

OFFICE OF THE STATE BANK COMMISSIONER

FY 2021 – FY 2023 BUDGET ANALYSIS

FIGURE 1
BUDGET OVERVIEW, FY 2021 – FY 2023

	Actual FY 2021	Agency FY 2022	Governor FY 2022	Agency FY 2023	Governor FY 2023
Operating Expenditures:					
State General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Federal Funds	236	-	-	-	-
All Other Funds	10,550,055	12,040,176	11,877,452	12,404,441	12,237,285
<i>Subtotal</i>	<u>\$ 10,550,291</u>	<u>\$ 12,040,176</u>	<u>\$ 11,877,452</u>	<u>\$ 12,404,441</u>	<u>\$ 12,237,285</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>\$ 10,550,291</u>	<u>\$ 12,040,176</u>	<u>\$ 11,877,452</u>	<u>\$ 12,404,441</u>	<u>\$ 12,237,285</u>
Percentage Change:					
State General Fund	-- %	-- %	-- %	-- %	-- %
All Funds	1.1 %	14.1 %	12.6 %	3.0 %	3.0 %
FTE Positions	107.0	110.0	110.0	110.0	110.0

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.

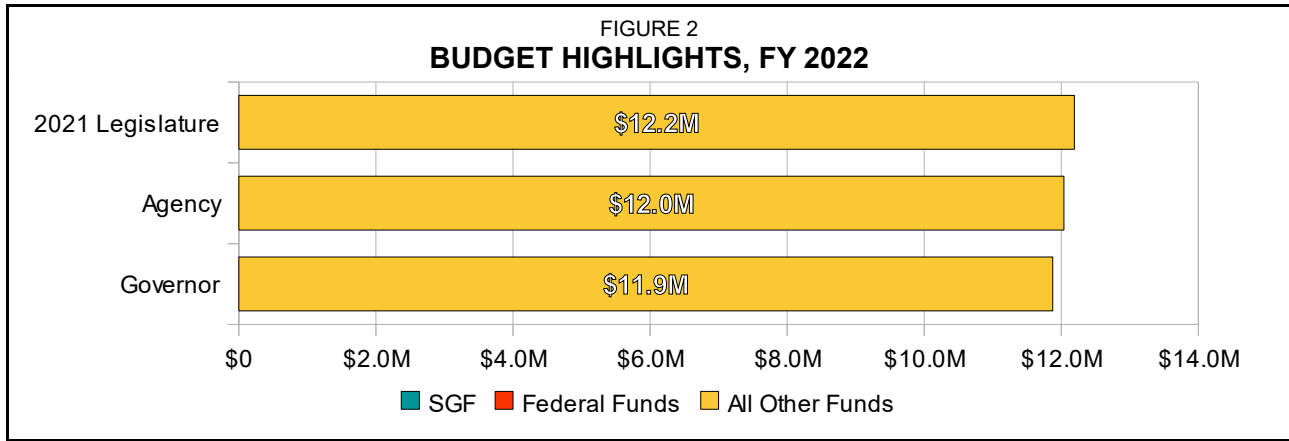
The Office of the State Bank Commissioner (OSBC) ensures the integrity of regulated providers of financial services through responsible and proactive oversight while protecting and educating consumers. Statutory authority for the OSBC is found in KSA 75-1304 *et seq.* The agency is headed by a commissioner, who is appointed by the Governor to serve a four-year term. The agency is divided into two divisions, the banking division and the consumer and mortgage lending division.

The banking division is responsible for the supervision of state-chartered banks, trust companies/departments, savings and loan associations, and money transmitters. The agency also preserves the dual banking system through the chartering of new state banks, maintenance of existing state charters, and equitable regulation of state banks. A nine-member banking board, authorized by KSA 74-3004 *et seq.*, is appointed by the Governor. The State Banking Board serves in an advisory capacity to the banking division and administers the banking laws of Kansas.

The consumer and mortgage lending division is responsible for oversight of mortgage and consumer credit lenders, and credit service organizations. Finally, the OSBC is responsible for protecting consumers from unfair or unscrupulous credit practices, and promoting public trust in the state financial system.

EXECUTIVE SUMMARY

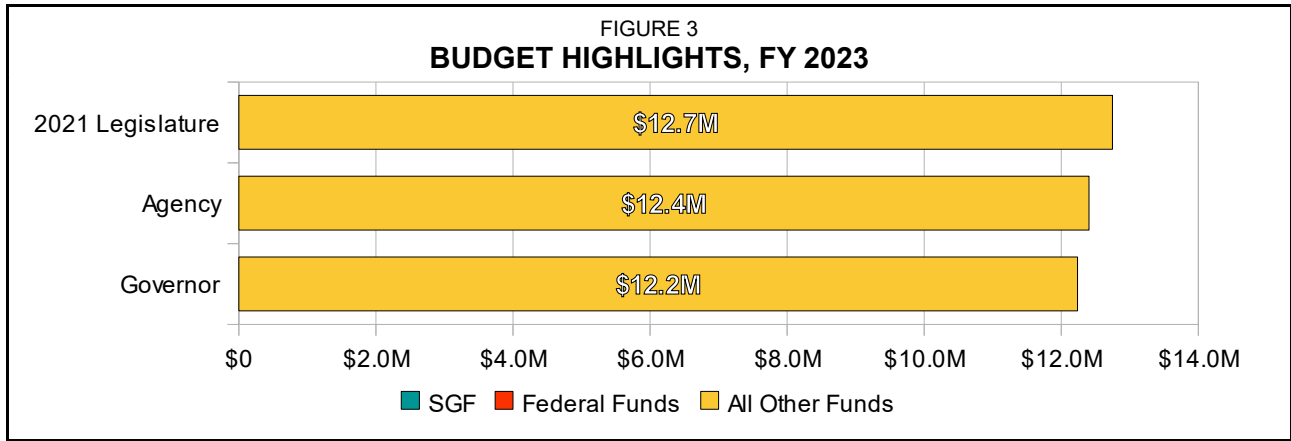
The 2021 Legislature approved a budget of \$12.2 million, all from special revenue funds, for the Office of the State Bank Commissioner for FY 2022.



The **agency** requests a revised estimate of \$12.0 million, all from special revenue funds, for FY 2022. This is a decrease of \$150,597, or 1.2 percent, below the FY 2022 approved amount. The revised estimate includes 110.0 FTE positions, which is the same as the approved FY 2022 number. Significant items in the agency estimate include the following:

- **BOARD MEMBER PER DIEM AND STAFF SALARY INCREASES.** The revised estimate includes two supplemental requests to increase the board member per diem rates and provide merit-based staff salary increases. The agency has historically reported having issues retaining staff due in part to wage competition with the private sector. Similarly, the agency has reported having issues recruiting for the State Banking Board due in large part to the low per diem rate.
- **STAFF RETIREMENTS AND RESIGNATIONS.** Offsetting the two supplemental requests are decreased expenditures for salaries and wages. The agency experienced several long-term staff retirements and resignations in FY 2021, which were filled with newer hires at a lower pay rate. As such, the agency adjusted its salary and wage expenditures to account for the lower compensation for these new hires.
- **TRAVEL-RELATED EXPENDITURES DUE TO THE COVID-19 PANDEMIC.** The revised estimate also includes several decreases for travel-related expenditures resulting from the COVID-19 pandemic. The agency originally anticipated resuming travel in FY 2021, however the agency reports that as the pandemic continues, it anticipates returning to travel in January 2022 instead.

The **Governor** recommends \$11.9 million, all from special revenue funds, for FY 2022 expenditures. This is a decrease of \$162,724, or 1.4 percent, below the agency's FY 2022 revised estimate. This decrease is due to the Governor not recommending the agency's supplemental requests. The recommendation also includes 110.0 FTE positions, which is the same as the agency's FY 2022 revised estimate number.



