



OFFICE OF THE GOVERNOR

Mark Parkinson, Governor

www.governor.ks.gov

June 30, 2010

Anthony W. Miller
Deputy Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202-0500

Dear Deputy Secretary Miller;

This letter serves as an amendment and update to the Kansas level of state financial support for IDEA Part B, Students with Disabilities ages 3-21 for the FFY09 (2009-2010) fiscal year. During the past year, Kansas has communicated with the U.S. Department of Education and the Office of Special Education Programs (OSEP) regarding a Waiver Request for the FFY09 year which includes the following correspondence;

May 22, 2009 – Kansas submits a Waiver Request for FFY09
August 12, 2009 – Kansas submits Response to Questions – 8/05/09 conference call
March 16, 2010 – Kansas receives Waiver Request Response
March 24, 2010 – Kansas submits Waiver Appeal

In addition, on December 2, 2009, OSEP published Memorandum 10-5 to clarify the requirements for calculating state level financial support for IDEA Part B. This amendment is necessary to provide year-end rather than anticipated state appropriations for FFY09 and use calculations based on OSEP's 10-5 Memorandum posted on December 2, 2009.

Enclosed is the updated Kansas State Level of Financial Support, Part B IDEA Worksheet which outlines the finalized state appropriations and revised calculations for FFY08 and FFY09. In order to complete this worksheet, KSDE staff consisting of various teams within the agency, solicited other state agencies and gathered information regarding all financial support for students with disabilities ages 3-21 in Kansas along with the methodology used for generating the total amount of support. KSDE included in its calculation funds used in FFY08 and FFY09 to administer and supervise the IDEA Part B program. KSDE also deducted special education funds that supported either Gifted services as mandated in Kansas under IDEA Part B and any funds reimbursed to districts for providing Part C services.

Based on this revised calculation, the State of Kansas amends the FFY09 Waiver Request from \$60,212,507 to \$55,492,707.

The updated Kansas state level of financial support for students with disabilities in FFY08 was \$433,384,169 and in FFY09 was \$377,891,462. This is a difference of \$55,492,707 and reflects a decrease in fiscal support of 12.8%. The May 22, 2009 Waiver Request for FFY09, the August 12, 2009 Request to Questions, and the March 24, 2010 Waiver Appeal letters provide in detail the basis for this reduction which was the result of a precipitous and unforeseen decline in state fiscal resources.

On March 16, 2010, Kansas received a response on the FFY09 Waiver Request from the U.S. Department of Education. In this letter, Kansas was granted a partial waiver for FFY09 in the amount of \$44,486,326 which at the time was comparative to the percentage of reduction in the State General Fund between FFY08 to FFY09 of 10.4%.

Enclosed is the final State General Fund Appropriation for FFY09 by agency. While further cuts to the State General Fund were necessary during the FFY09 year to balance the State's budget, funding for special education was preserved from any additional cuts. By the end of FFY09, the final State General Fund was decreased by 12.3% below the final amount allocated in FFY08. Below is a chart comparing the State's level of financial support for special education to the State General Fund for years FFY08 and FFY09.

As of June 30, 2010	State General Fund Final Revisions	Part B State Level of Financial Support
FFY08	\$6,163,802,845	\$433,384,169
FFY09	\$5,408,055,522	\$377,891,462
Amount of Reduction	\$ 755,747,323	\$55,492,707
Percentage Reduction - FFY08 to FFY09	12.3%	12.8%

It is important to note as outlined below, Kansas Legislature substantially increased the State's appropriation for special education in recent years prior to the FFY09 recession. This increased special education funding was significantly above the percentage of increase in the State General Fund. Below is a chart comparing the annual appropriations allocated for distribution from KSDE for IDEA Part B to the State General Fund for years 2004-2005 through 2008-2009.

Fiscal Year	State Special Education Appropriation to the KSDE	IDEA Part B Cumulative Percentage Increase	State General Fund Appropriation	State General Fund Cumulative Percentage Increase
2004-05	\$250,744,332	----	4,724,913,515	
2005-06	\$292,471,391	16.6%	5,166,970,941	9%
2006-07	\$334,003,604	33.2%	5,632,858,030	16%
2007-08	\$403,273,815	60.8%	6,138,866,753	23%
2008-09	\$427,753,137	70.6%	6,163,802,845	23%

A concerted effort was made to minimize the reduction of special education state aid by utilizing the American Recovery and Reinvestment Act (ARRA) federal funds which together with state aid has resulted in only a 1% reduction in FFY09.

