

**Problem Gambling and Addictions Grant Fund Expenditures**

	<b>FY 2012 Actuals</b>	<b>FY 2013 Final Approved</b>	<b>Gov Rec FY 2013</b>	<b>Gov Rec FY 2014</b>	<b>Gov Rec FY 2015</b>
Beginning Balance	\$ 142,514	\$ 923,219	\$ 923,219	\$ -	\$ -
Revenues*	3,927,834	8,052,000	7,282,000	7,818,000	7,818,000
Transfer to State General Fund	(900,000)	-	-	-	-
PIHP (Medicaid) expenditures	(1,450,000)	(6,450,000)	(6,450,000)	(6,450,000)	(6,450,000)
Problem Gambling Services	(797,129)	(740,000)	(805,219)	(868,000)	(868,000)
Transfer to Governor's Office**	-	(450,000)	(450,000)	-	-
Transfer to Community Corrections***	-	(500,000)	(500,000)	(500,000)	(500,000)
KDADS AAPS Grants****	-	(1,000,000)	-	-	-
Ending Balance	<u>\$ 923,219</u>	<u>\$ (164,781) ^</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

\* Includes \$80,000 annual transfer in from the State Gaming Revenue Fund pursuant to KSA 79-4806 and \$20,000 transfer from State Bingo Regulation Fund.

\*\* For expenditures related to domestic violence programs and children's advocacy centers.

\*\*\* For expenditures related to Community Corrections drug treatment program to increase to the FY 2011 level of \$2.0 million.

\*\*\*\* Replace State General Fund moneys (from the Alcohol and Drug Abuses Services Account)

^ Includes a reduction of \$770,000 in FY 2013 estimated revenue due to reduced Fall Consensus Estimates for gaming revenues.

# Legislative Budget Committee

## REVIEW "OFF BUDGET" EXPENDITURES AND STATE GENERAL FUND TRANSFERS

### Conclusions and Recommendations

The Committee encourages ongoing monitoring of off budget items by the House Appropriations Committee and by the Senate Ways and Means Committee as a means to maintain transparency concerning the State's accounting practices and fiscal policies.

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to review the "off budget" expenditures and State General Fund transfers. Legislative Research Department lead a discussion with committee members on budget items which contain reportable and non-reportable expenditures. Reportable expenditures are treated as expenditures in the budget process. Non-reportable expenditures are excluded from the budget and include such items as expenditures for services provided by the state printing plant, Department of Administration's maintenance of state-owned buildings, and state employee health care expenditures. Expenditures are originally included in an agency's operating budget that made the first expenditure but taken off budget for accounting purposes so as not to double count the second expenditure.

One of the examples provided was for a state agency's rent. The state agency will include in its budget the rent payment to the Department of Administration. The Department of Administration will provide the space, cleaning, maintenance, and utilities, among other services, for that rent. If the Department of Administration were to include these expenditures in the state budget, it would be spending the same dollar twice and inflate the state budget. One expenditure would occur when the state agency pays the rent, and the second expenditure would occur when the Department of Administration pays for the utilities

and salaries for the maintenance and cleaning crews.

Another non-reportable expenditure would include the expenditure of bond proceeds. The expenditure of these funds would be included in the reportable budget when the bond payments are made. Other items are removed for policy reasons. The Kansas Public Employees Retirement System is the largest example of this type of non-reportable expenditure.

The conferee responded to the Committees question with the following information:

- The State Water Plan demand transfer of \$6 million was intended to be a demand transfer from the State General Fund; it was changed to a revenue transfer (non-State General Fund expenditure). However, it has not been made for several years. In order to remove the item from the list of required transfers, a revision to statute is required.
- The Kansas Department of Transportation (KDOT) transfer to the Highway Patrol would show as a revenue transfer, a reduction in revenue to the State Highway Fund with expenditures showing in the Highway Patrol's budget.

- There are other smaller, similar transfers as the KDOT transfer to Highway Patrol that occur as transfers from universities to state agencies as well as Highway Patrol Homeland Security transfers to other agencies.

## CONCLUSIONS AND RECOMMENDATIONS

The Committee encourages ongoing monitoring of off budget items by the House Appropriations Committee and by the Senate Ways and Means Committee as a means to maintain transparency concerning the State's accounting practices and fiscal policies.

# Legislative Budget Committee

## STATE GENERAL FUND

### Conclusions and Recommendations

- With regard to the Judicial Branch e-filing issue, the Committee recommends funding be appropriated for the e-filing system. The e-filing system could actually save a great deal of money in the future.
- Concerning the Affordable Airfares program, the Committee recommends continued air service project updates, particularly from Topeka's program, during the summer of 2013.

*Proposed Legislation:* None.

### BACKGROUND

KSA 46-128 (b) provides: "During and between sessions of the legislature the legislative budget committee shall compile fiscal information and shall make a continuous study of the state budget, revenues and expenditures. The legislative budget committee shall also ascertain facts and make recommendations to the legislature and to the houses thereof concerning the state budget, the revenues and expenditures of the state, and of the organization and functions of the state, its departments, subdivisions and agencies with a view of reducing the cost of state government and securing greater efficiency and economy." In addition, KSA 73-1236 requires the Legislative Budget Committee to review the Veterans Claim Assistance Program, and KSA 74-50,150 requires the Committee to review activities related to the Affordable Airfares Program.

### COMMITTEE ACTIVITIES

At its September 2012 meeting, the Committee conducted its usual monitoring of State General Fund finances.

