices held.

Date	Office
<u>1/77 - 1/91</u>	<u>State Senator, 14th District</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

4. HAVE YOU EVER BEEN EMPLOYED BY OR HELD A POSITION OR OFFICE WITH ANY FEDERAL, FOREIGN STATE, OR LOCAL GOVERNMENTAL ENTITY OR AGENCY? No
If so, please list dates and offices held:

<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

5. HAVE YOU BEEN A REGISTERED LOBBYIST OR EMPLOYED A REGISTERED LOBBYIST AT ANY TIME DURING THE PAST 5 YEARS? No
If you were a registered lobbyist, did you receive any compensation?
List groups you represented or for which you employed a lobbyist:

<u> </u>
<u> </u>
<u> </u>

WHICH YOU HAVE BEEN APPOINTED:

Strong background of education and experience in both the public and private
sectors. Over seven (7) years experience in operating my own financial
service business--Midwest Mortgage Corporation. Company involved in mortgage
banking through sale of loans into the secondary mortgage market. Strong
personal interest in management of investment and financial policy matters.

7. SUMMARY OF BUSINESS OR PROFESSIONAL EXPERIENCE: Over twenty (20)
consecutive years in public service--fourteen (14) as an elected official.
Worked in the Industrial Safety and Health field from 1966-1976. Since that
time, worked in the insurance, real estate, and mortgage lending areas in
addition to the State Senate service.

8. HAVE YOU EVER BEEN A MEMBER OF THE ARMED FORCES OF THE
UNITED STATES? Yes
If so, please list dates of service, branch of service and
date and type of discharge:

2/63 - 2/71 U. S. Army Honorable

9. HAVE YOU EVER BEEN ARRESTED, CHARGED OR HELD BY FEDERAL,
STATE OR OTHER LAW ENFORCEMENT AUTHORITIES FOR VIOLATION OF
ANY FEDERAL LAW, STATE LAW, COUNTY OR MUNICIPAL LAW,
REGULATION OR ORDINANCE (EXCLUDING TRAFFIC VIOLATIONS FOR
WHICH A FINE OF \$100 OR LESS WAS IMPOSED)?

2/80 Charged with DUI - Dismissed and plead guilty to Reckless
Driving

10. DISPOSITION OF ANY INTERESTS THAT MIGHT HAVE PRESENTED A
POTENTIAL CONFLICT OF INTEREST FOR THIS POSITION.

None

Return to: Mary Holladay
Appointment Secretary
Office of the Governor
2nd Floor, State Capitol
Topeka, KS 66612

Signature

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Donna L. Whiteman, Secretary

Senate Ways and Means Committee
Testimony on Senate Bill 318

March 10, 1993

SRS Mission Statement

"The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others."

Mr. Chairman and Members of the Committee, thank you for this opportunity to address you on Senate Bill 318. The Department of Social and Rehabilitation Services requested this bill to make the medical subrogation process for medical assistance recipients more effective. We support passage of this bill.

K.S.A. 1992 Supp. 39-719a provides that the Department of SRS has a claim for medical expenses paid under the medical assistance programs (medicaid and medikan). This claim may be asserted against third parties who are liable to pay medical bills of the medical assistance recipient.

In pursuing claims, SRS has discovered that some recipients will attempt to settle a lawsuit with a third party without reimbursing SRS for medical assistance paid to providers on behalf of the injured recipient. Attorneys who represent recipients have argued that unless SRS has filed a written notice with the recipient, the recipient is under no duty to reimburse SRS for those claims.

The purpose of the first new sentence is to ensure that the lien will exist whether or not SRS has served written notice on the recipient.

Under the provisions of K.A.R. 30-5-81t through 81v, general hospitals are reimbursed for services under the Diagnosis Related Group ("DRG") reimbursement system. Because that system reimburses hospitals according to a formula based on the diagnosis of the patient rather than a set fee, occasionally SRS will reimburse the hospital more than the provider's customary charge. When there is a third party which has liability for that medical claim, SRS must have a program to collect from such third-parties, under 42 C.F.R. Sec. 433.138, et seq. If there is a case where third party liability has not been established at the time the claim is filed, SRS "must pay the full amount allowed under the agency's payment schedule" and seek recovery of reimbursement from the third party. 42 C.F.R. Sec. 433.139(c) and (d). (Emphasis added.) SRS is responsible to pay the full federal share of the recovered money to the Health Care Finance Administration (HCFA) in accordance with 42 C.F.R. Sec. 433.140(c). Insurance companies have refused to reimburse SRS the full amount paid under the DRG system. They have argued that they only have to pay the customary charges of the provider, citing common law principles.

SWAM
March 10, 1993
Attachment 3

The purpose of the second new sentence is to ensure that third parties reimburse SRS the full amount paid under the DRG system. Providers have the right to be reimbursed the full amount of the DRG system when they treat a medical assistance recipient, and SRS should have the right to recover that full amount when they have initially paid the claim and are seeking reimbursement from a liable third party.

SRS would support passage of this bill.

