

Approved: Jan. 25, 1994  
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 January 20, 1994 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department  
Norm Furse, Revisor of Statutes  
Judy Bromich, Administrative Assistant  
Ronda Miller, Committee Secretary

Conferees appearing before the committee: Gloria Timmer, Director, Division of the Budget  
John Sherman, Department of Transportation  
Bob Alderson, Port Authority

Others attending: See attached list

### APPROVAL OF MINUTES

Senator Rock moved, Senator Salisbury seconded, that the minutes of the January 11, January 18, and January 19 meetings be approved. The motion carried on a voice vote.

### INTRODUCTION OF BILLS

Mr. John Sherman, Kansas Department of Transportation, Department of Rail Affairs, and Mr. Bob Alderson, general counsel for the port authority, requested the introduction of bill draft 3 RS 1911 and an expeditious hearing upon the assignment of the bill to a standing committee. The Chairman indicated that he would request that the bill be sent to Ways and Means and that he would hold a hearing as soon as possible. Senator Salisbury moved, Senator Bond seconded, that bill draft 3 RS 1911 be introduced as requested by the Department of Transportation. The motion carried on a voice vote.

### PERFORMANCE BASED BUDGETING

Gloria Timmer, Director, Division of the Budget, appeared before the Committee to discuss a change in the way the Division of the Budget analyzed specific budgets. She stated that performance based budgeting is a shift in focus from analyzing object code detail to analyzing expected performance. Until this year, budget analysts focused more on object code detail than expected performance of the agency. Ms. Timmer stated that the anticipated results provide more accountability and a better idea of expected performance.

Attachment 1 was submitted as an example of the object code summary which has been the basis for budget analysis in the past. Ms. Timmer explained that Attachment 2 provides an example of a summary sheet which was provided to specific agencies this year (general governmental agencies, Department of Corrections and its institutions). Attachment 3 is an issue units analysis which represents major areas of discussion in every agency budget.

Concern was expressed that not all elements of performance based budgeting were in place and, therefore, performance could not be accurately measured. Ms. Timmer stated that agencies have submitted a mission statement, programs, program priorities and performance indicators for approximately the past 13 years and that these should be made available to the Legislature through the Department of Research analysis and agency budgets. She discussed some of the attempts to implement performance based budgeting in other states, but stated that, to her knowledge, it had not been fully implemented anywhere.

The Chairman expressed his opinion that the House and Senate committees should evaluate budgets from the same perspective because of the need to have a common base during conference committee meetings.

Concern was expressed that performance based budgeting not limit the Legislature's effectiveness in evaluating **what** is done in some agencies rather than **how** something is done. The time that it would take to

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at 11:00 a.m. on January 20, 1994.

adequately analyze performance was also expressed as a concern by some members.

It was pointed out that there was no focus on quality control and no baseline to insure truthfulness if the plan is to be self-reporting. It was suggested that Division of the Budget develop quality control and implement this new procedure in only one agency in order to develop a useful model. Ms. Timmer stated that she had located training for quality control at no cost to the state. It was suggested that the Division of Post Audit be involved in the training.

The Chairman invited Barbara Hinton, Post Audit, or Alan Conroy, Chief Fiscal Analyst, Kansas Legislative Research Department to further discuss the issue of performance based budgeting at the next meeting.

The next meeting is scheduled for January 24, 1994.



## GUEST LIST

COMMITTEE: SENATE WAYS AND MEANS

DATE: Jan 20, 1994

[illegible]