At its October 2012 meeting, the Committee again conducted its usual monitoring of State General Fund finances. In addition, the Committee

received information on recent changes in city, county, and school district tax mill levies; impacts of state tax reductions; an update on the Main Street Program; and an update on the Creative Arts Industries Council.

During the November 2012 meeting, the Committee conducted its usual monitoring of State General Fund finances, including the November 2012 State General Fund estimates of the Consensus Revenue Estimating Group. That review also included information on the November 2012 estimates for school finance and for human services caseloads. Updates were also provided for special appropriated funds and for Kansas personal income. In addition, the Committee received further updates on the Main Street Program, and updates on: oil and gas severance tax; the Judicial Branch; the Affordable Airfares Program; and the Veterans Claims Assistance Program.

### State General Fund Finances

At the September meeting, staff of the Legislative Research Department (KLRD) reported that State General Fund Receipts (July and August) were \$13.7 million or 1.7 percent above the estimate. The component of total SGF receipts from taxes only was \$10.5 million or 1.2 percent below the estimate. Staff noted that the new income tax legislation becomes effective

January 1, 2013; therefore, receipts discussed represent those receipts under current law. Staff indicated that a main concern was the shortfall of year-to-date individual income tax receipts, which was approximately \$19 million below expectations. Staff also noted that receipts are adjusted for fund transfers (school districts, various agencies, Department of Administration, Children's Fund agencies). Expected transfers were \$91 million, and actual transfers were \$69 million due to the reduction in the Kansas Bioscience Authority transfer in August 2012. The consensus estimates projected the \$35 million transfer to the Kansas Bioscience Authority to be fully paid in August. Historically, this payment has been made in August and November. A total of \$12.3 million was transferred in August, with the remainder scheduled to be transferred in November 2012.

At the October meeting, KLRD staff reviewed total State General Fund receipts for the first quarter of FY 2013 (July through September), which were \$41.2 million or 2.9 percent above the estimate. The portion from taxes only was \$16.0 million or 1.1 percent above the estimate. Corporation income tax receipts reflected approximately \$11.0 million transferred toward corporation income tax liability at the request of taxpayers who had mistakenly paid corporation franchise taxes without realizing the latter tax had been repealed.

KLRD staff also provided its yearly analysis of Kansas' personal and disposable income based on data for calendar year 2011. The review included historical looks at personal income and disposable personal income in Kansas, and comparisons with other states.

At the November meeting, staff of the Legislative Research Department, provided information on the FY 2013 revised and FY 2014 State General Fund receipt estimates established by the Consensus Revenue Estimating Group. The FY 2013 revised estimate is a decrease of \$5.2 million from the April 2012 estimate. For FY 2014, the estimate reflects the full implementation of tax law passed by the 2012 Legislature. The FY 2014 estimate is \$705 million below the newly revised FY 2013 estimate. The estimated impact of the income tax receipt reductions is an \$847.8 million deficit in FY 2014, which points to growth

elsewhere in receipts; the projected decline for FY 2013 is \$249.2 million. Staff covered other aspects of the Consensus Revenue Estimate, including Personal Income; Employment; Agriculture; Oil and Gas; the Inflation Rate; and Interest Rates. Staff noted the growth of the base in individual income tax receipts of 5.5 percent and the impact on sales tax receipts, barring legislative action to keep the rate from lowering from 6.3 to 5.7 percent. The estimated sales tax is a loss of \$262 million. A final component of the estimates is net transfers. The net transfers estimate contains a State General Fund transfer of \$27 million to the Local Ad Valorem Tax Reduction Fund, which is scheduled to occur in FY 2014.

Staff presented a State General Fund Profile, which showed an estimated ending balance of \$471.7 million for FY 2013. The profile is adjusted to reflect the \$27.2 million in shifts, reductions in Human Services Caseloads, and the \$21.3 million for the Base State Aid Per Pupil (BSAPP) Education Caseload. FY 2014 expenditures include \$14.9 million for school finance and \$50 million for KPERS increases. To bring an ending balance to zero would require \$302.1 million in expenditure or revenue adjustments.

Staff also provided the Committee with information, by agency, on expenditures shifted from FY 2012 to FY 2013 as a result of shifting or underspending. The total for shifts is \$27.2 million, which is now authorized to be spent in FY 2013. In addition, \$1.0 million was underspent, with a bulk of that (\$858,297) in the Department of Corrections.

Staff also provided information on appropriated special revenue funds, including the Expanded Lottery Act Revenue Fund, the Children's Initiatives Fund, the State Water Plan Fund and the Economic Development Initiatives Fund.

### **Human Services Caseload Estimates**

Staff provided information on human services caseload estimates for FY 2013 and FY 2014. Caseload estimates include expenditures for nursing facilities, regular medical assistance,

Temporary Assistance to Families (TAF), the reintegration and foster care contracts, Psychiatric Residential Treatment Facilities (PRTFs) and out-of-home placements. The combined estimate for FY 2013 and 2014 is an all funds decrease of \$46.4 million and a State General Fund decrease of \$18.8 million. For FY 2013 the decrease is largely due to reduced estimates for regular medical expenditures and Nursing Facilities expenditures, as well as a decrease in TAF. A total of \$45.9 million (\$21.5 million from the State General Fund) is decreased as a result of anticipated savings from KanCare. The nursing facilities estimate declines by \$9.2 million, due to the reduction in the number of people served and a slight cost reduction. For FY 2014 the decrease is primarily attributable to the TAF decrease. Recent changes in the state's policies have resulted in a decline in the TAF population. KanCare estimated savings would curb growth in Medicaid spending, with regular medical expenditures growing at \$27.3 million, including \$5.9 million from the State General Fund.