Overall, public education accounts for 65% of the total expenditures from the State General Fund. Elementary and secondary education accounts for 52% of the total expenditures while higher education accounts for the remaining 13%. Below is a chart which provides information on the KSDE approved budgets for FFY08 and FFY09 K-12 public education by program.

KSDE Approved Budgets for State Fiscal Year 2008-2009 and 2009-2010
Without ARRA Federal Funds

Program	FFY 2008	FFY 2009	Difference
	Approved	Approved	
General State Aid	2,179,733,000	1,906,064,803	-12.6%
Supplemental General State Aid	324,146,000	296,589,869	-8.5%
School District Finance Fund	25,000,000	36,000,000	44.0%
Capital Improvement Fund	75,379,000	86,700,000	15.0%
Capital Outlay State Aid	22,600,000	-	0.0%
Juvenile Detention Facilities	7,706,161	6,092,160	-20.9%
Declining Enrollment State Aid	50,000	-	-100.0%
Special Education Services	427,753,137	367,575,271	-14.1%
Mentor Teacher Program	1,650,000	1,406,500	-14.8%
Professional Development	1,750,000	-	-100.0%
School Food Service Match	2,510,486	2,435,171	-3.0%
Educable Deaf/Blind Program	110,000	110,000	0.0%
Ag in the Classroom	35,000	35,000	0.0%
Discretionary Grants	905,000	648,900	-28.3%
Parent Education	7,567,000	7,539,500	-0.4%
Pre-K Pilot	5,000,000	5,000,000	0.0%
KPERS – Schools*	242,268,741	247,904,273	2.3%
National Board Certification	285,000	62,169	-78.2%
Vision Study Grant	100,000	-	0.0%
School Safety Hotline	10,000	9,650	-3.5%
Agency Operating Expenditures*	11,473,073	10,726,550	-6.5%
Total	3,336,131,598	2,974,899,816	-10.8%

Kansas LEA – Meeting Local Effort Requirements

Nationally, Kansas has a unique history of funding education with state and local monies rather than federal dollars. According to the 2006 Public Education Finances published by the U.S. Census Bureau, (<http://ftp2.census.gov/govs/school/06f33pub.pdf>), the 2005-2006 per pupil expenditures in Kansas were \$9,973. Of this total, 93% was funded through a combination of State (57%) or LEA (36%) local funds. The remaining \$731 of expenditures (7.3%) was reported as federal funds. Only nine other states expend less federal funds per year for education.

With the steady increase of state special education funding over the past 5 years in Kansas, LEAs have demonstrated fiscal management by accruing cash reserve balances to be accessed in times of economic hardship. The LEA cash reserve balances as reported to KSDE since 2004-2005 for special education has increased as state funding increased during the same time period. The chart below shows the aggregate total for all LEA cash reserve balances since 2004-2005 through 2008-2009.

As Reported by Kansas LEAs	Kansas LEA Cash Reserves	Cumulative Increase in Cash Reserves
July 1, 2004	146,140,030	
July 1, 2005	149,916,949	2.6%
July 1, 2006	149,473,388	2.2%
July 1, 2007	172,186,083	17.4%
July 1, 2008	189,957,047	25.4%
July 1, 2009	207,456,050	32.3%

KSDE has fully integrated fiscal accountability into general supervision which is referred to as the Kansas Integrated Accountability System, KIAS. As a result, KSDE has provided technical assistance to LEAs on the requirements of 34 C.F.R. §300.202(a)(3) and 34 C.F.R. §300.203 which stipulate LEAs must supplement and not supplant state and local funds in using IDEA Part B federal funds and maintain local effort. Technical assistance on fiscal accountability is provided in a variety of ways specifically on meeting local maintenance of effort for FFY09 and includes dissemination of guidance documents, conference calls, individual LEA meetings with KSDE staff, and emails.

