

MINUTES

LEGISLATIVE BUDGET COMMITTEE

August 26-27, 2002
Room 123-S—Statehouse

Members Present

Senator Stephen Morris, Chairman
Representative Kenny Wilk, Vice Chairman
Senator Paul Feleciano, Jr.
Senator Dave Kerr
Representative John Ballou
Representative Melvin Neufeld
Representative Rocky Nichols

Staff Present

Alan Conroy, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes
Bruce Kinzie, Revisor of Statutes Office
Deb Hollon, Kansas Legislative Research Department
Audrey Nogle, Kansas Legislative Research Department
Carolyn Rampey, Kansas Legislative Research Department
Becky Krahl, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Paul West, Kansas Legislative Research Department

Conferees

John Campbell, Senior Deputy Attorney General
Terry Bernatis, Acting Health Benefits Administrator, Division of Personnel Services,
Department of Administration
Duane Goossen, Director, Kansas Division of the Budget
Gary Sherrer, Lieutenant Governor and Secretary, Kansas Department of Commerce
and Housing
Dale Dennis, Deputy Commissioner, Kansas State Department of Education
Candace Shively, Deputy Secretary, Kansas Department of Social and Rehabilitation

Services

Connie Hubbell, Secretary, Kansas Department on Aging
Charles Simmons, Secretary, Kansas Department of Corrections
Roger Haden, Deputy Secretary, Kansas Department of Corrections
Trey Hartman, Prison Health Services, Inc.
D. Keith Meyers, Deputy Secretary, Kansas Department of Administration
Jim Murphy, Assistant for Fiscal Management, Kansas Department of Health and Environment
Susan Duffy, Chief Fiscal Officer, Kansas Corporation Commission
Marvin Burris, Acting Chief Executive Director, Kansas Board of Regents

**Monday, August 26
Morning Session**

Senator Steve Morris, Chairman, called the meeting to order at 10:05 a.m. Chairman Morris mentioned that the Committee would go into executive session with John Campbell, Senior Deputy Attorney General. *Representative Wilk moved, with a second by Representative Ballou, that the open meeting of the Legislative Budget Committee be recessed for a closed, executive meeting pursuant to Subsection (b)(2) of KSA 2001, Supp. 75-4319, for the purpose of consulting with members of the staff of the Attorney General regarding (1) the status of certain litigation against tobacco industry companies and related entities and (2) the status of certain litigation regarding interstate water rights which are matters which will be deemed privileged in the attorney-client relationship, that the Legislative Budget Committee shall resume the meeting in Room 123-S of the Statehouse at 10:45 a.m. and that this motion, if adopted, shall be recorded in the minutes of the Legislative Budget Committee and shall be maintained as part of the permanent records of the Committee. Motion carried. Adopted at 10:15 a.m. on August 26, 2002 (Attachment 1).*

Terry Bernatis, Acting Health Benefits Administrator, Division of Personnel Services, Kansas Department of Administration, addressed the Group Health Insurance Plan (GHIP) for Plan Year (PY) 2003 (Attachment 2). Ms. Bernatis provided background information on the previous plan year and concluded with a summary of recent decisions of the Health Care Commission (HCC) regarding PY 2003.

Ms. Bernatis noted that the health plan is experiencing increased costs just like other employer-sponsored plans and the increases are generally in line with national trends. She mentioned that these increasing costs are attributable to many factors including an aging workforce, advances in medical technology and drug therapies, tough negotiation by providers, and missed opportunities to provide quality, cost effective health services throughout the healthcare system.

Ms. Bernatis explained that the HCC approved employee and retiree cost increases reflect the full two-year amount of employee and retiree cost increases, which means actual employee and retiree cost increases will range from approximately 12 percent to 46 percent.

She noted employees and retirees still continue to have choices regarding the GHIP options they select in order to help them control the effect of GHIP cost increases to their personal budgets.

There are no major plan design changes in the state's health plan for PY 2003. Ms. Bernatis mentioned that several tools are being introduced that will help health plan participants become better consumers of health care related services such as the use of a Health Risk Assessment (HRA) that will advise employee participants regarding their current health status. She also explained that the HCC replaced the discount provided to employee participants for not smoking with an equivalent financial credit that allows the employee participant to be much more proactive with their overall healthcare management by completing an HRA.