### **School Finance Estimates**

Staff reviewed the changes in school finance estimates, based on the November 2012 estimates. A total of \$21.3 million from the State General Fund is necessary to maintain Base State Aid Per Pupil (BSAPP) for FY 2013. Should funding not be appropriated, the BSAPP would drop to \$3,807 for the 2012-13 school year. The additional funding is needed as a result of lower than anticipated property valuations, reduction in School District Finance Fund receipts, and an increase in weighted full-time equivalent (FTE) enrollment. The consensus group also reported that approximately \$91.3 million from the State General Fund would be needed for FY 2013 Supplemental State Aid to stay at the flat appropriation generally appropriated each fiscal year since FY 2010. Without it, districts are estimated to receive a proration of 78.8 percent. Special Education's need for FY 2013 is estimated to increase by approximately \$47.8 million, due to a base salary increase and additional teachers and paraprofessionals hired. If the Special Education amount is not funded, then the percentage of costs drops from 92 percent to 88 percent. The KPERS - School requirement is estimated to increase by \$4.8 million for FY 2013 to cover higher than

estimated pay increases; the group also estimated \$40.5 million for FY 2014 KPERS – School.

### **Local Units of Government Mill Levy Changes**

At the October meeting, staff of the Legislative Research presented information on changes in city, county, and school tax mill levies in recent years, which have increased as a result of reductions in state aid to local taxing subdivisions. The presentation included local tax structure, of which property and vehicle taxes account for 82 percent of revenue; local sales tax growth; and policy questions.

### **Impact of State Income Tax Reductions**

Also at the October meeting, the Executive Director of the Kansas Economic Progress Council provided an overview of the organization's Kansas 2012 Income Tax Legislation report. He reviewed the tax reduction bill, the cost of the income tax reduction, public reactions to the legislation, technical problems which could require administrative rules and regulations clarification, and other states' income tax structure. He also presented information concerning government employment in Kansas and how those rates compare to other states.

The Executive Director said there is a strong argument that the state's economic problems are likely the result of two economic downturns rather than Kansas' income tax rate. He indicated there are three issues that require resolution before economic expansion can begin in Kansas: a technical issue involving the determination of tax basis; the uncertainty of the implementation of the federal Affordable Care Act (ACA) which hampers businesses' ability to plan; and the uncertainty of whether or not existing tax cuts will be preserved.

### **Main Street Program**

The Committee heard information on the Main Street Program at the Department of Commerce at the October and November meetings. The Secretary of the Kansas Department of Commerce testified in October that, due to recent restructuring in September 2012, 18 Department

of Commerce positions were eliminated. Some programs and divisions were moved or downsized, and the Kansas Main Street Program's funding was eliminated. The Secretary explained the rationale for the decisions and emphasized that the Department of Commerce is not abandoning its commitment to Kansas rural communities. He encouraged the 25 currently operating Main Street programs to continue and noted that 90 percent of their funding comes through local revenue sources; the Department of Commerce agreed to honor the anticipated funding through 2012. The State has also decided to allow revolving loan funds, through the "Incentives without Walls" program, to continue to be used by the Main Street cities.

At the November meeting, a representative of the Kansas Department of Commerce provided further testimony relating to the Kansas Main Street Program. He reported that on October 15, 2012, the Department of Commerce announced a plan to transition the Kansas Main Street Program to local control. He also provided a summary of the impact of the Incentive Without Walls (IWW) funding that has been provided to communities since 1996, and the number of new jobs created (by community) attributed to the Main Street Program. The IWW has been a significant component of the Main Street Program, and the Department of Commerce has agreed to allow the current IWW funding, in use by communities, to continue to be used as long as it is for economic development and downtown revitalization efforts

### **Creative Arts Industries Commission**

The Director of the Kansas Creative Arts Industries Commission (KCAIC) testified concerning the goal to further economic development through promotion and expansion of creative industries in Kansas. He discussed the Commission's work, which included: integrating and merging the Kansas Arts Commission and Kansas Film Commission assets; consulting with local, regional, and national partners including the National Endowment for the Arts (NEA); coordinating the former Arts Commission's efforts to sell arts license plates with the Department of Revenue; merging communication avenues which serve creative businesses and organizations across all disciplines; continuing Kansas Film

Commission logistical support services; and submitting an initial application for the NEA partnership grant.

It is anticipated the Strategic Plan will be finalized in January 2013; at which time grant applications for funding to local arts agencies and groups would be considered by the Commission. The Commission's appropriation for FY 2013 is \$699,467, with administrative costs estimated at \$150,000. The Committee discussed the fact that none of the budgeted appropriation has been distributed to local arts agencies or groups. In addition, no distributions are planned until the Strategic Plan is finalized. Committee members inquired about the Commission's refusal to release already appropriated funding. The Director indicated that the Creative Arts Industries Commission's new focus is job creation and economic development and that the Strategic Plan is an integral component to determine grant funding eligibility that meets the Commission's new mission.

### **Oil and Gas Severance Tax**

At the November meeting, a representative of the Kansas Department of Revenue presented information concerning the decline in severance tax collections, which is a result of a softening in prices. He reviewed mineral tax distributions by fund, as well as mineral tax collections by product. The severance tax receipts are anticipated to grow for FY 2014 (up to \$137.4 million total, with gas increasing from \$21.2 million to \$33.4 million and oil increasing from \$78.9 million to \$104.0 million). He noted an increase in speculative activity, which will show in revenues as taxes are receipted. When asked whether drilling permits are tracked and whether the oil production increase is a result of the number of barrels produced or the price per barrel, he stated the Kansas Corporation Commission website shows intent-to-drill permits by county location.

