

HEALTH CARE STABILIZATION FUND BOARD OF GOVERNORS

FY 2022 – FY 2024 BUDGET ANALYSIS

FIGURE 1
BUDGET OVERVIEW, FY 2022 – FY 2024

	Actual FY 2022	Agency FY 2023	Governor FY 2023	Agency FY 2024	Governor FY 2024
Operating Expenditures:					
State General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Federal Funds	-	-	-	-	-
All Other Funds	38,038,279	38,265,927	38,265,927	40,088,892	40,088,892
<i>Subtotal</i>	<u>\$ 38,038,279</u>	<u>\$ 38,265,927</u>	<u>\$ 38,265,927</u>	<u>\$ 40,088,892</u>	<u>\$ 40,088,892</u>
Capital Improvements:					
State General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Federal Funds	-	-	-	-	-
All Other Funds	-	-	-	-	-
<i>Subtotal</i>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
TOTAL	<u>\$ 38,038,279</u>	<u>\$ 38,265,927</u>	<u>\$ 38,265,927</u>	<u>\$ 40,088,892</u>	<u>\$ 40,088,892</u>
Percentage Change:					
State General Fund	-- %	-- %	-- %	-- %	-- %
All Funds	36.9 %	0.6 %	0.6 %	4.8 %	4.8 %
FTE Positions	21.0	21.0	21.0	21.0	21.0

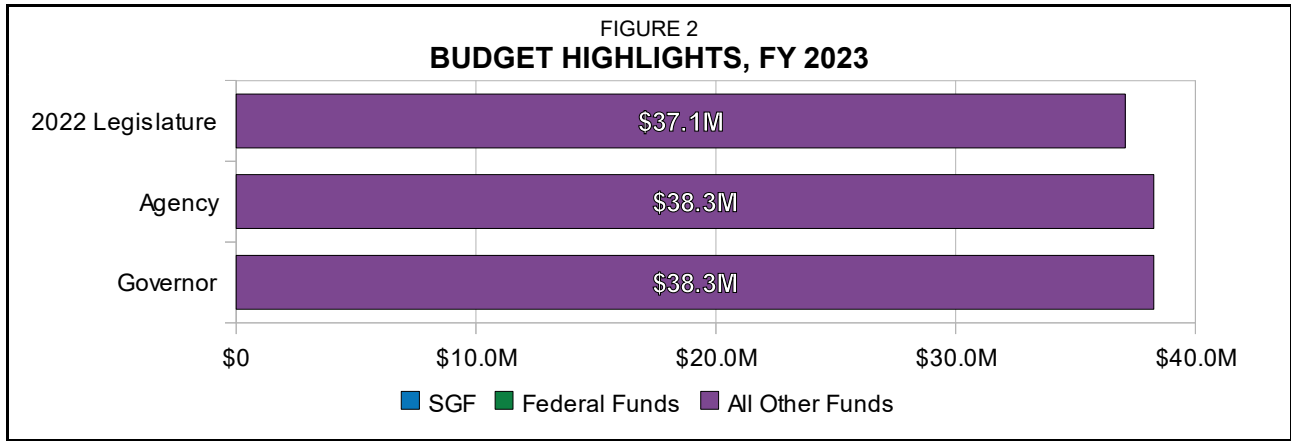
For purposes of this analysis, full-time equivalent (FTE) positions include non-FTE permanent unclassified positions but continue to exclude temporary employees. FTE positions reflect permanent state positions equating to a 40-hour work week.

The Health Care Stabilization Fund Board of Governors' mission is to administer the Health Care Provider Insurance Availability Act in accordance with the duties and responsibilities set out in the Act. The principal goals are: (1) to assure that Kansas health care providers have access to adequate professional liability coverage, (2) to stabilize the medical professional liability insurance market for Kansas health care providers, and (3) to assure that sufficient assets are reserved to adequately fund accrued Health Care Stabilization Fund (HCSF) liabilities. The Commissioner of Insurance appoints the 11 members of the Board of Governors.

The 1989 Legislature decided to self-insure the basic professional liability of residents in training as well as full-time physician faculty members at the University of Kansas Medical Center. Responsibility for initial payment of claims is handled by the HCSF, to be reimbursed by the faculty foundation and the State of Kansas. Reimbursements to the HCSF from the State of Kansas for claims paid on behalf of residents in training and full-time physician faculty at the University of Kansas Medical Center resumed in FY 2014. Estimates for these reimbursements are based on analysis of the most recent ten-year loss experience of the state self-insurance program.

