

## MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Marc Rhoades at 9:10 a.m. on January 24, 2011, in Room 346-S of the Capitol.

All members were present

Committee staff present:

Jim Wilson, Office of the Revisor of Statutes  
Nobuko Folmsbee, Office of the Revisor of Statutes  
Alan Conroy, Kansas Legislative Research Department  
J.G. Scott, Kansas Legislative Research Department  
Jarod Waltner, Kansas Legislative Research Department  
Shirley Morrow, Kansas Legislative Research Department  
Cindy O'Neal, Administrative Assistant, Appropriations Committee  
Kathy Holscher, Committee Assistant, Appropriations Committee

Conferees appearing before the committee:

Landon Fulmer, Governor's Office  
Sherry Diel, Kansas Real Estate Commission  
Mike Mathes, USD 345 – Seaman  
Luke Bell, Kansas Association of Realtors

Others attending:

See attached list.

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|----------------|--|
| • Attachment 1 | House Appropriations Committee Rules   |
| • Attachment 2 | Information for Conferees  |
| • Attachment 3 | Legislative Research – Governor's Budget Adjustment Bill   |
| • Attachment 4 | Revisions to Governor's FY 2011 Budget Recommendations   |
| • Attachment 5 | Testimony – Kansas Real Estate Commission  |
| • Attachment 6 | Testimony – Unified School Administrators of Kansas and<br>Kansas School Superintendents Association |
| • Attachment 7 | Testimony – Kansas Real Estate Commission  |

Chairman Rhoades welcomed committee members. He referred to a revision on line fifteen of the House Appropriations Committee Rules (Attachment 1), and Information for Conferees (Attachment 2), which has been distributed to members.

### **HB 2014: An Act making and concerning appropriations for the fiscal year ending June 30, 2011**

J.G. Scott, Chief Fiscal Analyst, Legislative Research Department, presented an overview of the Governor's Budget Adjustment Bill, (Attachment 3). He stated that \$138 million in State General Fund (SGF) shifts were expenditures appropriated in FY 2010. These funds were not spent and were authorized to be moved forward to FY 2011. \$132 million of this money was for school finance that was due in 2010 but paid in 2011. Human Service caseloads, which includes replacing federal stimulus funding is approximately \$49.3 million, Base State Aid Per Pupil would be a reduction of \$75 on the base, SFG reduction of \$85.9 million and with an increase in the same amount for the new federal Education Jobs, \$8.5 million for SGF would lapse, and adjustments to SGF transfers. He referred to the summary sheet which reflects a summary of all of the agency expenditure adjustments, SGF Revenue Adjustments, and individual adjustments of expenditures, revenues and transfers.

J.G. Scott, Leah Robinson and Amy Deckard, Legislative Research Department, responded to questions from committee members. It was noted that if the bill is adopted there would be no increases in the undermarket pay. SGF shifts were due to the change in stimulus dollars for the Department of Social and Rehabilitation Services and other services that received Medicaid funding. Fund transfers within the Secretary of State's Office, Kansas Public Employees Retirement System were discussed. Increased funding recommendations for the State Water Plan Fund, Sumner County Gaming revenues and shifts from contractual to permanent employees within the Health Policy Authority were discussed.

Landon Fulmer, Director of Policy, Office of the Governor, presented an overview of the Revisions to Governor's FY 2011 Budget Recommendations, (Attachment 4). The passage of **HB 2014** will address

CONTINUATION SHEET

Minutes of the House Appropriations Committee at 9:10 a.m. on January 24, 2011, in Room 346-S of the Capitol.

revenue shortfalls, eliviate the delay of payments in aid to schools and assist Medicaid agencies with budget planning efforts for increased caseloads, in order to meet the needs of the most vulnerable, he stated. The Governor proposes transferring \$86 million of the federal Education Jobs funding to the State General Fund for funding increased caseload entitlement programs. It was noted that this transfer would have no effect to the schools but enable the state to meet their commitment to Medicaid recipients and other health care services. The adjustments included in **HB 2014** would leave the state with a projected ending balance of \$35 million for FY 2011 based on the most recent consensus revenue projections, he added.

Landon Fulmer and Elaine Frisbie, Deputy Budget Director, Office of the Governor, responded to questions from committee members. He reviewed the Fair Fare statutory limitations for FY 2010 and the proposal to lift the cap on unspent funds for FY 2011. Funds recommended to be swept from the Securities Commission and CPOST are fees that cannot be expended in FY 2011, he stated. And an explanation of the federal review and audit process regarding maintenance of effort expenditures and the steps necessary to obtain an ending balance that meets constitutional requirements followed. Discussion followed regarding the consolidation of programs and services, and staffing issues.

Sherry Diel, Executive Director, Kansas Real Estate Commission presented testimony in opposition to **HB 2014, (Attachment 5)**. She stated that the commission is 100% fee funded and expressed concern that the 10% budget reduction would impact their ability to ensure the integrity of the commission and protect the public. The recommendation was made to transfer \$200,000 from the Commission's recovery fund to the fee fund; reinstate funding in the amount of \$82,164; and increase the statutory cap for license fees for FY 2011.

Sherry Diel repsonded to questions from committee members in regards to the impact on the fee sweeps.

Mike Mathes, Superintendent, Seaman USD 345, presented testimony on behalf of United School Administrators of Kansas and the Kansas School Superintendents Association, (Attachment 6). Emphasis was place on the need for the legislature to fund the shortfall of \$16.7 million for sepcial education for FY 2011. He stated that the loss of this funding would not meet the American Recovery and Reinvestment Act maintenance of effort requirements and would result in an expected 16% penalty or more from the state's federal funding.

Mike Mathes responded to questions from committee members. He reviewed special education funding and requirements to ensure special learning needs are met as required by law. Funds for this program are received in October of the next year and is a budget item where money can be transferred into at the end of the year. Discussion followed regarding incumbered and unincumbered/contengency funds, bonds insuance and interest payments, and the services and costs for special education students. He noted that the capital outlay funds are received from taxpayers and contingency funds come from state and local funds. Discussion followed regarding capital outlay funds, the bond issuance in 2004, and the use of four school buildings that were closed. It was noted that it is time for us as a country to look at different models of education. Clarification of profiency levels for reading skills was based on state assessments as defined by the Departmen of Education was provided.

Elaine Frisbie, Deputy Director of Budget, Governor's Office responded to questions from committee members. She stated that approximately \$2 million federal dollars were lost due to maintenance of effort requirements last year, and the amount of additional federal dollars that could be at risk would depend upon the rate that the entire budget is reduced compared to the amount the special education budget is reduced.

Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors, provided testimony regarding **HB 2014, (Attachment 7)**. He stated that over the last five years over \$700,000 has been lost in fee fund sweeps and the impact on backlogs with an additional 10% reduction. A request for the provision to be deleted and reviewed by the General Budget Committee with the intent that any fee fund reductions would occur in the FY 2012 budget.

The meeting was adjourned at 10:37 a.m.





# APPROPRIATIONS COMMITTEE GUEST LIST

DATE: 1-24-11

NAME	REPRESENTING
Stephanie Bantzen	Judicial Branch
Diane Gjerstad	Wichita Public Schools
Dodie Wellshar	USA/KS
Mike Mathes	USD 345 - KASA
Cheryl Semmel	USA Kansas
Marilyn Jacobsen	DOA
Steve Sutton	KBENS
Patti Artzer	KBENS
Lois Weeks	SRS
Sherry C. Diehl	KREC
Derek Heim	Heim Law Firm
Dan D. Spragg	Curb
Rae Seiber	KARA
Kris Meyer	Kenmark Assoc.
Jenni Roy	KCSL
Brecci Brown	KID
Mark Heim	KDA
Marie DeBetti	KNEA
Mark Tallman	KASB

# APPROPRIATIONS COMMITTEE GUEST LIST

DATE: \_\_\_\_\_

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# APPROPRIATIONS COMMITTEE GUEST LIST

DATE: \_\_\_\_\_

NAME	REPRESENTING
Suzanne W. Hle	KS Action for Children
Dick Koehn	KDWP
U. Hle	Delgo
DAVID HUTCHINGS	KBI
Marshall Kennedy	KCVA
Kim Fowler	Judicial Branch
ML Dyck	KS BTP
Jean Bobin	KS BTP
Paul V. Curran	FU
Leigh Beck	Capitol Strategies
Debby D. Hle	Dansa Inc
Shannon Little	LGR
Tom Day	KCC
Jana El-Kachysi	Attorney General
Berend Koops	Hein Law Firm
Lydia Buster	Fedorico Consulting
Jeff Mosimann	Prucit of KS
Leslie Kaufman	KS Corp Council
Bernie Koch	KEPC

INFORMATION FOR CONFEREES  
2011  
KANSAS HOUSE of REPRESENTATIVES  
APPROPRIATIONS COMMITTEE

1. Conferees should allow **no more than 10 minutes** for their testimony and response to questions from committee members, unless otherwise notified by the Chair. Exceptions will be allowed for the original sponsor of a bill, staff briefings, and state agency briefings.
2. When time is separately reserved on the agenda for proponents and opponents of an issue and the time expires for either side, the testimony shall cease. Conferee's time limit will be determined by the number of conferees and order of business. The chairman may make exceptions for the original sponsor of a bill, Legislative Staff, and State Agency Personnel. Conferees will be recognized in the order as established by the committee chairman. No conferee will be allowed to "yield" their time to another conferee.
3. All conferees are requested to submit a one page summary of testimony. (More lengthy written testimony may be submitted in addition to the one page summary.)
4. All conferees shall have written testimony and shall provide 75 copies to the committee secretary at the time of appearance. If a one page summary and written testimony are both presented, then 75 copies of each shall be required.
5. At the option of the chair, all who are scheduled to testify on a bill may be required to submit written testimony 24 hours in advance of the hearing for distribution to committee members.
6. Anyone wishing to testify before the committee shall contact the committee assistant, a minimum of 24 business hours before the meeting.
7. All cell phones and pagers in the committee room shall be in "silent" mode and use of cell phones in the committee room will not be permitted.
8. No food or drinks will be allowed in the committee room by guests, spectators or conferees.
9. Any non-committee attendee who sends signals to committee members shall be removed from the committee meeting for the rest of the legislative year.
10. Photography (including cell phones), video, and audio taping is prohibited unless approved in advance by the Chair.
11. All requests for committee bills shall only be made by committee members or state agencies.