### **Judicial Branch Update**

The Budget and Fiscal Officer of the Office of Judicial Administration presented testimony concerning three topics: the e-filing project; clerks' fees revenue; and the FY 2014 base budget and enhancement requests.

Information technology staff within the Judicial Branch have been working with vendors to create the links between the various systems required to develop a functional e-filing system. Training of the initial system users is underway; the system is scheduled for installation in selected "pilot" courts in December 2012. The FY 2014 budget request includes \$1.1 million for e-filing installations in 14 of the remaining 28 judicial districts. The maintenance costs for e-filing is \$306,000 yearly. Considerable discussion was held regarding the "home-grown" e-filing system created and utilized by Johnson County. The representative of the Judicial Branch stated that to expand the Johnson County system, the Judicial Branch would have had to employ additional information technology analysts to provide technical support. She assured committee members that once the State's e-filing system is operational, the Johnson County e-filing system would seamlessly interface with the State's e-filing system.

Clerks' fees have steadily declined more than 5.0 percent from FY 2010 to FY 2011 and more than 6 percent from FY 2011 to FY 2012. Typically 35.0 percent of clerks' fees revenue is received in the first four month of the year. Applying that percentage, the annualized revenue in FY 2013 is anticipated to be 9.0 percent lower than FY 2012. The reduction in revenue affects several funds and programs, including: Access to Justice Fund, Alternative Dispute Resolution Fund, the Education Fund, the Technology Fund, the Permanent Families Account in the Family, and Children Investment Fund. The FY 2014 budget excluded surcharge revenue because statutory authority for the surcharge sunsets at the end of FY 2013.

The FY 2014 SGF budget request is \$17.3 million more than FY 2013. Of that amount, \$11.1 million is to offset the elimination of surcharge revenue. The Judicial Branch has also requested \$13.6 million in enhancements, including \$6.1 million for the weighted caseload study results (22 additional judges; 58 additional clerks). There is also \$4 million included for a 5.25 percent undermarket adjustment. Judicial Branch employees were not included in the undermarket pay increase authorized by the 2012 Legislature.

## **Affordable Airfares Program**

A representative of the Kansas Department of Commerce updated the Committee on the Affordable Airfares Program and Air Service Support Funding for Manhattan and Topeka. The Commerce Department and the Regional Economic Area Partnership (REAP) have come to agreement on the terms for an independent, third party review of the Fair Fares Program in July 2012. The cost of the study will be borne by REAP; a preliminary report will be submitted no later than January 15, 2013.

The Chair of the REAP Legislative Committee provided testimony concerning REAP's actions, as administrator of the Kansas Affordable Airfares Program, and information on the performance and effectiveness of the program. He noted that the \$5.0 million appropriation in 2012 will be split between Sedgwick County (\$4.75 million) and Garden City (\$250,000). The Sedgwick County allotment is to: address all statutory criteria for the allocation of funding including the priorities of maintaining affordable airfares to eastern and Western destinations; renew a contract with AirTran for 12 months beginning July 1, 2012; provide for the Frontier revenue guarantee agreement to continue through June 2013; and provide for the local match of 25 percent.

The President and Director of Airports of the Metropolitan Topeka Airport Authority (MTAA) provided an update regarding the Department of Commerce's grant to MTAA for the promotion of commercial air service. He described the organization's short- and long-term goals. He stated MTAA is finalizing an effort to obtain letters of support from area businesses to demonstrate the community's interest in air service. He also reported representatives from MTAA had met with two airlines to discuss Topeka opportunities; an agreement with an airline is anticipated by June 2013.

The Assistant City Manager of the City of Manhattan, Kansas, testified concerning Manhattan's success with regional jet service. She provided a historical timeline of legislative appropriations that resulted in an air service agreement with American Eagle. This air service agreement was structured as a revenue guarantee



incentive. By the time the agreement ended in August 2011, Manhattan returned to the State of Kansas its full investment of \$2 million plus approximately \$20,000 in accrued interest.

### **Veterans Claim Assistance Program**

The Director of Veterans Services of the Kansas Commission on Veterans Affairs presented the statutorily required annual report on the Veterans' Claims Assistance Program (VCAP) and the Service Grant Program. VCAP has completed its sixth successful year of operation and provided the program's legislative background and progress during FY 2012. He discussed the Veterans Claims Assistance Advisory Board, its purpose and structure, and participating veterans service organizations. Statistical Information was presented relating to service organizations claims by location and their claims production; expenditures were also reviewed.

When asked if the Veterans' Services Office participates with the Department of Commerce to

identify potential employment opportunities for veterans, he indicated that the Veterans' Services Office does perform job fairs and other employment-focused activities with the Department of Commerce; however, those activities are not included in VCAP.

Representatives of the Veterans of Foreign Wars and the American Legion were also present to discuss the success of VCAP .

### **CONCLUSIONS AND RECOMMENDATIONS**

With regard to the Judicial Branch e-filing issue, the Committee recommends funding be appropriated for the e-filing system. The e-filing system could actually save a great deal of money in the future.

Concerning the Affordable Airfares program, the Committee recommends continued air service project updates, particularly from Topeka's program, during the summer of 2013.