Donna L. Whiteman
Secretary
(913) 296-3271

M E M O R A N D U M

SUBJECT: Fraud and Recovery Activities
Summary Report for 1st Quarter
Fiscal Year 1993

3-3



KANSAS TRIAL LAWYERS ASSOCIATION

Jayhawk Tower, 700 SW Jackson, Suite 706, Topeka, Kansas 66603-3731
(913) 232-7756 FAX (913) 232-7730

TESTIMONY
of the
KANSAS TRIAL LAWYERS ASSOCIATION
before the
SENATE WAYS AND MEANS COMMITTEE
regarding
SENATE BILL 318
March 10, 1993

The Kansas Trial Lawyers Association is concerned with the provisions of SB 318 that create a lien on third party recovery without the benefit of a notice requirement. By dispensing with a notice requirement, the burden is placed upon the injured party (medical assistance recipient) to act in accordance with statutory subrogation requirements. Many times, an injured party is not represented by counsel and receives a settlement check on behalf of a third-party tortfeasor. Without proper notification pertaining to subrogation interests on medical assistance payments, the injured party will have no knowledge of the requirement to repay assistance benefits. It would appear when the file is opened on a medical assistance recipient and payments are made to the provider, notification automatically can go to the injured party informing that individual of the state's subrogation interest.

The provision in the bill providing for a lien for the full amount of the medical assistance paid regardless of the amount the medical provider would normally charge raises additional questions. It is presumed the assistance as paid would be less than what the medical provider, as a general rule, would bill to the patient. However, what about those circumstances wherein the amounts are reversed and medical assistance is provided in excess of what the medical provider generally bills? This may be due to an error by either the state or the medical provider. Why then, should the injured party be penalized from the recovery received from a third-party tortfeasor for the mistake made by the state in submitting medical assistance payments?

Referring to paragraph (C) of Senate Bill 318, the Kansas Trial Lawyers Association would recommend the addition of the following language, to-wit:

"and/or the injured person's employer."

As the Committee is fully aware, any award of damages will be reduced proportionately by the percentage of comparative fault attributed to said injured party. However, if the injury arises out of said injured party's employment and workers compensation

SWAM
March 10, 1993
Attachment 4

applies, the recovery on behalf of the injured party also will be reduced proportionately to any percentage attributed to the employer. The workers compensation carrier's subrogation rights are reduced by that proportionate share of fault attributable to the employer. It seems fair to require the state to participate in a reduction of recovery if such recovery is attributable to the injured party's employer. We strongly recommend this additional language be included within the proposed bill as considered by the committee.

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna L. Whiteman, Secretary

Senate Ways and Means Committee
Testimony on Senate Bill 317

March 10, 1993

SRS Mission Statement

"The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others."

Mr. Chairman and members of the committee, thank you for this opportunity to address you on Senate Bill 317. The Department of Social and Rehabilitation Services requested this bill to prevent medical assistance applicants from disclaiming inheritances. We support passage of this bill.

Under K.A.R. 30-4-39(e), medical assistance recipients must meet their own needs insofar as they are capable. K.A.R. 30-4-55(e) and (f) provide that the client must cooperate with the agency in obtaining resources, and particularly third party resources for medical services. Under federal law, medicaid is to be the payor of last resort (42 U.S.C. Sec. 1396b(o)). Other medicaid rules provide that medical assistance recipients or applicants who transfer resources for inadequate consideration may be ineligible for up to 30 months from receiving nursing facility coverage under their medical card. Under Kansas law, people who stand to inherit money from a will may disclaim their interest in the inheritance.

The current policy of SRS is to consider a client who disclaims an inheritance ineligible due to having transferred a resource. Some states have, through legislation, declared that disclaimers will not serve to make a client eligible for medical assistance. As one example of a state which has decided this matter through case law, the New York Supreme Court, Appellate Division declared that disclaimers were the same as transfers. In re Scrivani, 455 N.Y.S.2d 505 (1982). However, there is no known Kansas case law on point.

The current SRS policy of finding ineligibility due to disclaimers is presently under attack in Court by a claim that it is contrary to Kansas common law. The purpose of this bill is to codify current SRS policy and to ensure that medical assistance recipients and applicants do not divert resources from being available to cover nursing facility care by signing a disclaimer of an inheritance.

SRS has a proposed amendment which would remove some possible ambiguities, and it is attached to this testimony. With that amendment, we would support passage of this bill.