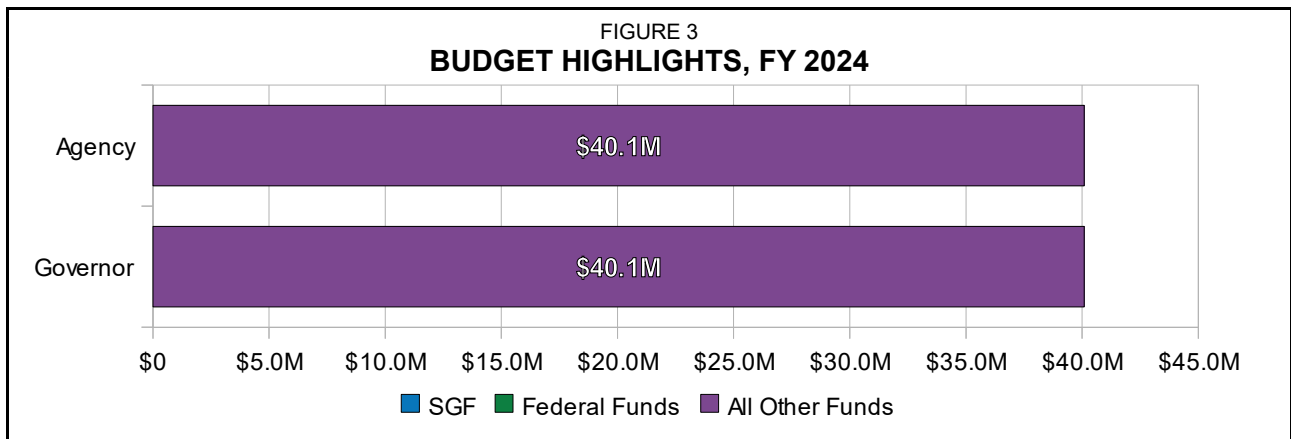
EXECUTIVE SUMMARY

The 2022 Legislature approved a budget of \$37.1 million, all from special revenue funds, for the Health Care Stabilization Fund Board of Governors for FY 2023. No adjustments have been made subsequently to that approved amount.



The **agency** submits a revised estimate of \$38.3 million, all from special revenue funds, and 21.0 FTE positions in FY 2023. This is an increase of \$1.2 million, or 3.2 percent, above the amount approved by the 2022 Legislature. This includes increased expenditures in other assistance of \$1.2 million, or 4.4 percent, and in contractual services of \$26,827, or 0.4 percent, above the approved amount. These increases are partially offset by a decrease in salaries and wages expenditures of \$97,325, or 4.8 percent, below the approved amount. The decrease in salaries and wages is mostly due to a decrease in employer contributions for employee fringe benefits. The overall increase is mainly attributed to other assistance, specifically an estimated increase in claims expenses for medical malpractice and in other fees for court cases. The contractual services increase is due to additional consulting services for information systems.

The **Governor** concurs with the agency's FY 2023 revised estimate.



The **agency** requests \$40.1 million, all from special revenue funds, for FY 2024. This is an increase of \$1.8 million, or 4.8 percent, above the FY 2023 revised estimate. This is mainly attributable to increases in other assistance expenditures, contractual services, and capital outlay.

The request includes an increase in projected other assistance expenditures of \$801,568, or 2.7 percent, above the FY 2023 revised estimate, which is mainly due to increased projected court-approved settlement agreements or jury awards for medical malpractice lawsuits. The increase in contractual services is \$900,487, or 14.9 percent, above the FY 2023 revised estimate, which is mainly attributable to an expected increase in attorney and lawyer fees (\$543,897) and an anticipated increase in court reporter and expert witness fees (\$259,740). The capital outlay increase is \$43,300, or 71.9 percent, above the FY 2023 revised estimate, and is mainly attributable to routine system maintenance and equipment replacement (\$37,000).

The **agency** requests 21.0 FTE positions for FY 2024, which is the same number as the FY 2023 revised estimate.