# Legislative Budget Committee

## UPDATE ON FEDERAL FUNDING AND OTHER ISSUES OF THE DEPARTMENT OF TRANSPORTATION

### Conclusions and Recommendations

- The Committee recommends that the standing Transportation Committees, the House Appropriations Committee, and the Senate Ways and Means Committee continue to monitor rail issues.
- The Committee recommends that these same committees continue to monitor the Kansas Department of Transportation's financial policies, including auctions of district equipment.
- The Committee recommends a study on the issuance of KDOT bonds for potential savings by utilizing the Kansas Development Finance Authority, and that the findings from the study be presented to the House Appropriations Committee and the Senate Ways and Means Committee.

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to receive an update on federal funding issues of the Department of Transportation.

### COMMITTEE ACTIVITIES

The Secretary of the Department of Transportation (KDOT) testified at the October meeting regarding evaluation of efficiencies within the department consisting of: assets, budget savings, and operations management. The Department recently eliminated 40 positions without affecting engineering or operations within the T-Works project, a budget savings of approximately \$2.0 million. In addition, operations management evaluations have occurred both to maximize the department's workforce without duplication of efforts and to consider the possibility of consolidating functions and property within the Department's divisions. Agency partnerships also were reviewed.

T-Works, the Department's \$7.8 billion transportation program, was discussed. The Secretary reviewed the program's progress by county and its funding breakdown; he discussed the T-Works promise to invest at least \$8.0 million in each Kansas county over the project's 10-year span. The program's revenue sources and expenditures were reviewed. The Secretary informed the Committee that when funding is shifted from KDOT to other statewide programs or services, the impact is felt on T-Works maintenance, operations, and finally various projects.

The KDOT Deputy Secretary noted that should significant funding be shifted from the State Highway Fund to the State General Fund for other state services or programs, KDOT would attempt to absorb that funding loss through operations, savings, or maintenance; ultimately preservation programs, local programs, modernization, or expansion programs would be affected.

With regard to a question concerning KDOT's recent refinancing of 2004 series callable bonds,

the Secretary stated there are nine years remaining on the bonds, which were not extended past the original issue. Interest savings of \$33.0 million will be targeted for remaining KDOT projects.

The Secretary stated that eight "local consult" meetings are scheduled biennially; these meetings update Kansans on T-Works projects in their area and gather input from the public on how state transportation dollars are invested. Participants have an opportunity to prioritize area projects, should funding become available.

### **Federal Funding Update**

The Secretary reported that the federal government appropriated \$366.0 million to Kansas in 2012 under the Moving Ahead for Progress in the 21st Century Act (MAP-21). The allocation was \$26.0 million less than was appropriated in 2011.

A representative of KDOT added that HB 2455, passed by the 2012 Legislature, required KDOT to meet with the public about the long-term feasibility of relying on the motor fuel tax as the primary method of funding the state's highway maintenance and construction program. Therefore, during Local Consult meetings, participants were surveyed and asked to rank five alternative revenue sources. The results of the surveys would be available by the start of the 2013 Session.

### **Rail Passenger Service**

The Committee heard comments concerning passenger rail service, Amtrak's Southwest Chief, and Amtrak's concerns regarding deterioration of the tracks. The Secretary informed the Committee that Burlington Northern Santa Fe (BNSF) does not require the same rail quality for freight traffic; there is no interest in rail maintenance or capital improvements on BNSF's behalf. Therefore, the future of the service through western Kansas is questionable. According to projections, \$100.0 million for the route's capital improvements (Newton to Albuquerque) is necessary, as well as funding for annual maintenance requirements. Secretary King reported he had personally communicated with the New Mexico Secretary of Transportation, and KDOT staff representatives

have discussed the issue with the Colorado Secretary of Transportation; neither states' secretaries expressed interest in investing funds for this project. The City Manager of Garden City, Kansas, submitted written testimony to the Committee, supporting the preservation of the Southwest Chief rail service through western Kansas

Committee members suggested that the prohibitive cost of rail travel could result in declining rail travelers and, therefore, could outweigh any benefit to Kansas for participating in this capital improvement. The Secretary indicated that BNSF's current transcontinental route could be used as an alternative.

The Heartland Flyer passenger train service between Fort Worth, Texas, and Oklahoma City, Oklahoma was discussed. A proposed extension would link the current route through Wichita to Kansas City. It was noted that the Secretary of the Oklahoma Department of Transportation has expressed no interest in participating in a partnership to bring that service from Oklahoma City to Kansas; however, Oklahoma is evaluating the feasibility of a study in extending the service from Oklahoma City to Tulsa. Texas and Oklahoma have agreed to perform a service development plan which does not include the route extension through Kansas. The consultant involved in the Texas-Oklahoma plan proposed a \$4.0 million contract extension to include the proposed Kansas route. Since Kansas had already completed its service development plan, the State chose not to pursue that proposal. In order to perform the service level and project level environmental assessments as well as preliminary engineering, a cost of \$7.0 million would be anticipated. In response to a question concerning the proposed construction expenditure for the Heartland Flyer Kansas route from Newton to Oklahoma City, the cost was estimated at \$132.0 million in capital costs, including a 30.0 percent contingency. The new service route from Fort Worth to Kansas City is projected at \$425.0 million in capital costs.

A Wichita City Council Member discussed his community's support of continued dialogue to pursue the Heartland Flyer proposed route through Wichita to Kansas City. He acknowledged the challenges previously discussed and indicated

Wichita's readiness to capture opportunities the Heartland Flyer would bring to the city and region.