The **agency** requests a revised estimate of \$12.4 million, all from special revenue funds, for FY 2023. This is a decrease of \$344,748, or 2.7 percent, below the FY 2023 approved amount. The revised estimate includes 110.0 FTE positions, which is the same as the approved FY 2023 number. Significant items in the agency estimate include the following:

- **BOARD MEMBER PER DIEM AND STAFF SALARY INCREASES.** The revised estimate includes two enhancement requests to continue the increased board member per diem rates and merit-based staff salary increases from FY 2022.
- **STAFF RETIREMENTS AND RESIGNATIONS.** Offsetting the two enhancements are decreased expenditures for salaries and wages. As the OSBC is a biennial agency, the 2021 Legislature approved a FY 2023 budget. As such, when the agency originally planned its budget, it included several long-term staff who subsequently retired or resigned in FY 2021. As such, the agency adjusted its salary and wage expenditures to account for the lower compensation rates for these new hires.

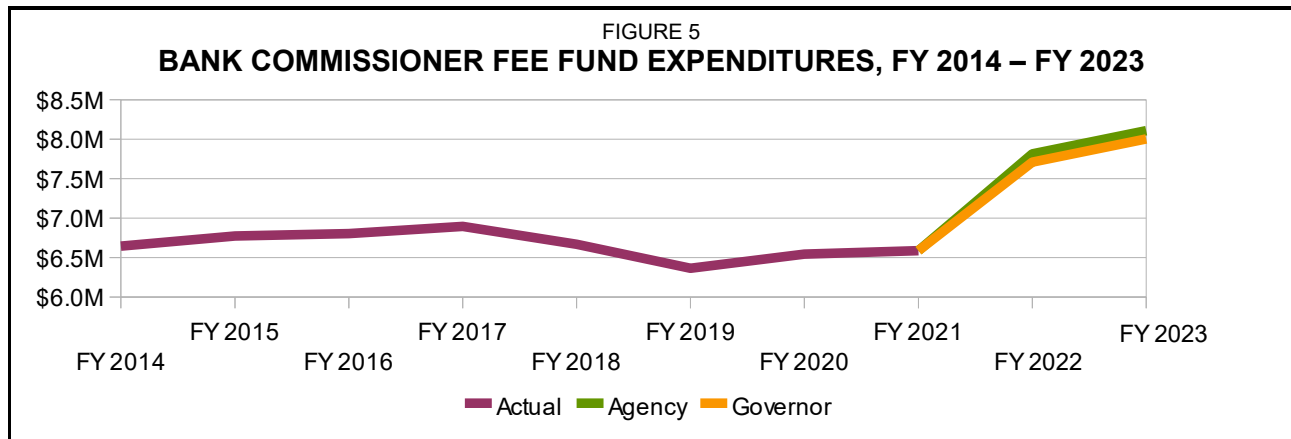
The **Governor** recommends \$12.2 million, all from special revenue funds, for FY 2023 expenditures. This is a decrease of \$167,156, or 1.4 percent, below the agency's FY 2023 revised estimate. This decrease is due to the Governor not recommending the agency's enhancement requests. The recommendation also includes 110.0 FTE positions, which is the same as the agency's FY 2023 revised estimate number.

EXPENDITURES AND FINANCING

FIGURE 4
BUDGET SUMMARY BY CATEGORY OF EXPENDITURE, FY 2021 – FY 2023

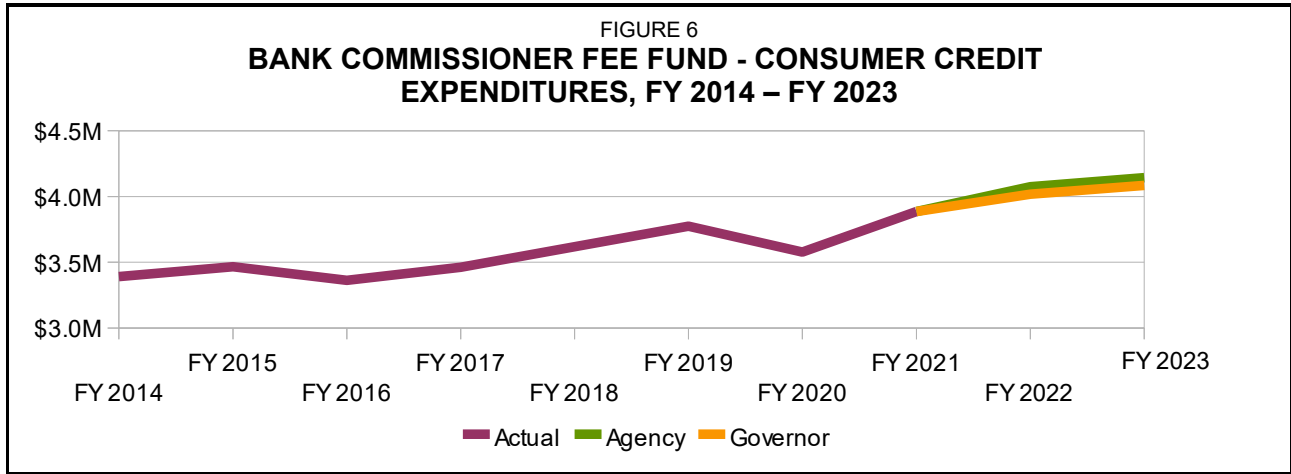
Category of Expenditure:	Actual FY 2021	Agency FY 2022	Governor FY 2022	Agency FY 2023	Governor FY 2023
Salaries and Wages	\$ 9,144,918	\$ 9,774,560	\$ 9,611,836	\$ 9,773,998	\$ 9,606,842
Contractual Services	1,040,968	1,808,116	1,808,116	2,204,543	2,204,543
Commodities	23,510	48,500	48,500	63,200	63,200
Capital Outlay	261,864	259,000	259,000	212,700	212,700
Debt Service Interest	-	-	-	-	-
<i>Subtotal</i>	<u>\$ 10,471,260</u>	<u>\$ 11,890,176</u>	<u>\$ 11,727,452</u>	<u>\$ 12,254,441</u>	<u>\$ 12,087,285</u>
Aid to Local Units	-	-	-	-	-
Other Assistance	79,031	150,000	150,000	150,000	150,000
<i>Subtotal—Operating</i>	<u>\$ 10,550,291</u>	<u>\$ 12,040,176</u>	<u>\$ 11,877,452</u>	<u>\$ 12,404,441</u>	<u>\$ 12,237,285</u>
Capital Improvements	-	-	-	-	-
Debt Service	-	-	-	-	-
Principal	-	-	-	-	-
TOTAL	<u>\$ 10,550,291</u>	<u>\$ 12,040,176</u>	<u>\$ 11,877,452</u>	<u>\$ 12,404,441</u>	<u>\$ 12,237,285</u>
Financing:					
State General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Federal Funds	236	-	-	-	-
All Other Funds	10,550,055	12,040,176	11,877,452	12,404,441	12,237,285
TOTAL	<u>\$ 10,550,291</u>	<u>\$ 12,040,176</u>	<u>\$ 11,877,452</u>	<u>\$ 12,404,441</u>	<u>\$ 12,237,285</u>
FTE Positions	107.0	110.0	110.0	110.0	110.0