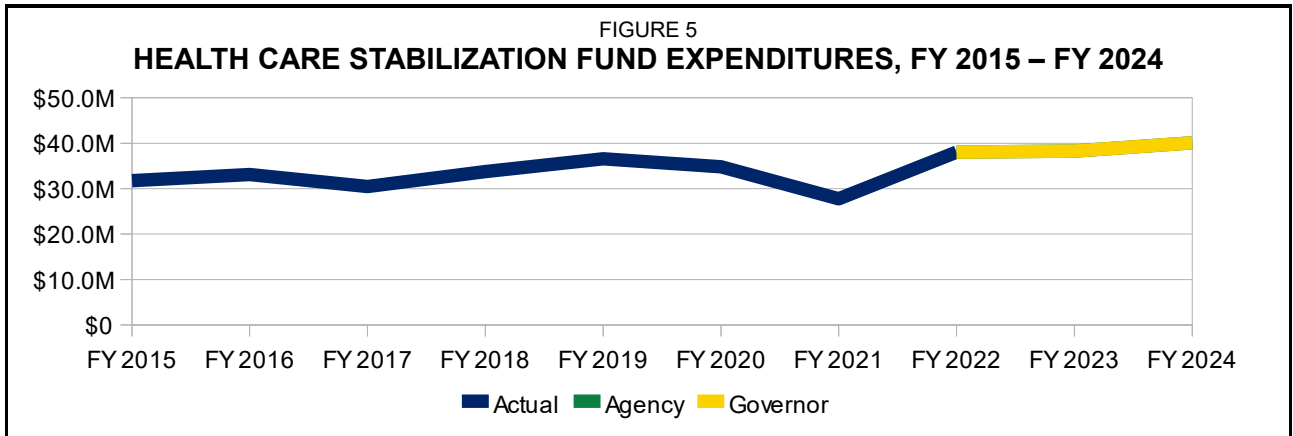
The **Governor** concurs with the agency's request for FY 2024.

EXPENDITURES AND FINANCING

FIGURE 4
BUDGET SUMMARY BY CATEGORY OF EXPENDITURE, FY 2022 – FY 2024

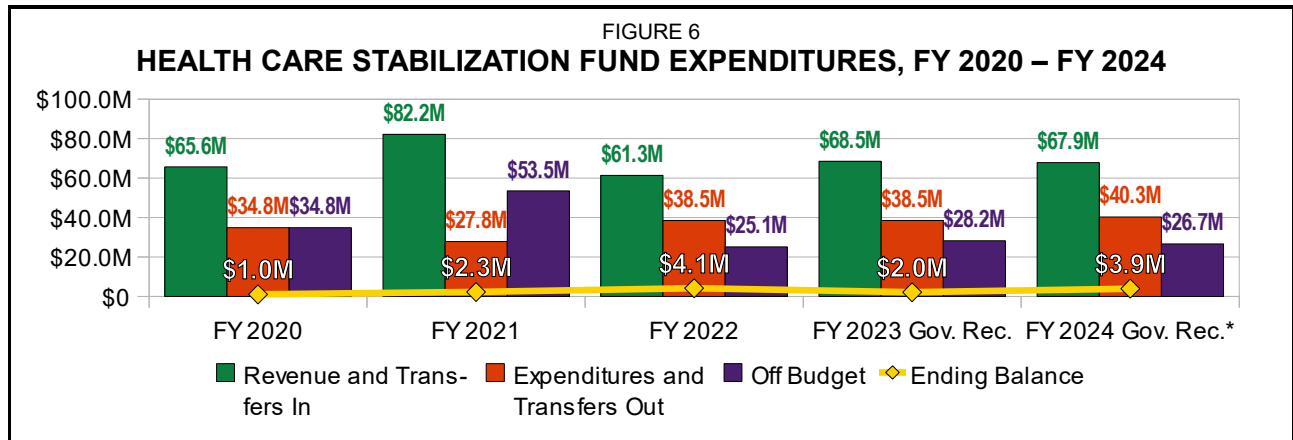
Category of Expenditure:	Actual FY 2022	Agency FY 2023	Governor FY 2023	Agency FY 2024	Governor FY 2024
Salaries and Wages	\$ 1,747,019	\$ 1,925,880	\$ 1,925,880	\$ 1,997,817	\$ 1,997,817
Contractual Services	6,361,446	6,048,538	6,048,538	6,949,025	6,949,025
Commodities	13,714	32,857	32,857	38,530	38,530
Capital Outlay	16,662	60,220	60,222	103,520	103,520
Debt Service Interest	-	-	-	-	-
<i>Subtotal</i>	<u>\$ 8,138,841</u>	<u>\$ 8,067,495</u>	<u>\$ 8,067,497</u>	<u>\$ 9,088,892</u>	<u>\$ 9,088,892</u>
Aid to Local Units	-	-	-	-	-
Other Assistance	29,899,438	30,198,432	30,198,432	31,000,000	31,000,000
<i>Subtotal—Operating</i>	<u>\$ 38,038,279</u>	<u>\$ 38,265,927</u>	<u>\$ 38,265,929</u>	<u>\$ 40,088,892</u>	<u>\$ 40,088,892</u>
Capital Improvements	-	-	-	-	-
Debt Service Principal	-	-	-	-	-
TOTAL	<u>\$ 38,038,279</u>	<u>\$ 38,265,927</u>	<u>\$ 38,265,929</u>	<u>\$ 40,088,892</u>	<u>\$ 40,088,892</u>
Financing:					
State General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Health Care Stabilization Fund	38,035,148	38,253,927	38,253,927	40,076,892	40,076,892
Federal Funds	-	-	-	-	-
All Other Funds	3,131	12,000	12,000	12,000	12,000
TOTAL	<u>\$ 38,038,279</u>	<u>\$ 38,265,927</u>	<u>\$ 38,265,927</u>	<u>\$ 40,088,892</u>	<u>\$ 40,088,892</u>
FTE Positions	21.0	21.0	21.0	21.0	21.0