### **Local Safe Streets and Bike Lanes**

With regard to a question concerning funding for local safe streets and bike lanes, the KDOT Deputy Secretary informed the Committee that as collaboration occurs with local partners, KDOT continues to integrate safe street components into project development. A current project in Lawrence is underway; as communities evaluate matching funding requirements and additional costs, they could choose to abandon integration of those capital improvement projects.

### **Equipment Sales**

The KDOT Deputy Secretary reported that as part of KDOT's asset evaluation, a package of equipment (purchased with state funds) was identified, to be sold at auction in November 2012. Funds generated from the sale of the equipment will be returned to the State Highway Fund. At the November meeting, additional information was provided on the equipment sales. A representative of KDOT provided a list of all surplus property that was sold at auction in October 2012, which yielded \$854,563 in sales. A second auction in November has resulted in sales of \$1,301,660 as of November 13, 2012; the auction closes on November 20, 2012. He noted these are on-line auctions conducted by Purple Wave Auction, Inc., and that KDOT is not required to go through the State Surplus Property Program. KDOT retains all proceeds, receipted into the State Highway Fund, with the exception of 10 percent of the total, which is paid to Purple Wave Auction, Inc.

### **Revenue Sources**

With regard to information on revenue sources included in the KDOT presentation, sales tax accounted for 28.0 percent of the total revenue; a 3.5 percent growth-inflation rate was used for those calculations with FY 2014 used as the base. The federal funds portion of the 10-Year revenue sources projections, at a projected 22.0 percent rate, is valid until FY 2014. There is no guarantee that rate will be maintained after FY 2014. However, the Deputy Secretary indicated that as long as motor fuels taxes are collected, money will continue to flow into the Federal Highway Trust Fund, which is distributed as part of federal aid. The Department's concern is that motor fuels taxes collected could decrease, thereby reducing the amount of federal aid, since 90 percent of federal funds is derived from the federal motor fuels tax.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Committee recommends that the standing Transportation Committees, the House Appropriations Committee, and the Senate Ways and Means Committee continue to monitor rail issues.

The Committee recommends that these same committees continue to monitor the Kansas Department of Transportation's financial policies, including auctions of district equipment.

The Committee recommends a study on the issuance of KDOT bonds for potential savings by utilizing the Kansas Development Finance Authority, and that the findings from the study be presented to the House Appropriations Committee and the Senate Ways and Means Committee.

# Legislative Budget Committee

## FINANCIAL MANAGEMENT SYSTEM IN KANSAS DEPARTMENT FOR AGING AND DISABILITY SERVICES

### Conclusions and Recommendations

The Legislative Budget Committee had no recommendations because of the actions taken to address the issues by the Administration.

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Coordinating Council requested the Committee review the implementation of the Financial Management System (FMS) in the Kansas Department for Aging and Disability Services (KDADS) and monitor the effectiveness of the new system.

### COMMITTEE ACTIVITIES

Representatives of KDADS provided an overview of the evolution of the financial management system (FMS). A representative of the agency reported a FMS workgroup was created to review rates, practices and improvement opportunities. At the current time, the workgroup had recommended an evaluation of limiting FMS providers but indicated the project should be delayed until KanCare is implemented.

A representative of the Topeka Independent Living Resource Center spoke concerning the rapid changes since implementing the FMS. Consequences resulting from the implementation were noted by the conferee as follows:

- Provider agencies have been downsized and satellite offices closed;
- Flexibility providers were able to provide to beneficiaries has been restricted;
- Fewer providers result in fewer consumer choices; the greatest concern is that

consumers are losing critical support systems.

The representative also stated the gap in providing support to consumers could be filled by case managers assisting consumers in self-directing care or other providers who could pick up those needing support services.

The Committee noted the importance of understanding the impact of these consequences.

Concerns with the Financial Management System implementation continue to surround provider agencies being downsized and satellite offices closed as well as restricting flexibility providers previously were able to provide to beneficiaries. The agency reported little change in this area over the Interim.

An agency representative reported the FMS Workgroup met with the contracted Managed Care Organizations to review and to discuss how the FMS works under KanCare. There are 64 Financial Management System providers and interest from other providers. The Committee was informed the FMS Workgroup will continue to work on addressing the issues.

### CONCLUSIONS AND RECOMMENDATIONS

The Legislative Budget Committee had no recommendations because of the actions the Administration has taken to address the issues.

# Legislative Budget Committee

## HOME AND COMMUNITY BASED SERVICES WAITING LISTS

### Conclusions and Recommendations

The Legislative Budget Committee recommends the Legislature continue to monitor the Home and Community Based Services Waivers Waiting Lists. The Legislature should also be kept informed of any information from the federal Department of Justice or the Centers for Medicare and Medicaid Services regarding actions related to the *Olmstead* Case.

*Proposed Legislation:* None.

### BACKGROUND

The Committee was provided an overview of the Home and Community Based Services Waiver Program which provides the State with flexibility to develop and implement alternatives to placing Medicaid-eligible individuals in hospitals, nursing facilities, or intermediate care facilities. The Waiver Program recognizes that many individuals at risk of being placed in these facilities can be cared for in their homes and communities, preserving their independence and ties to family and friends at a cost no higher than that of institutional care. States may also target 1915(c) waivers by specific illness or condition.

Waiver services are not required to be made available to all Medicaid recipients and can be limited to that specific population for whom the waiver is provided.

Currently available Home and Community Based Services waivers in Kansas are: Autism, Developmental Disability (DD), Physical Disability (PD), Technology Assisted (TA), Traumatic Brain Injury (TBI), Frail Elderly (FE), Seriously Emotionally Disturbed (SED), and Community Based Alternatives to institutional care.