BANK COMMISSIONER FEE FUND - BANKING DIVISION



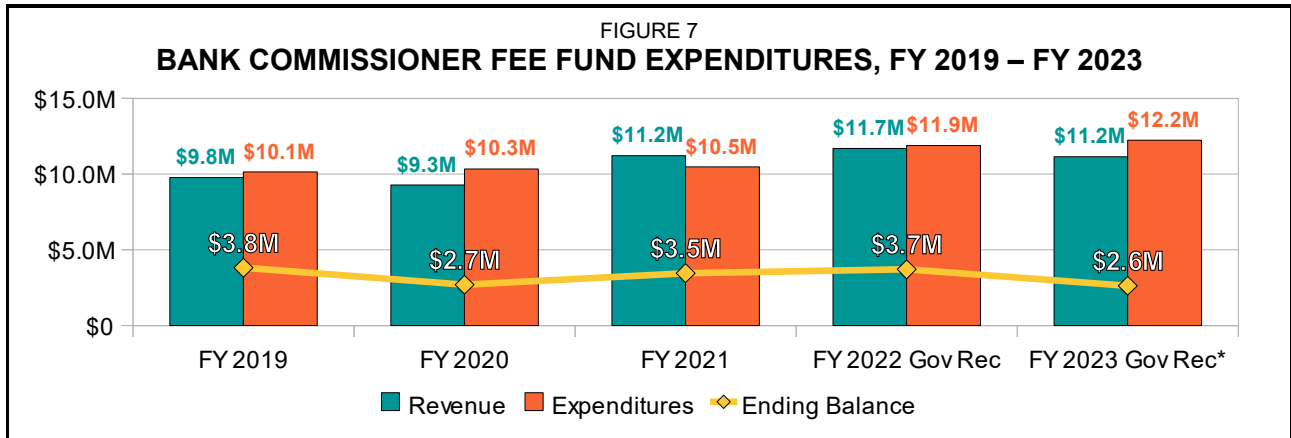
The Office of the State Bank Commissioner is a fee funded agency, with a majority of its expenditures utilizing the Bank Commissioner Fee Fund. The fee fund is essentially divided into two sub-funds: one that funds the banking division and one that funds the consumer and mortgage lending division. In FY 2021, actual expenditures from the Bank Commissioner Fee Fund for the banking division were \$6.6 million. The agency's revised estimate in FY 2022 includes \$7.8 million in expenditures from this fund, which is an increase of \$1.2 million. The increase is primarily related to salaries and wages expenditure increases due to several resignations and retirements in FY 2021, with the agency replacing those positions with newer hires at lower salaries. The increase also represents an additional \$259,949 for expenditures related to technology-enabled fiduciary financial institutions (TEFFIs), which the agency anticipates occurring in FY 2022.

BANK COMMISSIONER FEE FUND - CONSUMER CREDIT



Expenditures from the Bank Commissioner Fee Fund for the consumer and mortgage lending division were \$3.9 million in FY 2021. The agency's revised estimate includes \$4.1 million in expenditures, which is an increase of \$189,624, in FY 2022. Similar to those in the banking division, these increase are primarily related to the having lost several employees in FY 2021, as the agency did not utilize the full amount appropriated for salaries and wages expenditures in FY 2021.

BANK COMMISSIONER FEE FUND



* For FY 2023, the lowest month ending balance for the Bank Commissioner Fee Fund will occur in June, with a balance of \$2.6 million.

The Bank Commissioner Fee Fund is funded in part by assessments on state-chartered banks and trust companies. Revenues of the Fund are generated by fee income through the Bank and Trust Regulation and Consumer and Mortgage Lending Regulation programs. Banking revenues are in the form of assessments paid by state-chartered banks and trust companies to provide operating funds, pursuant to KSA 9-1703. The OSBC employs a four-tier rate schedule for determining assessment fees. The agency states that predicting application revenue each year is difficult because the level of revenues received is dependent solely on the submission of applications. The OSBC collects fees three times a year. It collects half of a bank's assessment in July, one-quarter in January, and the final quarter in May.

FIGURE 8
BANK AND TRUST DIVISION
BANK ASSESSMENT RATES (PER MILLION), FY 2022

License	Current Fee	Statutory Limit	Authority
Assets Less Than \$500,000	\$ 0.160	\$ N/A	KSA 9-1703
Assets Greater Than \$500,000 to \$1,000,000	0.135	N/A	KSA 9-1703
Assets Greater Than \$1,000,000	0.090	N/A	KSA 9-1703

FIGURE 9
BANK AND TRUST DIVISION
TRUST ASSESSMENT RATES (PER MILLION), FY 2022

License	Current Fee	Statutory Limit	Authority
Inactive Trusts	\$ 100	\$ N/A	KSA 9-1703
Trusts Less Than or Equal to \$1,000,000	1,000	N/A	KSA 9-1703
Trusts Greater Than \$1,000,000 up to \$10,000,000	2,500	N/A	KSA 9-1703
Trusts Greater Than \$10,000,000 up to \$50,000,000	3,300	N/A	KSA 9-1703
Trusts Greater Than \$50,000,000 up to \$100,000,000	4,000	N/A	KSA 9-1703
Trusts Greater Than \$100,000,000 up to \$500,000,000	5,000	N/A	KSA 9-1703
Trusts Greater Than \$500,000,000 up to \$1,000,000,000	5,800	N/A	KSA 9-1703
Trusts Greater Than \$1,000,000,000 up to \$2,000,000,000	7,500	N/A	KSA 9-1703
Trusts Greater Than \$2,000,000,000 up to \$5,000,000,000	14,500	N/A	KSA 9-1703

FIGURE 10
CONSUMER AND MORTGAGE LENDING DIVISION
LICENSURE FEES, FY 2022

License	Current Fee	Statutory Limit	Authority
Company new or renewal license for principal place of business*	\$ 400	\$ N/A	KSA 9-1726
Company new or renewal license for branch office	100	N/A	KSA 9-1726
Loan originator new license	100	N/A	KSA 9-1726
Loan originator renewal license	50	N/A	KSA 9-1726
Annual licensing fee** (per \$100,000)	2.00 – 6.00	N/A	KSA 9-1726
Annual licensing fee** (per loan)	0.20 – 2.50	N/A	KSA 9-1726
Notification location fee	25	N/A	KSA 9-1726
Notification volume fee (per loan)	5.00 – 15.00	N/A	KSA 9-1726

*Credit Services Organization renewal license fee is \$150.

**Certain credit transactions are assessed on a per loan basis and others on dollar volume based on the type of the transaction.

FY 2022 ANALYSIS

FIGURE 11
SUMMARY OF BUDGET REQUEST, FY 2022

	SGF	Special Revenue Funds	All Funds	FTE
Legislative Approved:				
Amount Approved by 2021 Legislature	\$ -	\$ 12,190,773	\$ 12,190,773	110.0
1. No Changes	-	-	-	-
<i>Subtotal—Legislative Approved</i>	\$ -	\$ 12,190,773	\$ 12,190,773	110.0
Agency Revised Estimate:				
2. Supplemental – Board Member Per Diem Increase	\$ -	\$ 12,420	\$ 12,420	-
3. Supplemental – Funding Merit-based Salary Increases	-	150,304	150,304	-
4. Decreased Salaries Related to Retention Issues	-	(239,739)	(239,739)	-
5. Decreased Travel-related Expenditures	-	(136,782)	(136,782)	-
6. All Other Adjustments	-	63,200	63,200	-
<i>Subtotal—Agency Revised Estimate</i>	\$ -	\$ 12,040,196	\$ 12,040,176	110.0
Governor’s Recommendation:				
7. Supplemental – Board Member Per Diem Increase	\$ -	\$ (12,420)	\$ (12,420)	-
8. Supplemental – Funding Merit-based Salary Increases	-	(150,304)	(150,304)	-
TOTAL	\$ -	\$ 11,877,472	\$ 11,877,452	110.0

LEGISLATIVE APPROVED

The 2021 Legislature approved \$12.2 million, all from special revenue funds, for the Office of the State Bank Commissioner for FY 2022. There were no subsequent adjustments to the approved amount.

