

# Legislative Budget Committee

## CENSUS MANAGEMENT AT THE STATE HOSPITALS

### Conclusions and Recommendations

The Legislative Budget Committee requests that the House Appropriations and Senate Ways and Means Committees continue to monitor census management at the state hospitals. The Committee expressed concern over the average daily census at Larned and Osawatomie State Hospitals and requested that a monthly report be provided to the appropriate committees and subcommittees. The Committee also requested that unfilled positions be examined, along with the recruitment and hiring process at the state hospitals as a whole. In addition, the Committee requested that the defunding of Community Mental Health Centers be examined.

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Coordinating Council requested the Committee review census management at the state hospitals. The Committee reviewed census, staffing to patient ratios, and quality outcome measurements for Kansas Neurological Institute (KNI), Larned State Hospital (LSH), Parsons State Hospital and Treatment Center (PSHTC), Osawatomie State Hospital (OSH), and Rainbow Mental Health Facility (RMHF). The Committee also reviewed community mental health centers contracts, ComCare crisis stabilization beds, Sedgwick Policy Academy, the Census Management Initiative, and the Intensive Case Management Program.

### COMMITTEE ACTIVITIES

An update was provided on the three state mental health hospitals, which noted a current capacity to serve an average daily census of 296 persons in the general psychiatric services programs. According to state law, with few exceptions, a qualified mental health professional employed by a community mental health center (CMHC) must determine that a person is mentally ill and, because of the person's mental illness, is

likely to cause harm to self or others before the person can be admitted to a state mental health hospital. Kansas state mental health hospitals accept everyone approved for admission by a CMHC, even when the hospital is above budgeted capacity. Individuals receive inpatient services until such time as the symptoms of mental illness are stabilized and they can be safely treated in a community setting. The state mental health hospitals are often considered the "placement of last resort," so the role that community mental health and other social services fulfill defines the role of the state mental health hospitals. As a result, the state mental health hospitals are currently called on to provide broad social safety net services.

The Hospital and Home Strategic Plan calls for taking a developmental, multi-faceted approach to developing the service array to better meet these people's needs outside the state mental health hospitals. This will gradually allow the state mental health hospitals to focus more resources on specialized inpatient psychiatric services rather than the broad social safety net services. According to those testifying before the Committee, strategies to implement the plan include the following types of services.

# Legislative Budget Committee

## REVIEW OF THE PROBLEM GAMBLING AND ADDICTIONS GRANT FUND

### Conclusions and Recommendations

The Legislative Budget Committee recommended several options be considered related to the types of allowable expenditures from the Problem Gambling and Addictions Grant Fund including:

- Follow the current law as written to appropriate money from the Fund to only those items or programs specifically listed in the statute;
- Introduce legislation to change the law to more broadly fit the needs for funds relating to problem gambling and addictions or related programs; or
- Repeal the current statute and have the revenues that currently go to the Problem Gambling and Addictions Grant Fund be deposited in the State General Fund and appropriated to addictions programs or other programs as the Legislature deems appropriate.

*Proposed Legislation:* None.

### BACKGROUND

The charge to the Legislative Budget Committee was to study, review and report on the Problem Gambling and Addictions Grant Fund, including a review of the enabling statute regarding types of allowable expenditures, projected revenues into the fund, particularly from the Expanded Lottery act, and recent expenditures from the fund. The Committee was directed to review projected revenues into the fund particularly from the Expanded Lottery Act and recent program expenditures made from the fund. The Committee recognized that the enabling statute regarding types of allowable expenditures is subject to interpretation, as is whether expenditures from the fund align with the statutorily listed purpose.

### COMMITTEE ACTIVITIES

The Committee heard an overview on the statutory background of KSA 79-4805, which

established the Problem Gambling and Addictions Grant Fund and provided that “all moneys credited to such fund shall be used only for the awarding of grants under this section.” A provision was added, KSA 79-4805 (c) (2), which provided that moneys in the fund “may be used to treat alcoholism, drug abuse and other addictive behaviors” in 2007 SB 66. That legislation provided that 2.0 percent of lottery gaming facility revenues as well as 2.0 percent of electronic gaming machine income be paid into the Problem Gambling and Addictions Grant Fund, in addition to the \$20,000 transferred annually into the fund from the State Bingo Regulation Fund (KSA 79-4710) and the \$80,000 transferred annually from the State Gaming Revenues Fund (KSA 79-4806).

Administration of the fund was originally the responsibility of the Department of Social and Rehabilitation Services; under ERO 41 (2012 Legislative Session), it was transferred to the Kansas Department for Aging and Disability Services (KDADS).

The FY 2013 appropriations bill contained Problem Gambling and Addictions Grant Fund funding for the Pre-paid Inpatient Health Plan (PIHP), domestic violence prevention grants, and community corrections grants. KDADS indicated the FY 2014 budget would provide for an additional \$3.5 million for problem gambling services. In addition, the agency indicated the Pre-paid Inpatient Health Plan would no longer be funded out from the Problem Gambling and Addictions Grant Fund, as the Plan is included in KanCare.

Concerns expressed include that, historically, funding had not been allocated in a manner consistent with legislative intent. Consequently, some Problem Gambling and Addictions Grant Fund moneys were used to supplant State General Fund allocations.

Committee members expressed concern that the agency's proposal allows \$3.5 million, deposited into the Problem Gambling and Addictions Grant Fund, to be spent for state programs unrelated to issues of gambling or addiction and discussed a potential amendment to the current statute. Committee members requested a written opinion from the KDADS legal counsel concerning the matter.