DATE. 12/14/92

AGENCY 62500 OFFICE OF THE SECURITIES COMMISSIONER  
 FUNCTION 1 GENERAL GOVERNMENT  
 AGENCY SUMMARY REPORT

\*\*\*\*\*FORM DA406-R\*\*\*\*\*  
 \* EXPENDITURES \*  
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NO	OBJECT OF EXPENDITURE		FY 1992 ACTUAL	FY 1993 ESTIMATE	DOB USE	FY 1994 LEVEL A	FY 1994 LEVEL B	FY 1994 LEVEL C	DOB USE ONLY
01	SALARIES AND WAGES	100	1,121,416	1,173,816	1,162,078	1,224,047	1,224,047	1,269,505	1,211,807
05	COMMUNICATION	200	42,299	40,564	40,564	39,232	39,232	39,232	39,232
	FREIGHT AND EXPRESS	210	449	464	464	480	1,980	1,980	480
	PRINTING/ADVERTISING	220	3,015	3,704	3,704	3,834	3,834	3,834	3,704
	RENTS	230	79,827	82,389	82,389	82,505	90,605	90,605	82,505
	REPAIRING/SERVICING	240	10,013	5,798	5,798	6,001	6,001	14,001	13,798
	TRAVEL AND SUBSISTENCE	250	58,533	60,807	60,807	56,352	56,352	56,352	56,352
	FEES-OTHER SERVICES	260	4,339	4,482	4,482	4,639	4,639	12,639	4,639
	FEES-PROF. SERVICES	270	3,830	60,000	60,000	0	0	0	20,000
	UTILITIES	280	0	0	0	0	0	0	0
	OTHER SERVICES	290	6,873	7,100	7,100	6,000	7,000	7,000	7,000
06	TOTAL CONTRACTUAL SERV		209,178	265,308	265,308	199,043	209,643	225,643	227,710
10	CLOTHING	300	0	0	0	0	0	0	0
	FEED AND FORAGE	310	0	0	0	0	0	0	0
	FOOD-HUMAN CONSUMPTION	320	0	0	0	0	0	0	0
	FUEL	330	0	0	0	0	0	0	0
	MAINTENANCE MATERIALS	340	1,583	969	969	1,003	1,003	1,003	969
	VEHICLE PARTS/SUPPLIES	350	147	0	0	0	0	0	0
	PROFESSIONAL SUPPLIES	360	1,769	1,827	1,827	1,891	1,891	1,891	1,827
	OFFICE SUPPLIES	370	10,943	11,304	11,304	11,700	11,700	11,700	11,304
	SCI. RESEARCH SUPPLIES	380	0	0	0	0	0	0	0
	OTHER MATERIALS/PARTS	390	1,120	1,157	1,157	1,197	1,197	1,197	1,157
11	TOTAL COMMODITIES		15,562	15,257	15,257	15,791	15,791	15,791	15,257
15	TOTAL CAPITAL OUTLAY	400	8,553	0	0	0	0	9,000	4,500
20	DEBT SERVICE PRINCIPAL	600	0	0	0	0	0	0	0
25	TOTAL NONEXPENSE ITEMS	700	100	0	0	30,000	60,000	100,000	0

SWAM

January 20, 1994

Attachment 1



30 ** STATE OPERATIONS		1,354,809	1,454,381	1,442,643	1,468,881	1,509,481	1,619,939	1,459,274
35 FEDERAL AID TO LOCAL	500	0	0	0	0	0	0	0
STATE AID TO LOCAL	510	0	0	0	0	0	0	0
36 TOTAL AID TO LOCAL								
40 TOTAL EXPENDITURES		1,354,809	1,454,381	1,442,643	1,468,881	1,509,481	1,619,939	1,459,274
45 NUMBER OF POSITIONS		26.0	26.0	26.0	26.0	26.0	26.0	26.0

DATE. 12/14/92

AGENCY 62500 OFFICE OF THE SECURITIES COMMISSIONER  
 FUNCTION 1 GENERAL GOVERNMENT  
 AGENCY SUMMARY REPORT

\*\*\*\*\*FORM DA 410-R\*\*\*\*\*  
 \* F I N A N C I N G P L A N \*  
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FUND SUB FUND CODE ACC NAME	FY 1992 ACTUAL	FY 1993 ESTIMATE	DOB USE ONLY	FY 1994 LEVEL A	FY 1994 LEVEL B	FY 1994 LEVEL C	DOB USE ONLY
STATE OPERATIONS							
SALARIES & WAGES							
ALL OTHER FUNDS							
2162 00 SECURITIES ACT FEE FUN	1,121,416	1,173,816	1,162,078	1,224,047	1,224,047	1,269,505	1,211,807
SUBTOTAL ALL OTHER FUNDS	1,121,416	1,173,816	1,162,078	1,224,047	1,224,047	1,269,505	1,211,807
SUBTOTAL SALARIES & WAGES	1,121,416	1,173,816	1,162,078	1,224,047	1,224,047	1,269,505	1,211,807
OTHER OPER EXPENDITURES							
ALL OTHER FUNDS							
2162 00 SECURITIES ACT FEE FUN	233,393	280,565	280,565	244,834	285,434	350,434	247,467
SUBTOTAL ALL OTHER FUNDS	233,393	280,565	280,565	244,834	285,434	350,434	247,467
SUBTOTAL OTHER OPER EXPENDITURE	233,393	280,565	280,565	244,834	285,434	350,434	247,467
SUBTOTAL - STATE OPERATIONS	1,354,809	1,454,381	1,442,643	1,468,881	1,509,481	1,619,939	1,459,274
TOTAL EXPENDITURES							
AGENCY 62500	1,354,809	1,454,381	1,442,643	1,468,881	1,509,481	1,619,939	1,459,274