1. **NO CHANGES.** The OSBC is a wholly fee-funded agency, and as such they do not receive funding from the State General Fund. Therefore, there were no reappropriations or other subsequent adjustments made to the approved amount.

AGENCY ESTIMATE

The **agency** requests a revised estimate of \$12.0 million, all from special revenue funds, for expenditures in FY 2022. This is an all funds decrease of \$150,597 below the FY 2022 approved amount. The agency estimate includes the following adjustments:

2. **SUPPLEMENTAL—BOARD MEMBER PER DIEM INCREASE.** The agency's request includes \$12,420, all from special revenue funds, to increase the per diem rate paid to State Banking Board members from \$35.00 to \$150.00 per day of actual attendance of any board meeting. Board member compensation was last adjusted in 1974 through the enactment of KSA 75-3223, which set a daily rate of \$35.00. *Staff Note:* For more information on per diem compensation, please see Topic 1.
3. **SUPPLEMENTAL—FUNDING FOR MERIT-BASED SALARY INCREASES.** The agency's request also includes \$150,304, all from special revenue funds, to provide funding for merit-based salary increases. The agency has traditionally provided salary

increases for its employees through a merit-based system based off of yearly performance reviews.

4. **DECREASED SALARIES AND WAGES EXPENDITURES RELATED TO RETENTION ISSUES.** The agency's request includes a decrease of \$239,739 in salaries and wages expenditures. During FY 2021, the agency experienced several resignations of senior employees and two retirements. As these senior staff leave, the agency has hired new employees at a lower pay rate and with lower benefits.
5. **DECREASED TRAVEL-RELATED EXPENDITURES.** The agency traditionally engages in several in-person activities such as trainings and bank examinations. Originally, the agency anticipated resuming travel in FY 2021, however due to the current state of the COVID-19 pandemic, it anticipates resuming travel in January 2022.
6. **ALL OTHER ADJUSTMENTS.** Over the last several years, the agency has shifted to more virtual operations. As such, the agency anticipates increased expenditures for office equipment as its Lenexa and Wichita offices are remodeled.

The **agency** estimate also includes 110.0 FTE positions, which is the same as the approved number.

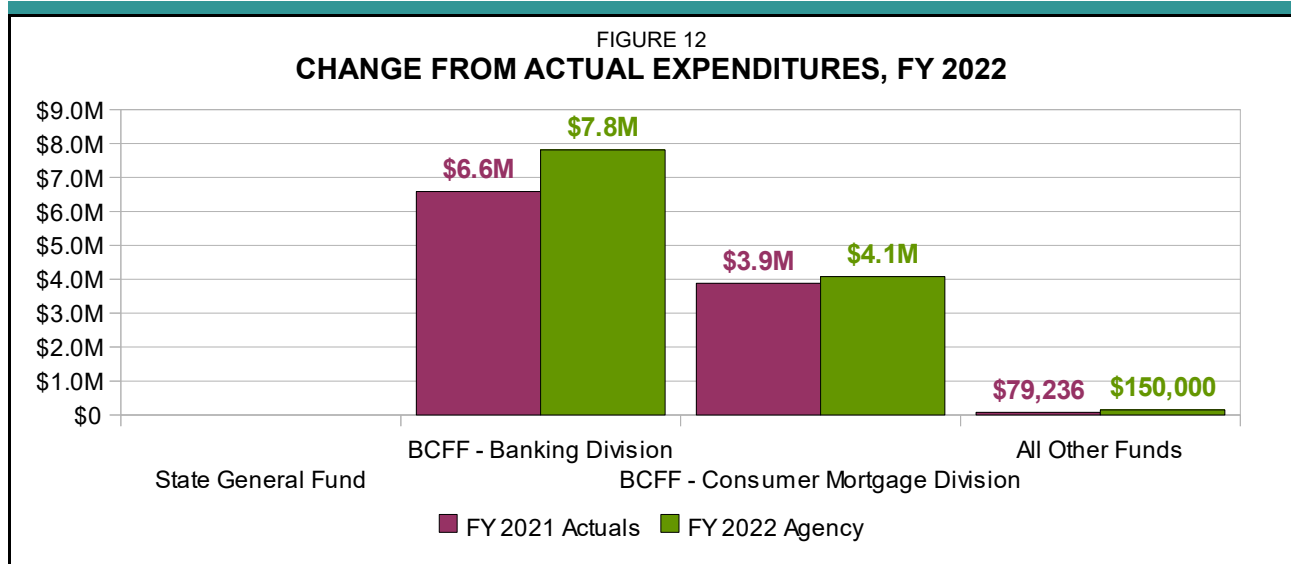
GOVERNOR'S RECOMMENDATION

The **Governor** recommends \$11.9 million, all from special revenue funds, for FY 2022 expenditures. This is a decrease of \$162,724, or 1.4 percent, below the agency's FY 2022 revised estimate. The Governor's recommendation includes the following adjustments:

7. **SUPPLEMENTAL—BOARD MEMBER PER DIEM INCREASE.** The Governor did not recommend the agency's request to increase the Board Member per diem rate. *Staff note:* For more information on per diem compensation, please see Topic 1.
8. **SUPPLEMENTAL—FUNDING FOR MERIT-BASED SALARY INCREASES.** The Governor did not recommend the agency's request to provide funding for merit-based salary increases.

The **Governor's** recommendation also includes 110.0 FTE positions, which is the same as the agency's FY 2022 revised estimate number.

FY 2022 CHANGE FROM ACTUAL EXPENDITURES



The Office of the State Bank Commissioner estimates revised expenditures of \$12.0 million, all from special revenue funds, in FY 2022. This is an all funds increase of \$1.5 million above FY 2021 actual expenditures. This increase is primarily due to the decreases in FY 2021 for travel related to the pandemic, as well as decreases related to the loss of long-term employees.

- LONG-TERM EMPLOYEE RETENTION.** The agency's estimate includes a special revenue fund increase of \$629,642 for salaries and wages expenditures across all of its programs. These increases are related to the resignation and retirement of several long-term employees in FY 2021. As such, the agency hired new employees for those positions at lower pay rates and fringe benefits.
- RESUMPTION OF TRAVEL EXPENDITURES.** Outside of the increases in salaries and wages, the agency anticipates increased travel-related expenditures. For the banking division, examiners traditionally travel for trainings as well as in-person bank examinations. The agency originally anticipated resuming some of these activities in FY 2021. However, due to the current state of the COVID-19 pandemic, the agency has revised that timeline to resume activities in January 2022.
- CONSUMER AND MORTGAGE LENDING DIVISION.** Additionally, the agency increased the grants it provides to independent organizations to provide financial educational programs. The agency had already anticipated providing increased grants in FY 2022, but increased its grants in the revised estimate in order to utilize the revenue it plans to collect in FY 2022.