A KDADS representative reported that the agency's chief counsel was asked to review the law concerning the use of the Problem Gambling and Addictions Grant Fund and presented the agency's legal response to the usage of fund, which confirmed that the Problem Gambling and Addictions Grant Fund could be used to finance expenditures other than those related to gambling and other addictions. During the 2012 Session,

House Substitute for SB 294 (L. 2012, Ch. 175) authorized transfers from the Problem Gambling and Addictions Grant Fund to the Domestic Violence Grants Fund, the Child Advocacy Center Grants Fund, and to the Community Corrections Special Revenue Fund.

A KDADS representative also updated the Committee on the specific outcomes related to Problem Gambling Prevention, Problem Gambling Treatment, and Problem Gambling Awareness.

## CONCLUSIONS AND RECOMMENDATIONS

The Legislative Budget Committee recommended several options be considered related to the types of allowable expenditures from the Problem Gambling and Addictions Grant Fund including:

- Follow the current law as written to appropriate money from the Fund to only those items or programs specifically listed in the statute;
- Introduce legislation to change the law to more broadly fit the needs for funds relating to problem gambling and addictions or related programs; or
- Repeal the current statute and have the revenues that currently go to the Problem Gambling and Addictions Grant Fund be deposited in the State General Fund and appropriated to addictions or other programs as the Legislature deems appropriate.

# Legislative Budget Committee

## KANCARE UPDATE

### Conclusions and Recommendations

The Legislative Budget Committee noted the recommendation made by the Joint Committee on Home and Community Based Services (HCBS) Oversight to utilize a draft bill (reviewed by the HCBS Oversight Committee) as a template for a KanCare Oversight Committee, and concurred with the need for Legislative oversight of the KanCare model and its programs.

*Proposed Legislation:* None.

### BACKGROUND

At the request of the Legislative Coordinating Council, the Committee received an update on KanCare, including information on transition to the new program and potential impact on the Home and Community Based Services (HCBS) waivers.

### COMMITTEE ACTIVITIES

At its meeting on November 15, 2012, the Committee received an overview of KanCare, including an updated timeline covering the initial contractual award to the readiness review of the three contractors held September 5, 2012, through September 21, 2012. The second round of educational tours began the third week in September 2012. KanCare Managed Care Organizations (MCOs) were required to have 90.0 percent of their provider networks in place by October 12, 2012, and 100.0 percent by November 16, 2012. A “Go/No go” decision deadline of October 19 was established for the system run to make initial KanCare MCO assignments for the January 1, 2013, KanCare implementation. The Department of Health and Environment—Division of Health Care Finance (KDHE) continued to pursue readiness activities.

The agency reported that when the contractual agreements were signed, the original estimate of

greater than \$800 million in savings over 5 years was revised to \$1 billion over 5 years. The projected reduction in Medicaid growth is expected to decrease expenditures from the State General Fund by approximately \$430 million. Further, it was noted that the term more appropriate than “savings” would be “reduction in Medicaid growth,” which conferees said will be achieved through better coordination of services, fewer hospital admissions and re-admissions, and improved integration of benefits.

The Committee heard from representatives of all three MCOs contracted by the state for KanCare: Amerigroup, Sunflower State Health Plan and United Healthcare Community Plan. Representatives of the organizations presented testimony related to their organizational structure, key dates for the KanCare implementation, the readiness review concerning eligibility and enrollment, integration, functional areas, and value-added services. The agency has indicated that all MCOs are “on track” to meet deadlines.

A KDHE representative indicated that weekly stakeholder calls and weekly meetings with MCOs are continuing. The agency noted one call with 190 participants, most of whom were providers.

The following issues were identified as current concerns with the KanCare implementation:

- An aggressive timeline for implementation



coupled with the lack of an approved Section 1115 waiver from the federal Centers for Medicare and Medicaid Services (CMS) to allow implementation to begin January 1, 2013;

- Lack of operational details such as contacts, MCO provider manuals, filing procedures and billing, policy manuals, care coordination, record-keeping requirements, and quality measure tracking;
- A short time to inform and enroll all beneficiaries;
- Expansion of the payment processing window to 20 days, from the previous policy, which was a 10-day window;
- How projected savings would be used and, if savings are not realized, what the State's plan would be;
- Impact of KanCare on various segments of the healthcare system;
- Need for an oversight body for KanCare;
- Need to create an expedited hearing process for beneficiaries who appeal MCO decisions;
- Permanent exclusion of Developmental Disabilities (DD) long-term care services and supports from KanCare; and
- Safeguards to ensure Medicaid services will be provided on and after January 1, 2013, if CMS has not approved a Section 1115 waiver.

An additional update was received from the KDHE representative on KanCare progress in November. Initial KanCare MCO assignments (for Medicaid beneficiaries) had been made and mailings of members' packets began November 9. Approximately 10,000 to 15,000 packets were to be mailed daily during the month of November. The representative also said the State has approved most provider manuals.

The KanCare readiness review process was outlined for the Committee. That process established that KanCare MCOs should be ready to begin enrolling members and providers should be ready to begin providing Medicaid services upon federal approval of the State's Section 1115 Demonstration Waiver.

The status of the Section 1115 waiver application was reviewed. Also reviewed were protections for HCBS waiver services, which include a right to a State fair hearing; hiring of a KanCare ombudsman; rights to grievance and appeal processes; quality assessment and performance improvement; delay of KanCare implementation and pilot programs for those who receive services through the intellectual and developmental disabilities (I/DD) waiver; front-end billing solutions; information technology testing; inclusion of current 1915(c) waiver structures and protections; and State eligibility determination.

A provider list was made available electronically to the Committee members.

