

MINUTES

LEGISLATIVE BUDGET COMMITTEE

August 5, 2004
Room 123-S—Statehouse

Members Present

Senator Steve Morris, Chairman
Representative Melvin Neufeld, Vice Chairman
Senator Henry Helgerson, Jr.
Senator Dave Kerr
Representative Clark Shultz
Representative Joe Shriver for Representative Bill Feuerborn

Members Absent

Representative Bill Feuerborn
Representative Dean Newton

Staff

Alan Conroy, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Michele Alishahi, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Becky Krahl, Kansas Legislative Research Department
Robert Waller, Kansas Legislative Research Department
Norm Furse, Revisor of Statutes
Bruce Kinzie, Revisor of Statutes Office
Judy Bromich, Administrative Analyst, Senate Ways and Means Committee
Nikki Feuerborn, Administrative Analyst, House Appropriations Committee
Mary Shaw, Committee Secretary

Conferees

Brad Bryant, Deputy Assistant Secretary of State for Elections
Steve Weatherford, President, Kansas Development Finance Authority
Jack Rickerson, Director of the Division of Personnel Services
Andy Sanchez, Director, Kansas Association of Public Employees
Laurie Varner, State Employee
Zane Tillman, State Employee
Cheryl Buxton, Deputy Director of Printing
Scott Frank, Audit Supervisor, Legislative Post Audit

Joseph P. Odle, State Fire Marshal
Mark Beck, Director of Property Valuation, Kansas Department of Revenue

Thursday, August 5 Morning Session

Senator Steve Morris, Chairman, called the meeting to order at 10:10 a.m., and welcomed everyone to the meeting. J.G. Scott, Chief Fiscal Analyst of the Legislative Research Department, distributed the agenda for the meeting and reviewed the Legislative Budget Committee's Legislative Coordinating Council-assigned topics ([Attachment 1](#)) and miscellaneous items. The Chairman noted that the Joint Committee on State Building Construction did a comprehensive review of the State School for the Blind and the State School for the Deaf (Item No. 3 on attachment 1). Since that item has already been covered by the Joint Committee on State Building Construction, the Chairman noted that it may be discussed by the Legislative Budget Committee later in the year, if there is time available.

Alan Conroy, Director of the Legislative Research Department, provided the Committee an update of the State General Fund Receipts for FY 2004 ([Attachment 2](#)). Mr. Conroy explained that the total State General Fund Receipts for Fiscal Year 2004 were approximately \$68.3 million, or 1.5 percent above the final adjusted estimate for FY 2004. Taxes only were about \$72 million, or about 1.7 percent above the estimate, most notably in higher-than-estimated individual income taxes.

Mr. Conroy noted that taxes falling below the estimate by more than \$1.0 million were financial institutions (\$8.6 million or 25.2 percent) and retail sales (\$7.9 million or 0.5 percent). Committee questions and discussion followed. Chairman Morris requested that the Committee further discuss the financial institutions FY 2004 State General Fund income tax receipts which fell 25.2 percent below what was estimated.

Copies were distributed of the Kansas Department of Revenue, Comparison of Fiscal Year 2005 and FY 2004, Actual General Fund Collections, taxes only, for the month of July 2004 ([Attachment 3](#)). Staff reviewed the Preliminary Status of the State General Fund ([Attachment 4](#)). After Committee discussion, the Chairman requested a status report on a reported \$60 - \$70 million federal dollars that could possibly be lost regarding Kansas Department of Social and Rehabilitation Services programs, specifically the Foster Care system.

Chairman Morris welcomed Amy Deckard, Kansas Legislative Research Department, who presented a Polling Place Report ([Attachment 5](#)). Ms. Deckard explained that the direction for this report was contained in a proviso located in the Omnibus Appropriations Bill ([Senate Substitute for HB 2471](#), Section 18 (f)). The Secretary of State's Office, as requested, submitted the report on July 15, 2004, concerning the number and location of the polling places which were moved or closed throughout the state during the first half of this year.

Ms. Deckard noted that the Secretary of State's office provided the information in their report by surveying all counties in Kansas. The surveys indicate that 257 polling places were moved and 125 polling places were closed between January 1 and July 15, 2004. This resulted in a total of 382 changes to polling places across the state. It was noted that this is the first time such information has been requested from the Secretary of State, therefore, there is no way to determine if this is a normal level of change. The agency will be submitting another similar report for the general election by October 15, 2004.