Appropriations Committee

Date January 24, 2011

Attachment 1



## HOUSE APPROPRIATIONS COMMITTEE RULES

1. In any case where committee rules do not apply, House Rules shall govern. All powers, duties and responsibilities not addressed herein are reserved to the chair.
2. Cellular phones and other electronic devices with audible tones are prohibited in the Appropriations Committee Room, unless audible tones or ringers are disabled.
3. The chair shall determine the committee agenda, including scheduling and the order of business.
4. The chair reserves the right to limit testimony that is cumulative in nature and may limit testimony, when necessary, to a specific number of minutes.
5. Committee members shall not address conferees until and unless permission is granted by the chair.
6. The chair reserves the right to limit questioning of conferees by committee members in the interest of time and in the interest of fairness to conferees and other committee members.
7. No conferee shall be interrupted during the presentation of their testimony, except with the permission of the chair.
8. Questioning of a conferee shall be limited to the subject matter on the agenda for the day, except as may otherwise be allowed by the chair.
9. Committee members shall not be approached during a committee hearing or deliberations by anyone other than fellow legislative members or legislative staff.
10. No bill or resolution shall be taken up for a committee vote unless announced by the chair.
11. A motion requires a second to be in order.
12. A substitute motion is in order, but no additional substitute motion shall be in order until the prior substitute motion is disposed of.
13. Amendments to motions are not in order except upon consent of the member making the motion and his or her second.
14. A motion to table or take from the table shall be in order only when such item is on the agenda or is taken up by the chair. The motion requires a simple majority of those present and is, unless otherwise determined by the chair, non-debatable.
15. Photography (including cell phones), video, and audio taping is prohibited unless approved in advance by the chair.
16. A request from any member that their vote be recorded shall be granted.
17. Granting excused absences is reserved to the chair.
18. The chair reserves the right to take such action as may be necessary to prevent disruptive behavior in the committee room during hearings and deliberations.
19. Adjournment is reserved to the chair.

Appropriations Committee

Date January 24, 2011

Attachment 2

## HB 2014 Governor's Current Year Budget Adjustment Bill

- Contains State General Fund shifts of \$138.3 million from FY 2010 to FY 2011 - expenditures were authorized in FY 2010 and were shifted to the current fiscal year, FY 2011. Largest single item is **\$132 million** for school finance.
- Fully funds Human Services caseloads (medical, nursing facilities, foster care, etc.) including replacing shortfall of federal stimulus funding **\$49.3 million**.
- Base State Aid Per Pupil drops from the approved amount of \$4,012 to \$3,937, for a **reduction of \$75 on the base**.
  - Does not fund school finance amounts
    - Lower than estimated statewide property valuation
    - Higher number of students
    - Higher number of weighted students (at risk, free lunch)
- Reduces **\$85.9 million** from the State General Fund and increases the new federal Education Jobs funding by the same amount.
- Lapses \$8.5 million State General Fund previously appropriated for each of FY 2012 and 2013. This is the forth and fifth years of a five year appropriation to bring classified employees closer to market pay.
- Adjustments to the **State General Fund transfers** increase estimated revenue to the State General Fund by \$4.7 million. Major adjustments for FY 2011 include transfers from the Securities Commissioner Investor Education Fund (\$0.8 million) and a sweep of fees back to the State General Fund from the Commission on Peace Officers (\$0.5 million), as well as using TANF Contingency Funds totaling \$3.4 million for Earned Income Tax Credit (EITC) payments.

Appropriations Committee

Date January 24, 2011Attachment 3



## Governor's Recommended Expenditure Adjustments

Bill Section	Agency	SGF	Other Funds	All Funds	FTE
2	Abstracts Board of Examiners	\$ -	\$ (669)	\$ (669)	0.0
3	Governmental Ethics	-	(28,588)	(28,588)	0.0
4	Home Inspectors Registration Board	-	(18,950)	(18,950)	0.0
5	Board of Nursing	-	48,060	48,060	0.0
6	Board of Pharmacy	-	444,885	444,885	0.0
7	Real Estate Commission	-	(94,864)	(94,864)	0.0
9	Board of Technical Professions	-	20,500	20,500	0.0
10	Board of Veterinary Examiners	-	(2,860)	(2,860)	0.0
12	Department of Administration	(212,656)	-	(212,656)	0.0
13	Office of Administrative Hearings	-	-	-	0.0
14	Citizen's Utility Rate Payer Board (CURB)	-	(26,641)	(26,641)	0.0
15	Department of Commerce	-	(561,410)	(561,410)	0.0
16	Kansas Corporation Commission (KCC)	-	-	-	0.0
17	Kansas Inc.	-	(88,756)	(88,756)	0.0
19	Kansas Technology Enterprise Corporation (KTEC)	-	(371,426)	(371,426)	0.0
20	Kansas Racing and Gaming Commission	-	-	-	0.0
22	Court of Tax Appeals	(40,454)	-	(40,454)	0.0
23	Attorney General	(38,535)	-	(38,535)	0.0
25	State Treasurer	-	-	-	0.0
26	Legislative Coordinating Council	(20)	-	(20)	0.0
26	Revisor of Statutes	(2,425)	-	(2,425)	0.0
26	Legislative Research	(12,223)	-	(12,223)	0.0
27	Legislature	(283,050)	-	(283,050)	0.0
28	Division of Post Audit	(4,413)	-	(4,413)	0.0
29	State Employee Pay - FY 2011	(1,316,263)	-	(1,316,263)	0.0
29	State Employee Pay - FY 2012	(8,534,972)	(7,830,090)	(16,365,062)	0.0
29	State Employee Pay - FY 2013	(8,534,972)	(7,830,090)	(16,365,062)	0.0
30	Social and Rehabilitation Services	19,472,481	6,811,879	26,284,360	0.0
30	Rainbow Mental Health Facility	(250,000)	-	(250,000)	0.0
30	Osawatomie State Hospital	(500,000)	-	(500,000)	0.0
31	Department on Aging	12,430,404	19,473,147	31,903,551	0.0
32	Health Policy Authority	30,526,618	(24,089,109)	6,437,509	0.0
33	Health and Environment - Health	-	65,948	65,948	0.0
34	Health and Environment - Environment	-	65,000	65,000	0.0
35	Veteran's Affairs	(15,425)	-	(15,425)	0.0
36	Department of Education	(85,948,820)	(303,000)	(86,251,820)	0.0
37	Board of Regents	(2,322,229)	-	(2,322,229)	0.0
38	University of Kansas	-	300,000	300,000	0.0
40	School for the Deaf	(393)	-	(393)	0.0
41	Kansas Arts Commission	(13,310)	-	(13,310)	0.0
42	Department of Corrections	(3,027,291)	3,152,529	125,238	0.0
42	Topeka Correctional Facility	(200)	-	(200)	0.0
42	Hutchinson Correctional Facility	(500)	-	(500)	0.0
42	Lansing Correctional Facility	(500)	-	(500)	0.0
42	Ellsworth Correctional Facility	(442)	-	(442)	0.0
42	Norton Correctional Facility	(991)	-	(991)	0.0
43	Juvenile Justice Authority	(3,336,312)	(5,559)	(3,341,871)	0.0
44	Adjutant General	(3,960)	-	(3,960)	0.0
45	Emergency Medical Services Board	-	125,000	125,000	0.0
46	State Fire Marshal	-	(2,735)	(2,735)	0.0
47	Kansas Parole Board	(982)	-	(982)	0.0
48	Kansas Commission on Peace Officers' Standards and Training (KCPOST)	-	(100,759)	(100,759)	0.0
49	Department of Agriculture	-	-	-	0.0
50	Department of Wildlife and Parks	(91,278)	-	(91,278)	0.0
51	Kansas Water Office	-	464,630	464,630	0.0
<b>Total Expenditure Adjustments</b>		<b>\$ (52,063,113)</b>	<b>\$ (10,383,928)</b>	<b>\$ (62,447,041)</b>	<b>0.0</b>

## State General Fund Revenue Adjustments\*

Bill Section	Agency	SGF	Other Funds	All Funds	FTE
8	Securities Commissioner	\$ 800,000	\$ (800,000)	\$ -	0.0
48	Kansas Commission on Peace Officers' Standards and Training (KCPOST)	500,000	(500,000)	-	0.0
<b>Total Revenue Adjustments</b>		<b>\$ 1,300,000</b>	<b>\$ (1,300,000)</b>	<b>\$ -</b>	<b>0.0</b>

\* The bill contains other transfers between special revenue funds with no overall impact on total receipts.