In addition, information was provided listing the number of individuals on each waiver's waiting list, as well as Home and Community Based Services waiver expenditures from all

funding sources (historical comparison FY 2000 to FY 2013 Approved) and Home and Community Based Services waiver expenditures from the State General Fund (historical comparison FY 2007 to FY 2013 Approved).

Staff from the Office of the Revisor of Statutes discussed recent developments related to the *Olmstead* decision. Staff reported on the court's decision, and the requirement to provide community services is based on three conditions being met. A handout from the U.S. Department of Justice was distributed for committee members reference. This resource references questions related to budget cuts and violation of *Olmstead* and the Americans with Disabilities Act. Staff also clarified that the 18-month time frame refers to a "reasonable promptness" by moving individuals from a waiting list into needed services. Staff also noted:

- Budget cuts can violate the Americans with Disabilities Act and *Olmstead* when significant funding cuts are made to community services, creating a risk of institutionalization or segregation for those on waiting lists as well as those receiving services.
- A "fundamental alteration" requires the public entity to establish that the modification would fundamentally alter its service system.

- The current federal administration has indicated enforcing *Olmstead* is a top priority. The decision was rendered in 1999; staff could not conclusively respond whether there have been modifications to the interpretation since the original ruling.

A representative of Kansas Department for Aging and Disabilities updated committee members on the Physical Disabilities waiting list. The agency described the telephone call survey conducted in the spring in which certification by Centers for Independent Living revealed 1,226 individuals should be removed from the waiting list. As of November 2012, the waiting list was 2,197 (a removal of 1,226 individuals and addition of 250 new individuals since the waiting list verification project began).

Any individual removed from the waiting list due to the verification process that contacted the Kansas Department for Aging and Disability Services, a Center for Independent Living or other

service provider and indicated services were still needed, would retain their priority placement following an eligibility determination. Further, the Department representative indicated that the State would now manage the waiting list for the Physical Disability waiver. KanCare Managed Care Organizations will manage the care of those that are Medicaid eligible; the State will follow-up with all non-KanCare waiting list, eligible individuals on a quarterly basis.

## CONCLUSIONS AND RECOMMENDATIONS

The Legislative Budget Committee recommends the Legislature continue to monitor the Home and Community Based Services Waiver Waiting Lists. The Legislature should also be kept informed of any information from the federal Department of Justice or the federal Centers for Medicare and Medicaid Services regarding actions related to the *Olmstead* Case.

# 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.



## **Intensive Case Management Program (ICM)**

Kansas Department for Aging and Disability Services Community Services Programs Behavioral Health Services (previously Department of Social and Rehabilitation Services Division of Behavioral Health Services, Mental Health) contracted with Heartland Regional Alcohol Drug Assessment Center from 2006 through June 30, 2011, to provide intensive case management services to individuals who lived in Wyandotte, Johnson, Douglas, or Shawnee counties, with a history of admissions to state hospitals, considered at risk for admission to state hospitals due to co-occurring mental health and substance abuse issues, with multiple unsuccessful treatment episodes and who may or may not be homeless.

During that time, 439 individuals were provided intensive case management services and only 72 were ever admitted to a state hospital following the initiation of services.

Beginning May 1, 2012, the contract with Heartland Regional Alcohol Drug Assessment Center was reissued to cover not only the four counties previously served, but four additional counties: Sedgwick, Ellis, Barton, and Saline.

## **Census Management Initiative (CMI)**

Kansas Department for Aging and Disability Services continues to contract with Via Christi Hospital in Wichita and Prairie View Hospital in Newton to provide inpatient mental health services to persons who are involuntarily committed when the state mental health hospitals reach high census. The Census Management Initiative was activated on August 24, 2012, for the first time in FY 2013. The Census Management Initiative continued for both hospitals through September 7, 2012. A total of 45 bed days at Prairie View and 19 at Via Christi were used before the Census Management Initiative was deactivated.

## **Planning Efforts (Sedgwick Policy Academy)**

Stakeholders in Sedgwick County, referred to as the Policy Academy, are planning for a long-term goal of reducing dependence on inpatient hospitalization while increasing the number of

peer support and recovery coaches. A short-term goal includes the development of a 16-bed crisis facility operated by ComCare.

## **ComCare Crisis Stabilization Beds**

This 16-bed crisis facility will provide intensive clinical and support services to be available at all times with the goal of providing safety, stabilizing the situation, and averting the need for more restrictive services or inpatient services.

## **Community Mental Health Centers Contracts**

One of the FY 2013 contract outcomes for Community Mental Health Centers (CMHCs) is to decrease the percentage of adults admitted to state mental health hospitals (SMHH), private psychiatric hospitals, or local acute psychiatric units who are discharged and then readmitted within 30 days of discharge. The outcomes will be measured as a percentage, using the following factors:

- Numerator equals number of adults discharged from SMHH, private psychiatric hospital, or local acute psychiatric unit with a subsequent readmission within 30 days; and
- Denominator equals adult discharges from SMHH, private psychiatric hospital, or local acute psychiatric services

A representative from the Kansas Department for Aging and Disability Services provided an update on Census Management in November on the Average Daily Census (ADC) from July through October 2012 at the Larned, Osawatomie, and Rainbow State facilities and noted the following:

- Larned State Hospital is budgeted for 90 beds; the average daily census has been 94. Larned has been over its budgeted census 71.0 percent during the time period. When the census reaches a threshold of 100, census management procedures are implemented, which divert patients to Via Christi or Prairie View

(dependent on patient acuity);

- Osawatomi State Hospital is budgeted at 176 beds; the average census has been 179. The census management threshold for this facility is 190, and census management procedures have been implemented on one occasion during the time period for a total of 51 bed days. OSH was over its licensed capacity 48.0 percent of the time during FY 2012;
- Rainbow State Hospital is budgeted for 35 beds; the average daily census has been 36 during the time period. When census management procedures are implemented at 36 patients, patients are diverted to Osawatomi State Hospital; and
- In FY 2013, PSHTC will open a transition unit that will serve up to eight Sexual Predator Treatment Program individuals from Larned State Hospital. This will be a new program in PSHTC's budget. The

transition program will offer individuals in the Sexual Predator Treatment Program a chance to re-enter the general public. There is a statutory requirement that no more than eight Sexual Predator Treatment Program transition individuals can reside in one county.