Three demand/disease management programs will be introduced in PY 2003 that will address depression, cardiovascular risk reduction, and patient safety medication-related diagnosis. Health educational benefits will also be extended to retired employees including the three demand/disease management programs.

Senator Feleciano asked what was meant by missed opportunities to provide quality, cost effective health services throughout the healthcare system. Ms. Bernatis responded by discussing "Leap Frog" which is the national coalition started by several large employers. Quality care issues have to do with, among other things, information about people who die as a result of their care, making sure that drug interactions are not happening to people when they take multiple drugs, and making sure that when they are in the hospital they are getting the appropriate care. She noted that Kansas will be able to have hospitals report information about the quality of care. This information will be available to employees on the website and it will show what provider has the best outcomes and therefore the best quality.

In response to a question by Representative Wilk, Ms. Bernatis explained that the total cost for the plan for calendar year 2001 for healthcare was approaching \$250 million and of the \$250 million for employee coverage only, the state is picking up approximately 95 percent and the employee 5 percent of the cost. For dependent coverage, the employee is paying approximately 65 percent and the state is picking up 35 percent.

Representative Wilk mentioned that he would be interested in the Committee seeing a trend line back to the year 2000, information in real dollars what the employer is contributing and what the employee is contributing, including classified versus unclassified employees, what portion of state employees are using the healthcare insurance, and some projections into the years 2003 and 2004. Ms. Bernatis responded that the information is available in their annual report and she will get that information to the Committee. She noted that about 94 percent of the employees are participating in the state plan.

Chairman Morris wanted to know the increase for the average employee who participates in Kansas Choice. Ms. Bernatis responded that for employee only the increase would only amount to \$1 or \$2 per pay period. For dependent coverage, the increase would be closer to \$70 or \$80.

Representative Neufeld inquired about what impact school participation in the plan might make. Ms. Bernatis mentioned that there are several groups coming in and it amounts to approximately 600 to 680 employees. Currently, there are about 2,300 people and a dozen school districts participating. Ms. Bernatis expects more school districts in the coming years due to the changes in school budgets but she feels counties, townships, and cities will be a higher growth area than school districts because of the larger contributions to healthcare they are already making toward health insurance.

In response to a question from Representative Nichols, Ms. Bernatis explained that they are in the process of preparing their information and they always hold open enrollment training sessions for agency personnel officers during the first full week of September. Information on exact amounts of cost increases will be available at that time and will be provided to the Committee at the same time. Representative Nichols mentioned that they may want to release that information to all legislators.

Alan Conroy, Chief Fiscal Analyst, Kansas Legislative Research Department, provided additional information from the Budget Division's Comparison Report on the health insurance component for the state salary and wage base. In FY 2001 it was approximately \$119 million that the employer paid, the revised estimate in 2002 is about \$129 million, and the budgeted amount for 2003 is about \$149 million in rough estimates. Pharmacy costs were included in these figures. Representative Wilk asked if pharmacy was taken out of these figures, what other cost drivers could be identified. Ms. Bernatis responded that her personal opinion is that the population is aging and there may be more chronic conditions, there is a crisis in healthcare providers at this time, and there is concern regarding increasing premiums for medical malpractice, all of which is factored into the cost.

Representative Wilk mentioned that he has been trying to get national information regarding the amount and the percent that the taxpayer funds in regard to all medical costs in the United States (insurance being provided to state employees, cities, counties, school districts, Medicaid, Medicare, HealthWave, etc.) and asked if staff could try to obtain this information. Ms. Bernatis noted that 20 percent of our Gross National Product is dedicated to healthcare costs.

Chairman Morris asked if there has been any discussion regarding more activities in the state employee group similar to the disease management with Medicaid. Ms. Bernatis mentioned that it is one of the reasons that they are going to the health risk appraisal this year. Representative Ballou asked who would have access to all of the information obtained from the health risk appraisal. Ms. Bernatis explained that it will be at an aggregate level and no one individual's specific information will be seen. They are in the process of contracting with someone to develop the database.

Senator Feleciano expressed concern regarding the health risk assessment, noting a concern that we are embarking down a path of privately contracting with a company that will now have privileged information on every state employee if they want to receive the discount. Ms. Bernatis explained that neither the Department of Administration nor any private contractor would know the identity of individuals who took the health risk assessment and there will be no Social Security number associated with it. There will be an identifier

utilized to determine which employees qualify for the discount. She noted that other states are also doing this and it has been cost effective.