Appropriations Committee

Date January 24, 2011 1/24/2011

Attachment 3-2



# House Bill No. 2014

(Reflects Governor's Recommended Adjustments for FY 2011, FY 2012, and FY 2013)

Agency/Item	State General Fund	All Other Funds	All Funds	FTEs
<b>EXPENDITURES</b>				
<u>Abstracters Board of Examiners</u>				
1. Delete \$669, all from the Abstracters Fee Fund, to reflect adjusted expenditure estimates in FY 2011. The decrease is attributable to lower estimated contractual services and commodities.	0	(669)	(669)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$669)</i>	<i>(\$669)</i>	<i>0.0</i>
<u>Board of Nursing</u>				
1. Add \$48,060, all from the Board of Nursing Fee Fund. This increases the expenditure limit from \$1,904,365 to \$1,952,425 in FY 2011. According to the agency, the additional funds are for increased salaries and wages costs such as group health insurance costs and Medicare payroll taxes.	0	48,060	48,060	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$48,060</i>	<i>\$48,060</i>	<i>0.0</i>
<u>Board of Pharmacy</u>				
1. Add two no limit, federal funds for the agency in FY 2011: the Harold Rogers Prescription Federal Fund including expenditures of \$378,478, and the NASPER Grant Federal Fund, including expenditures of \$66,407.	0	444,885	444,885	0.0
2. Add language allowing the agency to expend funds from non-federal sources, donations, bequests, or gifts in FY 2011.	0	0	0	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$444,885</i>	<i>\$444,885</i>	<i>0.0</i>
<u>Real Estate Commission</u>				
1. Delete \$94,864, all from the Real Estate Fee Fund, to reflect adjusted expenditure estimates in FY 2011. The decrease is primarily attributable to the Governor's recommended implementation of a 10.0 percent shrinkage rate. The agency's revised budget estimate did not include any shrinkage adjustment.	0	(94,864)	(94,864)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$94,864)</i>	<i>(\$94,864)</i>	<i>0.0</i>
<u>Board of Technical Professions</u>				
1. Add \$20,000, all from the Technical Professions Fee Fund as a supplemental request for a new computer database management system in FY 2011.	0	20,000	20,000	0.0
2. Add \$500, all from the Technical Professions Fee Fund, to increase expenditures for official hospitality in FY 2011.	0	500	500	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$20,500</i>	<i>\$20,500</i>	<i>0.0</i>
<u>Board of Veterinary Examiners</u>				
1. Delete \$2,860, all from the Veterinary Examiners Fee Fund, to reflect adjusted expenditure estimates in FY 2011 for salaries and wages.	0	(2,860)	(2,860)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$2,860)</i>	<i>(\$2,860)</i>	<i>0.0</i>
<u>Governmental Ethics Commission</u>				
1. Delete \$28,588, all from the Governmental Ethics Fee Fund, for an operating reduction in FY 2011.	0	(28,588)	(28,588)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$28,588)</i>	<i>(\$28,588)</i>	<i>0.0</i>
<u>Legislative Coordinating Council</u>				
1. Delete \$20, all from the State General Fund, to lapse a portion of funding unspent from FY 2010 that carried forward to FY 2011.	(20)	0	(20)	0.0
<i>Agency Subtotal</i>	<i>(\$20)</i>	<i>\$0</i>	<i>(\$20)</i>	<i>0.0</i>
<u>Legislature</u>				
1. Delete \$283,050, all from the State General Fund in FY 2011. This would lapse funding initially appropriated to the Legislative Coordinating Council for FY 2010, which reappropriated to the Legislature's budget in FY 2011.	(283,050)	0	(283,050)	0.0
<i>Agency Subtotal</i>	<i>(\$283,050)</i>	<i>\$0</i>	<i>(\$283,050)</i>	<i>0.0</i>



Item	State General Fund	All Other Funds	All Funds	
<u>Legislative Research Department</u>				
1. Delete \$12,223, all from the State General Fund, to lapse a portion of funding unspent from FY 2010 that carried forward to FY 2011.	(12,223)	0	(12,223)	0.0
<i>Agency Subtotal</i>	<i>(\$12,223)</i>	<i>\$0</i>	<i>(\$12,223)</i>	<i>0.0</i>
<u>Revisor of Statutes</u>				
1. Delete \$2,425, all from the State General Fund, to lapse a portion of funding unspent from FY 2010 that carried forward to FY 2011.	(2,425)	0	(2,425)	0.0
<i>Agency Subtotal</i>	<i>(\$2,425)</i>	<i>\$0</i>	<i>(\$2,425)</i>	<i>0.0</i>
<u>Division of Post Audit</u>				
1. Delete \$4,413, all from the State General Fund, to lapse a portion of funding unspent from FY 2010 that carried forward to FY 2011.	(4,413)	0	(4,413)	0.0
<i>Agency Subtotal</i>	<i>(\$4,413)</i>	<i>\$0</i>	<i>(\$4,413)</i>	<i>0.0</i>
<u>Attorney General</u>				
1. Delete \$38,535, all from the State General Fund, in FY 2011, from two accounts: operating expenditures (\$1,801); and Internet Training Education for Kansas Kids (\$36,734). This would lapse funding unspent from FY 2010 that carried forward to FY 2011.	(38,535)	0	(38,535)	0.0
<i>Agency Subtotal</i>	<i>(\$38,535)</i>	<i>\$0</i>	<i>(\$38,535)</i>	<i>0.0</i>
<u>State Treasurer</u>				
1. Increase the expenditure limitation on the Kansas Postsecondary Education Savings Program Trust Fund to a no limit. This is an increase from the previous \$265,000 expenditure limit.	0	0	0	0.0
2. Increase the expenditure limitation on the Kansas Postsecondary Education Program Expense Fund to no limit. This is an increase from the previous \$346,043 expenditure limit.	0	0	0	0.0
3. Appropriate the Learjet Bond Fund and the Siemens Bond Fund as no limit funds.	0	0	0	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<u>Judicial Branch</u>				
1. Appropriate a new SJI Grant Fund, in order to allow the agency to receive and dispense State Justice Institute Grants in FY 2011.	0	0	0	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<u>Kansas Corporation Commission</u>				
1. Increase the aggregate expenditure limit by \$159,760 for the Public Service Regulation Fund, the Motor Carrier License Fees Fund, and the Conservation Fee Fund, in the aggregate, for FY 2011. This provides \$100,000 to fund the Kansas Electric Transmission Authority as well as a classified marketing plan for the agency.	0	0	0	0.0
2. Increase the expenditure limitation to the Compressed Air Energy Storage Fee Fund and the ARRA State Electricity Regulators Assistance - Federal Fund to no limit in FY 2011.	0	0	0	0.0
3. Redesignate the Base State Registration Clearing Fund as the Unified Carrier Registration Clearing Fund.	0	0	0	0.0
4. Redesignate the Pipeline Damage Prevention Grant Program - Federal Fund as the One Call - Federal Fund.	0	0	0	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<u>Citizens' Utility Ratepayer Board</u>				
1. Delete \$26,641, all from the Utility Regulatory Fee Fund, in FY 2011 for consulting contracts to correct existing language that allowed CURB to carry forward all unspent funds instead of unspent consulting funds only.	0	(26,641)	(26,641)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$26,641)</i>	<i>(\$26,641)</i>	<i>0.0</i>
<u>Department of Administration</u>				
1. Delete \$158,816, all from the State General Fund, for savings associated with reduced debt service restructuring expenditures in FY 2011.	(158,816)	0	(158,816)	0.0



<i>Agency</i>	<i>State General Fund</i>	<i>All Other Funds</i>	<i>All Funds</i>	
2. \$53,840, all from the State General Fund, for savings associated with reduced debt service expenditures on the Statehouse Renovation Project in FY 2011.	(53,840)	0	(53,840)	
<i>Agency Subtotal</i>	<i>(\$212,656)</i>	<i>\$0</i>	<i>(\$212,656)</i>	<i>0.0</i>
<u>Court of Tax Appeals</u>				
1. Delete \$40,454, all from the State General Fund, in FY 2011, for a 3.0 percent reduction in the agency's operations.	(40,454)	0	(40,454)	0.0
<i>Agency Subtotal</i>	<i>(\$40,454)</i>	<i>\$0</i>	<i>(\$40,454)</i>	<i>0.0</i>
<u>Kansas Racing and Gaming Commission</u>				
1. Appropriate a new Illegal Gambling Enforcement Fund, in order to allow the agency to receive funds received from enforcement of state and federal regulations against illegal gambling in FY 2011.	0	0	0	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<u>Department of Commerce</u>				
1. Add \$125,000 from the State Affordable Airfare Fund, to increase the appropriation from \$5,000,000 to \$5,125,000 for FY 2011. This would carry forward funding that was unspent in FY 2010 to FY 2011.	0	125,000	125,000	0.0
2. Delete \$625,000, all from the Economic Development Initiatives Fund (EDIF), to the Kansas Economic Opportunity Initiatives Fund (KEOIF) from \$1,250,000 to \$625,000 for FY 2011. The KEOIF is funded through annual transfers from the EDIF.	0	(625,000)	(625,000)	0.0
3. Delete a total of \$61,410, all from the Economic Development Initiatives Fund, from the Strong Military Bases Program Account, in FY 2011. This would lapse funding unspent from FY 2010 that carried forward to FY 2011.	0	(61,410)	(61,410)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$561,410)</i>	<i>(\$561,410)</i>	<i>0.0</i>
<u>Kansas Inc.</u>				
1. Delete \$88,756, all from the Economic Development Initiatives Fund (EDIF), in the Operations Account, in FY 2011. This would lapse funding from FY 2011 as a result of the agency using fee funds to supplant reductions in their EDIF appropriation.	0	(88,756)	(88,756)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$88,756)</i>	<i>(\$88,756)</i>	<i>0.0</i>
<u>Kansas Technology Enterprise Corp.</u>				
1. Delete \$371,426, all from the Economic Development Initiatives Fund, in FY 2011. The lapse includes \$300,000 for the Product Development Financing Program and \$71,426 from the PIPELINE Program.	0	(371,426)	(371,426)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$371,426)</i>	<i>(\$371,426)</i>	<i>0.0</i>
<u>Commission on Veterans Affairs</u>				
1. Add \$25,866, all from the State General Fund, to two accounts: Scratch lotto-veteran services, \$2,972; and Veterans claim assistance program-service grants, \$22,894. These funds support the Veterans' Services program, specifically grants to Veterans' Services Organization that assist Kansas veterans seeking benefits.	25,866	0	25,866	0.0
2. Delete \$15,241, all from the State General Fund, from the Operating Expenditures-Administration account to reduce general operating expenditures.	(15,241)	0	(15,241)	0.0
3. Delete \$26,050, all from the State General Fund, from the Operating Expenditures-Veteran Services account to reduce general operating expenditures in the Veterans' Services program.	(26,050)	0	(26,050)	0.0
<i>Agency Subtotal</i>	<i>(\$15,425)</i>	<i>\$0</i>	<i>(\$15,425)</i>	<i>0.0</i>
<u>Dept. of Health and Environment - Health</u>				
1. Appropriate the Maternity Centers and Child Care Facilities Licensing Fee Fund as a no-limit fund in FY 2011. The fund was created in 2010 Senate Substitute for HB 2356, which created Lexie's Law and addressed supervision, licensing, and inspection requirements for child care facilities. Expenditures of \$65,948 are budgeted from the fund in FY 2011.	0	65,948	65,948	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$65,948</i>	<i>\$65,948</i>	<i>0.0</i>
<u>Dept. of Health and Environment - Environment</u>				
1. Appropriate the Healthy Watershed Initiative-Federal Fund in FY 2011. This would allow the agency to expend a federal grant. Expenditures of \$65,000 are anticipated from the grant fund in FY 2011.	0	65,000	65,000	0.0