Chairman Morris welcomed Brad Bryant, Deputy Assistant Secretary of State for Elections, who provided additional information about the report on polling place closings ([Attachment 6](#)). Mr. Bryant noted that the Secretary of State's office anticipates a higher incidence of polling place changes this year, and for the next two years, due to HAVA (the Help America Vote Act of 2002). He explained that HAVA increases the emphasis on Americans with Disabilities (ADA) compliance at polling places, and it requires by 2006 the deployment of at least one fully accessible voting machine at each polling place in the state. Mr. Bryant listed several common reasons in his written testimony where polling places in use across the state in a given election change from an earlier election. Committee questions and discussion followed.

The Chairman welcomed Steve Weatherford, President, Kansas Development Finance Authority (KDFA), who presented a review on the status of bonds issued by KDFA ([Attachment 7](#)). Mr. Weatherford explained that when talking about the state's credit rating, it means credit quality. Mr. Weatherford indicated that the state's outstanding debt has increased significantly over the last 12 years, but the state's debt is still manageable. The state's credit rating remains strong and Kansas still has a low debt burden when compared to other states. In Kansas there is a general fund budget of approximately \$4.4 billion, and annual debt service coming out of that budget is approximately \$285 million, which means that the debt service represents approximately 6 percent of the state's general fund budget.

Mr. Weatherford detailed the Credit Quality of the State of Kansas. Standard & Poor's Rating Service maintains a "AA+" credit rating for the state and Moody's Rating Service has assigned the state a "Aa1". Positive credit factors cited by both agencies include:

- economic diversification;
- low debt burden; and
- historically conservative and responsive fiscal management.

Only ten states have a higher rating than Kansas from Standard & Poor's, and only seven states have a higher rating from Moody's. Mr. Weatherford explained that while Standard & Poor's and Moody's have placed Kansas' rating on a negative watch, both rating services advise this is not attributable to Kansas' debt issues or capacity, but instead is related to the challenges posed by a difficult economy, and emphasizes that the state needs to continue to maintain structural budget balance by maintaining the alignment between revenues and expenditures and by identifying and implementing a reasonable plan to restore ending balances. Committee questions and discussion followed.

Staff distributed copies of a memorandum regarding State Bonded Indebtedness ([Attachment 8](#)) and 2002 Per Capita Personal Income and Per Capita Debt Comparisons ([Attachment 9](#)).

Chairman Morris welcomed Leah Robinson, Kansas Legislative Research Department, who presented information in a memorandum regarding In-Grade Pay Increases ([Attachment 10](#)). Ms. Robinson explained that through Executive Directive No. 04-353, issued June 28, 2004, Governor Sebelius approved the request of the Director of Personnel Services to allow classified employees in the executive branch to receive in-grade increases.

The Chairman welcomed Jack Rickerson, Director, Division of Personnel Services, who presented testimony regarding the in-grade pay increases ([Attachment 11](#)). Mr. Rickerson noted that the state has much work to do to enhance the capability of its human resource system to support its needs in the 21st Century. He mentioned that among the most pressing is the need to change a rigid pay system that provides increases only when step movement and/or general increases are funded or an employee is promoted. Draft guidelines for implementation of the in-grade pay increases are part of Mr. Rickerson's written testimony.

Mr. Rickerson explained that the lack of flexibility in the state pay system has become more apparent and problematic over the last few years because step movement has been suspended. He noted that, for all the right reasons, agencies have tried to fix salary problems with the classification system. He stressed throughout his testimony that in-grade pay increases are not pay for performance. Since the system of position classification is in need of serious overhaul, trying to use it strategically to fix salary problems generally only creates more problems. Mr. Rickerson mentioned that they will continue to work on changes and new initiatives to help build the capacity they will need for the future in areas of compensation and classification, and across a range of other issues. Committee questions and discussion followed.

Chairman Morris welcomed Andy Sanchez, Director, Kansas Association of Public Employees (KAPE), who explained that KAPE is cautious about the in-grade pay increases plan being implemented. Mr. Sanchez expressed his concern of venturing into an area where human resources departments within the agencies are being afforded a great deal of flexibility. He indicated that this plan may afford the opportunity for a great deal of abuse, favoritism, and possibly malfeasance in how agencies operate. Regarding pay for performance, Mr. Sanchez explained that there were ineffective ways to measure an employee's performance. He noted that the current system is a rigid system, but it has worked for years. He is concerned that this new plan appears to circumvent the legislative process. No written testimony was submitted.