A Free Appropriate Public Education (FAPE) - Meeting the Requirements of IDEA

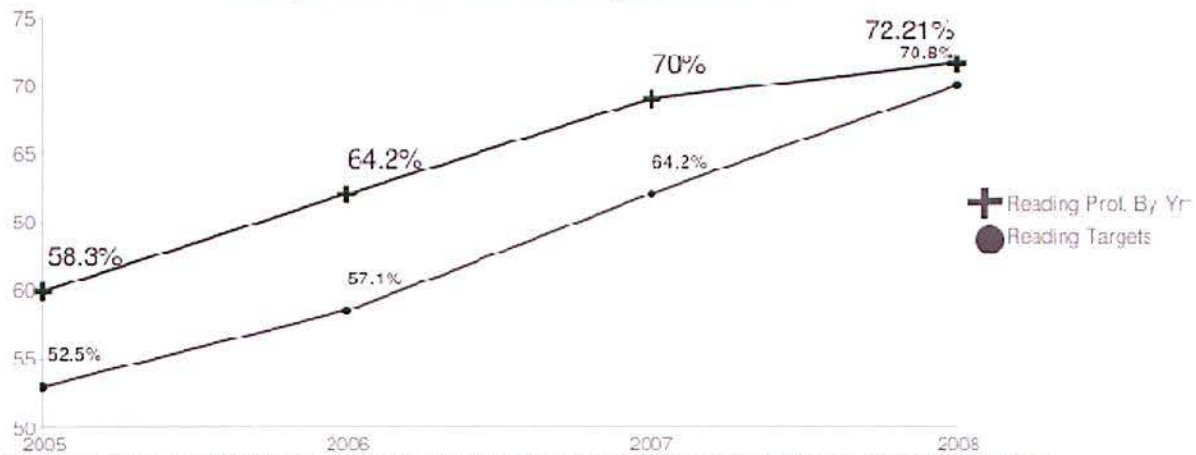
Kansas continues to make an extraordinarily good faith effort to meet all IDEA requirements. As shown below, the number of special education teachers and paraeducators has increased significantly since FFY04 while the number of special education students has remained fairly constant.

Fiscal Year	Special Education Teachers	Special Education Paraeducators	Special Education Students
2004-05	7,066	9,655	65,291
2005-06	7,181	10,294	65,595
2006-07	7,380	10,726	65,831
2007-08	7,535	11,266	65,716
2008-09	7,757	11,808	65,730
Cumulative Increase	+9.8%	+22.3%	+.67%

It is important to note during this same time period appropriations for special education increased over \$177 million, or by 70.6%. As a result of these additional resources and the unwavering commitment of Kansas educators to ensure the academic success of all students, unprecedented gains in the academic performance of special education students and a narrowing of the gap between special education students and regular education students has occurred.

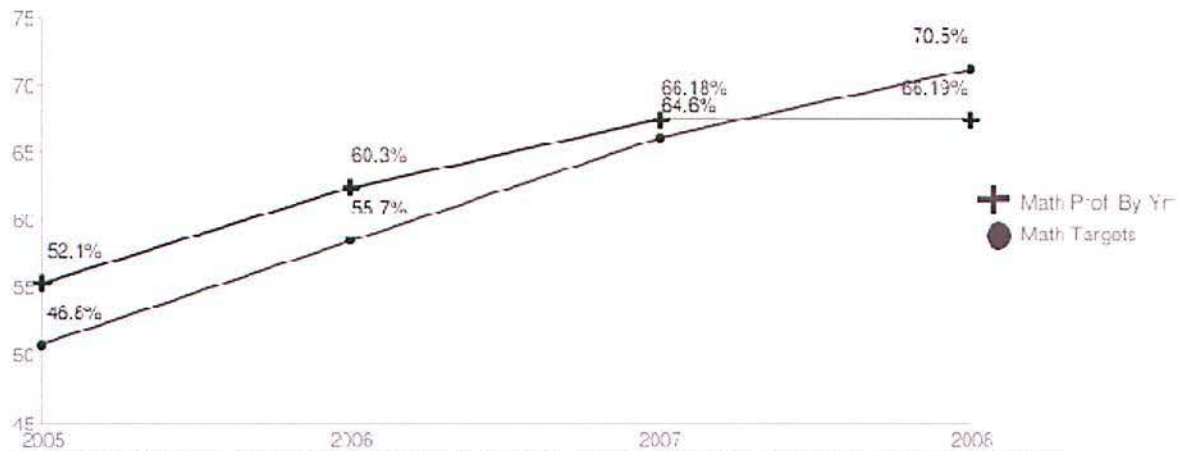
The following data indicates the progress students with disabilities have made on the Kansas State Assessments in Reading and Math as reported on within the FFY08 Annual Performance Report (APR), Indicator 3 submitted to the U.S. Department of Education on February 2010.