Date: 12/02/93 Time: 16.11.13

Agency: 62500 OFFICE OF THE SECURITIES COMMISSION AGENCY SUMMARY

Function: 1 GENERAL GOVERNMENT

SHEET

ALL FUNDS	FY 1992 Actual	FY 1993 Actual	FY 1994 Approved	FY 1994 Revised	FY 1994 Rec	+/-
Salaries and Wages	1,121,416	1,157,664	1,213,116	1,220,990	1,220,990	5.5
OOE	233,393	233,246	252,467	244,263	242,395	3.9
Subtotal-State Ops	1,354,809	1,390,910	1,465,583	1,465,253	1,463,385	5.2
Aid to Local Units	0	10,000	0	0	0	(100.0)
Other Assistance	0	0	0	0	0	.0
Subtotal-Oper Exp	1,354,809	1,400,910	1,465,583	1,465,253	1,463,385	4.5
Capital Improvements	0	0	0	0	0	.0
Total Expenditures	1,354,809	1,400,910	1,465,583	1,465,253	1,463,385	4.5
Positions - FTE	26.0	26.0	26.0	26.0	26.0	
STATE GENERAL FUND						
Salaries and Wages	0	0	0	0	0	0
OOE	0	0	0	0	0	0
Subtotal-State Ops	0	0	0	0	0	0
Aid to Local Units	0	0	0	0	0	0
Other Assistance	0	0	0	0	0	0
Subtotal-Oper Exp	0	0	0	0	0	0
Capital Improvements	0	0	0	0	0	0
Total Expenditures	0	0	0	0	0	0

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January 20, 1994  
Attachment 2



Date: 12/02/93 Time: 16.11.13

Agency: 62500 OFFICE OF THE SECURITIES COMMISSION AGENCY SUMMARY

Function: 1 GENERAL GOVERNMENT SHEET

ALL FUNDS	FY 1995 Level A	FY 1995 Level B	FY 1995 Level C	FY 1995 Rec	+/-
Salaries and Wages	1,214,956	1,259,809	1,319,710	1,255,003	2.8
OOE	234,861	260,772	293,672	273,272	12.7
Subtotal-State Ops	1,449,817	1,520,581	1,613,382	1,528,275	4.4
Aid to Local Units	0	10,000	20,000	10,000	100.0
Other Assistance	0	0	0	0	.0
Subtotal-Oper Exp	1,449,817	1,530,581	1,633,382	1,538,275	5.1
Capital Improvements	0	0	0	0	.0
Total Expenditures	1,449,817	1,530,581	1,633,382	1,538,275	5.1
Positions - FTE	26.0	26.0	26.0	26.0	
STATE GENERAL FUND					
Salaries and Wages	0	0	0	0	0
OOE	0	0	0	0	0
Subtotal-State Ops	0	0	0	0	0
Aid to Local Units	0	0	0	0	0
Other Assistance	0	0	0	0	0
Subtotal-Oper Exp	0	0	0	0	0
Capital Improvements	0	0	0	0	0
Total Expenditures	0	0	0	0	0

DATE/TIME 12/02/93 16.11.48

AGENCY 62500 OFFICE OF THE SECURITIES COMMISSIONER

FUNCTION 1 GENERAL GOVERNMENT

\*\*\*\*\*FORM DA 402\*\*\*\*\*

\* A G E N C Y S U M M A R Y \*

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EXPLANATION	FY 1993 ACTUAL	FY 1994 AGY EST	FY 1994 ADJ GOV	FY 1995 LEVEL A	FY 1995 LEVEL B	FY 1995 LEVEL C	FY 1995 ADJ REC
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EXPENDITURES BY PROGRAM

OPERATIONS	1,400,910	1,465,253	1,463,385	1,449,817	1,530,581	1,633,382	1,538,275
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TOTAL EXPENDITURES

1,400,910	1,465,253	1,463,385	1,449,817	1,530,581	1,633,382	1,538,275
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EXPENDITURES BY OBJECT