<i>Item</i>	<i>State General Fund</i>	<i>All Other Funds</i>	<i>All Funds</i>	
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$65,000</i>	<i>\$65,000</i>	<i>0.0</i>
<u>Department on Aging</u>				
1. Add \$25,169, all from the State General Fund, for a Targeted Case Management-Frail Elderly caseload adjustment in FY 2011.	25,169	0	25,169	0.0
2. Add \$2,263,079, all from the State General Fund, to replace Home and Community Based Services Frail Elderly waiver funds removed due to a loss of federal American Recovery and Reinvestment Act funds and a federal Medicaid match rate change in FY 2011.	2,263,079	0	2,263,079	0.0
3. Add \$10,142,156, all from the State General Fund, for a Nursing Facility consensus caseload adjustment in FY 2011.	10,142,156	0	10,142,156	0.0
4. Delete \$28,642 from the State Licensure Fee Fund for an operations reduction in FY 2011.	0	(28,642)	(28,642)	0.0
5. Appropriate the Nursing Facility Quality Care Fund for future utilization of the nursing facility provider assessment in FY 2011.	0	19,501,789	19,501,789	0.0
<i>Agency Subtotal</i>	<i>\$12,430,404</i>	<i>\$19,473,147</i>	<i>\$31,903,551</i>	<i>0.0</i>
<u>Health Policy Authority</u>				
1. Add \$8.4 million, including \$30.5 million from the State General Fund, in FY 2011 for human services consensus caseloads.	30,526,618	(22,155,253)	8,371,365	0.0
2. Delete \$1.9 million, from all funding sources, for operating expenditure reductions in FY 2011.	0	(1,933,856)	(1,933,856)	0.0
3. Appropriate, with a \$0 limitation, the Quality Care Fund, created in 2010 S Sub for S Sub for Sub for HB 2320, the nursing facility provider assesment bill, in FY 2011.	0	0	0	0.0
4. Add language to adjust the amount within existing resources that can be expended for salaries and wages from certain special revenue funds in FY 2011.	0	0	0	0.0
<i>Agency Subtotal</i>	<i>\$30,526,618</i>	<i>(\$24,089,109)</i>	<i>\$6,437,509</i>	<i>0.0</i>
<u>Social and Rehabilitation Services</u>				
1. Add \$20.9 million, including \$11.8 million from the State General Fund, in FY 2011 for human services consensus caseloads.	11,827,170	9,027,738	20,854,908	0.0
2. Delete \$1,062,207, all from the Children's Initiatives Fund, in FY 2011 for the Early Childhood Block Grant to lapse a FY 2010 reappropriation and to adjust for lower than anticipated tobacco revenue.	0	(1,062,207)	(1,062,207)	0.0
3. Delete \$306, all from the Children's Initiatives Fund, in FY 2011 for Early Head Start to lapse a FY 2010 reappropriation and to adjust for lower than anticipated tobacco revenue.	0	(306)	(306)	0.0
4. Delete \$251,003, all from the Children's Initiatives Fund, in FY 2011 for Smart Start to lapse a FY 2010 reappropriation and to adjust for lower than anticipated tobacco revenue.	0	(251,003)	(251,003)	0.0
5. Delete \$163, all from the Children's Initiatives Fund, in FY 2011 for Child Care Services to lapse 2010 reappropriation.	0	(163)	(163)	0.0
6. Delete \$150,000, all from the Children's Initiatives Fund, in FY 2011 for Family Centered System of Care, to adjust for lower than anticipated tobacco revenue.	0	(150,000)	(150,000)	0.0
7. Delete \$250,000, all from the Children's Initiatives Fund, in FY 2011 for the Children's Cabinet Accountability Fund, to adjust for lower than anticipated tobacco revenue.	0	(250,000)	(250,000)	0.0
8. Add \$2.1 million, including \$861,551 from the State General Fund, in FY 2011 for the Money Follows the Person program.	679,551	1,428,892	2,108,443	0.0
9. Add \$8.9 million, all from the State General Fund, in FY 2011 to adjust for lower than anticipated federal match rates, in non caseload Medicaid programs.	8,934,688	0	8,934,688	0.0
10. Delete \$3.9 million, including \$2.0 million from the State General Fund, in FY 2011 to decrease salaries and wages funding.	(1,968,928)	(1,931,072)	(3,900,000)	0.0
<i>Agency Subtotal</i>	<i>\$19,472,481</i>	<i>\$6,811,879</i>	<i>\$26,284,360</i>	<i>0.0</i>



	State General Fund	All Other Funds	All Funds	
<u>Kansas Mental Health Facility</u>				
1. Delete \$250,000, all from the State General Fund, due to an increased salaries and wages shrinkage rate for the agency in FY 2011.	(250,000)	0	(250,000)	0.0
<i>Agency Subtotal</i>	<i>(\$250,000)</i>	<i>\$0</i>	<i>(\$250,000)</i>	<i>0.0</i>
<u>Osawatomie State Hospital</u>				
1. Delete \$500,000, all from the State General Fund, due to an increased salaries and wages shrinkage rate for the agency in FY 2011.	(500,000)	0	(500,000)	0.0
<i>Agency Subtotal</i>	<i>(\$500,000)</i>	<i>\$0</i>	<i>(\$500,000)</i>	<i>0.0</i>
<u>Board of Regents</u>				
1. Delete \$2,322,229, all from the State General Fund, to correct an error in the 2010 appropriations bill in FY 2011.	(2,322,229)	0	(2,322,229)	0.0
<i>Agency Subtotal</i>	<i>(\$2,322,229)</i>	<i>\$0</i>	<i>(\$2,322,229)</i>	<i>0.0</i>
<u>University of Kansas</u>				
1. Appropriate the Standardized Water Data Repository Fund as a no limit fund in FY 2011. Transfers of \$300,000, all from the Clean Drinking Water Fee Fund, provide revenues to this fund in FY 2011.	0	300,000	300,000	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$300,000</i>	<i>\$300,000</i>	<i>0.0</i>
<u>Department of Education</u>				
1. Delete \$85.9 million, all from the State General Fund, in General State Aid in FY 2011. The Governor recommends utilizing \$85.9 million in federal Education Jobs (EduJobs) Funds to offset State General Fund expenditures for General State Aid in FY 2011. Overall, the State has received \$92.1 million in EduJobs funding. The remaining \$6.4 million is to be distributed directly to school districts under the General State Aid formula.	(85,948,820)	0	(85,948,820)	0.0
2. Delete \$183,370, all from the Children's Initiatives Fund, in the Parent Education program to adjust for a decrease in revenue in FY 2011.	0	(183,370)	(183,370)	0.0
3. Delete \$119,630, all from the Children's Initiatives Fund, in the Kansas Preschool Program to adjust for a decrease in revenue in FY 2011.	0	(119,630)	(119,630)	0.0
4. Add language allowing school districts that lost \$300,000 or more in funding for Attendant Care Services during the 2010-2011 school year to recoup a portion of the loss based on a funding formula in FY 2011.	0	0	0	0.0
<i>Agency Subtotal</i>	<i>(\$85,948,820)</i>	<i>(\$303,000)</i>	<i>(\$86,251,820)</i>	<i>0.0</i>
<u>Kansas Arts Commission</u>				
1. Delete \$13,310, all from the State General Fund, in FY 2011 to return salaries and wages to the FY 2011 approved level.	(13,310)	0	(13,310)	0.0
<i>Agency Subtotal</i>	<i>(\$13,310)</i>	<i>\$0</i>	<i>(\$13,310)</i>	<i>0.0</i>
<u>School for the Deaf</u>				
1. Delete \$393, all from the State General Fund, to lapse a reappropriation in operating expenditures in FY 2011.	(393)	0	(393)	0.0
<i>Agency Subtotal</i>	<i>(\$393)</i>	<i>\$0</i>	<i>(\$393)</i>	<i>0.0</i>
<u>Department of Corrections</u>				
1. Add \$472,709, all from the State General Fund, in FY 2011. The adjustment includes a \$475,000 increase for undermarket pay adjustments system-wide and a \$2,291 decrease by lapsing unspent funds from FY 2010.	472,709	0	472,709	0.0
2. Delete \$3.5 million, all from the State General Fund, and increase General Fees Funds expenditures by \$3.5 million for the food service contract. The food service contract provider (ARAMARK) included a one-time incentive payment to the Department of Corrections for entering into a 10-year food service contract.	(3,500,000)	3,500,000	0	0.0
3. Delete \$347,471, all from the Correctional Institutions Building Fund, in FY 2011 to account for a decrease in the estimated revenue for the fund.	0	(347,471)	(347,471)	0.0
<i>Agency Subtotal</i>	<i>(\$3,027,291)</i>	<i>\$3,152,529</i>	<i>\$125,238</i>	<i>0.0</i>
<u>Topeka Correctional Facility</u>				
1. Delete \$200, all from the State General Fund, in FY 2011 to lapse unspent funds from FY 2010.	(200)	0	(200)	0.0