Figure 3.1 Percent of Students With Disabilities
Scoring Proficient on State Reading Assessments



As reported in the FFY08 Kansas Special Education Annual Performance Report, Indicator 3, page
<http://www.ksde.org/LinkClick.aspx?fileticket=VESCF1a0Xuk%3d&tabid=2037&mid=9721>

Figure 3.2 Percent of Students With Disabilities
Scoring Proficient on State Math Assessments



As reported in the FFY08 Kansas Special Education Annual Performance Report, Indicator 3, page
<http://www.ksde.org/LinkClick.aspx?fileticket=VESCF1a0Xuk%3d&tabid=2037&mid=9721>

No budget reductions were applied to the Special Education Services Team in the State Department of Education in FFY09 to ensure that adequate staffing and resources continue to be available for monitoring school districts for compliance with IDEA and to provide required technical assistance, training, and support to schools. Based on the results of the Kansas Special Education State Performance Plan (SPP) and Special Education Annual Performance Report (APR), the most recent Level of Determination (LOD) made by the Office of Special Education Programs in June 2010 for the State of Kansas was "Meets Requirements".

FFY09 Least Restrictive Environment (LRE) data indicate improvement from FFY08 in the percentage of students with disabilities ages 6-21 served inside the regular class 80% or more

of the day from 62.16% to 62.8%. Special Education performance data for other SPP indicators for the 2009-2010 year is currently being collected and will be reported in the FF09 Special Education APR. Once again, Kansas anticipates meeting all IDEA requirements and demonstrating improved outcomes for students with disabilities.

KSDE appreciates the assistance of the U.S. Department of Education in reviewing this amended Waiver Request for FFY09. Despite this financial hardship, Kansas educators continue to ensure a free appropriate public education will be provided to all students with disabilities.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Parkinson", is written over the word "Sincerely,".

Mark Parkinson
Governor of Kansas

Kansas State Level of Financial Support for Special Education - Maintenance of Effort (MOE)

Part B IDEA (Students with Disabilities Ages 3-21)

State Level Financial Support for Special Education - Requirements and Guidance

Under 34 CFR §300.163(a), “a State must not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.”

Per guidance provided by the U.S Department of Education within the OSEP 10-5 Memorandum, “The reference to ‘State Financial Support’ in 34 CFR §300.163(a) is not limited to only the financial support provided to or through the SEA, but encompasses the financial support of all State agencies that provide or pay for special education and related services, as those terms are defined under IDEA, to children with disabilities”

34 CFR §300.162(b)(2)(1) “Funds paid to a State under this part must not be commingled with State funds. “

“The State financial support provided by the SEA for special education and related services is, of course, also included in the calculation required by 34 CFR §300.163.” (OSEP 10-5 Memorandum)

“...a State needs to include in its calculation of ‘State financial support for special education and related services’ funds other agencies provide to the SEA for such services, funds other agencies provide directly to LEAs for the services, and funds other agencies directly pay to staff or contractors for the delivery of the services pursuant to an IEP.”

34 CFR §300.163(b) “Reduction of funds for failure to maintain support. The Secretary reduces the allocation of funds under section 611 of the Act for any fiscal year following the fiscal year in which the State fails to comply with the requirement of paragraph (a) of this section by the same amount by which the State fails to meet the requirement.”

Kansas State Level Financial Support for IDEA Part B Special Education Calculations Worksheet

	FFY08 (2008-09)	FFY09 (2009-10)
1. Special Education Categorical Aid Appropriation	\$ 427,753,137	\$ 367,575,271
Minus Gifted and IT FTE		
Total FTE Gifted and IT (subtract)	-\$19,864,820	-\$13,376,690
2. KSDE Special Education Services State Support	\$ 385,601	\$ 374,209
3. Kansas School for the Blind State Appropriation	\$ 5,769,542	\$ 5,447,559
4. Kansas School for the Deaf State Appropriation	\$ 8,796,913	\$ 8,792,432
5. Deaf Blind State Appropriation	\$ 110,000	\$ 110,000
6. Social Rehabilitation Services	\$ 1,609,479	\$ 1,468,681
State Appropriations for Students with Disabilities ages, 3-21		
7. Kansas Department of Health and Environment	\$ 0	\$ 0
State Appropriations for Students with Disabilities, ages 3-21		
8. Kansas Health Policy Authority	\$ 8,824,317	\$ 7,500,000
State Appropriations for Students with Disabilities ages 3-21		
9. Other Sources of State Aid to be Included	\$ 0	\$ 0
10. Kansas State Level Financial Support	\$ 433,384,169	\$ 377,891,462