HEALTH CARE STABILIZATION FUND



The Health Care Stabilization Fund was created by KSA 40-3403 as part of the 1976 Health Care Providers Insurance Availability Act, which stipulates that the HCSF shall be held in trust in the State Treasury. The principal source of revenue is the premium surcharge assessed on each health care provider licensed to render professional services in Kansas. Premium surcharge rates are determined by the Board of Governors. The 2021 Legislature changed statutes regarding coverage limits, which results in reduced surcharge revenue in FY 2022.

HEALTH CARE STABILIZATION FUND



* For FY 2024, the lowest month ending balance for the Health Care Stabilization Fund will occur in September, with a balance of \$0.

The Health Care Stabilization Fund Board of Governors employs a conservative, laddered investment strategy. Reserves are invested by the Pooled Money Investment Board on behalf of the Board of Governors and the investment earnings are a significant source of supplemental income to the HCSF. As a result of these investments, there are maturities throughout the year. If a maturity occurs near the end of the month, there will be a higher ending balance at the conclusion of that particular month.

The Board's Chief Attorney maintains a contemporary accounting of settlements and jury awards that have been approved by the courts. This includes scheduled future payments attributable to settlements and jury awards in prior fiscal years. The agency indicates it is imperative that sufficient, unencumbered cash balances be maintained in order to promptly pay these statutory Fund liabilities. Consequently, the ending balance is often a reflection of pending claim payments at the conclusion of a particular month.

FY 2023 ANALYSIS

FIGURE 7
SUMMARY OF BUDGET REQUEST, FY 2023

	SGF	Special Revenue Funds	All Funds	FTE
Legislative Approved:				
Amount Approved by 2022 Legislature	\$ -	\$ 37,075,195	\$ 37,075,195	21.0
<i>Subtotal—Legislative Approved</i>	\$ -	\$ 37,075,195	\$ 37,075,195	21.0
Agency Revised Estimate:				
1. All Other Adjustments	-	1,190,732	1,190,732	--
<i>Subtotal—Agency Revised Estimate</i>	\$ -	\$ 38,265,927	\$ 38,265,927	21.0
Governor's Recommendation:				
2. No Changes	\$ -	\$ -	\$ -	--
TOTAL	\$ -	\$ 38,265,927	\$ 38,265,927	21.0

LEGISLATIVE APPROVED

Subsequent to the 2022 Session, no adjustments were made to the \$37.1 million appropriated to the Health Care Stabilization Fund Board of Governors in FY 2023.

AGENCY ESTIMATE

The **agency** submits a revised estimate of \$38.3 million, all from special revenue funds, for expenditures in FY 2023. This is \$1,190,732, or 3.2 percent, above the FY 2023 approved amount.

The **agency** estimate includes the following adjustments:

1. **ALL OTHER ADJUSTMENTS.** The agency's revised estimate includes the following adjustments:
 - **OTHER ASSISTANCE.** The agency made adjustments to expenditures in other assistance of \$1,261,230, or 4.4 percent, above the FY 2023 approved amount. This change is attributed to an increase in projected court-approved settlement agreements or jury awards based on observable trends.
 - **CONTRACTUAL SERVICES.** The agency made adjustments to expenditures in contractual services of \$26,827, or 0.4 percent, above the FY 2023 approved amount. This change is attributed mainly to an increase in information systems consulting.
 - **SALARIES AND WAGES.** The agency made adjustments to expenditures in salaries and wages of \$97,325, or 4.8 percent, below the FY 2023 approved amount. This change is mainly attributed to a decrease in employer contributions to fringe health benefits and the Kansas Public Employees Retirement System (KPERs).