Representative Wilk asked if there were some things that could be done to give incentives for more people to go into nursing. Ms. Bernatis mentioned that the Division has been working with Fort Hays State University to develop some public service announcements in terms of encouraging people to consider healthcare careers, specifically nursing. Bobbi Mariani, Director, Division of Personnel Services, Kansas Department of Administration, explained that they are working in tandem with the Board of Nursing and the larger employers of healthcare professionals within the state workforce (such as the Department of Social and Rehabilitation Services and the Veterans' Commission) to see what the capacity is and are looking into incentives to encourage people to go into those healthcare careers.

Representative Ballou requested information regarding how many nursing positions there are at each school for nursing, and how many people are applying because he feels there may not be enough slots available for students who want to go into nursing. Ms. Bernatis mentioned that if there are not enough slots, perhaps the issue may be funding. Chairman Morris mentioned that this may be a topic the Committee may want to address.

Ms. Bernatis also provided information regarding the State of Kansas' Pharmacy Benefit Manager (PBM), AdvancePCS ([Attachment 3](#)). She noted that she understood that a recent article in *U.S. News and World Report* regarding Pharmacy Benefit Managers had generated some questions among members of the Committee. In her testimony, Ms. Bernatis addressed these questions and explained the role of PBMs and the state's relationship with its current PBM, AdvancePCS. She also noted that the Kansas Health Care Commission has been well aware of the issues described in the article mentioned above and has used this information to negotiate contracts that take full advantage of the arrangement PBMs have with the pharmaceutical companies.

Ms. Bernatis noted several factors that contribute to the increase in prescription drug costs and listed them in her written testimony. Ms. Bernatis mentioned that they have responded to these issues and have implemented policies that allow them to monitor and manage these factors by promoting healthy lifestyles, encouraging the use of generics, providing a mail order option that provides an additional 5 percent discount, and to focus on cost effective and reliable networks that ensure national and rural access.

Ms. Bernatis mentioned that the Health Care Commission contracted with Heritage Information Systems to conduct an audit of the drug plan operations. Heritage was contracted by the HCC to measure and evaluate AdvancePCS's claims administration performance in order to identify and prevent unnecessary or increased costs generated by errors in administration. Indications are that the HCC is generally satisfied with the service level provided by AdvancedPCS. Ms. Bernatis did note that Heritage documented estimated errors on claims paid on the part of AdvancePCS of \$139,378 out of \$67,200,000 in paid claims and the errors and repayment issues had since been resolved.

Representative Nichols asked if anyone has done a comparison as to whether we are getting the maximum benefit from AdvancePCS. Ms. Bernatis responded that there has been no study of that nature and explained that there are 87,000 pharmacies in the United States and basically no one has access to all 87,000. Representative Nichols asked if there was anything in the report by the Heritage Information Systems about whether or not the state is getting the maximum benefit from AdvancePCS. Ms. Bernatis mentioned that she will get back to the Committee after she has had an opportunity to completely read the report.

Chairman Morris mentioned that he also had read the article in *U.S. News and World Report* and explained that PBMs are competent and doing a good job and noted that the real question was how much were they taking advantage of the situation. The Chairman inquired if the Committee would have enough interest in this topic to advise someone from AdvancePCS to speak to the Committee regarding their procedures and services. Representative Neufeld felt it would be beneficial because it may be necessary to look at this model for the Medicaid pharmacy and see if there are benefits. Chairman Morris requested that a representative from AdvancePCS come to the next meeting.

Representative Neufeld also requested information regarding money available for Kansas for West Nile Virus from the Centers for Disease Control, and what the Kansas Department of Health and Environment is applying for and how they would use it.

The meeting recessed at 11:50 a.m.

Afternoon Session

Chairman Morris reconvened the meeting at 1:30 p.m.