****Total amounts should include all supplementals, rescissions, and/or allotments**

Schedule 2.2--Expenditures from the State General Fund by Agency

	<u>FY 2010 Governor's Recommend:</u>	<u>Governor's Amendments</u>	<u>Legislative Changes</u>	<u>Governor's Veto</u>	<u>FY 2010 Approved Budget</u>
General Government					
Department of Administration	57,200,069	(15,854)	3,104	0	57,187,319
Kansas Human Rights Commission	1,525,481	(2,778)	(123)	0	1,522,580
Board of Indigents Defense Services	22,195,415	664,240	726	0	22,860,381
Kansas Public Employees Retirement System	639,134	0	0	0	639,134
Department of Commerce	14,323	0	0	0	14,323
Kansas Lottery	0	0	0	0	0
Kansas Racing & Gaming Commission	0	0	0	0	0
Department of Revenue	16,376,306	(30,946)	5,244	0	16,350,604
Court of Tax Appeals	1,384,084	(2,485)	(4,794)	0	1,376,805
Governmental Ethics Commission	416,711	(718)	(952)	0	415,041
Hearing Instruments Board of Examiners	0	0	0	0	0
Board of Examiners in Optometry	0	0	0	0	0
Board of Pharmacy	0	0	0	0	0
Kansas Real Estate Commission	0	0	0	0	0
Board of Technical Professions	0	0	0	0	0
Office of the Governor	7,305,933	(4,108)	(3,480)	0	7,298,345
Office of the Lieutenant Governor	203,227	(315)	(1,354)	0	201,558
Attorney General	2,683,452	(3,550)	(977)	0	2,678,925
Insurance Department	0	0	0	0	0
Secretary of State	0	0	0	0	0
Legislative Coordinating Council	733,740	(1,407)	548,758	0	1,281,091
Legislature	16,231,681	(34,163)	27,521	0	16,225,039
Legislative Research Department	3,497,971	(6,239)	(1,555)	0	3,490,177
Legislative Division of Post Audit	2,598,913	(4,379)	(1,555)	0	2,592,979
Revisor of Statutes	3,273,262	(5,053)	(1,555)	0	3,266,654
Judiciary	101,779,899	(153,449)	(420,022)	0	101,206,428
Judicial Council	0	0	0	0	0
Total--General Government	\$238,059,601	\$398,796	\$148,986	\$0	\$238,607,383
Human Services					
Social & Rehabilitation Services	551,799,910	(16,742,169)	30,041	0	535,087,782
Kansas Neurological Institute	8,677,762	(17,103)	378	0	8,661,037
Larned State Hospital	42,402,174	(87,925)	13,482	0	42,327,731
Osawatomie State Hospital	16,691,971	(32,086)	3,852	0	16,663,737
Parsons State Hospital & Training Center	7,497,081	(14,698)	1,888	0	7,484,271
Rainbow Mental Health Facility	5,575,456	(10,146)	997	0	5,566,307
Subtotal--SRS	\$632,644,354	\$(16,904,127)	\$50,638	\$0	\$615,790,865
Kansas Health Policy Authority	387,459,860	(16,406,979)	823	0	371,053,704
Department on Aging	144,106,372	(870,474)	663	0	143,236,561
Health and Environment--Health	23,212,821	(12,986)	780	0	23,200,615
Department of Labor	456,826	(773)	26	0	456,079
Commission on Veterans Affairs	8,204,907	(12,019)	(2,962)	0	8,189,926
Kansas Guardianship Program	1,119,769	(1,129)	0	0	1,118,640
KANSAS	COMP2.2 - SCHEDULE 2.2 COMPARISON			jarpin / 2011M0100296	