FY 2023 ANALYSIS

FIGURE 13
SUMMARY OF BUDGET REQUEST, FY 2023

	SGF	Special Revenue Funds	All Funds	FTE
Legislative Approved:				
Amount Approved by 2021 Legislature	\$ -	\$ 12,749,189	\$ 12,749,189	110.0
1. No Changes	-	-	-	-
<i>Subtotal—Legislative Approved</i>	\$ -	\$ 12,749,189	\$ 12,749,189	110.0
Agency Request:				
2. Enhancement – Board Member Per Diem Increase	\$ -	\$ 12,420	\$ 12,420	-
3. Enhancement – Funding Merit-based Salary Increase	-	154,736	154,736	-
4. Decreased Salaries Related to Retention Issues	-	(570,567)	(570,567)	-
5. All Other Adjustments	-	58,663	58,663	-
<i>Subtotal—Agency Estimate</i>	\$ -	\$ 12,404,441	\$ 12,404,441	110.0
Governor’s Recommendation:				
6. Enhancement – Board Member Per Diem Increase	\$ -	\$ (12,420)	\$ (12,420)	-
7. Enhancement – Funding Merit-based Salary Increase	-	(154,736)	(154,736)	-
TOTAL	\$ -	\$ 12,237,285	\$ 12,237,285	110.0

LEGISLATIVE APPROVED

The 2021 Legislature appropriated \$12.6 million, all from special revenue funds, to the Office of the State Bank Commissioner for FY 2023. There were no subsequent adjustments to the appropriated amount.

1. **NO CHANGES.** The OSBC is a wholly fee-funded agency, and as such they do not receive funding from the State General Fund. Therefore, there were no subsequent adjustments made to the approved amount.

AGENCY REQUEST

The **agency** requests a revised estimate of \$12.4 million, all from special revenue funds, for expenditures for FY 2023. This is an all funds decrease of \$344,748 below the FY 2023 approved amount. The agency request includes the following adjustments:

2. **ENHANCEMENT—BOARD MEMBER PER DIEM INCREASE.** The agency's revised estimate includes \$12,420, all from special revenue funds, to continue the FY 2021 increase of the per diem rate paid to State Banking Board members from \$35.00 to \$150.00 per day of actual attendance of any board meeting. *Staff Note:* For more information on per diem compensation, please see Topic 1.
3. **ENHANCEMENT—FUNDING FOR MERIT-BASED SALARY INCREASES.** The agency's revised estimate also includes \$154,736, all from special revenue funds, to continue the merit-based salary increases the agency anticipates providing for FY 2023.

4. **DECREASED SALARIES AND WAGES EXPENDITURES RELATED TO RETENTION ISSUES.** The agency's revised estimate includes a decrease of \$570,567 in salaries and wages expenditures. Since the OSBC is a biennial agency, the 2021 Legislature approved a FY 2023 budget for the agency. As such, that approved budget anticipated salary and wages for several long-term employees, who resigned or retired in FY 2021. Similar to the revised FY 2022 estimate, the agency has subsequently hired new employees at a lower pay rate and lower benefits.
5. **ALL OTHER ADJUSTMENTS.** The agency's revised estimate includes several small adjustments related to the approved budget. Included among these changes are decreases associated with decreased rent for the Lenexa and Wichita offices. As with FY 2022, the agency increased its funding for educational grants to utilize the revenue it plans to collect in FY 2023.

The **agency** estimate also includes 110.0 FTE positions, which is the same as the approved number.

GOVERNOR'S RECOMMENDATION

The **Governor** recommends \$12.2 million, all from special revenue funds, for FY 2023 expenditures. This is a decrease of \$167,156, or 1.4 percent, below the agency's FY 2023 revised estimate. The **Governor's** recommendation includes the following adjustments:

6. **SUPPLEMENTAL—BOARD MEMBER PER DIEM INCREASE.** The Governor did not recommend the agency's request to increase the Board Member per diem rate. *Staff note:* For more information on per diem compensation, please see Topic 1.
7. **SUPPLEMENTAL—FUNDING FOR MERIT-BASED SALARY INCREASES.** The Governor did not recommend the agency's request to provide funding for merit-based salary increases. However, the agency would be included in the Governor's 5.0 percent increase for all executive branch employees for FY 2023, should the increase be adopted by the Legislature.

The **Governor's** recommendation also includes 110.0 FTE positions, which is the same as the agency's FY 2023 revised estimate number.

SUPPLEMENTAL AND ENHANCEMENT REQUESTS

REQUEST 1

SUPPLEMENTAL REQUESTS

The agency requests \$162,724, all from special revenue funds, for two salaries and wages related supplementals in FY 2022. The first request relates to merit-based salary increases, while the second is an increase in State Banking Board per diem rates.

Item	Supplemental Requests			
	Agency Recommendation		Governor's Recommendation	
	SGF	All Funds	SGF	All Funds
Merit-based Salary Increases	\$ -	\$ 150,304	\$ -	\$ -
Board Member per diem Increase	-	12,420	-	-
TOTAL	\$ -	\$ 162,724	\$ -	\$ -

FUNDING FOR MERIT-BASED SALARY INCREASES. The agency's request also includes \$150,304, all from special revenue funds, in FY 2022 for merit-based salary increases. The agency has traditionally provided salary increases for its employees through a merit-based system based on yearly performance reviews. The agency reports that it has historically faced high staff turnover related to competition from the private sector, and believes that merit-based increases assist in the retention of employees.

During the 2021 Legislative Session, the agency indicated that it had an understanding with a previous administration to allow for merit-based increases when employees shifted from classified to unclassified status in 2012. While KSA 75-3135a allows the Bank Commissioner to establish a salary schedule for unclassified positions, that schedule is subject to the approval of the governor and acts of appropriation.

The Governor does not recommend adoption of this request.

BOARD MEMBER PER DIEM INCREASE. The agency's request includes \$12,420, all from special revenue funds, to increase the per diem rate paid to State Banking Board members from \$35.00 to \$150.00 per day of actual attendance of any board meeting. Board member compensation was last adjusted in 1974 through the enactment of KSA 75-3223, which set a daily rate of \$35.00.

During the 2021 Legislative Session, the agency requested 2021 SB 299 be introduced, which would provide the Bank Commissioner the authority to increase the daily per diem rate between \$100.00 and \$150.00. The bill was referred to the Senate Committee on Ways and Means. *Staff note:* For more information on per diem compensation, please see Topic 1.

The Governor does not recommend adoption of this request.

REQUEST 2

ENHANCEMENT REQUESTS

The agency requests \$167,156, all from special revenue funds, for the continuation of two salaries and wages related supplementals from FY 2022 into FY 2023. The first request relates to merit-based salary increases, while the second is an increase in State Banking Board per diem rates.

Item	Agency Recommendation		Governor's Recommendation	
	SGF	All Funds	SGF	All Funds
Funding Merit-based Salary Increases	\$ -	\$ 154,736	\$ -	\$ -
Board Member Per Diem Increase	-	12,420	-	-
TOTAL	\$ -	\$ 167,156	\$ -	\$ -

FUNDING FOR MERIT-BASED SALARY INCREASES. The agency's request also includes \$154,736, all from special revenue funds, to continue merit-based salary increases it provided in FY 2022. The agency has traditionally provided salary increases for its employees through a merit-based system based on yearly performance reviews. The agency reports that it has historically faced high staff turnover related to competition from the private sector, and believes that merit-based increases assist in the retention of employees.

The Governor does not recommend adoption of this request.

BOARD MEMBER PER DIEM INCREASE. The agency's request includes \$12,420, all from special revenue funds, to increase the per diem rate paid to State Banking Board members from \$35.00 to \$150.00 per day of actual attendance of any board meeting. Board member compensation was last adjusted in 1974 through the enactment of KSA 75-3223, which set a daily rate of \$35.00.

During the 2021 Legislative Session, the agency requested 2021 SB 299 be introduced, which would provide the Bank Commissioner the authority to increase the daily per diem rate between \$100.00 and \$150.00. The bill was referred to the Senate Committee on Ways and Means. *Staff note:* For more information on per diem compensation, please see Topic 1.

The Governor does not recommend adoption of this request.