*Staff Note: On December 10, 2012, the Governor announced CMS had approved the Section 1115 waiver, allowing Kansas to move forward with KanCare. It noted that the State and CMS will continue work to finalize Special Terms and Conditions in advance of the January 1, 2013, implementation date.*

## CONCLUSIONS AND RECOMMENDATIONS

The Legislative Budget Committee noted the recommendation made by the Joint Committee on Home and Community Based Services Oversight to utilize a draft bill reviewed by the Oversight Committee as a template for a KanCare Oversight Committee. That draft bill would merge the Joint Committee on Health Policy Oversight and the Joint Committee on Home and Community Based Services into a new KanCare Oversight Committee. The Legislative Budget Committee also concurred with the need for legislative oversight of the KanCare model and its programs.

# Legislative Budget Committee

## STATE HOSPITAL STAFFING, SALARY AND ACCREDITATION

### Conclusions and Recommendations

- The Committee recommends, with regard to census management at the state hospitals, that the House Appropriations and Senate Ways and Means Committees continue to monitor census management at the state hospitals. The Committee expressed concern over the average daily census at Larned and Osawatomie State Hospitals and requested that a monthly report be provided to the appropriate committees and subcommittees. The Committee also requested that unfilled positions be examined, along with the recruitment and hiring process as a whole. In addition, the Committee requested that the defunding of Community Mental Health Centers be examined.
- The Committee recommends, with regard to hospital staffing and salary issues, including pay parity within the state hospital system, that the House Appropriations and the Senate Ways and Means Committees and appropriate subcommittees continue to monitor salary issues at state hospitals.

*Proposed Legislation:* None.

### BACKGROUND

The statute creating the Legislative Budget Committee states the Committee will ascertain facts and make recommendations concerning the budget, revenues, and expenditures of the state, and on the organization and functions of the state. The Legislative Coordinating Council directed the Committee to, among other things, review census management at state hospitals and review state hospital staffing and salary issues including pay parity within the state hospital system.

### COMMITTEE ACTIVITIES

At its September 2012 meeting, the Committee reviewed the status of staffing and census issues at the state hospitals.

The Commissioner of Community Services and Programs at the Kansas Department for Aging and Disability Services (KDADS) reviewed census, recruitment and retention issues, staffing

to patient ratios, salary issues and pay raises, and quality outcome measurements for Kansas Neurological Institute (KNI), Larned State Hospital (LSH), Parsons State Hospital and Treatment Center (PSHTC), Osawatomie State Hospital (OSH), and Rainbow Mental Health Facility (RMHF).

### KNI: State Hospital Recruitment Challenges

The Commissioner stated that KNI has had challenges recruiting experienced licensed practical nurse (LPN) staff, which resulted in above-step hiring authority to pay LPN recruits a more competitive wage. A Committee member requested additional information that reflects above-step hiring rates before and after implementation of under-market pay increases for all KNI staff to ensure that salary compression issues for long-term employees are not created as a result of the above-step hiring authority.

## **Hospital Census**

The Commissioner stated that, for PSHTC and KNI, the budgeted average daily census for FY 2014 will be based on the same figures used to budget for 2013.

## **PSHTC: Pharmaceutical Savings**

In review of the quality outcomes measurements provided for PSHTC, the Committee inquired how savings for the elimination of psychotropic medications were calculated. The Commissioner reported the savings were furnished by the facility; however, he assumed the calculation reflected projected savings had expenditures actually been made for these drugs. The Commissioner added that elimination of psychotropic medications is a medical decision based on each individual's needs and requirements.

## **PSHTC: Sexual Predator Treatment Program Transition House**

PSHTC will open a "transition house" in January 2013 that will serve eight Sexual Predator Treatment Program (SPTP) individuals from LSH. A "transition house" was defined as an area to house SPTP individuals in levels 6 and 7 of the treatment phase, which focuses on re-entry into the general public. The percentage of those individuals reintegrating into the general public is approximately 2.0 to 3.0 percent. The total average yearly cost for the phases 1 through 7 (at LSH) is approximately \$68,000 per year per person.

Individuals in the SPTP are required to pay for treatment when individual income and ability to pay exists.

Once an SPTP participant is transferred into a transition residence, he is required to reimburse the State for a portion of room and board expenses. Sexual predators are not required to enter the SPTP and can opt out of treatment; in Kansas, approximately 53.0 percent of sexual predators opt out of treatment. Kansas maintains a full array of therapeutic services and staff in order to meet constitutional requirements even though offenders may not choose therapy. The Committee asked whether an individual who opts out of

treatment violates a condition of probation upon release; the Commissioner indicated agency staff members are currently reviewing this issue to ascertain what leverage exists to potentially move offenders back into the Department of Corrections system due to a technical parole violation.

Of the sexual predators completing the program, one was released directly to a nursing home and two were reintegrated into the public.

## **OSH and RMHF: Hospital Administration Consolidation**

Both OSH and RMHF continue to coordinate their efforts to eliminate management layers. During the 2013 Legislative session, a request will be made to license both facilities under one hospital in order to increase efficiency and generate savings.

## **OSH: Over Census Concerns, Accessing Private Sector Hospital Beds and LPN Pay**

The Commissioner described the process for accessing private sector hospital beds due to census capacity. He said OSH was over its licensed capacity 48.0 percent of the time during FY 2012, prompting an "above-step" hiring authority request. The Commissioner said he would provide the hourly wage for an LPN at OSH at the request of a Committee member; however, he indicated he thought it was approximately \$16 to \$18. It is hoped that with under-market pay adjustments, aggressive recruiting, and an enhanced pool of potential employees in Johnson County, some relief for these staffing challenges can be realized.