## 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 Osawatomi 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.

# 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.

- 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.

### **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 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.

### 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 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.

# Legislative Budget Committee

## JUVENILE JUSTICE AUTHORITY AND KANSAS JUVENILE CORRECTIONAL COMPLEX

### Conclusions and Recommendations

The Legislative Budget Committee commended the Juvenile Justice Authority on steps taken to improve and implement recommendations from the Legislative Post Audit report regarding the Kansas Juvenile Correctional Complex. With regard to educational services provided at the Judge Riddel Boys Ranch, the Committee recommended the Legislative Educational Planning Committee or the appropriate Education committees review the issues regarding the Ranch's unique funding formula and educational services currently provided by Unified School District 259-Wichita, rather than Unified School District 265-Goddard, where the Ranch is located.

*Proposed Legislation:* None.

### BACKGROUND

In July 2012, the Kansas Legislative Division of Post Audit (LPA) released a performance audit report which noted several deficiencies in safety and security at the Kansas Juvenile Correctional Complex (KJCC). The Legislative Coordinating Council requested the Legislative Budget Committee receive an update on the Juvenile Justice Authority (JJA), including changes to the KJCC.

### COMMITTEE ACTIVITIES

At the November Legislative Budget Committee meeting, a representative of LPA presented the audit "JJA: Evaluating the Kansas Juvenile Correctional Complex, Part I." The audit identified a number of safety and security issues at the facility, which include these:

- Juvenile offenders were not being adequately supervised, which has led to offender injuries and misconduct;
- Doors have been routinely propped open or unlocked, at times allowing juveniles to move freely into living units and access unauthorized areas; and

- KJCC staff have not done an adequate job of keeping prohibited items out of the facility, and have not tracked, inventoried, or secured keys and tools.

Safety and security problems at KJCC have been compounded by poor personnel management. The audit further states:

- Officials have employed staff with felony or drug convictions due to an inadequate background check process;
- There is some evidence that duty shifts at KJCC have not been staffed and supervised properly to ensure safety and security; and
- The environment at KJCC is not conducive to ensuring the safety and security of juvenile offenders and staff, and management at KJCC has been disorganized.

Based on these findings, LPA made numerous recommendations concerning specific security and safety issues at KJCC, including problems with personnel and management. LPA recommended

JJA and KJCC officials provide a status report on the implementation of the recommendations to the Legislative Post Audit Committee by December 2012.

In response to the Post Audit report, Terri Williams, Acting Commissioner, JJA, stated she has developed a leadership team which has:

- Updated hiring policies to obtain proper background checks prior to hiring;
- Implemented a revised statewide human resources database to increase oversight and accountability;
- Increased starting salary disparity between JJA correctional officers and their Kansas Department of Corrections (KDOC) counterparts; and
- Increased shift differential to that paid by KDOC.

Regarding security issues, the Acting Commissioner stated the following actions have been taken:

- Directives for staffing and supervision practices have been issued for increased door security and rounds checking;
- Security doors have been repaired and refashioned;
- A system of twice daily perimeter checks has been established; and
- Standards for visitor access to the facility have been updated.

The Committee asked the Acting Commissioner to address staffing issues at KJCC. She responded there were 17.0 vacant positions at KJCC, and in excess of 14,000 overtime hours at

the facility between July and November 2012. When asked about the Governor's 10.0 percent budget reduction, the Commissioner stated that prevention services would be reduced, and that JJA is considering lowering from 22.5 to 19.0 the maximum age for an offender to remain in JJA custody.

LPA staff stated JJA and KJCC have addressed all of the LPA recommendations and are moving forward.

### **Judge Riddel Boys Ranch**

Acting Commissioner Williams provided follow-up to questions raised about the Judge Riddel Boys Ranch (JRBR) at the previous Committee meeting. Her testimony included the statutory reference regarding the unique funding provided for JRBR residents (KSA 72-6407). The Commissioner stated she was unable to locate another Youth Residential Center II that receives additional Base State Aid Per Pupil (BSAPP) similar to that provided for JRBR and did not know the reason for the JRBR additional funding. She said the same statute also is related to Unified School District 259-Wichita serving the JRBR population rather than Unified School District 265-Goddard, where the Ranch is located, but did not know the reason behind that statutory language.

### **Conclusions and Recommendations**

The Committee commended the JJA on steps taken to improve and implement recommendations from the LPA report regarding the Kansas Juvenile Correctional Complex. With regard to educational services provided at the Judge Riddel Boys Ranch, the Committee recommended that the Legislative Educational Planning Committee or the appropriate Education committees review the issues regarding the Ranch's unique funding formula and educational services currently provided by Unified School District 259-Wichita, rather than Unified School District 265-Goddard, where the Ranch is located.