Donna L. Whiteman
Secretary
(913) 296-3271

SWAM
March 10, 1993
Attachment 5

1 shall thereby become forever ineligible to receive any form of general
 2 assistance under the provisions of this subsection (d) unless the con-
 3 viction is the person's first conviction under the provisions of K.S.A.
 4 39-720 and amendments thereto or the law of any other state con-
 5 cerning welfare fraud. First time offenders convicted of a misde-
 6 meanor under the provisions of such statute shall become ineligible
 7 to receive any form of general assistance for a period of 12 calendar
 8 months from the date of conviction. First time offenders convicted
 9 of a felony under the provisions of such statute shall become inel-
 10 igible to receive any form of general assistance for a period of 60
 11 calendar months from the date of conviction. If any person is found
 12 guilty by a court of competent jurisdiction of any state other than
 13 the state of Kansas of a crime involving welfare fraud, such person
 14 shall thereby become forever ineligible to receive any form of general
 15 assistance under the provisions of this subsection (d) unless the con-
 16 viction is the person's first conviction under the law of any other
 17 state concerning welfare fraud. First time offenders convicted of a
 18 misdemeanor under the law of any other state concerning welfare
 19 fraud shall become ineligible to receive any form of general assistance
 20 for a period of 12 calendar months from the date of conviction. First
 21 time offenders convicted of a felony under the law of any other state
 22 concerning welfare fraud shall become ineligible to receive any form
 23 of general assistance for a period of 60 calendar months from the
 24 date of conviction.

25 (e) *Requirements for medical assistance for which federal moneys*
 26 *or state moneys or both are expended.* When the secretary has
 27 adopted a medical care plan under which federal moneys or state
 28 moneys or both are expended, medical assistance in accordance with
 29 such plan shall be granted to any person who is a citizen of the
 30 United States or who is an alien lawfully admitted to the United
 31 States and who is residing in the state of Kansas, whose resources
 32 and income do not exceed the levels prescribed by the secretary.
 33 In determining the need of an individual, the secretary may provide
 34 for income and resource exemptions and protected income and re-
 35 source levels. ~~Resources which accrue to an individual from inher-~~
 36 ~~itance shall be counted as resources if the interest in the inheritance~~
 37 ~~vests within 30 months before the application of the individual. A~~
 38 ~~disclaimer of an inheritance pursuant to K.S.A. 59-2291 and amend-~~
 39 ~~ments thereto shall not be effective to cause the inheritance to not~~
 40 ~~be counted as a resource, if the disclaimer is made after the 30-~~
 41 ~~month period has commenced.~~ The secretary shall exempt principal
 42 and interest held in irrevocable trust pursuant to subsection (c) of
 43 K.S.A. 16-303 and amendments thereto from the eligibility require-

shall constitute a
transfer of resources.



KANSAS TRIAL LAWYERS ASSOCIATION

Jayhawk Tower, 700 SW Jackson, Suite 706, Topeka, Kansas 66603-3731
(913) 232-7756 FAX (913) 232-7730

March 10, 1993

TO: Senate Ways and Means Committee
FROM: Richard Mason/Cameron Brewer
RE: Amendments to SB 318

As a follow up to testimony given in today's hearing on behalf of KTLA by John Johnson we have attached a balloon amending the portions of the bill in question. KTLA is not opposed to the concept of the bill. We believe the state should be reimbursed for medical assistance funds paid out. However, in order to be fair to the injured persons to which this bill would apply, we offer the following amendments:

In line 27 of Section 1, strike "whether or not the secretary has filed" and insert instead "upon". Without notification, an injured person would have no knowledge of his or her requirement to repay assistance benefits. In order to secure the lien, it is in the state's best interest to notify the injured party of the requirement upon settlement.

In line 2 of paragraph (c), insert "and/or the injured person's employer" at the end of the sentence. If an injury arises in the course of employment of the injured person, currently any recovery for the injured party is reduced proportionately to any percentage of comparative fault attributed to the employer and a workers compensation carrier's subrogation rights are also reduced by that proportionate share of fault of the employer. As we testified, it seems fair that the state should also participate in a reduction of recovery if attributable to the injured person's employer.

SWAM
march 10, 1993
Attachment 6

SENATE BILL No. 318

By Committee on Judiciary

2-15

8 AN ACT concerning public assistance; recovery of medical assistance
9 paid; creating a lien therefor; amending K.S.A. 1992 Supp. 39-
10 719a and repealing the existing section.

11

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

13 Section 1. K.S.A. 1992 Supp. 39-719a is hereby amended to read
14 as follows: 39-719a. (a) ~~Where~~ When medical assistance has been
15 paid by the secretary and a third party has a legal obligation to pay
16 such medical expenses to or on behalf of the recipient, the secretary
17 may recover the same from the recipient or from the third party
18 and shall be in all respects subrogated to the rights of the recipient
19 in such cases except as provided under K.S.A. 1992 Supp. 39-786
20 and 39-787, and amendments thereto, or under section 303 and
21 amendments thereto of the federal medicare catastrophic cov-
22 erage act of 1988 42 U.S.C. Sec. 1396r-5, and amendments thereto,
23 whichever is applicable. Payment of medical assistance by the sec-
24 retary shall be secondary to any other insurance coverage or third
25 party with a legal obligation to pay such medical expenses to or on
26 behalf of the recipient. A lien under this section in favor of the
27 secretary shall exist ~~whether or not the secretary has filed a written~~
28 ~~notice to the injured person, the injured person's attorney or the~~
29 ~~third party. The amount of the lien shall be the full amount of the~~
30 ~~medical assistance paid to the provider under the operation of the~~
31 ~~medical assistance program, regardless of the amount the medical~~
32 ~~provider would normally bill.~~

"upon"

33 (b) Pursuant to this section unless otherwise agreed, the court
34 shall fix attorney fees, which shall be paid proportionately by the
35 secretary and the injured person, such person's dependents or per-
36 sonal representatives, in the amounts determined by the court. At-
37 torney fees to be paid by the secretary shall be fixed by the court
38 in an amount not to exceed $\frac{1}{3}$ of the medical assistance recovered
39 pursuant to subsection (a) for cases settled prior to trial, or in an
40 amount not to exceed $\frac{2}{3}$ of the medical assistance recovered pursuant
41 to subsection (a) in cases when a trial is convened.