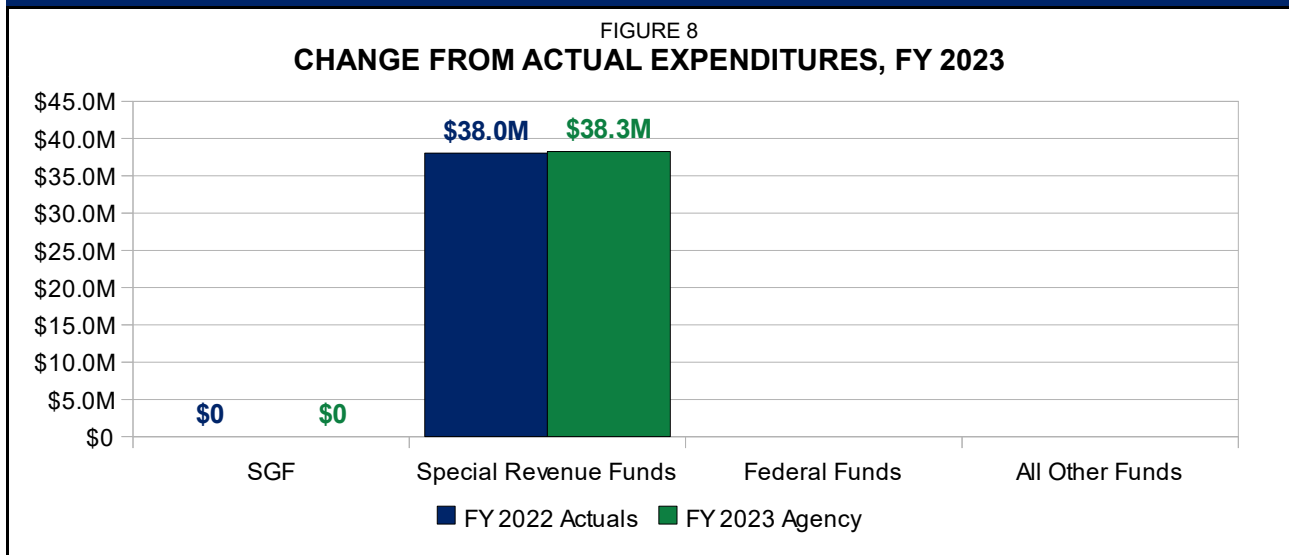
The **agency** estimate also includes 21.0 FTE positions, which is the same as the approved number of positions in FY 2023.

GOVERNOR'S RECOMMENDATION

The **Governor** concurs with the agency's FY 2023 revised estimate.

2. **NO CHANGES.** The Governor recommends no changes to the agency's FY 2023 revised estimate.

FY 2023 CHANGE FROM ACTUAL EXPENDITURES



The **agency** estimates revised expenditures of \$38.3 million, all from special revenue funds, in FY 2023. This is an increase of \$227,648, or 0.6 percent, above the FY 2022 actual expenditures. There are increases to all categories of expenditures except contractual services. The increase for salaries and wages expenditures totals \$178,861, or 10.2 percent, which reflects the 5.0 percent salary increase plus the associated fringe benefit increases including increased employer contributions for both the KPERS and group health insurance.

The increase in commodities of \$19,143, or 139.6 percent, is mainly attributed to the Defense Counsel Seminar (\$12,000), which was canceled in FY 2021 and FY 2022 due to the COVID-19 pandemic. The increase in capital outlay of \$43,558, or 261.4 percent, is mainly attributed to routine system maintenance and equipment replacement (\$38,427). The increase in other assistance expenditures of \$298,994, or 1.0 percent, is attributable to an increase in projected court-approved settlement agreements or jury awards based on observable trends. There is a decrease in the category of contractual services of \$312,908, or 4.9 percent, below FY 2022 actual expenditures, which is attributed to a decrease in expected attorneys and lawyer fees.

FY 2024 ANALYSIS

FIGURE 9
SUMMARY OF BUDGET REQUEST, FY 2024

	SGF	Special Revenue Funds	All Funds	FTE
Agency Revised Estimate, FY 2023	\$ -	\$ 38,265,927	\$ 38,265,927	21.0
Agency Request:				
1. All Other Adjustments	-	1,822,965	1,822,965	--
<i>Subtotal—Agency Estimate</i>	<i>\$ -</i>	<i>\$ 40,088,892</i>	<i>\$ 40,088,892</i>	<i>21.0</i>
Governor’s Recommendation:				
2. No Changes	\$ -	\$ -	\$ -	--
TOTAL	\$ -	\$ 40,088,892	\$ 40,088,892	21.0

AGENCY REQUEST

The **agency** requests a budget of \$40.1 million, all from special revenue funds, for FY 2024. This is an increase of \$1,822,965, or 4.8 percent, above the FY 2023 revised estimate.