Turning to the topic of furloughs, Chairman Morris welcomed Laurie Varner, State Printing Plant Employee and Local 49C Union Member, who spoke regarding the printing plant furloughs (Attachment 12). Ms. Varner mentioned that she has been with the printing plant for 25 years and explained what has happened during the year 2003 and in the year 2004, so far. She expressed concern that the printing plant will be shut down. Ms. Varner mentioned that the main reason she appeared before the Committee is that she has asked questions about the printing plant operations, but never gets answers to her questions.

The Chairman welcomed Zane Tillman, a state employee at the Division of Printing, (Attachment 13). Mr. Tillman mentioned that he has been with the printing plant for 17 years. He expressed concern regarding the long-term negative impact the furloughs will have on the state in losing some highly skilled people. Mr. Tillman explained that the printing plant has graphic artists, electronic typesetters, photographic/electronic plate makers, single/multi-unit pressmen, and bookbinders, which are all trades that take many years to learn and master. He noted that the Division of Printing receives no money from the State General Fund, they are paying for their own building and are totally self-supporting. His concern is that, if they lose any more employees, they may not be able to perform the tasks given to them by the Legislature and other state agencies.

Senator Kerr commended both conferees and noted that the State Printing Plant has done an outstanding job for a number of years in providing services to the Legislature. He noted that it is also important to note that the times are changing and this is a change that comes with technology and everyone needs to be prepared for it. Chairman Morris reiterated what was mentioned by Senator Kerr in that the printing plant has done an outstanding job. The Chairman explained that this is an item that the Committee needs to discuss further.

The meeting recessed at 12:05 p.m.

Afternoon Session

The meeting reconvened at 1:30 p.m.

Chairman Morris welcomed Cheryl Buxton, Deputy Director of Printing, Kansas Department of Administration, who testified regarding the furloughs at the State Printing Plant (Attachment 14). Ms. Buxton provided background over the last few years regarding the steady decline in the number of print requests from its customers. She noted significant factors:

- Budget constraints faced by agencies, and
- An increase in the availability of information on the Internet and improvements/changes to technology.

Ms. Buxton addressed and detailed the downward trends in revenue from jobs, number of jobs, and FTE counts. In addressing these trends, she detailed information on the action taken by the Division of Printing in her written testimony regarding six layoffs and a furlough plan. Ms. Buxton explained that layoffs are permanent and furloughs do not have the permanent negative impact on employee job status and benefits. In addition, furloughs give the Division of Printing flexibility to ramp up to employment levels necessary for legislative session needs. Ms. Buxton noted that it is critical for the Division of Printing to provide responsive, cost-effective service to their state agency customers and to function in a fiscally responsible manner. Committee questions and discussion followed. Chairman Morris requested that Howard Fricke, Secretary, Kansas Department of Administration, visit with the Committee at a future meeting regarding his long-term vision concerning the State Printing Plant.

The Chairman welcomed Scott Frank, Audit Supervisor, Legislative Post Audit, who presented the report of the Kansas Fire Marshal: *Reviewing the Funding and Administration of the Agency, June 2004*.

Copies of the audit may be obtained from the Legislative Division of Post Audit (LPA), State of Kansas, and copies are also on file with the Kansas Legislative Research Department.

Mr. Frank mentioned that the performance audit addressed the following questions, conclusions, and recommendations:

1. Is there sufficient independent oversight of the operations of the Fire Marshal's Office?

Conclusion: LPA was not certain why the Fire Marshal's Office was established without an oversight board or commission, but they found no compelling reason why it should not be subject to the same level of oversight as most other agencies. (Detailed on page 7 of the audit report.)

Recommendation: The House Appropriations Committee or Senate Ways and Means Committee should introduce legislation to amend state law to provide the same level of oversight and accountability for the operations of the Fire Marshal's Office as most other agencies have. (Detailed on page 7 of the audit report.)