SALARIES AND WAGES	1,157,664	1,220,990	1,220,990	1,214,956	1,259,309	1,319,710	1,255,003
CONTRACTUAL SERVICES	204,336	220,895	219,027	219,230	245,141	276,291	256,641
COMMODITIES	13,890	15,118	15,118	15,631	15,631	17,381	16,631
CAPITAL OUTLAY	15,020	8,250	8,250	0	0	0	0
DEBT SERVICE	0	0	0	0	0	0	0
NON-EXPENSE ITEMS	0	0	0	0	0	0	0

SUBTOTAL-STATE OPERATIONS

1,390,910	1,465,253	1,463,385	1,449,817	1,520,581	1,613,382	1,528,275
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AID TO LOCAL UNITS

10,000	0	0	0	10,000	20,000	10,000
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OPERATING EXPENDITURES

1,400,910	1,465,253	1,463,385	1,449,817	1,530,581	1,633,382	1,538,275
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PLAN FOR FINANCING EXPENDITURES

OPERATING EXPENDITURES:

STATE OPERATIONS

SPECIAL REVENUE FUNDS

SECURITIES ACT FEE FUND	1,390,910	1,465,253	1,463,385	1,449,817	1,520,581	1,613,382	1,528,275
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SUBTOTAL-SPECIAL REV. FUNDS

1,390,910	1,465,253	1,463,385	1,449,817	1,520,581	1,613,382	1,528,275
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1	SUBTOTAL-STATE OPERATIONS	1,390,910	1,465,253	1,463,385	1,449,817	1,520,581	1,613,382	1,528,275
2	FEDERAL/STATE AID							
3	SPECIAL REVENUE FUNDS							
4								
5	SECURITIES ACT FEE FUND	10,000	0	0	0	10,000	20,000	10,000
6								
7	SUBTOTAL-SPECIAL REV. FUNDS	10,000	0	0	0	10,000	20,000	10,000
8								
9								
10	SUBTOTAL-AID TO LOCAL UNIT	10,000	0	0	0	10,000	20,000	10,000
11								
12								
13	SUBTOTAL-OPER EXPENDITURES	1,400,910	1,465,253	1,463,385	1,449,817	1,530,581	1,633,382	1,538,275
14								
15								
16								
17	TOTAL EXPENDITURES	1,400,910	1,465,253	1,463,385	1,449,817	1,530,581	1,633,382	1,538,275
18								
19								
20								
21	NUMBER OF POSITIONS-FUNCTION	26.00	26.00	26.00	26.00	26.00	26.00	26.00
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Division of the Budget

Issue B: Level A -- FY 1995

Description: The agency requests \$1,449,817 at the A Level in FY 1995. No fee increases are planned for FY 1995 at any level. This level would finance existing personnel costs with the exception of merit pay, step movement, and longevity. Other reductions include the following:

1. Increase in the shrinkage rate from one percent to two percent -- \$16,070.
2. Elimination of relocation costs for the Wichita office to move into the new state office building -- \$6,833.
3. Reduction in professional fees used to finance trial and hearing costs -- \$10,000.
4. Discontinuance of the grant to Kansas Council on Economic Education -- \$10,000.
5. No capital outlay requests at any level.
6. Elimination of the additional office space for the Topeka office.

This budget level could result in reductions of the extent and quality of agency services, while the volume of filings and other demand for agency services will most likely continue to increase. The number of investigations completed would fall by 30 from the B level performance expectation, leaving more investigations open at the end of the year. The average caseload per investigator would increase to 18, and criminal referrals would drop from 35 to 30. In addition, five fewer field examinations could be accomplished at the A level. Reductions in registration and compliance services (preventive regulation services) would most likely result in substantial investment or trading losses by Kansas investors, but the extent of these losses cannot be estimated accurately. In addition, the costs to attempt after-the-fact recovery of preventable losses is significantly greater than the costs of preventive regulation.

Performance at the A level is forecast at slightly less of all agency activities without any one activity suffering disproportionately. The A level appears to predict a general decline in employee and agency productivity. The activity most affected would be the consumer education function begun last year with a grant to KCEE for promotion of the Stock Market Game. That activity would be discontinued. The grant represents the only preventive measures being taken by the agency to reduce securities fraud and better protect investors and the capital markets.

Division of the Budget Recommendation: The recommendation of \$1,485,820 from the agency's fee fund is made at the B level. This recommendation represents a 1.5

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Attachment 3



percent increase over the FY 1994 Budget Division recommendation. Further detail is provided in Issue C.