The **agency** request includes the following adjustments:

1. **ALL OTHER ADJUSTMENTS.** The agency's revised estimate includes the following adjustments:
 - **CONTRACTUAL SERVICES.** The agency requests an increase of \$900,487, or 14.9 percent, above the FY 2023 revised estimate. The change is mainly attributable to an expected increase in attorney and lawyer fees (\$543,897) and an expected increase in court reporter and expert witness fees (\$259,740).
 - **CAPITAL OUTLAY.** The agency requests an increase of \$43,300, or 71.9 percent, above the FY 2023 revised estimate. The change is mainly attributable to routine system maintenance and equipment replacement (\$37,000).
 - **OTHER ASSISTANCE.** The agency requests an increase of \$801,568, or 2.7 percent, above the FY 2023 revised estimate. The change is attributable to an increase in projected court-approved settlement agreements or jury awards based on observable trends.
 - **OTHER ADJUSTMENTS.** The agency made other adjustments including an increase for salaries and wages expenditures of \$71,937, or 3.7 percent, and an increase for commodities of \$5,673, or 17.3 percent, above the FY 2023 revised estimate. The change in salaries and wages assumes that all positions will be filled in FY 2024. The change in commodities reflects both higher cost and usage of supplies.

The **agency** request also includes 21.0 FTE positions, which is the same number as the FY 2023 revised estimate.

GOVERNOR’S RECOMMENDATION

The **Governor** concurs with the agency's FY 2024 request.

2. **NO CHANGES.** The Governor recommended no changes to the agency's FY 2024 request.

PROGRAM AND PERFORMANCE MEASURES OVERVIEW

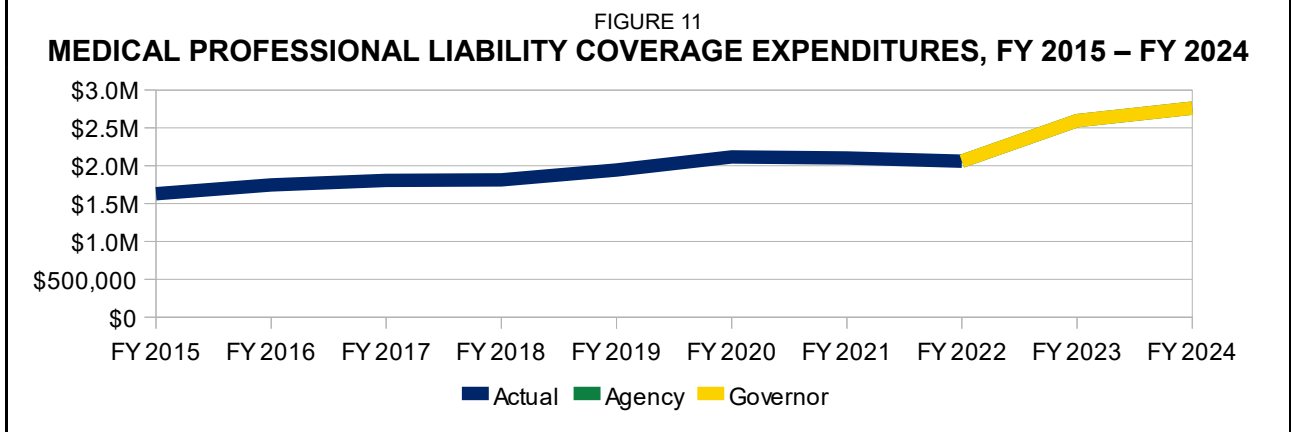
FIGURE 10
EXPENDITURES AND FTE POSITIONS BY PROGRAM, FY 2022 – FY 2024

Programs	Actual FY 2022	Agency FY 2023	Governor FY 2023	Agency FY 2024	Governor FY 2024
Expenditures:					
Medical Professional Liability Coverage	\$ 2,062,873	\$ 2,596,307	\$ 2,596,307	\$ 2,760,792	\$ 2,760,792
Medical Professional Liability Adjudication	35,975,406	35,669,620	35,669,620	37,328,100	37,328,100
TOTAL	\$ 38,038,279	\$ 38,265,927	\$ 38,265,927	\$ 40,088,892	\$ 40,088,892
FTE Positions:					
Medical Professional Liability Coverage	21.0	21.0	21.0	21.0	21.0
Medical Professional Liability Adjudication	-	-	-	-	-
TOTAL	21.0	21.0	21.0	21.0	21.0

PERFORMANCE MEASURES

The 2016 Legislature passed HB 2739, which outlined a three-year process for state agencies to develop and implement a system of performance budgeting using outcome measures to evaluate program effectiveness.

MEDICAL PROFESSIONAL LIABILITY COVERAGE



STATUTORY BASIS: • KSA 40-3402

PROGRAM GOALS: • Assure that all health care providers as defined in KSA 40-3401 and maintain adequate professional liability coverage as required by KSA 40-3402

The Medical Professional Liability Coverage program is often referred to as the "compliance program," but it is not regulatory. The program provides instructions to insurers and health care providers for compliance with the statutory requirement, reviews documentation submitted by insurers and health care providers to ensure accuracy and correct payment, and assists insurers and health care providers who need help or have unusual circumstances.