Item	State General Fund	All Other Funds	All Funds	
<i>Agency Subtotal</i>	<i>(\$200)</i>	<i>\$0</i>	<i>(\$200)</i>	<i>0.0</i>
<u>Hutchinson Correctional Facility</u>				
1. Delete \$500, all from the State General Fund, in FY 2011 to lapse unspent funds from FY 2010.	(500)	0	(500)	0.0
<i>Agency Subtotal</i>	<i>(\$500)</i>	<i>\$0</i>	<i>(\$500)</i>	<i>0.0</i>
<u>Lansing Correctional Facility</u>				
1. Delete \$500, all from the State General Fund, in FY 2011 to lapse unspent funds from FY 2010.	(500)	0	(500)	0.0
<i>Agency Subtotal</i>	<i>(\$500)</i>	<i>\$0</i>	<i>(\$500)</i>	<i>0.0</i>
<u>Ellsworth Correctional Facility</u>				
1. Delete \$442, all from the State General Fund, in FY 2011 to lapse unspent funds from FY 2010.	(442)	0	(442)	0.0
<i>Agency Subtotal</i>	<i>(\$442)</i>	<i>\$0</i>	<i>(\$442)</i>	<i>0.0</i>
<u>Norton Correctional Facility</u>				
1. Delete \$991, all from the State General Fund, in FY 2011 to lapse unspent funds from FY 2010.	(991)	0	(991)	0.0
<i>Agency Subtotal</i>	<i>(\$991)</i>	<i>\$0</i>	<i>(\$991)</i>	<i>0.0</i>
<u>Juvenile Justice Authority</u>				
1. Delete \$3,336,312, all from the State General Fund, for FY 2011 revised caseloads estimate.	(3,336,312)	0	(3,336,312)	0.0
2. Delete \$2,411 for FY 2011, all from the State Institutions Building Fund, for debt service and capital improvements at the Larned Juvenile Correctional Facility.	0	(2,411)	(2,411)	
3. Delete \$3,148 for FY 2011, all from the State Institutions Building Fund, in the Raze Atchison Juvenile Correctional Facility Maintenance account.	0	(3,148)	(3,148)	0.0
<i>Agency Subtotal</i>	<i>(\$3,336,312)</i>	<i>(\$5,559)</i>	<i>(\$3,341,871)</i>	<i>0.0</i>
<u>Adjutant General</u>				
1. Delete \$3,960, all from the State General Fund, in FY 2011 to lapse unspent funds from FY 2010.	(3,960)	0	(3,960)	0.0
<i>Agency Subtotal</i>	<i>(\$3,960)</i>	<i>\$0</i>	<i>(\$3,960)</i>	<i>0.0</i>
<u>State Fire Marshal</u>				
1. Delete \$2,735, all from the Fire Marshal Fee Fund, to reflect revised expenditure estimates for FY 2011 due to retirements in FY 2010.	0	(2,735)	(2,735)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$2,735)</i>	<i>(\$2,735)</i>	<i>0.0</i>
<u>Kansas Parole Board</u>				
1. Delete \$982, all from the State General Fund, in FY 2011 to lapse unspent funds from FY 2010.	(982)	0	(982)	0.0
<i>Agency Subtotal</i>	<i>(\$982)</i>	<i>\$0</i>	<i>(\$982)</i>	<i>0.0</i>
<u>Emergency Medical Services Board</u>				
1. Add \$125,000 to the expenditure limitation on the Emergency Medical Services Operating Fund of the Emergency Medical Services Board. The increase is to assist in cash flow so that the agency can pay grants to local EMS providers on time.	0	125,000	125,000	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$125,000</i>	<i>\$125,000</i>	<i>0.0</i>
<u>Kansas Commission on Peace Officers' Standards and Training (KCPOST)</u>				
1. Delete \$100,759, all from the KCPOST Fund, in FY 2011. The Governor recommended operating expenditure reductions totaling \$100,252. The remaining \$507, is a technical adjustment to reflect action taken last session reducing KPERS Death and Disability in FY 2011.	0	(100,759)	(100,759)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$100,759)</i>	<i>(\$100,759)</i>	<i>0.0</i>
<u>Department of Agriculture</u>				
1. Increase the expenditure limitation, in FY 2011, of the Water Structures State Highway Fund of the Department of Agriculture from \$104,832 to no limit.	0	0	0	0.0



Agency	State General Fund	All Other Funds	All Funds	
2. <u>the expenditure limitation, in FY 2011, of the Water Appropriation Certification Fund of the Department of Agriculture from \$553,868 to no limit.</u>	0	0	0	
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<u>Kansas Water Office</u>				
1. Add \$464,630, all from the State Water Plan Fund, for Neosho River Basin issues.	0	464,630	464,630	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$464,630</i>	<i>\$464,630</i>	<i>0.0</i>
<u>Department of Wildlife and Parks</u>				
1. Delete \$73,240, all from the State General Fund, in the Reimbursement for Annual Licenses Issued to Kansas Disabled Veterans account, based on reduced estimates of expenditures in FY 2011.	(73,240)	0	(73,240)	0.0
2. Delete \$11,290, all from the State General Fund, in the Reimbursement for Annual Licenses Issued to National Guard Members account, based on reduced estimates of expenditures in FY 2011.	(11,290)	0	(11,290)	0.0
3. Delete \$6,748, all from the State General Fund, in the Reimbursement for Annual Park Permits Issued to National Guard Members account, based on reduced estimates of expenditures in FY 2011.	(6,748)	0	(6,748)	0.0
<i>Agency Subtotal</i>	<i>(\$91,278)</i>	<i>\$0</i>	<i>(\$91,278)</i>	<i>0.0</i>
<u>Office of Administrative Hearings</u>				
1. Add language limiting expenditures from the Administrative Hearings Office Fund for FY 2011 to \$100.	0	0	0	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<u>Home Inspectors Registration Board</u>				
1. Delete \$18,950, all from the Home Inspectors Fee Fund, to reflect adjusted expenditure estimates in FY 2011. The decrease is attributable to the agency's revised estimate of agency startup costs.	0	(18,950)	(18,950)	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>(\$18,950)</i>	<i>(\$18,950)</i>	<i>0.0</i>
<u>Undermarket Pay</u>				
1. Delete \$1,316,263, all from the State General Fund, in FY 2011 to lapse funding that was not utilized for undermarket pay adjustments.	(1,316,263)	0	(1,316,263)	0.0
2. Delete \$16.4 million, including \$8.5 million from the State General Fund, in FY 2012 to lapse funding which had previously been appropriated for undermarket pay adjustments.	(8,534,972)	(7,830,090)	(16,365,062)	0.0
3. Delete \$16.4 million, including \$8.5 million the State General Fund, in FY 2013 to lapse funding which had previously been appropriated for undermarket pay adjustments.	(8,534,972)	(7,830,090)	(16,365,062)	0.0
<i>Agency Subtotal</i>	<i>(\$18,386,207)</i>	<i>(\$15,660,180)</i>	<i>(\$34,046,387)</i>	<i>0.0</i>
<b>TOTAL - EXPENDITURES</b>	<b>(\$52,063,113)</b>	<b>(\$10,383,928)</b>	<b>(\$62,447,041)</b>	<b>0.0</b>

## REVENUE ADJUSTMENTS

<u>Securities Commissioner</u>				
1. Transfer \$800,000 from the Investor Education Fund to the State General Fund in FY 2011, in addition to any other transfer from the Investor Education Fund to the State General Fund.	800,000	(800,000)	0	0.0
<i>Agency Subtotal</i>	<i>\$800,000</i>	<i>(\$800,000)</i>	<i>\$0</i>	<i>0.0</i>
<u>Secretary of State</u>				
1. Add language authorizing the transfer of \$82,010 from the agency's special revenue Help America Vote Act -Electronic Voter Information System (HAVA ELVIS) Fund to the agency's special revenue Democracy Fund to provide matching funds for federal Help America Vote Act funds.	0	0	0	0.0
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<u>Kansas Public Employees Retirement System (KPERS)</u>				
1. Transfer \$4,350,937 from the Kansas Endowment for Youth Fund to the Children's Initiatives Fund for FY 2011.	0	0	0	0.0



Item	State General Fund	All Other Funds	All Funds	
<i>Agency Subtotal</i>	\$0	\$0	\$0	0.0
<u>Department of Revenue</u>				
1. Transfer \$124,265 from the Kansas Qualified Biodiesel Fuel Producer Incentive Fund to the Economic Development Initiatives Fund for FY 2011.	0	0	0	0.0
<i>Agency Subtotal</i>	\$0	\$0	\$0	0.0
<u>Kansas Lottery</u>				
1. Increase the approved transfer from the Kansas Lottery Operating Fund to the State Gaming Revenue Fund by \$400,000, from \$70.4 million to \$70.8 million, in order to adjust for reduced revenue from Kansas Veterans Scratch Lotto games in FY 2011.	0	0	0	0.0
<i>Agency Subtotal</i>	\$0	\$0	\$0	0.0
<u>Kansas Racing and Gaming Commission</u>				
1. Transfer \$5,000 from the State Racing Fund to the Illegal Gambling Enforcement Fund in order to defray costs associated with illegal gaming enforcement in FY 2011.	0	0	0	0.0
2. Transfer all monies remaining in the Racing Reimbursable Expense Fund to the State Racing Fund in order to simplify fund accounting after the closing of all parimutuel gaming facilities in Kansas in FY 2011.	0	0	0	0.0
3. Transfer all monies remaining in the Racing Investigative Expense Fund to the State Racing Fund in order to simplify fund accounting after the closing of all parimutuel gaming facilities in Kansas in FY 2011.	0	0	0	
4. Transfer all monies remaining in the Horse Fair Racing Benefit Fund to the State Racing Fund in order to simplify fund accounting after the closing of all parimutuel gaming facilities in Kansas in FY 2011.	0	0	0	0.0
5. Transfer all monies remaining in the Racing Applicant Deposit Fund to the State Racing Fund in order to simplify fund accounting after the closing of all parimutuel gaming facilities in Kansas in FY 2011.	0	0	0	0.0
6. Transfer all monies and present and future liabilities of the Horse Purse Fund to the Kansas Horses Breeding Development Fund and abolish the Horse Purse Fund in order to simplify fund accounting after the closing of all parimutuel gaming facilities in Kansas in FY 2011.	0	0	0	0.0
7. Transfer all monies and present and future liabilities of the Gaming Machine Examination Fund to the Expanded Lottery Act Regulation Fund and abolish the Gaming Machine Examination Fund in order to allow for direct reimbursement of information technology expenditures by the gaming facility managers in FY 2011.	0	0	0	0.0
<i>Agency Subtotal</i>	\$0	\$0	\$0	0.0
<u>State Fire Marshal</u>				
1. Transfer \$52,509 from the Hazardous Material Program Fund to the Fire Marshal Fee Fund in FY 2011. Expenditures for the Hazardous Material Program were less in FY 2010 than expected.	0	0	0	0.0
<i>Agency Subtotal</i>	\$0	\$0	\$0	0.0
<u>Kansas Commission on Peace Officers' Standards and Training (KCPOST)</u>				
1. Transfer \$500,000, all from the KCPOST Fund, to the State General Fund in FY 2011. After the transfer, the ending balance in the KCPOST fund will be \$231,562 in FY 2011.	500,000	(500,000)	0	0.0
<i>Agency Subtotal</i>	\$500,000	(\$500,000)	\$0	0.0
<u>Department of Agriculture</u>				
1. Transfer \$3,081 from the State Highway Fund of the Department of Transportation to the Water Structures State Highway Fund of the Department of Agriculture to fund undermarket increases in FY 2011.	0	0	0	0.0
<i>Agency Subtotal</i>	\$0	\$0	\$0	0.0
<b>TOTAL - REVENUE ADJUSTMENTS</b>	<b>\$1,300,000</b>	<b>(\$1,300,000)</b>	<b>\$0</b>	<b>0.0</b>



Office of the Governor

Sam Brownback, Governor

MEMORANDUM

TO: House Committee on Appropriations  
FROM: Landon Fulmer, Director of Policy  
DATE: January 24, 2011  
SUBJECT: House Bill 2014

Thank you for the opportunity to comment on the Governor's freeze bill. House Bill 2014 enacts important revisions Governor Brownback proposes for the FY 2011 budget. He has requested quick action on this bill so school districts and Medicaid agencies can plan their current year budgets, so we appreciate the timing of this hearing today.

On a cash basis, the State General Fund began FY 2011 with \$876. This starting balance would have been even less without steps taken at the end of FY 2010 to delay \$132 million in aid to schools until after the start of the new fiscal year. These steps had to be taken to manage the loss of \$100 million in tax revenues that were in the spring revenue estimate, but did not materialize. It is the Governor's plan that the steps taken with this bill will allow us to avoid delaying additional payments across fiscal years. I will highlight the most significant changes in the bill for you.

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## **Education Jobs—K-12 State Aid and Medicaid**

In August 2010, Congress enacted legislation authorizing the Education Jobs Fund. \$92 million was awarded to Kansas for the 2010-2011 school year. In the same legislation, Congress extended a higher level of federal Medicaid assistance. This federal legislation is crucial to balancing the current year budget without further program reductions.

As is allowed by the federal law and was suggested by Governor Parkinson last fall, Governor Brownback now proposes using \$86 million of the federal Education Jobs funding to free State General Fund resources needed to finance higher health and human service caseload entitlement programs that will cost us \$98 million more than we had originally budgeted for FY 2011. Without the use of the Education Jobs funding, the FY 2011 State General Fund budget would have to be cut further. Exchanging the federal funding for SGF support will have no net effect to the schools, while we meet our commitment to those receiving Medicaid and other health care services.

## **Other Current Year Revisions**

Also contained in the bill are numerous adjustments to the current year budget. For example, we discovered that both the Economic Development Initiatives Fund and the Children's Initiatives Fund were overspent in FY 2011. This budget bill will make the necessary reductions to bring these state funds into balance.

The Affordable Airfare program in the Department of Commerce needs an expenditure limitation increase to permit expenditure of funds authorized for FY 2010 but which were not committed in time. New funds need to be appropriated for the Department on Aging and KHPA to implement the new nursing facility provider tax and for KDHE to administer the child care facility legislation, both enacted by the 2010 Legislature.

A change in how the state seeks reimbursement for special education students eligible for Medicaid resulted in a catastrophic reduction in reimbursements to the Lake Mary Center in the

Paola School District disproportionate to all the other districts. Language in this bill will address this issue on a one-time basis to restore \$175,000 of the \$475,000 cut. The district has committed to overcome this change over the long-term.

Funding appropriated but not needed for undermarket adjustments is lapsed in the bill, as is funding already appropriated for FY 2012 and FY 2013. While Governor Brownback wants to see the size of the workforce trimmed, and those who are employed by the state properly compensated, the budget must first be brought into structural balance. As was announced last Thursday, the Governor, Speaker of the House and Senate President are committed to tackling the three largest cost drivers in the budget and the effect of this work will translate to better services and ultimately a lower tax burden for the citizens of our state. Much work will have to be done before we reach that goal, but the appropriation bill before you is one of the first steps on that path to structural balance.

Ultimately, the adjustments made by this bill will leave us with a projected ending balance of \$35.7 million, necessary for us to meet our obligations in the FY 2012 budget and to hedge against the further loss of SGF revenues over the rest of this fiscal year. We in the Brownback Administration look forward to working with you on our state's budget issues over the coming weeks.

<b>State General Fund Outlook</b> <i>(Dollars in Millions)</i>				
	FY 2009 Actual	FY 2010 Actual	FY 2011 Gov. Revised	FY 2011 Gov. Rec.
Beginning Balance	\$ 526.6	\$ 49.6	\$ (27.1)	\$ 35.7
Revenues	5,587.4	5,191.3	5,789.9	6,044.8
Total Available	\$ 6,113.9	\$ 5,240.9	\$ 5,762.8	\$ 6,080.5
Expenditures				
Expenditures	6,064.4	5,238.2	5,727.1	6,072.9
Contingent Encumbrances	--	29.8	--	--
Total Expenditures	\$ 6,064.4	\$ 5,268.0	\$ 5,727.1	\$ 6,072.9
Ending Balance	\$ 49.6	\$ (27.1)	\$ 35.7	\$ 7.5
<i>As Percent of Expenditures</i>	0.8 %	(0.5 %)	0.6 %	0.1 %





To: Senate Appropriations Committee  
From: Sherry C. Diel, Executive Director  
Date: January 24, 2011  
Subject: **SB 16**—Opposition to Section 7 Proposing a 10% Shrinkage Rate and Reduction from Kansas Real Estate Commission's FY 2011 Budget

Chairperson McGinn and members of the Senate Ways and Means Committee, thank you for the opportunity to share the Commission's concern regarding the impact the proposed application of a 10% shrinkage and budget reduction will have on the Commission's ability to adequately regulate the industry and protect the public.

#### **What Happened to the Commission's Cash Balance**

The Commission understands and appreciates the difficult position the Legislature is facing this year due to the continuing tough economy and the elimination of federal stimulus monies for State General Fund programs. Even though the Commission is 100% fee funded, its budget has likewise suffered significantly from the sharp decline in the real estate market. The Commission has been hit by the "perfect storm" caused by the following: (1) since FY 2005, over \$700,000 has been swept from the Commission's fee fund; (2) licensee counts have decreased by approximately 3,000 since FY 2007; and (3) the number of requests for hearings and severity of the cases have more than doubled since the housing market began to decline. The proposed budget only hampers the Commission's ability to realign staffing to address the over one-year backlog of disciplinary orders waiting to be drafted and hearing requests waiting to go through the hearing process. Possibly most important to the Committee members, the proposed shrinkage and budget reduction will not benefit the State General Fund budget because the Commission is not a SGF agency and the 10% shrinkage will remain in the Commission's fee fund.

#### **The Budget Realities**

The Commission respectfully takes exception to the statement in this year's Governor's Budget Report that states that the Commission needs to be more aware of its fee fund balance and reduce its expenses to a level that the receipts support operations without depleting the agency's fee fund balance. In FY 2005, \$508,438 was swept from the Commission's fee fund. In FY 2009, another \$195,671 of Kansas Savings Incentive Plan (KSIP) monies that the Commission had saved for updating its licensure system was swept from the fee fund and transferred to the State General Fund when the KSIP program was terminated. Ironically, the Division of Budget had also recommended that another \$550,000 be swept from a combination of the Commission's recovery fund and fee fund in FY 2009, but fortunately that measure was defeated late in the Session.

In addition to the fee fund sweeps, the Commission transfers 20% of fees received from licensees up to a maximum of \$200,000 per year for "indirect costs" for accounting, legal and other centralized services. However, the Commission is also direct billed for those services by the Department of Administration. In FY 2009, the direct bills received from the Department of

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Administration exceeded \$50,000. Consequently, in FY 2009, approximately \$450,000 was transferred to the State General Fund.

In many agencies when licensee counts are drastically reduced, the workload of staff is also reduced and a shrinkage rate would make sense. However, the opposite is true in the Commission's case. The number and severity of the complaints increase and the licensees are less receptive of disciplinary action. In addition, because a tough economy can bring out the worst in people, there are more long-term suspensions and revocations in a tough economy. When the real estate market steadily declines like has occurred over the past three years, licensees often times will not accept disciplinary action taken against their license and have a tendency to request a hearing regardless of whether a fine is imposed or a more severe penalty is imposed. The strain of the increased workload on the staff is enormous and this situation has created a substantial backlog of agency orders waiting to be drafted and hearings to be held. However, due to the complexity of the workload involved and the skills needed to address the backlog, there are two positions in Enforcement—a Special Investigator I and an Office Assistant—which are purposely kept vacant and the funding otherwise used to hire or contract with temporary paralegals because these two FTE positions are not properly classified to handle the complexity of the work that is required. However, an attorney is needed to truly address the backlog that exists and the backlog will continue to grow until the proper staffing mix is obtained. The backlog for complaint orders that do not involve a danger to the public currently exceeds one year and the backlog of audit orders is currently around 8-9 months. It takes on average 15 months to have the hearing process initiated once a hearing is requested due to the number of hearing requests in the pipeline. Application of a shrinkage rate and reduction of the budget will only cause the backlog to increase. This hampers the Commission's ability to fulfill its mission to protect the public and it's not fair to licensees who find they must defend themselves after a substantial period of time has passed after the complaint was received.

The Commission is not going to spend money it doesn't have. It has not spent money foolishly. If the Commission's proposals for revenue enhancements are not approved, the Commission will out of necessity have to adjust what services it provides and possibly what bills it pays. If revenue enhancements are approved, the Commission should then be allowed to manage its staffing resources in the manner it deems appropriate to best address the backlogs because the Commission's expenditures have no impact on the SGF.

### **The Commission's Proposed Solution for FY 2011—FY 2013**

Because the Commission's fee fund balance would be depleted by FY 2013 unless revenue was enhanced, a carefully crafted proposed budget consisting of a fund transfer, revenue enhancement and expenditure enhancement for staffing reorganization was proposed by the Commission for FY 2011—FY 2013 to provide increased revenues and provide the Commission with the tools to manage its backlog.

For FY 2011, the Commission proposed **transferring \$200,000 from the Commission's recovery fund (claims fund) to the fee fund.** The recovery fund was initially funded by a transfer from the fee fund derived from fees paid by licensees. By statute, licensees are assessed only if the recovery fund balance falls below \$100,000. Approximately \$250,000 would remain in the recovery fund after the proposed transfer. The recovery fund balance appears to be sufficient because claims are statutorily limited to a maximum payout of \$15,000 per claim.

The Commission proposed a revenue enhancement by **requesting an increase of the statutory cap on original and renewal fees for salespersons and brokers.** Renewal fees have remained at the statutory cap since 1998 and the statutory cap has not been raised since

1993. The Commission proposed requesting a statutory increase on original and renewal license fees for brokers from \$150 to \$250 and would set the broker license fees by regulation at \$175. The Commission proposed requesting a statutory increase on original and renewal license fees for salespersons from \$100 to \$150 and would set the salesperson license fees by regulation at \$120.

The Executive Director has been trying to handle the work of both the director of the agency and an attorney for almost three years. To address the backlog properly, a staff attorney and paralegal are necessary, but the funding available from the two vacant Enforcement FTEs that have purposely not been filled because they are not classified properly to handle the complexity of the work is not sufficient to cover the salaries of an attorney and paralegal. The attorney would draft orders and function as disciplinary counsel for the Commission. The paralegal would draft simple orders, draft correspondence and assist with litigation. The Commission proposed **upgrading a vacant Special Investigator I position to an unclassified Attorney position**. The Commission proposed **upgrading a vacant Administrative Assistant position to a classified Legal Assistant position**. The Commission believes the proposed reorganization of Enforcement staff to include an Attorney and a Legal Assistant would accomplish three purposes: (1) reduce the backlog of agency orders; (2) ultimately reduce attorney fees; and (3) enable the Executive Director to balance staff's workload.

#### **Summary of the Commission's Request for FY 2011**

Despite the Commission's request for adequate funding to address the problem of the growing backlog, the proposed budget recommends a 10% shrinkage rate (and in FY 2012 eliminates 2 FTEs). The purpose of the shrinkage is to reduce expenditures and increase the fee fund balance. The Commission is capable of managing its expenditures without the necessity of a shrinkage and budget reduction. The Division of Budget recommendation deletes the funding the Commission is using from the two improperly classified Enforcement FTEs to hire or contract for temporary workers to assist with the backlog. This will only make a very bad situation worse. The Division of Budget's recommendation will require the Commission to either determine it can no longer enforce most types of violations—a message the Commission does not want to send to licensees when the Commission's purpose is to protect the public—or the Commission will soon be forced to determine its priorities and will accordingly reexamine what bills it can and cannot afford to pay. Either scenario is not the best choice when the Commission has offered other viable alternatives—and the Commission's budget does not impact the SGF budget.

The Commission believes that auditing brokerages, investigating complaints, issuing reasonably timely orders, and being able to take necessary disciplinary action are core services of the agency that are necessary to help ensure the integrity of the industry and to protect the public. **The Commission respectfully requests that the following revenue and expenditure proposals be approved for FY 2011—none of which will have an impact on SGF:**

- (1) transfer \$200,000 from the Commission's recovery fund to the Commission's fee fund;
- (2) reverse the recommendation to apply a 10% shrinkage rate and reinstate funding in the amount of \$82,164; and
- (3) approve an increase of the statutory cap for original and renewal broker's license fees from \$150 to \$250 (\$175 by regulation) and an increase for original and renewal salesperson's license fees from \$100 to \$150 (\$120 by regulation.)

Thank you for your consideration of this matter of substantial importance to the Commission.



**House Appropriations Committee**

**Testimony on HB 2014**

January 24, 2011

Presented by:  
Mike Mathes, Superintendent, Seaman USD 345  
on behalf of  
United School Administrators of Kansas and  
The Kansas School Superintendents Association

My name is Mike Mathes and I am the superintendent of schools from Seaman USD 345. The Seaman school district is a suburban district located in northern Topeka and Shawnee County. We have 3,730 students enrolled in pre-K through 12th grade. The Seaman public schools have long been a source of pride for our community.

First, thank you for the opportunity to appear before you today. I am here today to speak to HB 2014, the FY 2011 spending bill. Specifically, I would like to speak to you about the provisions for K-12 public education. It is unfortunate that the economic downturn and subsequent budget cuts have impacted us in such a way that this bill is necessary; however, we find ourselves in uncharted territory as we attempt to address the budget.

The 2011 Legislative Session promises to be challenging as we continue to deal with this unprecedented economic downturn. As those charged with leading our state through the budget and revenue crisis, I know you will be called upon to make some of the most weighty decisions of your legislative service.

**Special Education Funding Maintenance of Effort**

Administrators were pleased to see special education funding will be increased from \$367.5 million in the current fiscal years to \$427.7 million in FY 2012. Unfortunately, the current year's funding is about \$16.7 million short of meeting the American Recovery and Reinvestment Act (ARRA) maintenance of effort requirement. The Department of Education has advised administrators that if the maintenance of effort requirement is not met, the state will be financially penalized in FY 2013. This penalty is expected to be 16-percent or more of our federal funding.

**We are imploring the legislature to fund the FY 2011 \$16.7 million shortfall in special education to ensure that our students with special learning needs are not impacted by future penalties.**

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## **JOBS funding**

Last year, Congress passed the JOBS bill, which appropriated \$92 million for Kansas in K-12 education funds for Kansas. HB 2014, however, does not direct the JOBS funding to K-12 education spending. Instead, it uses \$86 million of the federal Education Jobs Funding to replace \$86 million in State General Fund (SGF).

HB 2014 also does not fund the \$50 million supplemental requested for FY 2011 -- to cover the loss in property valuations, higher enrollment, and the increase in at-risk students.

**The cumulative effective of these actions is that the Base State Aid Per Pupil (BSAPP) is reduced from \$4,012 to \$3,937 or \$75 per pupil.**

## **How the Seaman School District is impacted**

The Seaman school district has done an excellent job managing the district's finances and ensuring that students have access to programs and services they need. Unfortunately, in the absence of a multi-year budget and the uncertainty of our economic circumstances, advanced planning is extraordinarily challenging. The Seaman school district has already eliminated and/or reduced programs and personnel, but we anticipate additional reductions may be necessary.

The FY 2011 budget proposal reduces the Base State Aid Per Pupil (BSAPP) from \$4,012 to \$3,937 or \$75. For the Seaman school district, that reduction will result in a \$338,000 cut, to be made before the end of this year.

The investment our state has made in schools has been critical to the success we have seen in student achievement and in preparing students for entry into the workforce. The Seaman school district has done an excellent job managing the district's finances and ensuring that each student receives a quality education. In response to the funding reductions enacted this past year, the Seaman school district:

- Used all of the money saved through the consolidation of four elementary schools to two elementary schools
- Transferred money saved by consolidating two middle schools into the contingency fund to pay bills and payroll when state aid payments were delayed
- Eliminated 31.5 positions (including 3 administrative, 5.5 teachers, 23 classified)
- Reduced the special education and administrative staff development budgets

The Seaman school district remains committed to operating a quality, efficient and effective school district. Over the past 3 to 4 years, we have reduced operating expenses by nearly \$1.9 million each year. As a percentage of our cuts thus far 32% have been at the administrative level, 34% teachers, and 44% at the classified level.

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Our local option budget and cash reserves have allowed us to maintain programs, instructional support and make payroll on time. Additional reductions to K-12 education funding may result in:

- Deeper cuts to instructional, professional development and library budgets
- Eliminating field trips
- Eliminating many middle school extracurricular activities
- Eliminating some sports, including non-varsity sports, at the high school level
- Eliminating almost all non-special education paraprofessionals
- Eliminating 10 to 20 teaching positions
- Increasing class size
- Eliminating after school programs
- Reducing the number of elective courses offered
- Increasing the local option mill levy

As you see, any further cuts will significantly impact our students, our workforce and our community. Kansans have been called upon to compromise and work together for the common good of the State. As education and community leaders, we remain committed to working with you during this legislative session.

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Date January 14, 2011

Attachment 6-3





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To: House Appropriations Committee

Date: January 24, 2011

Subject: **HB 2014** – Opposition to the Language in Section 7 on Page 2 Proposing a 10% Shrinkage from the Kansas Real Estate Commission's Real Estate Fee Fund in FY 2011

Chairman Rhoades and members of the House Appropriations Committee, thank you for the opportunity to submit written comments on behalf of the Kansas Association of REALTORS® in support of the budget testimony provided by the Kansas Real Estate Commission. Through the comments expressed herein, it is our hope to provide additional legal and public policy context to the discussion on this issue.

KAR is the state's largest professional trade association, representing nearly 8,000 members involved in both residential and commercial real estate and advocating on behalf of the state's 700,000 homeowners for over 90 years. REALTORS® serve an important role in the state's economy and are dedicated to working with our elected officials to create better communities by supporting economic development, a high quality of life, sustainable communities and providing affordable housing opportunities that embrace the environmental qualities we value, while protecting the rights of private property owners.

As a starting point, we are extremely concerned about the extremely difficult budget challenges facing the Kansas Legislature in FY 2011 and FY 2012. Just like other citizens of this state, REALTORS® have family members who are enrolled in K-12 public education, attend public universities, depend on various disability and social service programs administered by the state and take advantage many other vitally important state services that have been and will continue to be cut by the Kansas Legislature.

