

MINUTES

LEGISLATIVE BUDGET COMMITTEE

December 12, 2005
Room 514-S—Statehouse

Members Present

Representative Melvin Neufeld, Chairman
Senator Dwayne Umbarger, Vice Chairman
Senator Jim Barone
Senator Steve Morris
Representative Bill Feuerborn
Representative Ray Merrick

Member Absent

Representative Brenda Landwehr

Staff Present

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
Reagan Cussimano, Kansas Legislative Research Department
Deb Hollon, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Amy VanHouse, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes Office
Bruce Kinzie, Revisor of Statutes Office
Nikki Feuerborn, Administrative Assistant
Shirley Jepson, Committee Secretary

Conferees

Gary Daniels, Secretary, Department of Social and Rehabilitation Services
Don Jordan, Acting Commissioner, Juvenile Justice Authority
Bruce Linhos, Executive Director, Children's Alliance
Cheryl Rathbun, Vice President of Clinical Services, St. Francis Academy
Mike Hoar, Chief Program Officer, United Methodist Youthville
Janis DeBoer, Deputy Secretary of the Department on Aging
Deb Miller, Secretary, Department of Transportation
Patrick Hurley, Economic Lifelines

**Monday, December 12
Morning Session**

Chairman Neufeld called the meeting to order at 10:10 a.m. *Representative Feuerborn moved to approve the minutes as written of the November 17, 2005, meeting. The motion was seconded by Senator Barone. Motion carried.*

Chairman Neufeld recognized Gary Daniels, Secretary, Department of Social and Rehabilitation Services (SRS), who presented an update on funding for Level V, Level VI, and Therapeutic Foster Care Services (Attachment 1). Secretary Daniels stated that currently there are 17 Level V facilities, which can support 489 Kansas youth who exhibit behavior disorders; ten Level VI facilities, which support 300 Kansas youth with behavior disorders; and ten homes, sponsored by five agencies, that can support up to 20 Kansas youth in need of therapeutic foster care services. Responding to a question from the Committee, the Secretary stated that the number of residents in the facilities changes almost daily.

With reference to the Medicaid State Plan agreement on stay limitations of 140 days in Level V facilities and 180 days for Level VI facilities and Therapeutic Foster Care, the Secretary stated that when a resident reaches the end of the stay limitation, they must leave and be away from the facility for 30 days before they can be re-admitted for another 140 or 180 days. Secretary Daniels stated that, while attempts were made to insure compliance with these limits in the past, the monitoring was done by hand. With changes to computer programming, compliance failures are more easily identified. He indicated that the Centers for Medicare and Medicaid Services (CMS) has challenged its liability for payment when the length of state limitations have been exceeded. As a result, beginning January 1, 2006, any claim for payment from Medicaid will be generally denied when the length of stay limitations have been exceeded.

Responding to a question from the Committee, Secretary Daniels noted that the Medicaid State Plan has been in effect for a number of years but has not been closely adhered to. The issue came to the forefront and to the attention of CMS when proposals were made to change the State Plan. He indicated that the average length of stay for most youth in SRS custody is less than 140 days and felt that the Level V program is working well for the majority of these youth.

The Committee voiced concern that the current system is not working and it is imperative to find a solution to the problem. Particular concern was noted with the procedure for placing youth when the length of stay limitations have been reached, possibly putting the youth at-risk. Concern was also voiced that the State may be required to provide more funding from the State General Fund (SGF) with the possible loss of Medicaid funding.

Secretary Daniels stated that SRS is working with contractors to develop criteria and procedures for addressing the needs of children who may exceed the length-of-stay limitations.

The Committee requested additional information regarding how many facilities have 15 beds or less and how many facilities have more than 15 beds.

The Chairman recognized Don Jordan, Acting Commissioner, Juvenile Justice Authority (JJA), who presented information on the Medicaid funding for Level V Group Homes as it related to JJA (Attachment 2). Mr. Jordan stated that, in dealing with this concern, the primary objectives of JJA were to have a placement for youth when the stay limitations are reached and secondly, to make sure that a provider network is available to serve the youth under JJA's responsibility. Mr. Jordan noted that the agency is putting more emphasis on keeping information in the system current and more accurate. In addition, weekly reports will be processed to keep abreast of the stay limitations

for the youth in the Group Homes in order to have ample time to work with case managers on placement of the youth at the end-of-the-stay limitations. JJA will continue to work with SRS to determine alternatives that need to be in place and how to address the issues raised by the CMS. Mr. Jordan noted that interpretation of the rules by CMS may mean that the state will pay more and Medicaid will pay less.