**Agency Appeal:** Appeal for \$20,000 to enhance the investor education program.

**Governor's Recommendation:** Add \$20,000 for education and \$32,455 for step movement, merit pay, and longevity.

**Legislative Action:**

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## Issue C: Level B -- FY 1995

**Description:** The agency requests \$1,530,581 which is \$65,328 more than the FY 1994 approved budget (4.5 percent). No fee increases are planned for FY 1995 at any level.

At this level, the agency would fully fund its personnel costs and would continue the \$10,000 grant to the Kansas Council on Economic Education for support of the Stock Market Game in the schools. This request also includes increased costs for office space including (1) higher cost per square foot for the Wichita office in the new state office building than is currently being paid, and (2) expansion of the Topeka office by 600 square feet of ground-floor space to accommodate patrons who cannot use the stairs (an ADA compliance issue) and to provide meeting room space for agency hearings.

The Level B request for FY 1995 is based on a continuation of agency services at the level currently provided under the authorized budget for FY 1994. The agency predicts continued growth in filings (from 6,090 in FY 1994 to 6,395 in FY 1995) and strong growth in both original and renewal applications. Forty field examinations will be possible at the B level, compared to 35 in FY 1994 and 27 in FY 1993. Both the productivity of investigators and the average caseload per investigator appear to benefit from the increased funding at the B level but are not affected by the additional amounts requested at the C level. The only direct link between the budget and the level of performance indicated is the variance in the shrinkage rate.

**Division of the Budget Recommendation:** The Division generally recommends the B level budget with salaries at the A level (without merit pay, longevity, or step movement). Lack of variation in agency performance at the C level compared to the B level indicates that the additional C level requests are not critical to performance, although the C level does include the enhancements in public information and educational services.

The total amount recommended is \$1,485,820. Shrinkage is recommended to continue at 1.0 percent. The request for KP&F benefits for investigators is not recommended. Health insurance rates have been revised based on the rate reduction of 9/16/93.

The OOE recommendation includes printing costs for an informational booklet and inflationary increases for most expenses. Additional office space for the Topeka office is not recommended (\$7,500). The enhancement to investor and entrepreneur education is not recommended. An increase for costs associated with litigation and hearings is recommended at the requested level, which is slightly more than actual FY 1993 expenses.

The request for aid to local units is recommended at the B level of \$10,000 for the grant to KCEE for investor education. This is equal to the amount paid last year. ,



Agency Appeal: Appeal for \$20,000 to enhance investor education.

Governor's Recommendation: Add \$20,000 for education and \$32,455 for step movement, merit pay, and longevity.

Legislative Action:

Issue D: Level C -- FY 1995

Description: The Office of the Securities Commissioner requests \$1,633,382 at the C level, which would finance the B level budget plus the following:

1. First-year costs for the agency's nine investigators to participate in Kansas Police and Fire (KP&F) retirement -- \$47,176
2. Elimination of shrinkage -- \$12,725.
3. Expansion of public information and educational services -- \$52,900.

Agency performance generally is not forecast to increase with the C level budget, except in the expansion of public information and educational services. No performance measures have been developed yet for the educational services, although the long-term expectation of preventive education is that it should positively affect the workload of investigators and attorneys by preventing securities violations. No fee increases are planned for FY 1995 at any level.

Division of the Budget Recommendation: The recommendation of \$1,485,820 is basically the agency's B level request.

Agency Appeal: Appeal for \$20,000 for investor education.

Governor's Recommendation: Add \$20,000 for education and \$32,455 for step movement, merit pay, and longevity.

Legislative Action:



**Issue 1: Securities Commissioner -- Operations Program -- FY 1994 and FY 1995**

**Description:** The agency has two major functions--regulation and enforcement--and recently began a third function--education--for which it plans an expansion. Regulation services generally are intended to prevent or detect violations of the Kansas Securities Act and other statutes. Regulation services involve the registration of securities offerings, broker-dealers, agents, investment advisers, loan brokers, and subdivided land offerings. Regulation involves continuous monitoring of registrants for compliance with requirements of related statutes and administrative regulations.

Enforcement services are concerned with investigation, prosecution, and correction of alleged unlawful conduct or criminal violations under the Kansas Securities Act and other statutes. The agency asserts that an effective enforcement program not only provides remedies for violations and criminal activities but also provides a general deterrence against future violations.