42 (c) In the event of a recovery pursuant to K.S.A. 60-258a, and
43 amendments thereto, the secretary's right of subrogation shall be

1 reduced by the percentage of negligence attributable to the injured
2 person.

"and/or the person's employer."

3 Sec. 2. K.S.A. 1992 Supp. 39-719a is hereby repealed.

4 Sec. 3. This act shall take effect and be in force from and after
5 its publication in the statute book.

**CLASSIFICATION AND SALARY STUDY
OF DIRECT CARE AND CORRECTIONAL CLASSES,
AS RECOMMENDED BY THE LEGISLATIVE BUDGET COMMITTEE
IN PROPOSAL NO. 16 -INSTITUTIONAL SAFETY AND SECURITY.**

Submitted By

The Department of Administration
Division of Personnel Services

March 1, 1993

SWAM
March 10, 1993
Attachment 7

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EXECUTIVE SUMMARY

In response to a Legislative Budget Committee proposal to the Senate Ways and Means and House Appropriations Committees, the Division of Personnel Services (DPS) conducted a study which included a comparison of direct care and corrections officer classification and pay structures. In addition to conducting a salary survey of 19 states, DPS staff visited Larned State Hospital and Larned Correctional Mental Health Facility. The purpose of these visits was to obtain first hand knowledge about the work of direct care employees in both security units and non-security at Larned State Hospital, and to assess the \$.50 per differential paid to direct care employees on Larned State Hospital security units. Additionally, a comparison of the work of direct care employees at Larned State Hospital to corrections officers who work at the correctional facility was made.

The salary data obtained indicate that for 13 of the 18 direct care classes surveyed, Kansas salaries are equal to or higher than the central states as measured by average salaries paid. Of 16 central states surveyed, 5 report providing a pay differential for employees of maximum security units in psychiatric hospitals and 3 other states have separate classes for direct care employees who work on security units. The survey results also reveal that in the central states, salaries of correctional officer classes exceed those of direct care classes in psychiatric institutions (classes comparable to Licensed Mental Health Technician) by an average of 12%.

With respect to advancement opportunities for employees in direct care classes in the states surveyed, the structure of classifications tends to be very similar to Kansas. Direct care career ladders appear to be limited due to the existence of professional positions such as nurses, social workers, psychologists, and physicians which also are an integral part of the hierarchy.

In conclusion it was determined that: 1) The work of direct care employees in both security and non-security settings is the same and the same dangers are present in both environments. 2) The \$.50 per hour differential paid to Larned State Hospital employees who work on security units has created severe morale problems, and should be considered for elimination. 3) Direct care employees are paid according to market rates, and adjustments in their salary ranges would create salary compression with professional level employees. 4) Corrections officer work is dissimilar to direct care work and they are commonly paid more than direct care workers among the states surveyed.

BACKGROUND

The Legislative Budget Committee in its Proposal No. 16 - Institutional Safety and Security (attached as **Exhibit C**), to the Senate Ways and Means and House Appropriations Committees, recommended that the Division of Personnel Services study and make recommendations on a salary structure for direct care classes. The study was to include consideration of the following:

- o an assessment of the \$.50 per hour differential paid to direct care employees of the Larned State Hospital Special Security Program;
- o consideration of market rate information in determining an appropriate salary structure for direct care classes;
- o consideration of the salary structure of comparable corrections positions; and
- o consideration of advancement opportunities for direct care classes.

METHODOLOGY

The Division of Personnel Services conducted a study of the classification structure and compensation of direct care and corrections classes. Staff work on the study consisted of the following activities:

- o a telephone survey of other state governments, designed to gather salary data and other pertinent information related to the classification structure and compensation of direct care and correctional classes.
- o a staff visit to Larned State Hospital and the Larned Correctional Mental Health Facility. This activity included formal tours of both institutions, meetings with members of their management staffs, and discussions with employees which focused on the environments of work units, staffing patterns, and safety issues.