In FY 2022, the agency transitioned from their previous structure, which has programs listed

as "Administration" and "Claims" to this new program structure.

This program was previously referred to as the "Administration Program." All administrative support costs for the Health Care Stabilization Fund Board of Governors are allocated to the Medical Professional Liability Coverage Program. This includes the activities of the Board of Governors, the executive staff, and the administrative support staff. Other major operating costs include office rent, actuarial and contractual services, information technology costs, as well as routine office supplies.

FIGURE 12
MEDICAL PROFESSIONAL LIABILITY COVERAGE, PERFORMANCE MEASURES

	Actual FY 2021	Actual FY 2022	Actual 3-Year Avg.	Target FY 2023	Target FY 2024
Outcome Measure:					
1. Number of Insurance Companies offering PLI** to KS health care providers*	32	35	33	35	35
2. Number of health care providers as of July 1 of fiscal year	15,474	17,013	15,743	16,983	16,988
3. Net surcharge revenue collected (in millions)*	\$ 35.0	\$ 24.4	\$ 29.4	\$ 28.5	\$ 29.0
Financing	Actual FY 2021	Actual FY 2022		Governor FY 2023	Governor FY 2024
SGF	\$ -	\$ -		\$ -	\$ -
Federal Funds	-	-		-	-
All Other Funds	2,104,043	2,062,873		2,596,307	2,748,792
TOTAL	<u>\$ 2,104,043</u>	<u>\$ 2,062,873</u>		<u>\$ 2,596,307</u>	<u>\$ 2,748,792</u>
Percentage Change:					
SGF	-- %	-- %		-- %	-- %
All Funds	(0.6) %	(2.0) %		25.9 %	5.9 %
FTE Positions	21.0	21.0		21.0	21.0

* The Governor's Office does not utilize this measure for evaluation purposes.

** Professional liability coverage

PERFORMANCE AND BUDGET ANALYSIS

The **agency** requests Medical Professional Liability Coverage program expenditures of \$2.6 million, all from special revenue funds, in FY 2023. This is an increase of \$533,434, or 25.9 percent, above the FY 2022 actual amount.

The agency requests expenditures of \$2.8 million, all from special revenue funds, for FY 2024. This is an increase of \$164,485, or 6.3 percent, above the FY 2023 revised estimate.

The **Governor** concurs with the amounts requested for the Medical Professional Liability Coverage program for both FY 2023 and FY 2024.

PROFESSIONAL LIABILITY COVERAGE (PLI)

The Health Care Provider Insurance Availability Act was created, in part, to encourage commercial insurance companies to offer professional liability products in Kansas. Some of these companies are risk retention groups serving only a selected group of specialists. Three more insurance companies

began offering professional liability coverage to Kansas in FY 2022 than offered it in FY 2021.

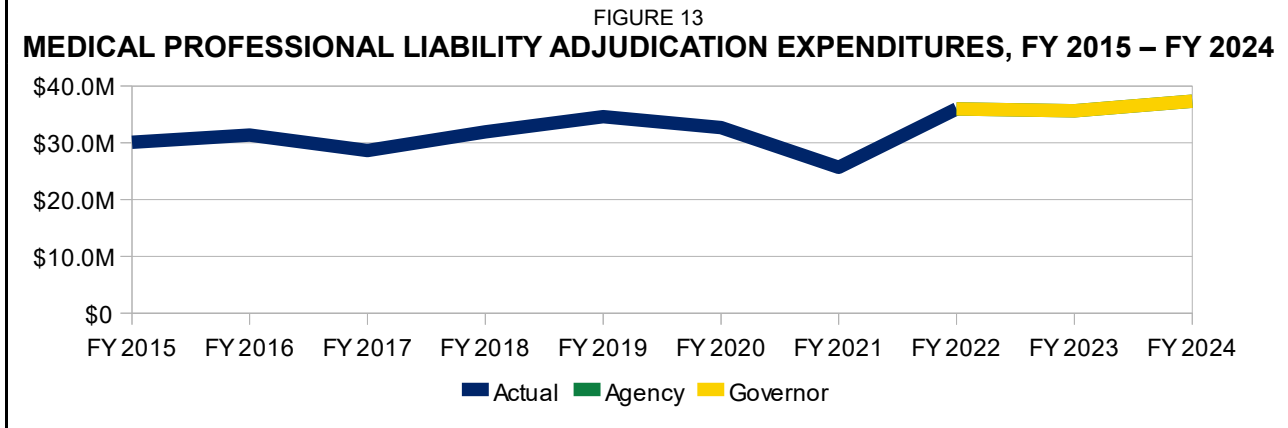
OVERALL HEALTH CARE PROVIDERS MAINTAINING PLI

If patients are injured as a result of an unexpected medical outcome, the patients must have access to available remedies. Therefore, according to the agency, the total number of health care providers that maintain basic policy of PLI is important to track. A total of 17,013 health care providers maintained PLI in FY 2022, which is an increase of 1,529 providers above FY 2021.