The public education function of the Office of the Securities Commissioner began in the FY 1994 approved budget with a \$5,000 grant to the Kansas Council on Economic Education (KCEE) for support of the Stock Market Game in schools. The agency increased the amount paid to \$10,000 and paid it in FY 1993 (see Issue 1c). The agency now requests \$20,000 at the C level for this same purpose. Also requested is \$32,900 at the C level for publication of an informational brochure, production of a video, hosting of a booth at the 1994 state fair, and hosting of several small conferences to promote investor education in the securities market.

**Division of the Budget Recommendation:** The Division of the Budget recommends the continuation of regulation and enforcement activities as proposed in the B level and gradual, but not dramatic, expansion of educational and preventive services, as requested in the B level. Level C requests to expand the education function are not recommended.

**Agency Appeal:** Appeal for \$20,000 to improve investor education.

**Governor's Recommendation:** Add \$20,000 for education and \$32,455 for step movement, merit pay, and longevity.

**Legislative Action:**



## Issue 1a: Salaries and Wages -- FY 1994 and FY 1995

**Description:** The agency requests \$1,220,990 in FY 1994 and \$1,319,710 in FY 1995 from the Securities Act Fee Fund for salaries and wages. These levels of funding include classified step movement, unclassified merit, and longevity pay.

The agency requests \$47,176 at the C Level in FY 1995 to incorporate 9.0 FTE investigator positions into the Kansas Police & Fire Retirement System. These nine positions require qualification as law enforcement officers, and offering this benefit is considered by the agency to be necessary for future recruiting purposes. The agency alleges that the required experience and job duties of these positions are equivalent to other law enforcement officers who currently participate in KP&F.

The amount requested is computed at 16 percent of gross salaries for the first-year costs minus the cost of regular KPERS at 3.2 percent, which is a net rate of 12.8 percent. The cost of KP&F participation in future years is expected to be 4 percent greater than regular KPERS, which is approximately \$14,700 per year based on FY 1994 investigator salaries. Participation in KP&F will require statutory amendments.

**Division of the Budget Recommendation:** Salaries are recommended at \$1,220,990 for FY 1994, as requested, and \$1,222,548 for FY 1995. The FY 1994 request is slightly more than the approved budget primarily because of the base salary increases for three staff attorneys approved by the Governor in June 1993.

In FY 1995, all 26.0 FTE positions are funded at annualized rates but without step movement, longevity, or unclassified merit. Health insurance amounts are recommended based on the rate reduction of 9/16/93. The agency's request for KP&F retirement benefits for its investigators is not recommended consistent with the budget recommendation of the Division and the decision of the Governor last year on this issue. Minor adjustments were made in fringe benefit calculations, and a shrinkage rate of 1 percent is recommended.

The agency claims that KP&F retirement benefits are necessary for recruiting purposes but has shown no evidence of problems with recruitment or retention of any of its employees. The agency also notes the lack of equity among similar positions in different state agencies.

**Agency Appeal:** No appeal.

**Governor's Recommendation:** Add \$20,000 for education and \$32,455 for step movement, merit pay, and longevity.

**Legislative Action:**



**Issue 1b: Other Operating Expenses -- FY 1995**

**Description:** The agency requests \$293,672 at the C level from its fee fund in FY 1995 for other operating expenses. The request includes an inflationary increase in most object codes using the Division of the Budget's recommended general cost index. Also included are \$2,000 to move the Wichita office to the new state office building and \$6,833 for the higher rent to be experienced by the Wichita office in its new location.

Included is \$2,000 to print an informational booklet for distribution to Kansas businesses to explain various requirements for registration or exemption of securities offerings. This booklet was not printed in FY 1993 or FY 1994. The repairing and servicing budget was reduced at all levels by \$8,000 to account for a five-year maintenance agreement for the IBM AS/400 computer system paid in FY 1994. The travel budget is increased slightly based on motor pool rate increases and other general cost increases. No increase is requested for subsistence.

The agency requests \$52,900 for additional investor and entrepreneur education programs at the C level (see Issue 1d). Included at all budget levels is \$30,000 for costs associated with hearings and litigation (see Issue 1e). Only \$10,000 of the \$30,000 is a new request, but this is the first year the agency has attributed various operating costs to the activity of preventive education programs.

**Division of the Budget Recommendation:** The Division of the Budget recommends \$253,272, which is basically the B level request with the exception of the additional Topeka office space.