Salary Survey

The Division of Personnel Services conducted a structured telephone survey of the Central States, which is a consortium of 16 states which surround Kansas in the midwestern region of the United States. Kansas founded this consortium in 1984 in order to ensure continuity and consistency with job and salary data, and has relied on it as a valuable information resource since then. The states of California, Washington, Oregon, New York, Texas and Michigan also were surveyed because the

Department of Social and Rehabilitation Service (SRS) identified these states as having mental health and retardation programs comparable to Kansas. The survey was designed to gather salary data on direct care and correctional officer classes as well as information on related subjects such as pay differentials for security work and other pay and promotional practices. The data gathered included the number of employees, salary minimum, salary maximum, and average salary paid to current employees. In addition, job class specifications were obtained from most states in order to verify that jobs in other states were comparable to those in Kansas. This information was obtained for the following job categories:

direct care, mental health

direct care, mental retardation

youth service (juvenile detention)

corrections officers

Data were gathered on trainee jobs through first line supervisors for each of the categories. See **Exhibit A** for complete list of Kansas classes.

The class specifications obtained from states were compared to Kansas classes to determine if they matched. If a match was found, the salary data were recorded. State data were then compared with Kansas data by class and the percentage differences were calculated.

Salary Survey Results

The salary data obtained indicate that for 13 of the 18 direct care classes surveyed, Kansas salaries are equal to or higher than the central states as measured by average salaries paid. See **Exhibit B** for a summary of the salary data. **Exhibit B** depicts, for each class, the percent difference between Kansas minimum, maximum, and average actual salaries compared to central state averages for minimum, maximum, and actual salaries. A positive percent difference indicates that the Kansas salary is higher than the central states average for the particular value compared. Current Kansas compensation policy is to maintain salary levels for state job classifications at the relevant labor market rate. Kansas class salaries are normally considered to be at market rate (step E of the pay range) if they are within 10 percent below and 10 percent above average salaries in the market surveyed. **Exhibit B** illustrates that, based on this criterion, salaries for all classes surveyed are at, or above, the central states labor market.

The survey results also reveal that in the central states, salaries of correctional officer classes exceed those of direct care classes in psychiatric institutions (such as Licensed Mental Health Technician) by an average of 12%. In Kansas, salaries of correctional classes exceed those of the Licensed Mental Health Technician series by an average of 10%.

At the request of SRS, the additional states of New York, California, Michigan, Oregon, Texas, and Washington were surveyed. New York, Michigan, and Oregon were the only states to provide data. Among these three states, salaries for correctional officer classes exceed salaries of direct care classes by an average of 24%. Also, salaries for direct care classes are 5.3 % greater on average than Kansas direct care classes, and salaries for correctional officer classes are 25% higher on average than Kansas correctional officer classes. Salaries from these states have not previously been used as a comparison to Kansas salaries because these states are not part of the Central States Consortium. These data are not included in **Exhibit B**.

Other Survey Results

Of 16 central states surveyed, 5 report providing a pay differential for employees of maximum security units in psychiatric hospitals. In Arkansas, direct care staff on security units receive a 5.5% differential. Idaho, North Dakota, South Dakota, and Oklahoma use point factor job evaluation systems, and assign extra job evaluation points which provide increased pay for direct care employees who work on security units.

Three other states, Nebraska, Colorado and Missouri, have separate classes for direct care employees who work on security units. In Nebraska, these classes are paid 15% more than direct care classes on non-security; in Colorado, 18% more; and, in Missouri, approximately 35% more.

With respect to advancement opportunities for employees in direct care classes in the states surveyed, the structure of classifications tends to be very similar to Kansas in that most states have class series that consist of three to four levels of paraprofessional classes, ranging from an entry or training class through first line supervisor. In addition, the only automatic progression in a class series was found to be from a training or entry level position to the first full-performance level. Further upward movement was found to be contingent upon completion of formal or on-the-job training programs as well as on competitive promotion.

Direct care career ladders also appear to be limited due to the existence of professional positions such as nurses, social workers, psychologists, and physicians which also are an integral part of the hierarchy. In the correctional environment, advancement is based upon attainment of rank similar to that in a military structure, as opposed to attainment of licensure in the direct care environment.

Findings Of Staff Visits to Larned Institutions

At Larned State Hospital, staff report that injury rates are greater on the non-security wards because of fewer staff on duty. By comparison, safety and security risks are lower on security wards because staffing is greater and security policies and procedures are better defined. The configuration of staffing and patients on Larned State Hospital wards is illustrated below.

	<u>Non-Security</u>	<u>Security</u>
Wards	9	8
Patients	218 of 233 capacity	201 of 250 capacity
Staff	190.5 of 194 authorized	213 of 214 authorized

The security wards account for 52.5% of the direct care positions at the Hospital. There are 9 non-security wards with patient capacity at 233. Currently there are 190.5 filled staff positions with 3.5 vacancies. The non-security wards account for 47.5% of the direct care positions at the Hospital. In addition, there are 1.06 staff per patient on security wards versus only 0.87 staff per patient on non-security wards.

Staff at the Hospital also report that unsafe conditions result when shifts aren't covered due to staff absence. An employee at the Larned Correctional Mental Health Facility who previously worked at Larned State Hospital indicated that this was the primary reason for his leaving the Hospital. He felt much safer at the correctional facility where there is adequate staff and well-defined security procedures to ensure safe working conditions.