The Commissioner indicated there is never a hiring freeze for direct care staff and those positions are automatically posted following a weekly review conducted by the Commissioner and the Agency Secretary. At the weekly review meeting, non-direct care staff positions are reviewed and approved individually (by position) for posting.

Concerning prior issues regarding reimbursement rates to Via Christi Hospital for census management issues at OSH, the Commissioner indicated a more equitable rate was negotiated, and the State is no longer paying for emergency room visits. With the addition of the ComCare Crisis Stabilization Beds contractual agreement, the State could significantly reduce short-term stays at Via Christi and Prairie View facilities. The agency agreed to furnish the reimbursement rates for Via Christi compared to Prairie View and other facilities providing the same services.

A Committee member requested additional information concerning the overtime paid at each state facility.

### **Strategic Planning**

A representative of the Kansas Mental Health Coalition (KMHC) discussed improving state mental health hospitals and strategic planning for the mental health system. She commended KDADS for enhancing communication with stakeholders and the renewed focus on staffing deficiencies. The KMHC representative reported that a workgroup, Hospital to Home Project, was created to evaluate needed services for persons with mental illness to avoid hospitalization and to ensure effective post-hospitalization transitions. She noted that concerns still exist:

- Accreditation issues are serious;
- Staffing is a continuing concern. She suggested the Legislature request a report including a breakdown of numbers of patients compared to numbers of direct care staff by level of credentialing over a period of five to ten years;
- Protection of hospitals' budgets could ease concerns related to consistent, quality care in a safe environment;
- Consider mental health hospital issues separately from other institutional programs, specifically the SPTP; and
- Encourage Legislative review and focus on children's inpatient private

residential psychiatric facilities/ programs (PRTF) to promote effective mental health systems and the role of private/public partnerships.

The KMHC representative stated the issue relates to the skill mix currently used to provide care compared to the skill mix five years earlier and ten years earlier. She emphasized that without reports containing the number of overall staff, by skill, compared to inpatient numbers, a thorough analysis of improvement opportunities is limited. Services and treatment provided during an inpatient stay impact the statistics related to readmissions and the costs related to those readmissions.

The KMHC representative noted that the reopening of RMHF has been delayed by six months due to the expanded scope of renovation at that facility and encouraged review of RMHF's budgeted appropriation. An initial plan called for a 36-bed unit but later was expanded to a 50-bed unit.

### **CONCLUSIONS AND RECOMMENDATIONS**

The Committee recommends, with regard to census management at the state hospitals, that the House Appropriations and Senate Ways and Means Committees continue to monitor census management at the state hospitals. The Committee expressed concern over the average daily census at Larned and Osawatomie State Hospitals and requested that a monthly report be provided to the appropriate committees and subcommittees. The Committee also requested that unfilled positions be examined, along with the recruitment and hiring process as a whole. In addition, the Committee requested that the defunding of Community Mental Health Centers be examined.

The Committee recommends, with regard to hospital staffing and salary issues, including pay parity within the state hospital system, that the House Appropriations and the Senate Ways and Means Committees and appropriate subcommittees continue to monitor salary issues at state hospitals.



# Legislative Budget Committee

## STATE CONTRACTING PROCESS

### Conclusions and Recommendations

The Committee made no conclusions or recommendations.

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to receive an overview of state contracts and the state contract process.

### COMMITTEE ACTIVITIES

The Committee received testimony from the Secretary of Administration, Dennis Taylor, regarding the state contracting process. Secretary Taylor stated Kansas uses a competitive bid process for awarding contracts and explained that process.

#### *The competitive bid process works as follows:*

- Agency reviews needs.
- Agency develops specifications to explain needs to vendors.
- Agency talks to its procurement staff.
- Agency procurement staff talk to Central Procurement at the Department of Administration.
- Agency develops bid document or Request for Proposal (RFP).
- Agency submits bid document or RFP to Central Procurement.
- Central Procurement reviews, discusses with agency, suggests revisions, makes revisions, sends bid document or RFP back for revisions.
- Agency finalizes bid document or RFP with Central Procurement. (If an information technology project, agency must file a Kansas Information Technology Office [KITO] plan if the project exceeds the KITO threshold [defined in KSA 2011 Supp. 75-7201].)
- Agency submits an electronic copy of specifications (plus the KITO Plan if required) as part of a purchase requisition to Central Procurement.
- Agency may request Central Procurement establish a Procurement Negotiating Committee (PNC), per KSA 75-37,102. If so, the PNC by statute consists of the Director of Purchases or designee, Secretary of Administration or designee, and Agency Head or designee. (Practically speaking, PNCs generally are dominated by the Agency.)
- Central Procurement posts bid document or RFP. Posting can be for as little as 3 days (although 10 days is mandatory if the bid is over \$50,000 or it is an RFP).
- Notification is generally based on category code to vendors in SMART (Statewide Management Accounting and

Reporting Tool, the State's accounting system) and posting in the *Kansas Register* – little to no mailing.

- While the bid is out, and before the closing date, a pre-bid conference or an exchange of pre-bid questions and answers between vendors and the agency may or may not be conducted.
- Closing date for response to bid or RFP can be flexible. (Generally the more complex, the longer the time allowed for vendors to provide response – may be extended as necessary or desirable.)
- Upon receipt of bids, there is a bid opening. (If an RFP, the technical proposal will be opened first.)
- Review of proposals begins when Technical Proposals only are forwarded to PNC and agency evaluators. (Cost proposals are retained by Central Procurement.)
- Agency provides Central Procurement a complete and detailed technical evaluation of factors including:
  - Response format;
  - Adequacy and completeness of response to proposal;
  - Understanding of the proposal by vendor;
  - Compliance with specifications;
  - Experience in providing like services;
  - Qualifications of staff;
  - Methodology to accomplish tasks;
  - Pros/Cons; and
  - Strengths/Weaknesses.