Responding to questions from the Committee, Mr. Jordan stated that interpretation of the rules by CMS could be addressed by the Division of Health Policy and Finance to determine if there is a need to contest how the rules are being interpreted. Most of the discussion with CMS is directed at treatment facilities with 15 or more beds proposing that they have to meet all the rules for institutions for mental diseases. This would make those facilities more like hospitals or Level VI group homes. Mr. Jordan noted that the Medicaid State Plan is not a federal plan but a plan adopted by the State of Kansas and some of the problem arose when the edits on length of stay were inadvertently dropped from the new computerized system. Mr. Jordan indicated that JJA, SRS, and other interested parties are exploring whether there is a need for additional categories of housing and treatment facilities.

Chairman Neufeld recognized Bruce Linhos, Executive Director, Children's Alliance, who deferred testimony to the following two service providers.

Cheryl Rathbun, Vice President of Clinical Services, St. Francis Academy, presented a update on activity regarding residential and therapeutic services in Kansas (Attachment 3). St. Francis Academy serves youth in Level V and Level VI treatment. The Academy has been working with SRS to look at rate adjustments for residential and therapeutic services and also to determine how many youth in that facility will be affected by the possibility of immediate discharge because of stay limitations.

Mike Hoar, Chief Program Officer, United Methodist Youthville, presented a response to the immediate concern regarding the Medicaid State Plan and implementation of the length of stay for Level V and Level VI residential facilities (Attachment 4). Mr. Hoar noted that Youthville has two Level VI facilities, one in Dodge City and one in Newton. When the Medicaid reimbursement rate was changed, Youthville was forced to close its Level V facilities due to lack of funding. Mr. Hoar stated that the facility has a concern that the urgency of meeting the stay limitations by January 1, 2006 will put a number of children at-risk. Responding to questions from the Committee, Mr. Hoar stated that SRS had indicated that there may be extensions of stay beyond January 1, 2006.

With reference to the Committee's question concerning delay of the implementation for 30 days, Secretary Daniels stated that the federal government will stop Medicaid payments for those youth who have reached the stay limitations on January 1, 2006, and indicated that he is hopeful that the federal government will not try to retroactively recapture some payments already made. The Committee noted that it will take time to establish and put a satisfactory program in place and indicated that additional funding from the State General Fund (SGF) may be necessary.

Chairman Neufeld recognized Janis DeBoer, Deputy Secretary of the Department on Aging, who presented an update on the Effect of Medicare Part D on the Nursing Facility Population (Attachment 5). Ms. DeBoer noted that there are just under 400,000 Medicare recipients in the state with approximately 40,000 of this number who are Medicaid-eligible. Responding to a question from the Committee, Ms. DeBoer indicated that the plans offering Medicare Part D prescription drug coverage in Kansas are required to work with any Long-Term Care (LTC) facility to provide prescription drugs in "bubble-packaging" as required by law. Ms. DeBoer stated that the Department on Aging will be available to travel to various areas of the state to discuss the Medicare Part D prescription drug plan.

The Chairman recognized Deb Miller, Secretary, Department of Transportation (KDOT), who reviewed a request of KDOT, for \$60 million in bonding authority (Attachment 6). Ms. Miller stated that the 2004 Legislature provided for the issuance of \$60 million in bonds in the event that anticipated federal funding fell short. Debt service on the bonds is to be paid from the State General Fund. She indicated that the federal funding component is short by \$117 million from the original \$250 million assumption. Additionally, the Secretary indicated that to insure the completion of the Comprehensive Transportation Plan (CTP), it will be necessary to authorize an additional \$150 million in bonds which had also been included in the Legislature's 2004 restructuring of the CTP. The Kansas Development Finance Authority has recommended that both bond issuances be done at the same time.

The Committee noted that, by law, before the \$60 million in additional bonds can be issued, it is necessary for this Committee to review and recommend approval to the State Finance Council. The additional \$150 million in bonding must be reviewed by House and Senate Transportation Committees prior to State Finance Council review.

Responding to a question from the Committee concerning \$800 million savings in the KDOT budget, Secretary Miller indicated that this \$800 million was achieved through a reallocation of funds; refinancing of debt at a savings of \$161 million, and a reduction in the required KDOT fiscal year ending balance. The Secretary stated that the present required ending balance is approximately \$107 million.