**Agency Appeal:** Appeal for \$20,000 for investor education.

**Governor's Recommendation:** Add \$20,000.

**Legislative Action:**



## Issue 1c: Aid to Local Units -- FY 1995

**Description:** The agency requests \$20,000 at the C Level to increase the grant to the Kansas Council on Economic Education for promoting the use of the Stock Market Game in schools. The request at the B level is \$10,000, and the grant is eliminated at the A level.

The approved amount in the first year of the program (FY 1994) was \$5,000; however, the agency made a payment of \$10,000 in June 1993 using budget savings from FY 1993. The purpose of making the payment early was partially to free funds in the approved FY 1994 budget to increase the base pay for three staff attorneys. The agency plans to skip FY 1994 since the early payment was really for FY 1994 activities. The agency's B level request would be twice as much as the approved FY 1994 budget of \$5,000, but equal to the amount actually paid (\$10,000).

The agency notes that it plans to significantly expand its support of the Stock Market Game in future years so that more students can receive economic education that will be vital to their future understanding and participation in securities markets.

**Division of the Budget Recommendation:** The Division of the Budget recommends \$10,000 as requested at the B level. This recommendation would continue the previous payment but would be an increase to the approved amount. The basis of the recommendation is that this investment in preventive measures offers better protection to the investing public than after-the-fact enforcement efforts. In addition, the original \$5,000 grant was intended to be a "starter" amount to be increased gradually in future years when more would be known about how the KCEE could help provide securities education.

**Agency Appeal:** No appeal.

**Governor's Recommendation:** Concur DOB.

**Legislative Action:**



Issue 1d: Program Enhancement: Investor and Entrepreneur Education -- FY 1995

Description: The agency requests \$52,900 from its fee fund at the C Level for additional investor and entrepreneur education programs. The agency believes it should provide positive regulatory services to owners of small businesses (entrepreneurs), more extensive information and guidance about new regulations that facilitate capital formation at lower costs than previously possible, and information about various exemptions from securities registration. The agency proposes accomplishing this by developing brochures, a video, and small conferences for various professional and business organizations throughout the state. The purpose of this service would be to reduce potential problems and violations due to lack of awareness and knowledge of securities laws and regulations. The request includes the following:

1. Grant to KCEE for promotion of "The Stock Market Game" -- \$20,000.
2. Production of educational video for investors -- \$20,000.
3. Printing and distribution of educational brochures -- \$7,450.
4. Operation of a booth at the Kansas State Fair -- \$2,450.
5. Travel and subsistence for staff presentations -- \$3,000.

In addition to the need to educate students about investing in securities, the agency recognizes the need to provide more education and information to the adults who are currently investing or raising capital. Agency management believes that investor protection can be significantly enhanced at a relatively low cost through increased public awareness of investment alternatives and regulatory services of this agency. Many unnecessary investment losses probably can be prevented by simply informing more Kansans about abusive types of securities offerings and sales practices. Performance measures have not yet been developed for these projects. Members of the Commissioner's Advisory Committee have indicated their support for funding for investor and entrepreneur education and information services.

These programs would be provided by current agency staff except for production of the video and printing of brochures. The video production and some printing costs associated with initial design and set-up would be one-time costs during FY 1995. The agency notes that additional printing costs may be incurred because of the Americans with Disabilities Act, but these are unknown at this time.

The agency proposes that educational expenditures be financed primarily by fines resulting from dispositions of enforcement cases. Actual fines during FY 1993 totaled \$149,240, and substantial fines are anticipated during FY 1994 and FY 1995. Fines are deposited to the Securities Act Fee Fund but make up a minor portion of receipts (3.6 percent in FY 1993). Registration and filing fees



comprise the majority of the fund. Receipts to this fund finance annual agency operations (37 percent) and transfer to the State General Fund (63 percent).

**Division of the Budget Recommendation:** The Division of the Budget recommends \$10,000 for the KCEE grant as requested at the B level. This recommendation would allow a continuation of current services but does not provide for program enhancements. Even though the approved budget included \$5,000 for "The Stock Market Game", the agency demonstrated the importance it attaches to investor education by increasing the amount to \$10,000 in the initial year. This recommendation is consistent with the Division's policy of financing current services in FY 1995 without major program enhancements, although the proposed enhancements appear to have merit and appear to have been better thought out than a similar request by this agency last year.