NET SURCHARGE REVENUE COLLECTED

In FY 2022, the agency collected \$24.4 million in net surcharge revenue. This is a decrease of \$10.6 million below FY 2021 collections. The 2021 Legislature changed statutes regarding coverage limits, which resulted in the reduced surcharge revenue in FY 2022. The agency does have higher target amounts in FY 2023 and FY 2024 than the FY 2022 actual amount, but the estimated collections are still less than the FY 2021 actual amount.

MEDICAL PROFESSIONAL LIABILITY ADJUDICATION



STATUTORY BASIS: • KSA 40-3403

PROGRAM GOALS:

- Assure appropriate representation and advocacy in the event of a claim against a health care provider.
- In the event the courts determine that an injured patient should be compensated, to assure the appropriate compensation is provided in a timely manner.

The Medical Professional Liability Adjudication program is a function of the statutory liabilities of the HCSF.

In FY 2022, the agency transitioned from their previous structure, which has programs listed as "Administration" and "Claims" to this new program structure. This program was previously referred to as the "Claims Program."

This program is responsible for the payment of court-approved claims, attorneys fees, and other expenditures associated with claims activity. Historically, expenditures for the payment of claims have been treated as no-limit by the Legislature. "No limit" means that although the Medical Professional Liability Adjudication program operates within a budget, it does not have an appropriated limit on its expenditures.

FIGURE 14

MEDICAL PROFESSIONAL LIABILITY ADJUDICATION, PERFORMANCE MEASURES

	Actual FY 2021	Actual FY 2022	Actual 3-Year Avg.	Target FY 2023	Target FY 2024
Outcome Measure:					
1. Number of claims opened during the fiscal year	587	520	--	542	542
2. Number of claims closed during the fiscal year	421	542	496	500	500
3. Expenditures (claim payments for settlements and awards) (in millions)*	\$ 21.5	\$ 31.6	\$ 26.9	\$ 30.1	\$ 31.0
Financing	Actual FY 2021	Actual FY 2022		Governor FY 2023	Governor FY 2024
SGF	\$ -	\$ -		\$ -	\$ -
Federal Funds	-	-		-	-
All Other Funds	25,677,375	35,975,406		35,669,620	37,328,100
TOTAL	\$25,677,375	\$35,975,406		\$35,669,620	\$37,328,100
Percentage Change:					
SGF	-- %	-- %		-- %	-- %
All Funds	(21.5) %	40.1 %		(0.8) %	4.6 %
FTE Positions	--	--		--	--

*The Governor's Office does not utilize this measure for evaluation purposes.

PERFORMANCE AND BUDGET ANALYSIS

The **agency** requests Medical Professional Liability Adjudication program expenditures of \$35.7 million, all from special revenue funds, in FY 2023. This is a decrease of \$305,786, or 0.8 percent, below the FY 2022 actual amount.

The agency requests expenditures of \$37.3 million, all from special revenue funds, for FY 2024. This is an increase of \$1.7 million, or 4.6 percent, above the FY 2023 revised estimate.

The **Governor** concurs with the amounts requested for the Medical Professional Liability Adjudication program for both FY 2023 and FY 2024.

NUMBER OF CLAIMS CLOSED

According to the agency, the number of closed claims is an indication of the level of productivity. It is important to note that some cases require a substantial amount of time to be resolved. The total number of claims closed during FY 2022 was 542, which is an increase of 121 closed cases, or 28.7 percent, above FY 2021. The agency anticipates 500 claims will be closed in FY 2023 and FY 2024 each, which is a decrease of 42 closed claims, or 7.7 percent, below FY 2022.

NUMBER OF CLAIMS OPENED

The total number of new claims opened in FY 2022 was 520, which is a decrease of 67 claims, or 11.4 percent, below FY 2021. The agency anticipates that in FY 2023 and FY 2024 each, there will be 542 new claims opened each year, which is an increase of 22 new claims, or 4.2 percent, above FY 2022.

CLAIM PAYMENTS

Compensation received by injured patients as a result of settlements or jury awards is not determined by the HCSF Board of Governors, legal staff, or defense counsel. Per the agency, the amount of payments is still an important performance measure as it identifies trends for predicting future expenditures. In FY 2022, the total amount of claims payments for settlements and awards was \$31.6 million. This is an increase of \$10.1 million above FY 2021.