Chairman Neufeld recognized Patrick Hurley, Economic Lifelines, who presented testimony in support of the request from KDOT for \$60 million in bonding authority (Attachment 7). The entity supports both the issuance of the \$60 million in bonding authority and \$150 million in bonding for completion of the CTP projects.

The meeting was recessed at 12:30 p.m. and will reconvene at 2:00 p.m.

Afternoon Session

The Staff of Legislative Research Department presented and reviewed the following reports:

- State General Fund (SGF) Receipts, July through November, FY 2006 (Attachment 8);
- Kansas Personal Income and Disposable Personal Income for 1965-2005 (Attachment 9);
- 2003 Per Capita State Debt as a Percentage of Per Capita State Income (Attachment 10);
- State General Fund Receipts, Expenditures and Balance as Projected FY 2005-FY 2008 (Attachment 11);
- State Air Fleet and Detail by Agency (Attachment 12);
- FY 2006 Selected Supplemental State General Fund Requests (Attachment 13);
- Select Items Taken "Off-Budget" (Attachment 14).

Chairman Neufeld recognized Bruce Kinzie, Revisor of Statutes Office, who presented proposed legislation which would allow for veteran service representatives of the Kansas Commission on Veterans Affairs to receive a monthly stipend from any veterans' service organization (VSO) in addition to their full-time compensation for the performance of duties for such VSO's (Attachment 15).

Representative Feuerborn moved to introduce legislation concerning the stipends for veteran service representatives. The motion was seconded by Senator Morris. Motion carried. The Committee recommends that the legislation be introduced in the House of Representatives.

Senator Morris moved to recommend the approval of the issuance of additional bonding authority required for the completion of the Comprehensive Transportation Plan to the State Finance Council with debt payment from the State General Fund. The motion was seconded by Senator Umbarger. Motion carried. The Committee recommended that the Chairman send a letter to the State Finance Council indicating that the Committee has reviewed the proposal for additional bonding authority and makes a recommendation to approve the request.

Senator Umbarger moved to recommend a letter be sent to SRS and JJA directing them to encourage contractors to comply with the length of stay requirements for Level V and VI group homes and therapeutic foster care placements, but to insure, however, that no child in the system be moved to an inappropriate setting solely to comply with the limitations. The Committee directed that the affected agencies report to the 2006 Legislature as soon as possible after the start of the session with any possible solutions to the issue and with any additional funding which might be necessary. The motion was seconded by Senator Morris. Motion carried.

Chairman Neufeld recognized J. G. Scott, Kansas Legislative Research Department, who presented and reviewed a draft copy of the Committee report (Attachment 16). The Committee requested the following additions to the report:

- **State Juvenile Justice Correctional Facilities.** Direct the JJA to report to the appropriate legislative committees by February 15, 2006, on long-term plans for the Topeka Juvenile Correctional Facility.
- **State Park Financing and Operations.** Request an update to the Legislature, as soon as possible, from the Secretary of Department of Wildlife and Parks, on status of funding problem, alternative funding sources for parks, and potential cuts to solve the funding problem.
- **Base Realignment and Closure Commission-Kansas Army Ammunition Plant.** Request that the Local Redevelopment Planning Authority keep the Legislature informed and that the Legislature continue to monitor and work with the Local Redevelopment Planning Authority.
- **Structure of the State Board of Tax Appeals.** Request that the State Board of Tax Appeals report to the Legislature by February 1, 2006, on updated requirements for members of the Board, recommendation on possible statutory changes to allow retired members to serve and other potential solution to issues regarding backlog and deadlock of cases.
- **Nursing Facility Reimbursement.** Request a report be presented to the appropriate legislative committee on the movement of clients from one nursing facility to another in order to achieve a higher rate of reimbursement.

- **Funding for Technical Colleges.** The Committee noted that the issue of technical colleges and their association with the Board of Regents has been discussed by the Board of Regents and Legislative Educational Planning Committee. The Committee requested a report on findings from the Board of Regents.

A revised draft copy of the Committee report with the above additions will be sent to all Committee members for their review. If no comments from Committee members are forthcoming within a specified time frame, the report will be finalized and filed.

The meeting was adjourned at 3:50 p.m.

Prepared by Shirley Jepson
Edited by Leah Robinson

Approved by Committee on:

December 23, 2005

(date)