The \$.50 per hour security differential paid to employees who work on security units has created morale problems for other employees who work on non-security units. When non-security direct care staff are moved to security wards to provide extra coverage, they are given the \$.50 per hour differential. However, when they return to their non-security unit, the differential is taken away. On the other hand, when security unit direct care staff provides coverage on non-

security units, they still receive the \$.50 per hour differential. Individuals are doing identical jobs but are not being compensated equally, and morale is affected.

The work of corrections officers as observed at the Larned Correctional Mental Health Facility is noticeably dissimilar to the work performed by direct care workers. Corrections officers are trained to provide security in the institutions in order to protect the general welfare of the prison population and prison staff, and the public outside of the prison walls. They must follow strict security procedures throughout their daily tours of duty to ensure safety when inmates are moved from one activity and area to another. They are sworn law officers who are part of a network that includes federal, other state, and local law enforcement officials. By contrast, direct care workers as their title implies, are trained to provide therapeutic care to institutional residents under the supervision of health care professionals that include physicians, nurses, social workers, and psychologists.

CONCLUSIONS AND RECOMMENDATIONS

Based on the study of these issues, the Division of Personnel Services reports the following conclusions and recommendations:

- o Employees of security and non-security units at Larned State Hospital perform the same work and face essentially the same dangers.
- o The security differential given to Larned State Hospital employees who work on security units has created a severe morale problem for employees who work on non-security units. The same risk of injury exists on the non-security units, but fewer employees are available to cope with them. Therefore, we recommend eliminating the security differential. This action would represent a pay cut for current employees. If the decision is made to eliminate the differential, and considering the morale of current employees, consideration could be given to allow these employees to continue to receive the pay differential. New employees would not be eligible for the differential.
- o Salary data do not indicate any need to adjust direct care salary ranges.
- o Any increase to salary ranges of direct care classes could result in salary compression within SRS facilities because direct care salaries would approach those paid to professional staff such as nurses and social workers.

- o Work performed by direct care employees is not comparable to work performed by correctional officers. Employees in corrections classes perform different work than employees in direct care classes and universally receive higher pay among the states surveyed.

EXHIBIT A

Direct Care And Correctional Classes Surveyed

Mental Health Trainee

Mental Health Aide

Licensed Mental Health Technician I and II

Licensed Mental Health Technician Specialist

Mental Retardation Trainee

Mental Retardation Technician I And II

Mental Retardation Technician Specialist

Youth Services Specialist Trainee

Youth Services Specialist I,II and III

Corrections Officer Trainee

Corrections Officer I and II

Corrections Specialist I and II

EXHIBIT B

**DIRECT CARE AND CORRECTIONAL CLASSES
COMPARISON OF
KANSAS AND CENTRAL STATES SALARIES**

KANSAS CLASS TITLE	MONTHLY SALARIES		AVG	SALARY RANGE
	MIN	MAX		
Mental Health Trainee				
State Averages	1090	1464	1129	
Kansas	1131	1592	1161	10
Percent Difference	0.04	0.09	0.03	
Mental Health Aide				
State Averages	1278	1733	1461	
Kansas	1247	1755	1389	12
Percent Difference	-0.02	0.01	-0.05	
Lic. Mental Health Tech. I				
State Averages	1347	1915	1672	
Kansas	1516	2133	1736	16
Percent Difference	0.13	0.11	0.04	
Lic. Mental Health Tech. II				
State Averages	1415	2049	1779	
Kansas	1592	2240	1880	17
Percent Difference	0.13	0.09	0.06	

KANSAS CLASS TITLE	MONTHLY SALARIES		AVG	SALARY RANGE
	MIN	MAX		
Corrections Officer Trainee				
State Averages	1507	1929	1537	
Kansas	1445	2032	1446	15
Percent Difference	-0.04	0.05	-0.06	
Corrections Officer I				
State Averages	1536	2160	1732	
Kansas	1592	2240	1723	17
Percent Difference	0.04	0.04	-0.01	
Corrections Officer II				
State Averages	1723	2420	1985	
Kansas	1755	2468	1949	19
Percent Difference	0.02	0.02	-0.02	
Corrections Specialist I				
State Averages	1833	2618	2117	
Kansas	2032	2857	2216	22
Percent Difference	0.11	0.09	0.05	

EXHIBIT B

DIRECT CARE AND CORRECTIONAL CLASSES
COMPARISON OF
KANSAS AND CENTRAL STATES SALARIES

KANSAS CLASS TITLE	MONTHLY SALARIES		AVG	SALARY RANGE		KANSAS CLASS TITLE	MONTHLY SALARIES		AVG	SALARY RANGE
	MIN	MAX					MIN	MAX		
Lic. Mental Health Tech. Spec.						Corrections Specialist II				
State Averages	1628	2292	2069			State Averages	2088	2953	2491	
Kansas	1671	2351	1997	18		Kansas	2240	3151	2509	24
Percent Difference	0.03	0.03	-0.03			Percent Difference	0.07	0.07	0.01	
Mental Retardation Trainee										
State Averages	1045	1461	1083							
Kansas	1131	1592	1140	10						
Percent Difference	0.08	0.09	0.05							
Mental Retardation Tech. I										
State Averages	1293	1827	1552							
Kansas	1516	2133	1660	16						
Percent Difference	0.17	0.17	0.07							