- Upon receipt of Technical Evaluation, Cost Proposal is released to Agency and PNC for review.
- Agency reviews Cost with Technical Proposal starting with the lowest bid according to cost. (If lowest not selected, the eventual Director report will have to contain an explanation as to why the lowest bid was not selected.)
- Upon concurrence of the PNC, a list of vendors is developed to be issued invitations to negotiations.
- Negotiations are scheduled.
- Agency prepares questions and answers; demonstrations may be requested from vendors.
- Agency may extend Request for Revised Offer (RRO).
- Upon submission of RRO, Agency again reviews cost and technical proposals (may be multiple times).
- Agency submits formal written recommendation for award. Submission is to the PNC including a deadline for documenting the reasons for not awarding to the low-cost vendor should that be the case.
- Signatures on contract.
- Work begins.
- Bid file becomes available for review under Kansas Open Records Act.

***When competitive bids are required:***

- KSA 75-3739(a) says, generally, applies to all contracts.
- Can't sign contracts before bidding.
- Can't split orders to stay under delegated

authority (KSA 2011 Supp. 75-3739(e)).

***Exceptions and Exemptions to the Competitive Bid Process:***

- KSA 2011 Supp. 75-3739 (a) (1): Competition required except "when, in the judgment of the director of purchases, no competition exists." No competition exists when a market analysis demonstrates the absence of other manufacturers/distributors that are price competitive.
- Consortium or Cooperative purchasing agreement with other jurisdictions.
- Compatibility with existing equipment overrides.
- Software (not hardware or new software application).
- Delegated authority request under \$25,000 that complies with KSA 75-3739.
- Best interest of the State.
- Emergency.
  - Threat to public resources, health, welfare, safety;
  - Immediate serious need for supplies, goods and services;
  - Time is of the essence – no long-term emergency

- Inter- or intra-governmental procurements.
- Lab or research supplies.
- Waiver granted to buy off State contract when price is lower on identical product.
- KSA 75-37,130 *et seq.*, the Professional Services Sunshine Act: Agency sole discretion up to \$5,000; \$5,000-\$25,000 – Agency awards but must report; \$25,000 or more must be submitted to Central Procurement.

The Committee also received testimony from Gina Meier-Hummel, Director of Prevention and Protection Services for the Kansas Department for Children and Families (DCF). Director Hummel provided information regarding the DCF RFP for Reintegration, Foster Care, Adoption and Family Preservation contracts.

Six protective factors were considered when awarding contracts, and DCF expects them to be a part of all contracts: Nurturing and Attachment, Knowledge of Parenting and Child Development, Parental Resilience, Social Connections, Concrete Support for Parents, and Social and Emotional Competence of Children. When these factors are present, Director Hummel said, the well-being and health of children and families are improved. The contract bidders for foster care and family preservation were asked to explain how these factors will be implemented in their service proposals.

**CONCLUSIONS AND RECOMMENDATIONS**

The Committee made no conclusions or recommendations on this topic.

# Legislative Budget Committee

## VEHICLE PURCHASES

### Conclusions and Recommendations

The Committee made no conclusions or recommendations.

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Research Department received a request from the House Appropriations Committee for an interim committee studying vehicular replacement. In order to prepare for such an interim topic, the Department has begun to develop a database of vehicle purchases and a survey of state vehicle replacement policies. The Legislative Coordinating Council requested the Legislative Budget Committee review vehicle purchases made by special revenue funded agencies to determine whether purchases are necessary and the vehicle appropriate to accomplish the goals for which the agency was established.

### COMMITTEE ACTIVITIES

The Legislative Budget Committee received a memorandum on this issue. Highlights of that document are given below.

During the 2012 Legislative Session, state agencies submitted FY 2013 enhancement requests for replacement of 202 vehicles for \$2.2 million from the State General Fund and \$4.6 million from all funds. The majority of the State General Fund request was for the Department of Corrections System with 62 vehicles, at a State General Fund cost of \$1.4 million. The Legislature approved the replacement of 66 vehicles with \$53,764 from the State General Fund and \$1.4 million from all funds.

For comparison, in FY 2012, the State of Kansas, excluding the Highway Patrol, actually purchased 350 vehicles at a cost of \$976,578 to the State General Fund and \$6,763,755 from all funds. During FY 2012, 63 of the 350 vehicles purchased were funded at least in part by the State General Fund. The average mileage at the time of replacement was 155,328.<sup>1</sup> The State replaced 172 trucks and 91 sedans as well as various vans and sport utility vehicles (SUVs).

Twenty-seven states<sup>2</sup> have responded to the "State Vehicle Replacement Guidelines Information Request" mentioned in the first paragraph of this report. The questions and responses include these:

- Does your state require legislative approval of passenger vehicle replacement?
  - 26.9 percent of respondents require legislative approval of vehicular purchases. The remaining 73.1 percent have legislative approval of budgets; however, vehicular purchase approval is handled by the executive

<sup>1</sup> The average includes all vehicles within two standard deviations of the arithmetic mean. This excludes most vehicles which were replaced due to accident or had extremely high mileage due to infrequent use over a long period of time.

<sup>2</sup> AK, AR, AZ, CA, CO, CT, GA, ID, IL, KS, LA, MD, MO, MS, NC, ND, NE, NJ, NM, OH, OK, RI, SC, SD, WA, WI, WV.



branch.