Duane Goossen, Director, Division of the Budget, spoke before the Committee regarding the Governor's State General Fund allotments ([Attachment 4](#)). Mr. Goossen presented the information that was given at the Governor's press conference about ten days ago when allotments were announced. In his written testimony, the Director detailed the allotment reductions in FY 2003 totaling approximately \$41 million. Mr. Goossen mentioned that state agencies were notified of this allotment ten days ago with an official letter signed by the Secretary of Administration. By law, an agency has ten days to appeal any reduction and those appeals are due in the Division of the Budget office by close of business August 27, 2002. Mr. Goossen further explained that the Governor is the final arbiter of appeals and by law would have 20 days to review these appeals. At that point, once the Governor has reviewed any appeals there may be, the Division of the Budget will officially notify Accounts and Reports of the allotment deductions and Accounts and Reports would change the approved amount that is currently being used.

In response to a question by Representative Neufeld, Mr. Goossen noted that the agencies were given a reduction amount and now, developing the spreadsheet to be given to Accounts and Reports, the Division of the Budget will have to be a bit more detailed than simply reflecting the total amount. In some cases in small agencies there is just one amount and that will be what Accounts and Reports will reflect. In cases of more complicated agencies, the Division of the Budget will need to inform Accounts and Reports which funds to reduce. Representative Neufeld expressed concern regarding the Veterans' Commission, noting that if the decision is made to take their savings by closing one third of Halsey Hall, which they can easily do, they would have achieved the reduction amount. He mentioned the net effect of that would be that more people would move to nursing homes in the Medicaid system and it would increase the Medicaid system accordingly, generating no net savings at all.

In response to a question by Senator Feleciano, Mr. Goossen explained that the Governor is not attempting to reduce the budget to anticipate any revenue shortfalls that may occur after January 1, 2003, even though additional shortfalls are possible. He mentioned that there are no potential allotments planned for September and they have tried to anticipate all the losses that would occur in the first six months of the fiscal year. Mr. Goossen mentioned that in November there will be a new Consensus Revenue Estimate that will officially and publicly revise the current FY 2003 estimate and make a new estimate for FY 2004. At that point in November there will be better official numbers that everyone will have to use. In addition, he noted that it would be inappropriate for the current Governor to enact cuts that go beyond January 1, 2003, because it will be up to the new Governor and the new Legislature to administer and implement whatever reductions might be necessary for the second half of FY 2003.

Representative Nichols mentioned that the statute used for making these allotment cuts specifically states that whenever for any fiscal year it appears that resources in the general fund are not sufficient to meet those obligations, cuts may be made basically to get back to zero and the statute talks about the entire fiscal year. Representative Nichols requested further information from the Governor's office or the Division of the Budget on clarification of the policy of the Governor to make another allotment if it appears it will be necessary for the full fiscal year. Chairman Morris mentioned that the Governor will probably evaluate the situation as months go by as far as any other appropriate actions that might need to be taken.

Gary Sherrer, Lieutenant Governor and Secretary of the Kansas Department of Commerce and Housing (KDOC&H), spoke to the Committee regarding the Governor's State General Fund allotments ([Attachment 5](#)). Lieutenant Governor Sherrer explained that on August 14, 2002, Governor Graves notified KDOC&H that FY 2003 Economic Development Initiatives Fund (EDIF) appropriations would be allotted to remove \$626,000. Of this, \$387,699 is from the KDOC&H budget. Other than a small grant for the Eisenhower Center in Abilene, KDOC&H does not have any funding from the State General Fund in FY 2003.

Lieutenant Governor Sherrer mentioned that since the Legislature appropriated EDIF in a block grant, the agency did have some flexibility to address issues like this and will be

looking at administrative costs, reduction in travel, holding down some spending expenses, eliminating certain activities, and holding vacant positions open a little longer to try to manage the reductions. He also mentioned that there may be some reductions in some of the grant moneys available to communities. He noted that the greater issue is what is ahead for FY 2004. He feels the problems will still be there and noted that with some operating costs such as health insurance continuing to rise, further cuts would require the elimination of employees and programs.

Dale Dennis, Deputy Commissioner, Kansas Department of Education, spoke to the Committee regarding the Governor's State General Fund allotments ([Attachment 6](#)). Mr. Dennis explained that the cuts were across the board with the school districts and he listed in his testimony some reductions by several school administrators made in preparation for the allotment system implementation and the limited increase in Base State Aid Per Pupil. He noted that they received the most calls from parents in those school districts where student fees have been increased. Mr. Dennis mentioned that another big issue is health insurance because rates are up and benefits are down and that has really been a struggle in how to handle it and what to do.