EXHIBIT B

DIRECT CARE AND CORRECTIONAL CLASSES
COMPARISON OF
KANSAS AND CENTRAL STATES SALARIES

KANSAS CLASS TITLE	MONTHLY SALARIES			SALARY RANGE		KANSAS CLASS TITLE	MONTHLY SALARIES			SALARY RANGE
	MIN	MAX	AVG				MIN	MAX	AVG	
Mental Retardation Tech. II										
State Averages	1335	1920	1574							
Kansas	1592	2240	1783	17						
Percent Difference	0.19	0.17	0.13							
Mental Retardation Tech. Spec.										
State Averages	1602	2255	1947							
Kansas	1671	2351	1951	18						
Percent Difference	0.04	0.04	0.00							
Youth Service Spec. Trainee										
State Averages	1385	1877	1414							
Kansas	1309	1842	1481	13						
Percent Difference	-0.05	-0.02	0.05							
Youth Service Spec. I										
State Averages	1415	1985	1594							
Kansas	1445	2032	1640	15						
Percent Difference	0.02	0.02	0.03							

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EXHIBIT B

**DIRECT CARE AND CORRECTIONAL CLASSES
COMPARISON OF
KANSAS AND CENTRAL STATES SALARIES**

KANSAS CLASS TITLE	MONTHLY SALARIES			SALARY RANGE		KANSAS CLASS TITLE	MONTHLY SALARIES			SALARY RANGE
	MIN	MAX	AVG				MIN	MAX	AVG	
Youth Service Spec. II										
State Averages	1498	2077	1644							
Kansas	1592	2240	1841	17						
Percent Difference	0.06	0.08	0.12							
Youth Service Spec. III										
State Averages	1713	2414	1952							
Kansas	1755	2468	2174	19						
Percent Difference	0.02	0.02	0.11							

PROPOSAL NO. 16 -- INSTITUTIONAL SAFETY AND SECURITY

Proposal No. 16 charged the Legislative Budget Committee to:

Review safety and security issues at the state mental health and mental retardation institutions, youth centers, School for the Blind, and School for the Deaf, including examination of training options for safety and security officers employed by these institutions, and review salary structures of the Department of Social and Rehabilitation Services (SRS) and the Department of Corrections' (DOC) employees in comparable positions, especially where both agencies operate on the same campus.

BACKGROUND

The charge consolidates recommendations for interim review made during the 1992 Session by the Senate Ways and Means and House Appropriations Committees. Included in the recommendations was the request that the Committee review the institutions' requests for capital improvements and personnel related to safety and security issues.

I. TRAINING OPTIONS FOR SAFETY AND SECURITY OFFICERS EMPLOYED BY INSTITUTIONS

A total of 79 safety and security officers are employed by the mental health and retardation institutions and the Youth Center at Topeka (YCAT). The Youth Centers at Beloit and Atchison do not have any safety and security positions. The 79 positions include seven range 19 Safety and Security Chief or Director positions, 15 range 17 Safety and Security Officer II positions, and 57 range 15 Safety and Security Officer I positions.

Briefly stated, Safety and Security Officers at the institutions are responsible for ensuring the protection and safety of patients, staff, and visitors, and for protecting state property. K.S.A. 76-12a17 requires persons employed by SRS receiving permanent appointments as security policemen to be awarded a certificate by the Secretary of Corrections attesting to satisfactory completion of a basic course of instruction for correctional officers. Security policemen are defined in K.S.A. 76-12a16 as being "vested with the power and authority of peace, police and law enforcement officers anywhere within the county in which the institution is located for which the security policeman is employed" Topeka State Hospital requires its Safety and Security Officers to receive 200 hours of training at the DOC facility on the Topeka State campus. Osawatomie State Hospital has developed its own training program, which officials believe is more suited to the needs of the facility. The program includes Mandt training, which is a type of nonviolent self defense training for safety and nursing personnel taught by existing hospital staff. Larned does not currently use Mandt training for security personnel, but plans to begin using Mandt or similar training. Larned and Rainbow Safety and Security Officers do not receive DOC training.

Although varying somewhat among the hospitals, the mental health hospitals offer additional training in some or all of the following: orientation to the campus and security program and procedures, CPR, first aid, infection control, fire safety and firefighter training, risk management, disaster planning, telecommunications device for the hearing impaired, use of restraints, emergency vehicle transportation, patient confidentiality, hazardous materials, electrical safety and chemical water treatment, narcotics investigation, and radio communications. Topeka State Safety and Security Officers also receive DOC inmate supervisory training.