SPECIAL TOPICS

TOPIC 1

BOARD MEMBER PER DIEM COMPENSATION RATES

Generally, the compensation for board members is set in a specific statute that authorizes members of a board to receive compensation (as shown in the below example). Those specific statutes refer to a general statute outlining the rates of pay for per diem compensation, as well as allowances for subsistence, mileage, and other actual expenses. As an example, KSA 74-1607, the specific statute for the Board of Pharmacy, states:

Members of the state board of pharmacy attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses **as provided in KSA 75-3223** [emphasis added].

Rather than include all of the specific details as to how much and when compensation is provided, such a specific statute refers to another more general statute that provides detail. Specific statutes for several boards are provided below. Currently, there are two main statutes to which State Banking Board specific statutes refer: KSA 75-3223 and KSA 75-3212.

COMPENSATION, INCLUDING PER DIEM RATE (KSA 75-3223)

KSA 75-3223 provides that, when a law directs compensation for a board member, the compensation shall be \$35.00 for each day of actual attendance of any meeting or subcommittee meeting. The statute does not allow salaried state officers or employees to receive per diem compensation, unless that individual is a member of the Legislature. The statute allows for members of the Legislature to receive their standard per diem rate of \$88.66 for session by referencing KSA 75-3212.

Subsections (b), (c), and (d) allow board members to receive subsistence allowances, mileage, and “actual and necessary” expenses. Generally, for the members of the Legislature, these subsections do not differentiate between a non-legislator and a legislator; However subsection (b) does allow members of the Legislature to receive subsistence allowances at the same rate they would normally.

Subsection (e) provides that when a board member is directed to receive amounts pursuant to subsection (e), that those members shall receive subsistence allowances, mileage, and expenses, but not the \$35.00 per diem compensation. Boards that generally invoke this section are advisory committees that are focused on specific topics and areas. The subsection does provide that members of the Legislature shall also receive their daily per diem rate of \$88.66.

COMPENSATION INCLUDING PER DIEM RATE (KSA 75-3212)

KSA 75-3212 is structured similarly to KSA 75-3223 in that it authorizes a \$35.00 per diem compensation rate, subsistence allowances, mileage, and “actual and necessary” expenses. The main difference between the two is that KSA 75-3212 specifically provides members of the Legislature receive the per diem rate received during session and specified in KSA 46-137a, \$88.66.

PROGRAM AND PERFORMANCE MEASURES OVERVIEW

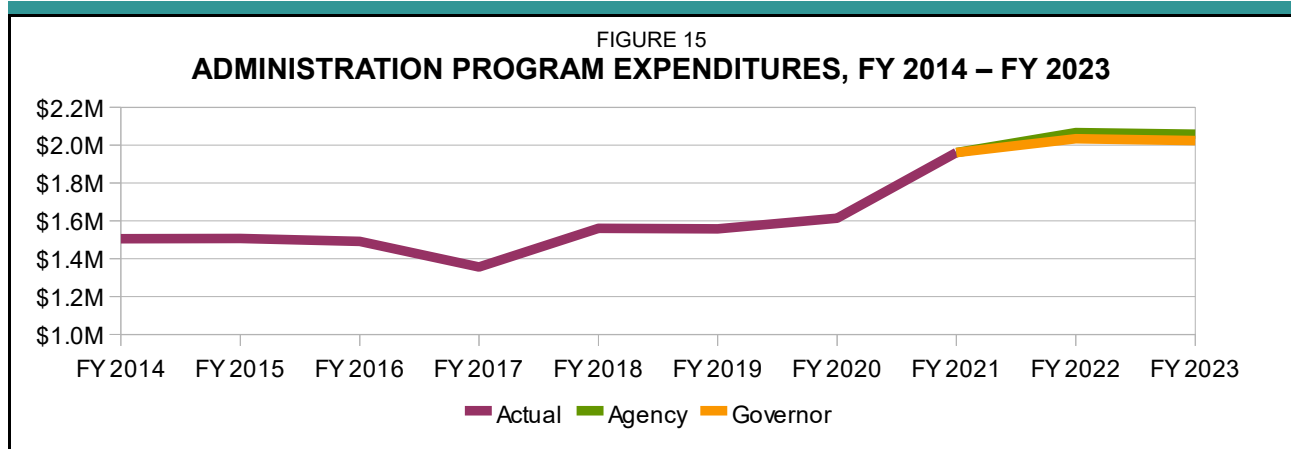
FIGURE 14
EXPENDITURES AND FTE POSITIONS BY PROGRAM, FY 2021 – FY 2023

Programs	Actual FY 2021	Agency FY 2022	Governor FY 2022	Agency FY 2023	Governor FY 2023
Expenditures:					
Administration	\$ 1,961,145	\$ 2,066,453	\$ 2,033,731	\$ 2,058,295	\$ 2,024,589
Bank and Trust Regulation	5,406,535	6,573,755	6,489,435	6,873,848	6,787,447
Consumer Mortgage Regulation	3,182,611	3,399,968	3,354,286	3,472,298	3,425,249
TOTAL	\$ 10,550,291	\$ 12,040,176	\$ 11,877,452	\$ 12,404,441	\$ 12,237,285
FTE Positions:					
Administration	16.0	16.0	16.0	16.0	16.0
Bank and Trust Regulation	57.0	60.0	60.0	60.0	60.0
Consumer Mortgage Regulation	34.0	34.0	34.0	34.0	34.0
TOTAL	107.0	110.0	110.0	110.0	110.0

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.

ADMINISTRATION PROGRAM



STATUTORY BASIS: • N/A

PROGRAM GOALS:

- Administer OSBC policies.
- Provide fiscal systems and processes, including accounting, budget, and human resources functions.
- Provide legal services in execution of regulatory requirements.

The Administration Program provides support for the supervisory and regulatory functions of the OSBC. This program encompasses many functions, including administering and formulating OSBC policies; administering fiscal systems and processes, including formulation of the OSBC budget; providing legal services to

staff in their execution of regulatory requirements; administering the human resource functions of recruitment, payroll, and benefits for employees of the OSBC; supporting information technologies utilized by the OSBC; and resolving banking complaints and inquiries from consumers.

FIGURE 16
ADMINISTRATION PROGRAM, PERFORMANCE MEASURES

	Actual FY 2020	Actual FY 2021	Actual 3-Year Avg.	Target FY 2022	Target FY 2023
Performance Measures:					
There are no performance measures for this program					
	Actual FY 2020	Actual FY 2021		Governor FY 2022	Governor FY 2023
Financing					
SGF	\$ -	\$ -		\$ -	\$ -
Federal Funds	278	236		-	-
All Other Funds	1,614,678	1,960,909		2,033,731	2,024,589
TOTAL	\$ 1,614,956	\$ 1,961,145		\$ 2,033,731	\$ 2,024,589
Percentage Change:					
SGF	-- %	-- %		-- %	-- %
All Funds	(1.1%)	14.1 %		3.7 %	(0.4) %
FTE Positions	16.0	16.0		16.0	16.0

BUDGET ANALYSIS

The Administration Program performs the administration functions of the agency, and as such, this program does not have performance measures. The revised estimate for expenditures in the Administrative program are highlighted below.

FY 2022 REVISED ESTIMATE

The **agency's** revised estimate includes \$2.1 million, all from special revenue funds, for expenditures in the program in FY 2022. This is an increase of \$30,911 above the amount approved by the 2021 Legislature. The revised estimate includes 16.0 FTE positions, which is the same as the approved number:

- The revised estimate for the Administration Program includes decreased salaries and wages expenditures, due to the retirements and resignations effecting the agency as a whole; and
- There were some increases in contractual services expenditures for computer software rental.

The **Governor** recommends \$2.0 million, all from special revenue funds, for Administration

program expenditures in FY 2022. This is a decrease of \$32,722, or 1.6 percent, below the agency's revised estimate, which is due to the Governor not recommending the agency's supplemental requests.