Mr. Dennis listed the following questions he had received from school administrators and noted that any suggestions from the Legislative Budget Committee would be greatly appreciated:

- Will there be any additional state aid reductions? If so, when and how much?
- Will the state be making their state aid payments on time?
- How are we going to pay health and property insurance which have increased substantially?

Mr. Dennis mentioned that through the allotment system, Kansas public schools received a reduction of \$17,423,474. He explained that general state aid was reduced about \$27.

Representative Ballou requested a list of what some school districts reduced such as activities or classes and in what areas they had to reduce special education. Mr. Dennis will respond with some representative samples.

Senator Kerr asked for information on salary increases contained in teacher contracts this year. Mr. Dennis responded that there will be several and the better ones are 5 percent (salary plus fringes). Some contracts have not been settled, but he believes the average will be 3 percent or better with the range 0 to 5 percent.

In response to a question from Chairman Morris regarding how to respond to constituent inquiry as to how the school districts are able to give an increase of 5 percent when there is publicity on how much the school districts are hurting, Mr. Dennis explained

that school districts handled the situation in a variety of ways. Some actually cut staff to give the remaining staff increases, some increased the local option budget (LOB) and some cut cash balances. Mr. Dennis noted that he urges districts to reduce cash balances to develop a plan to rebuild those balances.

Representative Neufeld mentioned that in his area, the LOB was increased and he asked how that would impact the amount of state dollars that will go into LOB. Mr. Dennis explained that it was underfunded when the Legislature adjourned and feels that shortfall may be even more than anticipated, but noted that property taxes in certain parts of the state are extremely sensitive, making it harder to predict.

Mr. Dennis discussed the draft of a letter he wanted to send out to the Chief School Administrators regarding potential reductions later in the fiscal year (Attachment 7). He explained that he felt it would be good planning to forewarn the school districts of a possible cut and it is not meant to surprise anyone. Committee discussion followed. Members of the Committee noted that there could be a good possibility of cuts in the future, and it would be prudent to plan for potential cuts.

Staff asked about what types of health insurance increases school districts are facing for their employees. Mr. Dennis responded that it is not uncommon to find a 25 to 35 percent increase and the largest increase so far has been 75 percent.

Candace Shively, Deputy Secretary, Office of Planning and Policy Coordination, Kansas Department of Social and Rehabilitation Services (SRS), on behalf of Secretary Janet Schalansky, spoke regarding the Governor's State General Fund allotments (Attachment 8). Ms. Shively mentioned that the Governor instituted an across the board allotment of 2 percent with a few exceptions. One exception excludes the SRS consensus caseloads from the 2 percent allotment. The SRS portion of the allotment, including state hospitals, totals approximately \$6 million. The reductions to meet the \$6 million allotment were across SRS as a whole. Ms. Shively listed a detailed breakdown of SRS' current proposal to meet the allotment in her testimony.

In conclusion, Ms. Shively mentioned that although these allotment reductions will have some negative impact on direct care services, SRS has attempted to minimize the impact as much as possible.

Senator Kerr asked how services will be provided to persons in these communities where area offices will be closed. Ms. Shively mentioned that the federal standards no longer require that they see people on a face-to-face basis, so they will explore more on-line kinds of applications, use of 1-800 telephone numbers, and look at other ways to use community resources that do exist to have information on hand regarding applications and processes.

Representative Neufeld asked if any potential numbers have been worked up regarding Medicaid cost savings if eligibility was lowered or changed. Ms. Shively explained that during the session they had some numbers they had worked up based on various options, but there is nothing current.

Representative Nichols asked about the head injury waiver reduction, noting that SRS had indicated the program was fully funded. Now with a \$600,000 reduction, SRS is still indicating it can manage the program without a waiting list. Representative Nichols asked if the program had actually been over-funded, depriving the Legislature of the opportunity to reallocate funding to other worthy programs. Representative Nichols confirmed with SRS that there will not be a waiting list other than the time a person is waiting to have their application processed for the head injury waiver.

Senator Feleciano asked for additional details on the reallocation of personnel in the Sedgwick County area. Ms. Shively responded that they will provide details.