2. Is the Fire Marshal's Office efficiently and effectively carrying out the functions assigned to it by law?

Conclusion: The Fire Marshal's Office needs to make significant improvements to its inspection, complaint-handling, and enforcement processes to ensure that it is following best practices, carrying out the responsibilities assigned to it by law, and adequately protecting people and property from harm. (Detailed on page 27 of the audit report.)

Recommendations: The eight LPA recommendations are detailed on pages 27-29 of the audit report.

3. How does the amount of money generated by the levy on fire insurance premiums compare to the amount needed to operate the Fire Marshal's Office?

Conclusion: It is difficult to know how much fire insurance premiums will grow in 2004 and 2005. The Division of the Budget and the Legislature will need to keep a close eye on the actual growth of the fire insurance premium revenues. If the current estimates of revenues and expenditures are correct, and moneys are transferred to the General Fund in fiscal year 2005 as planned, the Fire Marshal's Office will be in a difficult fiscal position at the start of 2006. (Detailed on page 34 of the audit report.)

Chairman Morris welcomed Joseph P. Odle, State Fire Marshal, who addressed the audit. Mr. Odle mentioned that the State Fire Marshal's Office has implemented, or is in the process of implementing, every recommendation reflected in the audit. As far as concerns regarding school inspections contained in the report, Mr. Odle explained that those schools were inspected during the 2002-2003 school year. He felt what the audit committee was looking at was the calendar year, rather than the school year, so any of those school inspections that were inspected in 2002 were for the 2002-2003 school year. Mr. Odle also noted that most of the audit covered issues which occurred before he was in the office of State Fire Marshal.

Mr. Odle provided an outline of what the Fire Marshal's Office has done regarding the audit recommendations (Attachment 15). He noted that the Legislature has established oversight by requiring that the Fire Marshal be appointed by and report directly to the Governor. Mr. Odle felt there is no compelling reason to change the current oversight structure given that the agency is administered in a cost-effective and efficient manner. He also mentioned that it is still his opinion that working with the facilities and educating them on being code compliant is a more acceptable solution than issuing fines and penalties on them, but they will follow the LPA recommendations on schools and other facilities that do not meet code. Mr. Odle mentioned that the Fire Marshal's Office agrees with the audit finding that State General Fund transfers and the funding of the two additional programs does have a detrimental impact on the agency and places them in a difficult financial position for the upcoming years. Committee questions and discussion followed.

Senator Kerr asked about an emergency meeting that was held by the State Fire Safety Council on June 22, 2004, to discuss the audit and asked about concerns expressed in the minutes of that emergency meeting that the post audit report was full of half truths at best and a lot of gray areas. Mr. Odle noted a finding in the audit about a failure to inspect schools in Sedgwick County, and stated that the inspections had been done, but they just did not have the reports in the Fire Marshal's Office. He felt that this was a gray area, and it appeared to be a half truth. Mr. Odle felt it was the most damaging thing the audit found with the Fire Marshal's Office.

Discussion followed regarding information the auditors gathered from other fire marshal agencies in other states. Mr. Odle mentioned that he talked to each fire marshal on the list. Mr. Odle felt that if the auditors talked to other states, they did not talk directly to the fire marshals in those states and indicated that he felt the information was inaccurate. Mr. Odle noted that he just came back from a fire marshal national conference and could not find one fire marshal office structured exactly as it is in Kansas. He explained that all offices had anywhere from six to over 200 people working for them, with budgets \$1 million to \$12 million. Some departments only collect data, some did not do any investigations, and some did no inspections.

In response to questions regarding inspections, Mr. Odle explained that his office is starting a program similar to the health care program that will scope the severity of the infractions and will start fining all educational facilities, or any other facilities they inspect. If the facilities do not comply, the Fire Marshal's Office will take the audit committee's recommendation and shut the facilities down. Also, he indicated that a letter was sent to all first and second class city fire departments last month advising them that they need to send their inspection reports to his office, and if they fail to do so, he will refer the issue to the Attorney General.

Senator Kerr noted that the Legislative Post Audit Committee was quite convinced that the audit was representative of a set of serious problems that did merit action, but noted he was convinced the agency saw the matter the same way.

Senator Kerr asked the Division of Legislative Post Audit about the assertions that the audit was full of half truths and a lot of gray areas, as noted in the minutes of the State Fire Council meeting. Barbara Hinton, Legislative Post Auditor, responded that there are some disagreements between her office and the Fire Marshal's Office in terms of some of the things found, but that she does not believe the audit is full of inaccuracies and errors.