Licensed Mental Health Technician (LMHT) Is, and range 17 (LMHT IIs)), which are compared to range 15 Corrections Officer Trainee positions, range 17 Corrections Officer I positions, and range 19 Correctional Officer II positions. Both the direct care classes of workers employed by the SRS institutions and the correctional worker classes were studied by the Division of Personnel Services in FY 1989 as a part of Phase III of the Comprehensive Classification and Job Rate Study. The pay ranges currently in effect for those positions were determined at that time.

Discussion regarding this issue has also centered on the employees of the Larned State Hospital Special Security Program. The Larned Special Security Program includes two components: the State Security Hospital (Dillon and Jung buildings) and the Security Behavior Ward (Meyer West building). The State Security Hospital evaluates and treats persons committed by the courts and DOC prisoners and includes 165 maximum security beds for males, 12 maximum security beds for females, and 43 maximum security beds for chemical dependency treatment for DOC inmates. The 30-bed Security Behavior Ward houses civilly committed patients who have been transferred from any of the four state mental health hospitals because they have presented safety concerns to other patients or staff. The Security Behavior Ward is a very secure, highly structured unit. For FY 1993, 79.5 LMHT I positions, 24.0 LMHT II positions, and 78.5 Mental Health Aide positions are authorized for this program. Direct care employees of the Special Security program receive a \$.50 per hour pay differential.

The concern that has been noted in this area is that employees of the Larned Special Security Program and the Larned Correctional Mental Health Facility may work with the same patients, yet, as noted, the pay ranges for the former employees are lower. Patients from the correctional facility may be transferred to the State Hospital Special Security Program when their psychiatric treatment needs cannot be met at the correctional facility. According to hospital officials, this can include seriously ill, violent patients. When those patients have been stabilized, they are returned to the correctional facility.

COMMITTEE ACTIVITIES

The Committee reviewed the institutions' requests for personnel, capital improvement, and capital outlay items relating to safety and security issues and the progress made in implementing those projects funded by the 1992 Legislature.

Training for Safety and Security Officers

The Committee reviewed the statutory requirements for training safety and security officers and current training needs at the SRS institutions. Testimony from SRS indicated that the current correctional officer training offered by DOC is not appropriate for safety and security officers employed by the institutions and that the institutions have developed individual programs to meet their specific needs.

In response to the Committee's request, representatives of DOC and SRS met to determine the training needs of safety and security personnel employed by the SRS institutions. DOC and SRS staff concluded that DOC training in the following areas would be appropriate for SRS safety and security employees: first aid, cardiopulmonary resuscitation (CPR), fire safety, self defense, use of communications equipment, emergency preparedness, sexual harassment, cultural awareness (to be provided in conjunction with SRS), stress awareness and management, preservation of crime scenes, drug identification and investigation, report writing, key control, bombs, terroristic threats, gangs, and interpersonal relationships. They further concluded that DOC training in the following areas should be supplemented by SRS to meet the unique needs of SRS security personnel: firefighter training, use of restraints, communication skills, hazardous materials, search and seizure, missing persons reports, fire and safety inspections, legal issues, and security procedures. Finally, SRS should provide training in the following areas: Mandt training (nonviolent crisis intervention); patient vehicular transport; crime prevention;

of training devised by SRS and DOC would provide valuable and appropriate training for SRS safety and security officers. The collaborative training efforts of SRS and DOC could also enhance the training currently provided by DOC for its corrections officers.

The Committee recommends that K.S.A. 76-12a17 be amended to require that SRS security officers be awarded a certificate by the Secretary of Corrections attesting to the completion of a basic course of instruction specified by the Secretary of SRS and the Secretary of Corrections, rather than the current requirement that SRS security officers complete a basic course of instruction for correctional officers. The statutory reference to K.S.A. 75-5212, which requires that the training course be approved by the Secretary of Corrections and consist of not less than 200 hours of training, would be deleted. ____ B. ____ carries out this recommendation.

The Committee recommends that SRS continue to work toward a reduction in the injury rate at its institutions. The Committee recommends that SRS explore whether additional training for SRS employees would help to reduce the injury rate and that SRS continue to monitor this area. The safety committees should be active at each of the institutions and should receive input from direct care workers regarding safety and security issues.

In regard to the salary equity issue, the Committee notes that the direct care classes were reviewed as a part of Phase III of the Comprehensive Classification and Job Rate Study in FY 1989. After review of the issue, however, the Committee recommends that the Division of Personnel Services study and make recommendations for a salary structure for direct care classes. The study should include an assessment of the \$.50 per hour pay differential paid to direct care employees of the Larned State Hospital Special Security program. In addition to considering market rate information in determining an appropriate salary structure, the study should consider the salary structure of comparable corrections positions. Advancement opportunities for direct care classes should also be considered. The results of the Division of Personnel Services study should be presented to the Ways and Means and Appropriations Committees on or before March 1, 1993.

Respectfully submitted,

November 10, 1992

Sen. August Bogina, Jr., Chairperson
Legislative Budget Committee

Rep. Henry Helgersen, Vice-Chairperson
Rep. Sheila Hochhauser
Rep. James Lowther
Rep. George Teagarden

Sen. Paul Burke
Sen. Gerald Karr