Chairman Morris inquired about the possibility of looking into a better Medicaid match rate because he had heard a presentation by the Utah Medicaid Director where the Medicaid match rate was 70 percent/30 percent and in Kansas Medicaid is 60 percent/40 percent. Laura Howard, Assistant Secretary for Healthcare Policy, explained that the match rate puts the state on a formula that links to a state's per capita income and Utah has a very low per capita income.

Connie Hubbell, Secretary, Kansas Department on Aging, spoke regarding the Governor's State General Fund allotments ([Attachment 9](#)). Secretary Hubbell mentioned that on August 14, 2002, Governor Graves announced that the Department on Aging would be required to sustain an allotment reduction of 2 percent. An allotment of 2 percent (excluding nursing facilities) amounts to a decrease of \$400,057 from the State General Fund. She noted that none of the reductions are desirable and she has taken careful measures to make reductions in a manner that is least harmful to the aging network in Kansas.

Secretary Hubbell explained that the Department on Aging prioritized the reductions necessary to meet a 2 percent reduction as follows:

- Administration;
- Targeted Case Management;
- In-Home Nutrition Program; and
- Senior Care Act.

Senator Kerr noted that early in the 2002 Legislative Session, the Legislature had considered a State General Fund rescission bill, and asked whether the reductions now identified by the Department are the same general reductions in services that were considered earlier. Secretary Hubbell explained that in the rescission bill, caseloads were not exempt and the potential reduction was approximately \$3 million.

In response to a question by staff regarding the meeting in early July when the Department indicated it was reserving as much as 10 percent for the Senior Care Act and

the nutrition program, Secretary Hubbell noted that 10 percent was reserved when the area agencies contracts were written because there was enough lead time to know that. Secretary Hubbell mentioned that she visited with the area agencies and the Department has chosen to reallocate 8 percent of that 10 percent to them. They will have to manage those two programs knowing that there may be additional cuts.

Chairman Morris welcomed Mary Allman, the new Executive Director of the Kansas State Historical Society who presented introductory remarks to the Committee. (No written testimony was provided.) Ms. Allman mentioned that she is looking forward to working with the 2003 Legislature and she realizes that it will be a difficult session. She explained that at their senior staff level, the Kansas State Historical Society is using a model of zero based budgeting to try to handle the allotment situation. Ms. Allman mentioned that the reason for that is the way she interprets zero based budgeting is to look at their core services and how they can continue to achieve their core services even with those allotments.

Ms. Allman explained that in looking at the current and the future for the Kansas State Historical Society, she considers the agency to be an educational institution. She feels that should be their focus in terms of what they are doing, how they will handle the funds available to them and how they will offer services to the community. She mentioned that their allotment is 2 percent which is about \$120,000.

The meeting recessed at 3:30 p.m.

Tuesday, August 27 Morning Session

Chairman Morris reconvened the meeting at 9:05 a.m.

Charles E. Simmons, Secretary, Kansas Department of Corrections, mentioned that the Department of Corrections has contracted for medical and mental health services since 1988 and it has worked out well. He noted that his feeling was that it was one of the better decisions the Department of Corrections has ever made to contract for this specialized service. Secretary Simmons introduced Roger Haden, Deputy Secretary, Kansas Department of Corrections, who presented testimony and the status report on the inmate health care services ([Attachment 10](#)).

Mr. Haden explained that since 1988 the Kansas Department of Corrections has provided for inmate health care through contracts with qualified healthcare providers developed pursuant to the state's negotiated procurement processes (KSA 75-5205; 75-37,102). He gave a summary of the contracting history, contract cost data, contract staffing, contract features and services, contract monitoring, and recent trends/issues. Mr Haden mentioned the following significant cost escalations:

- Staffing costs (nursing shortage). (Prison Health Services estimates that its staffing costs have increased 33 percent since the beginning of the current contract term.)
- Pharmaceuticals. (Prison Health Services estimates that the pharmacy costs of the contract have increased more than 65 percent in the past year.)
- Off-site costs. (Off-site costs, including both inpatient and outpatient care, have increased over 25 percent in the past year.)

Mr. Haden also reviewed some cost control measures that are listed in his written testimony.