In terms of school inspection issues, Mr. Frank explained that LPA examined the Fire Marshal's paper and computer records and generated a list of required reports that it could not locate. The Fire Marshal's staff was asked to track down any reports that might be in existence. Some of the inspections had, in fact, been completed, and the post audit report was changed to reflect that. The facilities that LPA reported as being not inspected are only those for which the Fire Marshal's office was unable to provide a report. In a number of instances, the Fire Marshal did schedule an inspection, in light of finding that those schools had not been inspected.

Ms. Hinton pointed out that she would not like to have people use the audit as a basis for a cease and desist order. She indicated that what LPA recommended was that the agency develop policies regarding the appropriate types of actions that should be taken, up to and including: cease and desist orders.

In response to a question regarding any suggested changes to the law, Ms. Hinton explained that one of the problems LPA noted was that when first and second class cities are responsible for doing inspections and sending in the reports, the Fire Marshal has, by law, the authority to enforce compliance. She noted that this can be awkward and relieving the agency of this enforcement responsibility might be an option to consider.

Following additional Committee discussion, Chairman Morris noted that he feels that all of his colleagues would probably agree that there is 100 percent confidence in Legislative Post Audit in that the agency does a great job with the audits, and it is appreciated.

Copies of a letter from the Kansas Fire Safety Council were distributed to the Committee (Attachment 16). Chairman Morris mentioned that he does not agree with the letter where the Kansas Fire Safety Council indicates that the Legislature should not look any further at adjusting the oversight of the the Fire Marshal's Office. The Chairman feels it is the responsibility of the Legislature to be a good steward and provide oversight to all state agencies.

Chairman Morris called the Committee's attention to an item that was not on the agenda that he felt needed to be discussed. The Chairman explained that this is a case of unintended consequences resulting from legislation that was passed in the 2004 Legislative Session. He noted that this situation was called to his attention by a county treasurer. This is a situation where legislation that was passed tried to aid military personnel by providing certain property tax exemptions. The legislation appears to have inadvertently taken away more broad exemptions which

existed prior to this legislation.

The Chairman welcomed Mark Beck, Director of Property Valuation, Kansas Department of Revenue, who spoke before the Committee regarding the legislation passed during the 2004 Legislative Session. (No written testimony was provided.) Mr. Beck gave a history of the bill. He noted that, after conference committee, the language that was added to the bill referred to individuals who were mobilized and deployed. There had previously been an exemption for individuals who have a permanent duty station outside of Kansas, but are residents here. According to Mr. Beck, the legislation now provides exemptions only for those who are mobilized and deployed, which is defined by the military as someone who cannot sleep where they normally do every night. This would eliminate exemptions for those who are residents of Kansas, but are permanently stationed in another state. He was not sure that this affected a large number of people, but noted that these individuals cannot put Kansas tags on their vehicles without paying the taxes.

Chairman Morris noted that this situation was clearly unintended. There are approximately 24,000 vehicles involved (for the last six months of the year, July 1 - December 31, 2004). Discussion followed regarding the language in the bill and possible resolutions were discussed. Chairman Morris requested an official opinion from the Revisor of Statutes regarding the wording. Carmen Alldritt, Kansas Department of Revenue, mentioned that, regarding the law, the agency may need to move along with the next step which is to send a letter notifying the owners of the 24,000 vehicles that are affected. Chairman Morris asked that all avenues be explored toward resolution of this situation. *Representative Neufeld moved, with a second by Senator Helgerson, to ask the Kansas Department of Revenue to not send the letters out and that a letter be written to the Governor asking that an Executive Order be issued requesting delay of action to enforce the new legislation. Motion carried.* Staff will word the letter.

The Chairman mentioned that the Committee will need to keep on the Fire Marshal's Office audit issue and the State Printing Plant issues.

Regarding the State Fire Marshal's Office Legislative Post Audit report, the Committee decided that Chairman Morris, Vice Chairman Neufeld, and Ranking Minority Member Helgerson will approach the Governor regarding the concerns the Legislative Budget Committee has with the Legislative Post Audit report regarding the Fire Marshal's Office.

The meeting adjourned at 3:30 p.m.

Prepared by Mary Shaw
Edited by Leah Robinson

Approved by the Committee on:

September 9, 2004

(date)

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