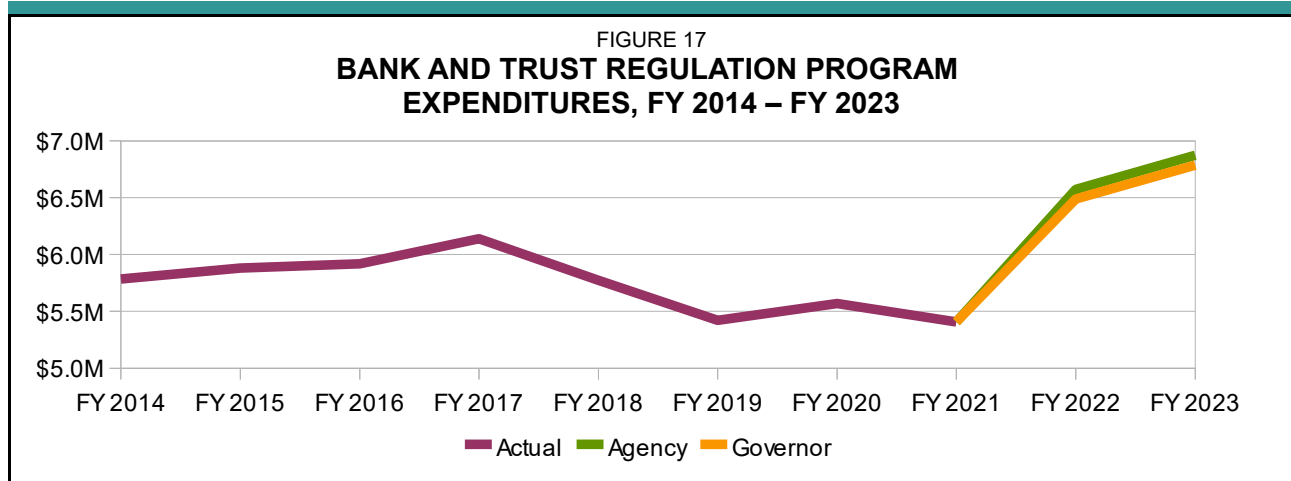
FY 2023 REVISED ESTIMATE

The **agency's** revised estimate includes \$2.1 million, all from special revenue funds, for expenditures in the program in FY 2023. This is a decrease of \$26,248 below the amount approved by the 2021 Legislature. The revised estimate includes 16.0 FTE positions, which is the same as the approved number.

The revised estimate has changes similar to those the agency anticipates in FY 2022, including the decrease salaries and wages expenditures, and the increases associated with software fees.

The **Governor** recommends \$2.0 million, all from special revenue funds, for Administration program expenditures for FY 2023. This is a decrease of \$33,706, or 1.7 percent, below the agency's revised estimate, which is due to the Governor not recommending the agency's enhancement requests.

BANK AND TRUST REGULATION PROGRAM



STATUTORY BASIS: • KSA 9-1701; KSA 75-1304; and KSA 74-3004

PROGRAM GOALS:

- Shorten examination turn-around time.
- Maintain Conference of State Bank Supervisor (CSBS) accreditation.
- Increase the number of remote examinations preformed.

The Bank and Trust Regulation program is responsible for oversight and supervision of all state-chartered banks and trust departments, trust companies, and money transmitter companies. Total assets supervised in banks and trust entities are approximately \$121.2 billion. Assets of state-chartered banks in FY 2020 included \$2.8 billion in loans originated

through the federal Paycheck Protection Program (PPP), as provided in the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. Outside of increasing the total assets of state-chartered banks, the agency has indicated it anticipates the funds will not have an impact on agency operations.

FIGURE 18
**BANK AND TRUST REGULATION PROGRAM,
PERFORMANCE MEASURES**

	Actual FY 2020	Actual FY 2021	Actual 3-Year Avg.	Target FY 2022	Target FY 2023
Outcome Measure:					
1. Average regulatory cost incurred per bank examination*	\$ 33,572	\$ 37,606	\$ 34,261	\$ 43,515	\$ 49,607
2. Average regulatory cost incurred per trust examination*	\$ 6,890	\$ 6,628	\$ 6,460	\$ 6,708	\$ 6,842
3. Percent of independent bank exams with turn-around time of less than 30 days in fiscal year*	24.6 %	93.3 %	39.9 %	95.0 %	95.0 %
4. Percent of independent trust exams with turn-around time of less than 30 days in fiscal year*	50.0 %	100.0 %	52.1 %	95.0 %	95.0 %
Output Measure:					
5. Number of bank exams (joint and independent)	69	66	68	64	62
6. Number of trust exams	18	14	16	17	18
Additional Measures:					
7. Number of state-chartered banks	187	183	187	177	173
8. Number of problem banks	15	8	12	9	10

	Actual FY 2020	Actual FY 2021		Governor FY 2022	Governor FY 2023
Financing					
SGF	\$ -	\$ -		\$ -	\$ -
Federal Funds	-	-		-	-
All Other Funds	5,421,219	5,406,535		6,489,435	6,787,447
TOTAL	<u>\$ 5,421,219</u>	<u>\$ 5,406,535</u>		<u>\$ 6,489,435</u>	<u>\$ 6,787,447</u>
Percentage Change:					
SGF	-- %	-- %		-- %	-- %
All Funds	(6.1) %	(0.3) %		20.0 %	4.6 %
FTE Positions	55.0	57.0		60.0	60.0

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

PERFORMANCE AND BUDGET ANALYSIS

The Bank and Trust Regulation Program comprises the largest portion of the agency. Expenditures for the program have largely remained the same for the last several years. However, expenditures are anticipated to increase due to the passage of Senate Sub for HB 2074 during the 2021 Legislative Session, and the establishment of a new category of banks known as technology-enabled fiduciary financial institutions (TEFFIs).

TECHNOLOGY-ENABLED FIDUCIARY FINANCIAL INSTITUTIONS

The agency has issued a conditional charter to Beneficient Fiduciary Financial on July 1, 2021. The chart allows for the OSBC to continue to develop the rules and regulations prior to allowing Beneficient Fiduciary Financial to conduct business transactions. This is the first and only TEFFI, and as such, the agency does not have any data or statistics concerning examination and regulation of TEFFIs.

MERGERS AND ACQUISITIONS OF STATE-CHARTERED BANKS

Over the last several years, the OSBC has experienced an increase in the merger and acquisition of state-chartered banks. This results in the continued decrease in the number of state-chartered banks. However, while the number of banks continues to decrease, the assets of these banks continues to rise. The factors result in fewer, but larger banks. As such, the agency reports that the examinations of these banks continue to become more complex as these trends continue.

FY 2022 REVISED ESTIMATE

The **agency's** revised estimate includes \$6.6 million, all from special revenue funds, for expenditures in the program in FY 2022. This is

a decrease of \$82,726 below the amount approved by the 2021 Legislature. The revised estimate includes 60.0 FTE positions, which is the same as the approved number.

The decrease is largely due to reduced travel expenditures for bank examinations and other in-person activities. The agency had originally budgeted to resume those activities at the beginning of FY 2022. However, the agency now anticipates resumption in January 2022.

The **Governor** recommends \$6.5 million, all from special revenue funds, for Bank and Trust Regulation Program expenditures in FY 2022. This is a decrease of \$84,320, or 1.3 percent below the agency's revised estimate, which is due to the Governor not recommending the agency's supplemental requests.