**Agency Appeal:** Appeal for \$20,000.

**Governor's Recommendation:** Add \$20,000.

**Legislative Action:**



## Issue 1e: Program Enhancement: Hearing and Litigation Costs -- FY 1995

**Description:** The agency requests \$30,000 from its fee fund at all levels for increased costs associated with hearings and litigation. Actual expenditures for FY 1993 totaled \$21,088. Costs generally include professional fees for hearing officers, expert witnesses, and court reporters; printing and fees-other services for subpoenaed records and other legal documents to be used in hearings or trials; and travel costs for agency lawyers and investigators to attend hearings and trials in county and district courts throughout the state.

Even though these costs are included in various object codes in the agency's budget, all costs directly associated with hearings and litigation are tracked separately so the agency can explain unusual peaks and troughs in its OOE budget. A separate expenditure limitation of \$20,000 was established for hearing and litigation costs by a proviso in the appropriations bill for FY 1994.

**Division of the Budget Recommendation:** The Division of the Budget recommends \$25,000 in FY 1994 and \$30,000 in FY 1995. In FY 1994, the agency is able to finance these costs within the existing expenditure authority. In FY 1995, the recommendation would continue current services but does not provide for program enhancement. Because this amount is authorized using a proviso in the appropriations bill, in the event that the entire amounts authorized are not used for the stated purpose, the remainder cannot be used to support other agency operations but must remain in the Securities Act Fee Fund and later be transferred to the State General Fund.

This is the first year that the agency has identified the total OOE costs of hearings and litigation based on previous year actual expenditures. Previously, costs of hearings and trials were only budgeted as professional fees. Although this activity-based costing method of accounting is needed for the new way the appropriations bill is being written, it also is consistent with and supportive of program-based budgeting. The Division supports this method of activity-based budgeting for single-program agencies rather than budgeting solely by object codes.

**Agency Appeal:** No appeal.

**Governor's Recommendation:** Concur DOB.

**Legislative Action:**



## Issue 1f: Securities Act Fee Fund Status

**Description:** The agency proposes no change in fee rates for FY 1994 or FY 1995. This agency is financed primarily by the corporations and other businesses seeking investment capital from Kansas investors and the broker-dealer firms and their agents who provide the securities marketing, transaction processing, and investment management services to Kansas investors. Ninety-five percent of these entities are located out of state and pay fees to this agency based on the extent of securities offerings and services provided in Kansas.

Gross revenues for FY 1993 increased 16 percent from FY 1992, and net revenues for FY 1993 were \$557,755 greater than net revenues for FY 1992. Deposits and the year-end transfer to the State General Fund increased by \$508,325 during FY 1993 to a total of nearly \$2.7 million. This substantial increase resulted primarily from an increase of \$271,036 in securities filing fees, an increase of \$133,530 in agent registration fees, and an increase of \$136,450 in fines. Securities fees were up 11.6 percent and agent fees increased 13.5 percent compared to FY 1992 mostly because of higher volumes of filings for registrations, renewals, and exemptions. The substantially increased fines resulted from dispositions of several significant cases.

The substantial volume of filings and fees from registrations, renewals, and exemptions is expected to continue during FY 1994 and FY 1995. A growth rate of five percent is used for both years to be conservative. Estimates are based on volume increases only and do not include any rate increases.

	<u>FY 1993</u>	<u>FY 1994</u>	<u>FY 1995c</u>
Beginning Fund Balance	\$ 500,230	\$ 500,000	\$ 500,000
Gross Receipts	<u>4,071,725</u>	<u>4,116,686</u>	<u>4,322,571</u>
Gross Resources	\$4,571,955	\$4,616,686	\$4,822,571
Less: 20% to SGF	( 200,350)	( 200,100)	( 200,100)
Less: Transfers to SGF*	(2,470,695)	(2,451,333)	(2,489,089)
Less: Agency Expenditures	<u>(1,400,910)</u>	<u>(1,465,253)</u>	<u>(1,633,382)</u>
Ending Balance	\$ 500,000	\$ 500,000	\$ 500,000

\* On the last day of each fiscal year, the amount by which the Securities Act Fee Fund balance exceeds \$500,000 is transferred to the state general fund. Fees for Loan Broker registration applications are deposited directly to the State General Fund, although expenditures to administer and enforce the Kansas Loan Brokers Act are paid from the Securities Act Fee Fund.

**Division of the Budget Recommendation:** The Division of the Budget recommends no fee increases or other modifications in the agency's fee structure.



Agency Appeal: No appeal. Another \$500,000 is expected in FY 1994 from fines collected from Prudential. This will add to the amount to be transferred to the State General Fund at the end of the year.

Governor's Recommendation: Add \$52,455 to expenditures and otherwise concur with DOB.

Legislative Action: