

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:30a.m. on January 25, 2011, in Room 548-S of the Capitol.

All members were present

Committee staff present:

Jill Wolters, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
David Wiese, Office of the Revisor of Statutes
Alan Conroy, Director, Legislative Research Department
J. G. Scott, Senior Fiscal Analyst, Legislative Research Department
Aaron Klaassen, Fiscal Analyst, Legislative Research Department
Dorothy Hughes, Fiscal Analyst, Legislative Research Department
Brea Short, Intern, Senator McGinn's Office
Jan Lunn, Committee Assistant
Josh Lewis, Chief of Staff

Conferees appearing before the Committee:

Landon Fulmer, Director of Policy, Office of the Governor
Mike Mathes, Superintendent, Seaman USD 345 on behalf of United School Administrators of Kansas and The Kansas School Superintendents Association
Sherry C. Diel, Executive Director, Kansas Real Estate Commission
Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors
Mark Tallman, Associate Executive Director, Kansas Association of School Boards

Others attending:

See attached list.

Bill Introductions

Senator Vratil moved introduction of a bill (#rs0466) concerning the calculation of the local option budget for school districts; Senator Schodorf seconded the motion which passed on a voice vote.

Senator Vratil moved introduction of a bill (#rs0490) limiting entitlement to capital improvement state aid; the motion was seconded by Senator Taddiken. The motion passed on a voice vote.

SB 16 - Supplemental appropriations for FY 2011 for various state agencies.

Chairperson McGinn opened the hearing on **SB 16** and introduced J. G. Scott, fiscal analyst in Legislative Research Department, to brief committee members on the bill.

Mr. Scott referenced handouts (Attachments 1, 2, and 3) containing information relative to the Governor's current year adjustments. **SB 16** shifts funds in the amount of \$138.3 million from FY 2010 to FY 2011; of that amount, the largest single item is \$132 million for school finance. The FY 2011 budget fully funds Human Services caseloads (medical, nursing facilities, foster care, tec.) including replacing shortfall of federal stimulus funding \$49.3 million. The FY 2011 budget also reduces the State General Fund (SGF) by \$85.9 million and increases the new federal Education Jobs funding by the same amount. The budget includes an \$8.5 million lapse in undermarket funding for FY 2012 and FY 2013. Adjustments to the SGF increase estimated revenue by \$4.7 million resulting from fee fund sweeps and contingency fund transfers.

Senator Taddiken inquired whether the transfer from the Kansas Qualified Biodiesel Fuel Producer Incentive Fund to the Economic Development Initiatives Fund (EDIF) left sufficient funds to meet payment obligations. Mr. Scott indicated sufficient funds are left to meet obligations.

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Under "Department of Education" item #4 which adds language allowing school districts to recoup a portion of their loss in funding for Attendant Care Services, Senator Taddiken requested clarification. Landon Fulmer explained any school district with losses greater than \$300,000 in their budget for Attendant Care Services is eligible to recoup a portion of those lost dollars. Two school districts are eligible: Lawrence will receive \$8,000, and Paola will receive \$170,000. In addition, Senator Taddiken requested clarification on the "Money Follows the Person" program under the "Social and Rehabilitation Services." Mr. Scott indicated the Money Follows the Person" refers to money that follows the individual moving from a state facility into a community-based setting. Senator Taddiken questioned why the Learjet Bond Fund and the Siemens Bond Fund under the "State Treasurer" agency are recommended as "no-limit" funds. Mr. Scott responded this provides more flexibility with fluctuating bond payments.

Landon Fulmer, Director of Policy, Office of the Governor, was present to speak in favor of **SB 16**. He provided comments related to the policy framework within which goals can be achieved (Attachment 4). He discussed the lapsing of funding to schools to free SGF resources to finance higher health and human service caseloads that are projected; he commented on the goal of maintaining a \$35 million balance in the 2011 SGF which is necessary to meet FY 2012 obligations and to hedge against further loss of SGF revenues for the remaining fiscal year.

Mike Mathes, Superintendent, Seaman USD 345 and speaking in opposition to **SB 16** on behalf of the United School Administrators of Kansas and The Kansas School Superintendents Association distributed copies of his written testimony (Attachment 5). He spoke specifically about the provisions of K-12 public education and the importance of meeting the American Recovery and Reinvestment Act (ARRA) maintenance of effort requirement to eliminate additional penalties in FY 2013 that would adversely impact students, the workforce, and the community.

Sherry C. Diel, Executive Director of the Kansas Real Estate Commission, spoke in opposition to **SB 16**. She indicated the Commission is totally fee funded, and the impact of the proposed bill will impact the Commission's ability to adequately regulate the industry and protect the public (Attachment 6). She provided a historical time line of fee fund sweeps, statutory caps within the Commission, and she discussed staffing within the Commission.

Responding to Committee members questions, Ms. Diel indicated:

- attempts have been made to seek assistance from the attorney general's office;
- at the current time, sufficient monies exist (FY 2011) in the real estate fee fund to expend budgeted funds but that would not be the case in FY 2013; and,
- the Recovery Fund is set up to protect the public from monetary damages because of the actions of real estate licensees in the sale of real estate.

Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors, spoke from a neutral position. His testimony was distributed (Attachment 7), and he clarified that if the shrinkage is restored in FY 2011, reductions can be made in the FY 2012-2013 budget to bring it into balance. Members support the statutory cap increase and support the Real Estate Commission's position.

Mark Tallman, Associate Executive Director, Kansas Association of School Board, appeared from a neutral position and spoke about how schools would manage any deductions from their budgets (Attachment 8). He outlined various components in school districts' operating budgets, capital aid, and Kansas Public Employees Retirement System (KPERs) contributions from 2006 to 2012 (projected) on a per pupil basis.

Senator Teichman asked if the figures presented were averaged throughout the State of Kansas. Mr. Tallman indicated that was the case and further elaborated the numbers exclude

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections. 2

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non-stimulus federal aid, local capital outlay, bond levies, student fees, and any other local revenues.

Senator Kultala had several questions for staff relative to detail contained in the material distributed. She inquired why numerous funds are being increased to "no-limit" funds. Mr. Scott responded that "no-limit" funds allow spending up to the level of cash on hand; they require budgets and monitoring to ensure expenditures are within the budgeted amount.

Under the "Kansas Corporation Commission" agency, item #1, Senator Kultala inquired why a "classified marketing plan" is funded. Mr. Scott clarified the language is misleading; the money is for an electrical grid study in Kansas.

Under "Racing and Gaming Commission," Senator Kultala questioned if the state had identified funds to appropriate to the new Illegal Gambling Enforcement Fund. Landon Fulmer indicated the Governor's Office would respond to that question at a later time.

Under "Department of Commerce," Senator Kultala asked for what purpose the Strong Military Bases Program Account was used. Landon Fulmer responded the deletion of \$61,410 from the Program Account was an adjustment to ensure the Economic Development Initiatives Fund (EDIF) remains whole. He further reported this is account for the Governor's Military Council.

Senator Kultala questioned if the Commission on Veterans' Affairs ordered mobile vans. Wayne Bolig, Program Director for the Kansas Commission on Veterans' Affairs, responded that mobile vans were paid through the Scratch Lottery proceeds. They were budgeted last year and both units cost approximately \$150,000. Under legislative action, \$75,000 was restored to the budget for the purpose of the van purchase. He described various programs or services offered through the program.

Senator Kelly asked Mr. Bolig if the Commission is working with KHPA, SRS, and other agencies for the purpose of sharing information with veterans. Mr. Bolig responded affirmatively.

Under "Kansas Racing and Gaming Commission" on page 7 of the handout, Senator Kultala asked if the intended transfer of funds from various parimutuel gaming facilities indicates there will no longer be parimutuel facilities in Kansas. Mr. Scott indicated this is an accounting function only; these facilities could re-open and reinstatement of funds would occur.

Senator Huntington questioned the terminology used in the Governor's literature relative to K-12 education, and specifically the terms Base State Aid per Pupil (BSAP) and State Aid per Pupil (SAPP). Mr. Fulmer responded it was the intention of the Governor to discuss the whole concept of how the State commits to funding K-12 education; the references are not intended to revise any terminology.

Senator Kelly directed her question to Mr. Fulmer. She expressed difficulty in arriving at the same calculations for K-12 funding as the Governor's Office in the proposed budget. Senator Kelly suggested that the Governor's Office and the School Boards collaborate (Mark Tallman) to produce an expanded table that would display variances. Mr. Fulmer and Mr. Tallman will work together to produce a resource for clarification purposes.

Senator Umbarger asked for the rationale for carrying forward unspent funding for the State Affordable Airfare Fund. Mr. Fulmer indicated there was no statutory provision for carrying over unspent funds. These funds had been committed; the Governor's office is recommending the agency be allowed to spend the \$125,000.

Chairperson McGinn closed the hearing on **SB 16**.

The meeting was adjourned at 12:08 a.m.

**SENATE WAYS AND MEANS
GUEST LIST
January 25, 2011**

NAME	AFFILIATION
Steve Sutton	ICBEMS
TERRY FORSYTH	KWEA
Stephanie Buntin	Judicial Branch
Brenna Duffy	Intern
ML Dyck	KSBTP
Alicia C. Kessler	KSBV
Derek Kreifels	Treasurer's Office
Aaron Otto	Treasurer's Office
Paje Routhier	Hein Law Firm
Mark Heim	KDA
John D. Pinegar	Pinegar, Smith + Associates
Junie Rose	KCSL
Joe Molina	KS BAR ASSN
Tavis Lowe	LITTLE GOUT RELATIONS
Justi Cary	GDA
Danielle Unions	Intern
Sherry C. Diehl	KS Real Estate Comm
Susan Aron	Legis
STEVE WASSON	SECURITIES COMM. OFFICE
Mark Stueck	KS Water Office
Dawn Palenberg	KS Water Office
Sharon Wenger	KLRD
Dale Dennis	KS Dept Ed.
Barb Meyer	Kansas Reporter
Dodie Wellshear	USA / Kansas
Ed. Edleston	KATC
Justi Cary	DD Council
Mandy Miller	SC of KS

SB 16 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.

Governor's Recommended Expenditure Adjustments

Bill Section	Agency	SGF	Other Funds	All Funds	FTE
2	Abstractrs Board of Examinters	\$ -	\$ (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
Total Expenditure Adjustments		\$ (52,063,113)	\$ (10,383,928)	\$ (62,447,041)	0.0

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
Total Revenue Adjustments		\$ 1,300,000	\$ (1,300,000)	\$ -	0.0

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

Senate Ways and Means
Date:
Attachment:

Senate Bill No. 16

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

Agency/Item	State General Fund	All Other Funds	All Funds	FTEs
EXPENDITURES				
<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>
<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>Item</u>	<u>State General Fund</u>	<u>All Other Funds</u>	<u>All Funds</u>	
<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
2. Delete \$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)	0.0
<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>

Agency	State General Fund	All Other Funds	All Funds	FTEs
<u>Kansas Gaming 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. 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
2. 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
3. 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
<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>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

<u>Item</u>	<u>State General Fund</u>	<u>All Other Funds</u>	<u>All Funds</u>	
Delete \$28,642 from the State Licensure Fee Fund for an operations reduction in FY 2011.	0	(28,642)	(28,642)	
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 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>
<u>Rainbow 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>Osawatimie 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>

Agency	State General Fund	All Other Funds	All Funds	FTEs
Univ. of Kansas				
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
<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>

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<u>/Item</u>	<i>State General Fund</i>	<i>All Other Funds</i>	<i>All Funds</i>	
<u>Kansas Commission on 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
2. Increase the expenditure limitation, in FY 2011, of the Water Appropriation Certification Fund of the Department of Agriculture from \$553,868 to no limit.	0	0	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>

Agency	State General Fund	All Other Funds	All Funds	FTEs
<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>

TOTAL - EXPENDITURES	(\$52,063,113)	(\$10,383,928)	(\$62,447,041)	0.0
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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
<i>Agency Subtotal</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<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>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<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>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<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	0.0

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Item	State General Fund	All Other Funds	All Funds	
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	
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>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<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>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
<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>	<i>\$500,000</i>	<i>(\$500,000)</i>	<i>\$0</i>	<i>0.0</i>
<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>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>0.0</i>
TOTAL - REVENUE ADJUSTMENTS	\$1,300,000	(\$1,300,000)	\$0	0.0



MEMORANDUM

TO: Senate Committee on Ways and Means
FROM: Landon Fulmer, Director of Policy
DATE: January 24, 2011
SUBJECT: Senate Bill 16

Thank you for the opportunity to comment on the Governor's freeze bill. Senate Bill 16 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.

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, Senate President, and Speaker of the House 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.

State General Fund Outlook <i>(Dollars in Millions)</i>				
	FY 2009 <u>Actual</u>	FY 2010 <u>Actual</u>	FY 2011 <u>Gov. Revised</u>	FY 2011 <u>Gov. Rec.</u>
Beginning Balance	\$ 526.6	\$ 49.6	\$ (27.1)	\$ 35.7
Revenues	<u>5,587.4</u>	<u>5,191.3</u>	<u>5,789.9</u>	<u>6,044.8</u>
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	<u>--</u>	<u>29.8</u>	<u>--</u>	<u>--</u>
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>	<i>0.8 %</i>	<i>(0.5 %)</i>	<i>0.6 %</i>	<i>0.1 %</i>

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Senate Ways and Means Committee

Testimony on SB 16

January 25, 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 SB 16, 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.

JOBS funding

Last year, Congress passed the JOBS bill, which appropriated \$92 million for Kansas in K-12 education funds for Kansas. SB 16, 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).

SB 16 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.



Sherry C. Diel, Director

Sam Brownback, Governor

To: House Appropriations Committee
From: Sherry C. Diel, Executive Director
Date: January 24, 2011
Subject: **HB 2014**—Opposition to Section 7 Proposing a 10% Shrinkage Rate and Reduction from Kansas Real Estate Commission's FY 2011 Budget

Chairman Rhoades and members of the House Appropriations 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.



Luke Bell
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To: Senate Ways and Means Committee

Date: January 24, 2011

Subject: **SB 16** – 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

Chairperson McGinn and members of the Senate Ways and Means 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.

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.

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 Senate Ways and Means Committee to delete the language in Section 7 on Page 2 of **SB 16**. 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.

School District Cash Balances: What is Available? What is Prudent to Spend?

Kansas Association of School Boards, January 25, 2011

Mark Tallman, Associate Executive Director, 785-273-3600, mtallman@kasb.org

A major area of interest in recent years has been the amount of money in various school district budget funds, which are reported each year on July 1. At the beginning of the current year, districts had a total of \$1.567 billion in unencumbered cash balances. Some have suggested these funds could help school districts absorb deeper cuts in state aid. But “unencumbered” does not mean districts can spend these funds as they wish. Most of these funds are already committed for certain purposes.

1. Funds raised from local mill levies cannot be constitutionally used for other purposes.

Capital Outlay	\$429.8 million	Local mill levy; no state equalization aid provided
Bond and Interest	\$361.9 million	Proceeds from construction bonds or required for scheduled debt service payments later in the year
Adult Education	\$1.2 million	Mill levy for adult basic education programs
Special Liability	\$7.2 million	Mill levy for attorney fees, judgments, etc.
Total	\$800.1 million	51% of total balances

2. Certain other funds are also effectively restricted.

Federal Funds	\$1.1 million	Only available for purposes authorized by federal law
Gifts and Grants	\$24.0 million	Can only be used for purposes of donation (i.e. scholarships)
Special Reserve	\$102.4 million	Used by for a few districts for self-insurance: health care, uninsured losses, worker's compensation as actuarially required
Textbooks and Student Materials	\$50.5 million	Primarily composed of fees for scheduled purchases of books and supplies. If fees are used for general education purposes, they could be considered “tuition” which is prohibited by the state constitution
Total	\$178.0 million	Cumulative total: \$978.1 million; 62.4% of total balances

3. Several funds have balances on July 1 to cover operating expenses until revenues are received.

Special Education	\$181 million	These funds must be on-hand for the first 3.5 months of the year until state aid payments are made in October (if on time)
Special Ed Co-op	\$35.1 million	Same as above for districts in special education cooperatives
Food Service	\$46.1 million	Primarily federal funds and student fees; used to begin food service operations until new meal charges and reimbursements are received
Total	\$262.2 million	Cumulative total: \$1,240.3; 79.1% of total balances

4. Remaining cash balances: \$327.1 million (\$193.9 million in Contingency Reserve Fund; balance in 14 other funds.)

- This amount is less than the money *not actually paid* by the state by the end of the year, but school districts were required to book by June 30 (\$400 million).
- Equals 8.2% of operating budgets (\$3,036.6 million total general fund plus \$959.6 total Local Option Budgets).
- This amount equal almost exactly one month's operating costs. (One month equals 8.3% of a year).
- State aid payments have been consistently late for the past two years. Without reserves, districts could delay salaries and other vendor payments.
- Statutory ending balance requirement for State General Fund: 7.5%.

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School District Operating Budgets, Capital Aid and KPERS, 2006 to 2012 (Projected)

(Amounts in Thousands except for per pupil or per FTE)

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Base Budget Per Pupil	\$4,257	\$4,316	\$4,374	\$4,400	\$4,012	\$3,937	\$3,780
Weighted FTE Enrollment	568.6915	592.1956	613.464	636	655.123	666.842	666.842
Special Ed Weighted Enr.	67.3533	76.0401	90.4067	97.2166	90.89	90.027	113.153
Total Weighted Enrollment	636.0448	668.2357	703.8707	733.2166	746.013	756.869	779.995
General Fund	\$2,707,643	\$2,884,105	\$3,078,730	\$3,226,153	\$2,993,004	\$2,979,793	\$2,948,381
ARRA Special Education					\$55,748	\$55,748	
General Fund+ARRA Sped	\$2,707,643	\$2,884,105	\$3,078,730	\$3,226,153	\$3,048,752	\$3,035,541	\$2,948,381
Unweighted FTE Enrollment	439.0958	441.115	442.9868	443.3304	448.7277	455.405	455.405
General Fund per Pupil	\$6,166	\$6,538	\$6,950	\$7,277	\$6,794	\$6,666	\$6,474
Local Option Budget	\$659,520	\$760,709	\$838,196	\$901,535	\$929,168	\$959,602	\$979,602
LOB Per FTE Enrollment	\$1,502	\$1,725	\$1,892	\$2,034	\$2,071	\$2,107	\$2,151
Bond and Interest Aid	\$57,488	\$63,697	\$69,128	\$75,591	\$86,700	\$94,647	\$100,000
Capital Outlay Aid	\$19,294	\$20,492	\$23,124	\$22,339	0	0	0
Total Capital Aid	\$76,782	\$84,189	\$92,252	\$97,930	\$86,700	\$94,647	\$100,000
Capital Aid per FTE Enroll.	\$175	\$191	\$208	\$221	\$193	\$208	\$220
KPERS School Contributions	\$161,531	\$192,426	\$220,813	\$242,277	\$249,856	\$283,502	\$319,862
KPERS Per FTE Enroll.	\$368	\$436	\$498	\$546	\$557	\$623	\$702
Total GF, LOB, Capital Aid,							
KPERS Per FTE Enrollment	\$8,211	\$8,890	\$9,549	\$10,078	\$9,615	\$9,603	\$9,547

Note: Does not include non-stimulus federal aid, local capital outlay and bond levies, students fees