Schedule 2.2--Expenditures from the State General Fund by Agency

	<u>FY 2010 Governor's Recommend:</u>	<u>Governor's Amendments</u>	<u>Legislative Changes</u>	<u>Governor's Veto</u>	<u>FY 2010 Approved Budget</u>
Total--Human Services	\$1,197,204,909	\$(34,208,487)	\$49,968	\$0	\$1,163,046,390
Education					
Department of Education	2,847,776,163	(8,116,168)	321	0	2,839,660,316
School for the Blind	5,447,559	(10,409)	44	0	5,437,194
School for the Deaf	8,792,432	(16,665)	1,362	0	8,777,129
Subtotal--Department of Ed.	\$2,862,016,154	\$(8,143,242)	\$1,727	\$0	\$2,853,874,639
Board of Regents	170,858,608	(6,208)	6,208	0	170,858,608
Emporia State University	31,436,938	(54,863)	54,863	0	31,436,938
Fort Hays State University	33,342,724	(59,721)	59,721	0	33,342,724
Kansas State University	104,490,156	(191,084)	191,084	0	104,490,156
Kansas State University--ESARP	48,830,611	(80,505)	80,505	0	48,830,611
KSU--Veterinary Medical Center	10,364,282	(18,656)	18,656	0	10,364,282
Pittsburg State University	34,280,494	(48,200)	48,200	0	34,280,494
University of Kansas	136,880,633	(182,011)	182,011	0	136,880,633
University of Kansas Medical Center	110,265,299	(176,918)	176,918	0	110,265,299
Wichita State University	66,314,393	(110,002)	110,002	0	66,314,393
Subtotal--Regents	\$747,064,138	\$(928,168)	\$928,168	\$0	\$747,064,138
Kansas Arts Commission	1,138,937	(459)	(854)	0	1,137,624
Historical Society	5,584,794	(6,949)	(1,187)	0	5,576,658
State Library	4,549,542	(2,529)	(1,106)	0	4,545,907
Total--Education	\$3,620,353,565	\$(9,081,347)	\$926,748	\$0	\$3,612,198,966
Public Safety					
Department of Corrections	102,011,270	(37,355)	1,307	0	101,975,222
El Dorado Correctional Facility	23,526,801	(37,658)	262	0	23,489,405
Ellsworth Correctional Facility	12,630,179	(19,976)	(143)	0	12,610,060
Hutchinson Correctional Facility	8,378,158	(7,878)	(721)	0	8,369,559
Lansing Correctional Facility	37,321,747	(60,434)	2,427	0	37,263,740
Larned Correctional Mental Health Facility	9,883,553	(16,513)	(178)	0	9,866,862
Norton Correctional Facility	3,357,680	(2,512)	6	0	3,355,174
Topeka Correctional Facility	12,591,062	(21,553)	86	0	12,569,595
Winfield Correctional Facility	2,379,740	0	0	0	2,379,740
Subtotal--Corrections	\$212,080,190	\$(203,879)	\$3,046	\$0	\$211,879,357
Juvenile Justice Authority	42,006,643	(921,165)	(1,012)	0	41,084,466
Atchison Juvenile Correctional Facility	0	0	0	0	0
Beloit Juvenile Correctional Facility	782,471	(1,193)	418	0	781,696
Kansas Juvenile Correctional Complex	16,381,237	(20,167)	588	0	16,361,658
Larned Juvenile Correctional Facility	8,732,478	(13,054)	(18)	0	8,719,406
KANSAS	COMP2.2 - SCHEDULE 2.2 COMPARISON			jarpin / 2011M0100296	

Schedule 2.2--Expenditures from the State General Fund by Agency

	FY 2010 Governor's Recommend:	Governor's Amendments	Legislative Changes	Governor's Vetoed	FY 2010 Approved Budget
Subtotal--Juvenile Justice	\$67,902,829	\$(955,579)	\$(24)	\$0	\$66,947,226
Adjutant General	32,787,006	(5,186)	(1,308)	0	32,780,512
Highway Patrol	32,147,997	(16,928)	(565)	0	32,130,504
Kansas Bureau of Investigation	14,622,925	(12,174)	(562)	0	14,610,189
Kansas Parole Board	503,158	(898)	(4,819)	0	497,441
Sentencing Commission	8,179,370	(950)	(1,092)	0	8,177,328
Total--Public Safety	\$368,223,475	\$(1,195,594)	\$(5,324)	\$0	\$367,022,557
Agriculture & Natural Resources					
Department of Agriculture	9,814,353	(16,407)	1,340	0	9,799,286
Animal Health Department	859,386	(605)	29	0	858,810
State Conservation Commission	745,997	(1,287)	(1,173)	0	743,537
Health and Environment--Environment	7,922,917	(13,923)	2,075	0	7,911,069
Kansas State Fair	341,861	0	0	0	341,861
Kansas Water Office	1,966,031	(2,343)	(1,271)	0	1,962,417
Department of Wildlife & Parks	5,569,472	(6,138)	(88)	0	5,563,246
Total--Agriculture & Natural Resources	\$27,220,017	\$(40,703)	\$912	\$0	\$27,180,226
Total Expenditures	\$5,451,061,567	\$(44,127,335)	\$1,121,290	\$0	\$5,408,055,522
KANSAS	COMP2.2 - SCHEDULE 2.2 COMPARISON			jarpin / 2011M0100296	