- Does your state maintain a State Motor Vehicle Pool?
  - 69.2 percent of respondents maintain a motor vehicle pool. The remaining 30.8 percent no longer maintain a vehicle pool. Kansas began dissolving its own motor vehicle pool starting in FY 2003.
- Does your state have a minimum mileage threshold for vehicle replacement?
  - 18 of the 27 states have a minimum threshold for vehicle replacement. The average replacement threshold is 101,667 miles. The lowest threshold was 75,000 miles and the highest was 125,000 miles.
- Are there any state policies that encourage the purchase of electric or other alternative energy vehicles?
  - 64.5 percent of states that responded have policies encouraging the purchase of electric or alternative fuel vehicles.

- Does your state use a private insurer or does your state self-insure for liability coverage?
  - All responding states are self-insured for liability coverage.
- What is the reimbursement rate for state employees using their own vehicles for work-related business?
  - Most of the states responding use the federal reimbursement rate of \$0.55 per mile<sup>3</sup>; alternatives include reimbursement rates as low as \$0.20 per mile, a set percentage below the federal rate between \$0.04 and \$0.03 per mile, or varying rates depending on whether a rental or motor pool vehicle is available.

## CONCLUSIONS AND RECOMMENDATIONS

The Committee has no conclusions or recommendations at this time.

- ³ Of the 27 states responding to the survey, 12 use the Federal Reimbursement Rate, including Kansas.

# Legislative Budget Committee

## LOCAL ENVIRONMENTAL PROTECTION PROGRAM

### Conclusions and Recommendations

The Legislative Budget Committee finds the Local Environmental Protection Program was intended to decrease environmental impacts in rural areas, there is no evidence of its being set up as a study program, and the State has delegated funding for this program to local governments.

The Committee recommends the appropriate agriculture and natural resources committees review the Local Environmental Protection Program and evaluate the impact of discontinuing the program on local communities, particularly on rural communities.

The Committee approved the introduction of legislation to appropriate \$1 million, from the State General Fund, for the Local Environmental Protection Program in FY 2014.

**Proposed Legislation:** The Committee voted to introduce legislation to appropriate \$1 million, from the State General Fund, for the Local Environmental Protection Program in FY 2014.

### BACKGROUND

The Local Environmental Protection Program (LEPP) was statutorily created by the 1989 Legislature and began January 1, 1990. The LEPP statute states the State of Kansas shall provide state environmental protection grants to local health departments or other local entities for the purpose of developing and implementing environmental protection plans and programs. Funding for the program historically has been entirely from the State Water Plan Fund, except for FY 2012 when it was funded through the State General Fund. A total of \$34.2 million has been paid to counties through grants since the program began in 1990. *Volume I* of the *FY 2012 Governor's Budget Report* stated that the LEPP was established with State Water Plan funding in 1989 to provide funding to counties to develop environmental protection plans to meet local needs and that, once those plans were adopted, the funding was to be discontinued. The Governor recommended funding for the program be eliminated in FY 2012. The Legislature subsequently added \$750,000 for LEPP for FY 2012. The Governor again recommended that

funding for LEPP be eliminated for FY 2013 and the Legislature added \$800,000 for the program for FY 2013. The Governor subsequently vetoed the \$800,000 funding, leaving the program without any funding for FY 2013.

### COMMITTEE ACTIVITIES

Abigail Boudewyns, Kansas Legislative Research Department, distributed a handout which provided background information on the LEPP.

Aaron Dunkel, Deputy Secretary, Kansas Department of Health and Environment (KDHE), provided a historical overview of LEPP and the transition plan, which he stated had been shared with local communities as a result of the LEPP funding being discontinued. Program goals were reviewed and transition planning was drafted in January 2012, in anticipation of the loss of LEPP funding. Mr. Dunkel stated that, while funding for LEPP no longer exists, the State has encouraged local counties to maintain the programs and that KDHE intends to continue to offer technical

support to counties regarding on-site wastewater and private well issues.

Committee members expressed concern over consequences should local communities abandon their current LEPP programs, such as the contamination of public wells and drinking water. Mike Tate, Chief of the Bureau of Water, KDHE, described additional consequences such as septic tank failures, which could cause groundwater pollution and well pollution. He noted that the State does not have the staffing to follow up on each issue should local communities discontinue their programs, potentially leading to litigation and federal government intervention.

Nathan Eberline, Associate Legislative Director and Legal Counsel, Kansas Association of Counties, testified concerning the impact on local governments with the elimination of LEPP funding. He indicated that elimination of the LEPP has a two-fold effect: 1) it reduces the incentive for county action; and 2) it invites action by the federal government (through the Environmental Protection Agency) to mandate improved standards. He encouraged consideration of a return of LEPP funding and noted the program provides a reasonable investment and long-term solutions to the public issue of safe and healthy water standards.

Darcy Basye, Environmental Health Coordinator, Reno County Health Department, provided Committee members with information concerning the LEPP in Reno County and the impact of the funding elimination, which has resulted in significant fee increases for services.

Richard Ziesenis, Director of Environmental Health, Lawrence/Douglas County Health Department, provided technical testimony related to the expertise required for local governments to administer local environmental protection programs. He described inspection processes to ensure appropriate installation of wastewater systems and wells, water sample testing, and procedures used to ensure septic waste is treated and disposed of properly. Mr. Ziesenis also indicated that water well drillers' reports are sent to the State, but that the septic report is not.

Dan Partridge, Director of the Lawrence/Douglas County Health Department, responded to several questions related to the county's fee structure. He stated that approximately 43.0 percent of the cost to enforce the sanitary code came from LEPP grant funding, with 39.0 percent coming from fees, and the remainder from local taxes. To cover the elimination of the LEPP funding, the county would have had to raise fees 300.0 percent. The county ultimately raised fees 50.0 percent and appropriated an additional \$30,000 to cover the difference.