Fee Fund Sweeps Have Severely Inhibited the Fiscal Soundness of the Real Estate Fee Fund and the Commission's Ability to Adequately Regulate the Real Estate Industry

However, we are also very concerned about the continuing devastating impact that unconstitutional fee fund sweeps by the Kansas Legislature are having on the Kansas Real Estate Commission's budget and the Commission's ability to adequately regulate the real estate industry during this difficult economic environment. If the Kansas Legislature continues to decrease the Commission's budget during the 2011 Legislative Session, it will have an extremely detrimental impact on the Commission's ability to properly regulate the real estate industry and protect consumers.

In the past six years, the Kansas Legislature has swept more than \$700,000 from the real estate fee fund to pay for other programs in the state budget funded through the state general fund. The Kansas Legislature approved a \$508,438 sweep from the real estate fee fund in FY 2005 and a \$195,671 sweep from the real estate fee fund in FY 2009. As you can see, the cumulative fee fund sweeps enacted by the Kansas Legislature nearly equal almost a year's worth of expenditures from the real estate fee fund.

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Although Division of Budget Determined that the Real Estate Fee Fund Could Afford Fee Fund Sweeps in Previous Fiscal Years, They Have Now Determined that the Fund Has Dangerously Low Cash Balance

During the debate on the FY 2009 and FY 2010 budgets, the Division of Budget proposed to sweep an additional \$633,095 from the real estate fee fund and the real estate recovery fund. Thankfully, we were successful in working with several other industry trade associations targeted for fee fund sweeps to pass an amendment that defeated the Division of Budget's proposals.

If we had not been successful, the Commission's budget would have been even more severely impacted by the fee fund sweeps. However, I am very confused as to how the Division of Budget could conclude that the Commission could withstand an additional \$633,095 in fee fund sweeps in 2009 and 2010 and the very next year conclude that the Commission now cannot support current operations and must shrink its budget by 10% to preserve the cash balance in the real estate fee fund.

At the least, this represents a gross misunderstanding and at worst a clear disregard of the particular fiscal challenges facing the Commission as they attempt to deal with the fallout from one of the worst real estate markets in recent history. The association strongly supports the Commission's efforts to reverse the decline of the real estate fee fund that was caused by the Division of Budget's recommendations to sweep the real estate fee fund and restore the Commission's funds to proper health and stability.

KAR Strongly Supports the Commission's Plan to Restore a Healthy Balance in the Real Estate Fee Fund through a Transfer from the Real Estate Recovery Fund and a Fee Increase on Real Estate Licensees

In order to address the funding shortage in the real estate fee fund, the Commission has adopted a recovery plan that would stabilize the fund over several years with a \$200,000 transfer from the real estate recovery fund and a small increase in the licensing fees paid by real estate salespersons and brokers. In the context of the challenges currently facing the Commission, the association believes they are acting in utmost good faith to address the challenges and provide for the proper regulation of the industry.

We believe that the current balance in the real estate recovery fund is more than sufficient to withstand the \$200,000 transfer to the real estate fee fund. When the real estate recovery fund was established many years ago, it was capitalized with a transfer from the real estate fee fund. In our opinion, the proposed transfer of funds from the recovery fund back to the real estate fee fund is simply a repayment of that initial transfer that will allow the Commission to stay afloat during these tough times.

In recent years, the amount of claims that have been paid to consumers from the real estate recovery fund have been minimal to nearly non-existent. As an increasing number of real estate licensees obtain errors and omissions insurance to cover liability for consumer complaints, the association believes that the number of claims from the fund will only continue to decrease over time.

Furthermore, the association reluctantly supports the Commission's request to increase licensing fees by a small amount for real estate salespersons and brokers to help stabilize the balance of the real estate fee fund. If the state had not chosen to sweep our fee fund we would not be in this position, but we believe that this is the only suitable course of action in this situation to help ensure that the Commission is not forced to dramatically reduce its operations at a time when they are desperately needed.

Since the statutory cap on the licensing fees for real estate salespersons and brokers has not been increased since at least 1988, we believe that the Commission has been very responsible stewards of our members' licensing fees and will use the fee increase responsibly to stabilize the real estate fee fund. Accordingly, we reluctantly support the Commission's fee increase request.

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If the Kansas Legislature does not reverse the recommendations of the Division of Budget, we believe that the Commission will be required to drastically scale back its operations in auditing real estate brokerages, investigating consumer complaints and processing requests from real estate licensees. At a time when the Commission is needed more than ever to help guide the industry through a protracted downturn, we believe that a failure to adopt the Commission's recovery plan will only make the current situation worse.

Commission Contributes a Significant Amount of Funding Each Year to the State General Fund, Which Further Compounds the Current Budgetary Limitations in the Real Estate Fee Fund

Under **K.S.A. 58-3074(a)**, the Commission is already required to transfer 20% of all real estate licensing fees, charges and penalties collected by the Commission to the state general fund to pay for unrelated programs in the state budget. In FY 2009, the Commission was forced to transfer \$199,725.41 in licensing fees, charges and penalties paid by real estate licensees to the state general fund to satisfy the obligations imposed by this statutory provision.

**K.S.A. 75-3170a(a)** provides that the purpose of this transfer is "to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services, and any and all other state governmental services, which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services" [Emphasis added].

However, the Commission also paid various fees and charges totaling \$50,233.79 in the aggregate to the Kansas Department of Administration during FY 2009 for the following services ostensibly provided to the Commission (even though these services fall under the list of services that are supposed to be paid for by the 20% transfer under **K.S.A. 58-3170a**):

- (1) Annual central mail assessment (for maintenance of mail facility and equipment): \$5,627.10;
- (2) non-state building lease administrative fee (fee charged to administer the lease): \$142.89;
- (3) monumental building surcharge (for maintenance of the Capitol, Judicial Center and Cedar Crest mansion): \$11,050.16;
- (4) surety bond: \$13.50;
- (5) data services (for internet and router connectivity): \$3,381.00;
- (6) central mail (actual mail costs): \$14,061.73;
- (7) telecommunications (for voice switching service, long distance and directory): \$4,759.51;
- (8) annual FMS (cost of state's new accounting system): \$1,961.94;
- (9) enterprise application (based on the number of spending warrants issued): \$1,518.22; and
- (10) miscellaneous data processing (email system and computer services): \$7,717.74.

As a result, the Kansas Real Estate Commission transferred a grand total of \$445,630.20 from the real estate fee fund to the state general fund in FY 2009. Combined with the \$508,438 sweep from the real estate fee fund to the state general fund in FY 2005, you can see that the Kansas Real Estate Commission's budget has been severely and negatively affected by the past actions of the Kansas Legislature in sweeping fee funds.

Not surprisingly, the Division of Budget initially proposed further fee fund sweeps of \$39,758 in FY 2010 and \$99,634 in FY 2011. Although the Governor overturned this recommendation, we believe it is very likely this proposal will again come up during the budget process during the 2010 Legislative Session.

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Attachment 7-3

Fee Fund Sweeps are Unconstitutional Since They are an Illegitimate Use of the Police Power Authority to Generate General Tax Revenue in Violation of Article 11, Section 1 of the Kansas Constitution

Fundamentally, the state government has the inherent power called the “police power” to regulate various businesses and industries for the protection of its citizens. While the term “police power” is difficult to define precisely, it basically “embraces the state’s power to preserve and to promote the general welfare and it is concerned with whatever affects the peace, security, safety, morals, health and general welfare of the community.” 16A Am. Jur. 2d *Constitutional Law* § 313 (June 2002) (citations omitted).

In regulating the real estate industry, the Kansas Legislature has chosen to exercise its police power to place certain requirements and restrictions on those individuals acting as real estate salespersons and brokers. In doing so, the Kansas Legislature promotes the general welfare of the public through a highly regulated real estate industry overseen by the Kansas Real Estate Commission.

While the police power provides the state with broad authority to regulate a particular business or industry, there is a definite constitutional distinction between a state’s police power and its power to levy taxes and other revenue mechanisms to defray general state budget expenditures. Under long-established precedent, the Kansas Supreme Court has explicitly recognized a clear distinction between the Kansas Legislature’s authority to exercise its police power and the ability to enact revenue raising measures.

At the outset, it is clear that under its police power the state may reimburse itself for the costs of otherwise valid regulation and supervision by charging the necessary expenses to the businesses or persons regulated. A statute, however, is void if it shows on its face that some part of the exaction is to be used for a purpose other than the legitimate one of supervision and regulation or if more than adequate remuneration is secured. *Panhandle Eastern Pipe Line Co. v. Fadely*, 183 Kan. 803, 806-07 (1958).

In *Executive Aircraft v. City of Newton*, 252 Kan. 421 (1993), the Kansas Supreme Court held that a fuel flowage “regulatory fee” assessed by a city and county was an illegal tax under the Kansas Constitution. In this decision, the Court addressed the distinction between a fee and a tax.

Thus, a tax is a forced contribution to raise revenue for the maintenance of governmental services offered to the general public. In contrast, a fee is paid in exchange for a special service, benefit, or privilege not automatically conferred upon the general public. A fee is not a revenue measure, but a means of compensating the government for the cost of offering and regulating the special service, benefit, or privilege. *Id.* at 427.

After a full analysis of the case law on this issue, it is possible to extract a basic rule of law regarding this issue. If an assessment, charge or fee paid by a regulated business or individual grossly exceeds the cost of regulating that business or individual and there is no reasonable relationship between the actual costs involved and the amount of the fee, the portion of that assessment, charge or fee that exceeds the actual costs involved in regulating that business or individual is an unconstitutional use of the state’s police power authority as a revenue raising mechanism or tax.

Conclusion

For all the foregoing reasons, we would urge the members of the House Appropriations Committee to delete the language in Section 7 on Page 2 of **HB 2014**. Once again, thank you for the opportunity to provide comments and I would be happy to respond to any questions from the committee members at the appropriate time.