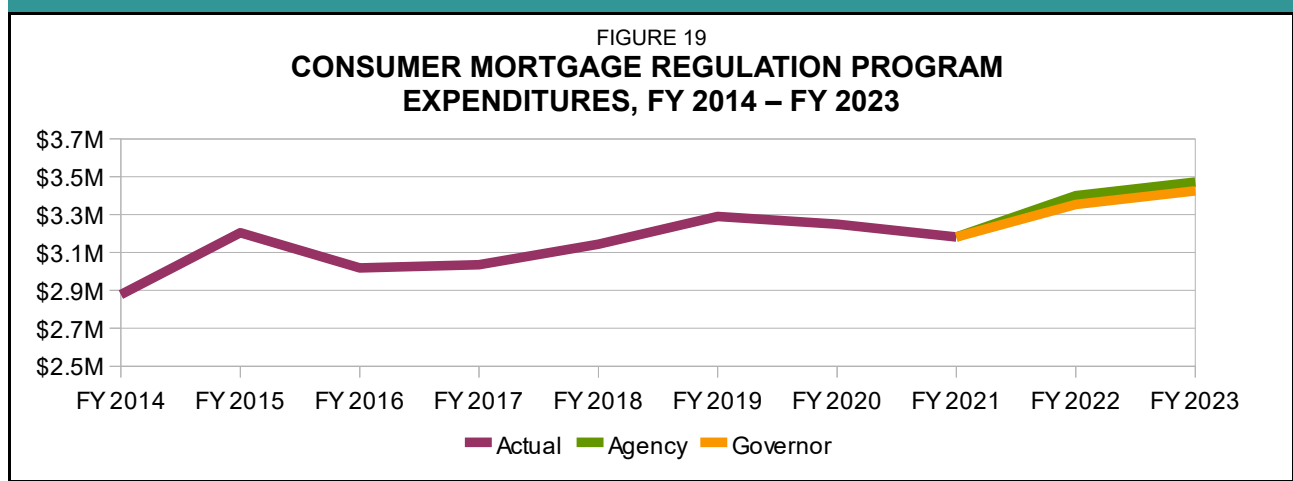
FY 2023 REVISED ESTIMATE

The **agency's** revised estimate includes \$6.9 million, all from special revenue funds, for expenditures in the program in FY 2023. This is a decrease of \$259,511 below the amount approved by the 2021 Legislature. The revised estimate includes 60.0 FTE positions, which is the same as the approved number.

The FY 2023 revised estimate is similar to the changes the agency anticipates in FY 2022. There are decreased travel expenditures associated with the agency shifting some bank examinations to a virtual setting.

The **Governor** recommends \$6.9 million, all from special revenue funds, for Bank and Trust Regulation program expenditures for FY 2023. This is a decrease of \$86,401, or 1.3 percent below the agency's revised estimate, which is due to the Governor not recommending the agency's enhancement requests.

CONSUMER MORTGAGE REGULATION PROGRAM



STATUTORY BASIS: • KSA 9-2209; KSA 16a-6-104; KSA 50-1116; and KSA 9-509

PROGRAM GOALS:

- Conduct periodic examinations of regulated entities.
- Promote lawful business practices by informing licensees of their compliance responsibilities.
- Earn CSBS Accreditation of Mortgage and Money Service Business Programs.

The Consumer Mortgage Regulation Program is responsible for the oversight and supervision of consumer credit lenders, mortgage lenders and brokers, debt management companies, sales finance companies, and other credit providers, with approximately \$18.0 billion in loans to Kansas consumers. This program’s duties include promoting reasonable regulation to foster a competitive credit marketplace;

enforcing laws to discourage unscrupulous or illegal credit activities; licensing and regulating consumer and mortgage credit providers; conducting examinations to promote lawful credit practices and adherence to state and federal laws; investigating consumer complaints; and facilitating consumer education and awareness of credit issues.

FIGURE 20
**CONSUMER MORTGAGE REGULATION PROGRAM,
 PERFORMANCE MEASURES**

	Actual FY 2020	Actual FY 2021	Actual 3-Year Avg.	Target FY 2022	Target FY 2023
Outcome Measure:					
1. Percent of scheduled exams completed within the agency's established/scheduled time frame of 36-48 months*	75.0 %	87.0 %	80.7 %	87.0 %	89.0 %
2. Percent of completed initial examinations within 6 months of an entity licensing with the agency*	39.0 %	48.0 %	57.0 %	50.0 %	60.0 %
3. Average regulatory cost incurred per CML regulated entity examination*	\$ 3,993	\$ 3,657	\$ 3,941	\$ 3,478	\$ 3,478
Financing	Actual FY 2020	Actual FY 2021		Governor FY 2022	Governor FY 2023
SGF	\$ -	\$ -		\$ -	\$ -
Federal Funds	-	-		-	-
All Other Funds	3,249,573	3,182,611		3,354,286	3,425,249
TOTAL	<u>\$ 3,249,573</u>	<u>\$ 3,182,611</u>		<u>\$ 3,354,286</u>	<u>\$ 3,425,249</u>
Percentage Change:					
SGF	-- %	-- %		-- %	-- %
All Funds	1.3 %	(2.1) %		5.4 %	-- %
FTE Positions	34.0	34.0		34.0	34.0

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

PERFORMANCE AND BUDGET ANALYSIS

The Consumer Mortgage Regulation Program largely oversees and supervises consumer mortgage regulation, as well as consumer credit activities.

INCREASE IN REGULATED ENTITIES

Over the last several years, the agency has seen an increase in regulated entities. For example, in FY 2020 there were 10,766 entities, however that number increased in FY 2021 to 13,887. Similar to the Bank and Trust Regulation Program, the agency sees an increase in the transaction volume these entities handle. For example, in FY 2019 the total volume of these various loan transactions was \$38.9 billion, and in FY 2020 that increased to \$48.8 billion. Similarly, the Consumer Mortgage Regulation program experiences more complex examinations and is seeing an increase in the number of entities it has to examine.

CONSUMER CREDIT EDUCATION

As part of its mission to protect and educate consumers, the OSBC provides training grants to various organizations to conduct consumer education programs. These programs are generally geared towards students, but some funds are provided to Housing and Credit Counseling, Inc. to provide financial literacy and counseling to consumers.

FY 2022 REVISED ESTIMATE

The **agency's** revised estimate includes \$3.4 million, all from special revenue funds, for expenditures in the program in FY 2022. This is a decrease of \$98,782 below the amount approved by the 2021 Legislature. The revised estimate includes 34.0 FTE positions, which is the same as the approved number.

Similar to other programs, the decrease is largely due to reduced travel expenditures for examinations and other in-person activities. The revised estimate also includes the decreased salaries and wages expenditures present in

other programs, as the agency experienced several resignations and retirements.

The **Governor** recommends \$3.4 million, all from special revenue funds, for Consumer Mortgage Regulation expenditures in FY 2022. This is a decrease of \$45,682, or 1.3 percent, below the agency's revised estimate, which is due to the Governor not recommending the agency's supplemental requests.

FY 2023 REVISED ESTIMATE

The **agency's** revised estimate includes \$3.5 million, all from special revenue funds, for expenditures in the program for FY 2023. This is a decrease of \$58,989 below the amount approved by the 2021 Legislature. The revised estimate includes 34.0 FTE positions, which is the same as the approved number.

The FY 2023 revised estimate is similar to the changes the agency anticipates in FY 2022. The program's salaries and wages expenditures are adjusted to account for the loss of long-term staff in FY 2021 that occurred subsequent to the beginning of the budget cycle. The revised estimate does include an increase in travel-related expenditures as the agency begins resumption of in-person activities.

The **Governor** recommends \$3.5 million, all from special revenue funds, for Consumer Mortgage Regulation expenditures for FY 2023. This is a decrease of \$47,049, or 1.4 percent, below the agency's revised estimate, which is due to the Governor not recommending the agency's enhancement requests.