Scott Selee, Southwest Kansas Local Environmental Planning Group, described his group as nine counties that collaborated to provide environmental protection services in the region. He discussed actions taken to continue providing services given the elimination of LEPP funding, the "cost share" program for repair of failing septic systems, and the necessity to extend protection of the water supply. Mr. Selee stressed the point that county sanitarians are advocates for water quality and minimum state standards; he encouraged restoration of LEPP funding.

In response to additional questions, Mr. Selee stated that eight of the nine counties originally in the Southwest Kansas Local Environmental Planning Group have chosen to continue participating in the program and each county pays \$4,000. Grant County left the Planning Group and has incorporated environmental protection duties into those of a city employee. He also noted that there was no license fee prior to 2009 but, in anticipation of a decrease in LEPP funding, the permit fee is now \$250.

Mr. Tate and Mr. Dunkel of KDHE answered additional questions, stating the State does have a minimum septic tank state standard but, with current resources, KDHE could not enforce or inspect septic tanks to ensure they meet the minimum standard; KDHE does take action when specific problems are reported. Mr. Dunkel also indicated the primary intent of LEPP was to fund the development of county plans. Mr. Tate agreed that the original intent was not a study program. The Water Authority's initial plan was the development and implementation of county codes. Once codes were implemented, counties were encouraged to enforce and to self-fund these

programs. Mr. Tate informed those attending that state law authorized documentation of water wells, but that there is no similar authority related to documentation of septic systems. A copy of the original Kansas Water Plan and KDHE's Transition Plan was provided.

as a study program, and the State has delegated funding for this program to local governments.

### CONCLUSIONS AND RECOMMENDATIONS

The Legislative Budget Committee finds the Local Environmental Protection Program was intended to decrease environmental impacts in rural areas, there is no evidence of its being set up

The Committee recommends the appropriate agriculture and natural resources committees review the Local Environmental Protection Program and evaluate the impact of discontinuing the program on local communities, particularly on rural communities.

The Committee voted to introduce legislation to appropriate \$1 million, from the State General Fund, for the Local Environmental Protection Program in FY 2014.



# Legislative Budget Committee

## DIVISION OF VEHICLES UPDATE

### Conclusions and Recommendations

The Legislative Budget Committee commends Kayla Keith for her work and presenting her ideas to the Committee for reducing wait times at county vehicle registration offices through the use of a call-ahead system.

The Legislative Budget Committee recommends the Director of Vehicles and the Department of Revenue work with Ms. Keith to create a presentation for the House and Senate Committees on Transportation, the House General Government Budget Committee and the Senate Ways and Means Subcommittee on the Transportation Budget. Furthermore, the Legislative Budget Committee recommends that the presentation reflect that the training conducted on the Division of Vehicles Modernization Project technology transition was executed improperly. Additionally, the Committee notes that a Legislative Post Audit is tentatively scheduled for April 2013.

The Legislative Budget Committee recommends that the ongoing maintenance needs of the Division of Vehicles Modernization Project be further examined. In particular, the Committee would like to examine the role of the state Chief Information Technology Officer and the vendor concerning sources of programming to provide a clear understanding of maintenance responsibility and accountability.

The Legislative Budget Committee believes the Division of Vehicles Modernization Project, which has transitioned work from the state level to the county level, represents an unfunded mandate.

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to review the Department of Revenue's transition from the old motor vehicles registration system to a new information technology system, known as the Division of Vehicles Modernization Project. Additionally, the Legislative Coordinating Council directed the Legislative Budget Committee to review the impact of the transition from the old vehicle registration system to the Division of Vehicles Modernization Project on the counties.

The Division of Vehicles Modernization Project, approved by the 2008 Legislature, was

designed to be a multi-year project to integrate the three vehicle registration systems into one system. Under the project, the Vehicle Information Processing System (VIPS), the Kansas Drivers License System (KDLS), and the Kansas Vehicle Inventory System (KVIS) are being merged into one system. Under the original legislation, the project was funded through a \$4 surcharge on vehicle registration.

### COMMITTEE ACTIVITIES

At the Committee's September 2012 meeting, the Secretary of the Kansas Department of

Revenue (KDOR) provided an update on the Division of Vehicles Modernization Project. Additionally, he provided a brief history of the project. The Secretary indicated that in 2007 county treasurers in Kansas recognized that the current vehicle system was among the oldest in the United States, and the system was becoming increasingly difficult to maintain and enhance. Most information technology professionals could no longer service the existing system because it was so outdated. As a result of the aging system the Legislature approved the new system in 2008; 3M was chosen as the vendor for the modernization project.

Secretary Jordan highlighted several features of the new system:

- Provide data with uniformity and integrity and eliminate the "exception to the rule";
- Allow print-on-demand decals that make it easier for county treasurer and state offices to manage inventory with significantly less handling;
- Eliminate manual, paper-driven procedures;
- Reduce fraud and theft;
- Replace the dated, batch-process based system with a system that provides accurate information when users and customers need it; and
- Provide law enforcement the ability to run partial plates for vehicle identification purposes.

The Secretary noted that at the time of "go-live" multiple technical problems resulted in statewide breakdowns. The Secretary commented that KDOR recognized the hardship placed on counties and individuals and began working with stakeholders to improve the process. He noted that in addition to the technical problems that existed, system users also were getting acclimated to a new system.

In an effort to ameliorate system shortcomings, the Department has taken several steps, including these:

- Provided and funded temporary assistance at county offices;
- Waived the convenience fee for on-line renewals (in August); and
- Funded, subject to availability, overtime incurred by counties during the initial system implementation phase – as of September 2012, \$561,000, all from Kansas Division of Vehicles Operating Fund.

Along with working with stakeholders, the Secretary indicated that KDOR has worked with vendor 3M to resolve the technical issues relating to the modernization project. 3M will not be paid \$2.0 million that remains on its current contract until all technical issues are resolved.

Finally, in an effort to build on the progress achieved, the Secretary announced the Governor would establish a voluntary Division of Vehicles Modernization Project Task Force with representation from counties, law enforcement, car dealers, bankers, and counties. The appointments will be made by the Governor, and the purpose of the task force will be to examine vehicle systems and procedures around the country and make recommendations for how to develop a vehicle system for Kansas that becomes a national model.

Secretary Jordan noted June 2012 vehicle renewal transactions were up 10.6 percent and title and registration transactions were up 15.1 percent compared to June 2011. Also, more than 327,100 registration renewals and titles were processed in July 2012, compared to about 289,600 in July 2011. Finally, the Secretary noted in August 2012, more than 278,000 renewals were processed, and more than 61,000 titles were completed.

Also, the Secretary noted that at the end of August 2012 more than 1.2 million renewals and titles had been processed successfully in the new system. The Secretary indicated KDOR is committed to the new system and staff have been working day and night at the state level to address

as quickly as possible any transition system issue with 3M or a county partner.

A representative of the Unified Government of Wyandotte County provided information to the members of the Legislative Budget Committee concerning his county's experience with the implementation of the Division of Vehicles Modernization Project.

According to Mike Taylor, Public Relations Director, the transition to the new program was difficult for Wyandotte County residents and expensive for the Unified Government. Mr. Taylor testified the Wyandotte County Treasurer's Office incurred 793 hours of overtime at a cost of \$21,600 and 662 hours compensation time were awarded to staff as a result of the county transitioning to the new system.

Mr. Taylor also spoke regarding the costs absorbed by the county during the summer months when long lines formed as a result of computer problems and maintenance crews had to set up tents, chairs, and fans at the courthouse annex to accommodate long lines and wait times. Finally, he indicated four new employees were added in the county treasurer's office, resulting in an additional \$200,000 of expenditures for the Unified Government.

A representative of Johnson County spoke to the Legislative Budget Committee about the impact of the Division of Vehicles Modernization Project on Johnson County. Thomas Franzen, Johnson County Treasurer, said the new system presented challenges for Johnson County and those challenges include:

- Longer transaction processing times;
- More responsibilities transferred to the county; and
- Clean-up of data records that did not migrate correctly or at all, which requires new data capture.

Mr. Franzen told the Committee that during May, June, and most of July, the motor vehicle offices were forced to stop accepting new customers early each day once the office reached its processing capacity which meant turning both

title and renewal customers away. Additionally, customer wait times during May, June, July, and August increased significantly from an average wait time of approximately 50 minutes for the same months in 2011 to 3 hours and 33 minutes in May, 2 hours and 46 minutes in June, 2 hours and 34 minutes July, and 1 hour and 14 minutes in August.

The Legislative Budget Committee also was told of the significant budget impact that transitioning from the old system to the new Division of Vehicles Modernization Project had on the Treasurer's budget. Johnson County had to backfill six front line positions that were vacated as part of a retirement incentive program in 2011 and the office also added eight positions to meet the current demand. According to Mr. Franzen, the costs will approach \$700,000. He also suggested the Legislature increase the County Service Fee from \$5 to \$7 per transaction (KSA 8-145d).

John Waltner, Harvey County Administrator, also spoke to the Committee about his concerns regarding the technical issues with the new system. He cited several examples of the system crashing, freezing, or being interrupted. Additionally, Mr. Waltner spoke about extreme delays from the Department of Revenue's Information Technology Resource Center when technical assistance is requested. Secretary Jordan indicated he would follow-up with Mr. Waltner.

Written testimony was provided by Jim Rice, Seward County Commissioner.

At its November meeting, the Legislative Budget Committee heard a presentation from Kayla Keith, a student from Valley Center High School in Valley Center, Kansas. Ms. Keith's presentation "Be Part of the Solution, Not the Problem" sought to address the wait times and long lines at the motor vehicles offices throughout the state through the use of a call-ahead system. According to Ms. Keith, such systems use simple and readily available technology such as computers and mobile phones, and she cited the company Great Clips as an example of a company that uses the call-ahead technology to allow customers to check-in or "queue."

Committee members praised Ms. Keith for her ingenuity and encourage her to work with Donna Shelite, Director of Vehicles for the Kansas Department of Revenue.

technology transition was executed improperly. Additionally, the Committee notes that a Legislative Post Audit is tentatively scheduled for April 2013.

### CONCLUSIONS AND RECOMMENDATIONS

The Legislative Budget Committee commends Ms. Keith for her work and presenting her ideas to the Committee on reducing wait times at county vehicle registration offices through the use of a call-ahead system.

The Legislative Budget Committee recommends that the ongoing maintenance needs of the Division of Vehicles Modernization Project be further examined. In particular, the Committee would like to examine the role of the state Chief Information Technology Officer and the vendor concerning sources of programming to provide a clear understanding of maintenance responsibility and accountability.

The Legislative Budget Committee recommends the Director of Vehicles and the Department of Revenue work with Ms. Keith to create a presentation for the House and Senate Committees on Transportation, the House General Government Budget Committee and the Senate Ways and Means Subcommittee on the Transportation Budget. Furthermore, the Legislative Budget Committee recommends that the presentation reflect that the training conducted on the Division of Vehicles Modernization Project

The Legislative Budget Committee believes the Division of Vehicles Modernization Project, which has transitioned work from the state level to the county level, represents an unfunded mandate.