Chairman Morris mentioned that he read a report that in one of the states, an operation costing in excess of \$1 million was performed on an inmate and asked if the Department of Corrections had encountered anything like that. Mr. Haden responded that he thought he remembered seeing the same article and thought it may have been in regard to a heart transplant. Dr. Jim Baker, Medical Director, Prison Health Services, explained that there was a bone marrow transplant which was approximately \$125,000 for one patient. He also noted that there are high costs with oncology patients, but no costs like the heart transplant.

Chairman Morris inquired about the number of HIV inmates in Kansas. Dr. Baker responded that there were very low numbers (around 40) in Kansas as compared to other states. Dr. Baker noted that Hepatitis C will rise as the next problem and it can be estimated that 32-40 percent of the inmate population in Kansas has Hepatitis C.

Representative Neufeld expressed concern regarding the medical furlough bill (SB 339) in the way the term "mental health issues" is defined when the inmates are released under that bill.

Senator Kerr asked what the policy was on providing elective care and who determines when elective care is necessary. Dr. Baker explained that it is his job during the medical utilization review process. He noted that if a procedure is only cosmetic, he does not approve it. Something that will make a substantial difference in quality of life, such as heart catherization would likely be approved.

In response to a question by Senator Kerr and a discussion regarding medical malpractice, Jesse Hubling, Regional Vice President for Prison Health Services, mentioned that their legal department makes them aware of legal settlements and major awards and they have not been made aware of any major awards within the system. Mr. Hubling also mentioned that the general cost of malpractice insurance is going up regardless of the awards.

Chairman Morris asked if there were any Alzheimer patients and the response was four inmates. These inmates are cared for in an infirmary setting. These are the types being considered for medical release if arrangements can be worked out in the community.

Trey Hartman, Prison Health Services (PHS), Inc., gave a presentation on inmate health care costs (Attachment 11). Mr. Hartman introduced the team present with him, Dr. Jim Baker, PHS Medical Director and Jesse Hubling, PHS Regional Vice President of Operations for Kansas.

Mr. Hartman reviewed the following topics with the Committee:

- History of PHS-Kansas Department of Corrections Partnership;
- Current health care environment;
- Impact on financial performance;
- Projected future costs; and
- Potential solutions.

Mr. Hartman mentioned that they are proud of their history in Kansas which has been since 1991. He noted that PHS will be here in Kansas until June 30, 2005, and hope to provide future services to the state after that. He explained that there are some financial difficulties with the contract and there are losses being incurred in Kansas. He noted however, that despite these losses PHS is still striving to provide a first-class product.

Mr. Hartman indicated that some major cost drivers are:

- Nursing shortage;
- Pharmacy costs;
- Enhancements in diagnostics and medical advances;
- Insurance; and
- Performance bond costs.

Regarding pharmacy costs, Mr. Hartman explained that the cost for treating an HIV patient is \$850 per patient/per month and cost to treat a patient for Hepatitis C is \$1,200 per patient/per month.

Some financial factors are:

- Acute nursing shortage;
- Costs are up 33 percent since 1999;
- Pharmacy expenses:
 - Annualized pharmacy expenses for 2002 represent over 200 percent increase in the past 36 months;
- Off-site inpatient, outpatient and diagnostic service costs:
 - Over 25 percent increase in past 24 months.

Concerning contract negotiations, Mr. Hartman explained that currently the private corrections medical market is moving toward one and two year contracts. The reason is so they have an opportunity to address unforeseen events and have a chance to negotiate.

Some possible solutions to escalating costs were listed in Mr. Hartman's written testimony as follows:

- State recognition of exception for Medicaid coverage of inmates when hospitalized longer than 24 hours;
- Legislative support to allow PHS access to Medicare rates for hospital-based services:
 - Inpatient and outpatient services would reduce loss by approximately \$675,000, annually;
- Additional appropriation:
 - In reference to the appropriation, Mr. Hartman noted that when the current contract is up in 2005, the product being purchased today will not be available to anyone for that amount of money; and
- Reduce level of performance bonds.

In conclusion, Mr. Hartman mentioned the following information:

- PHS values has demonstrated its long-term partnership with the Kansas Department of Corrections.

- The current level of financial losses was unpredictable and is unsustainable long-term.
- There are several mechanisms available to bring contract to a break-even level.

Regarding performance bonds, Senator Kerr asked if any other states are using any other mechanism, for example, stand-by letters of credit instead of performance bonds. Mr. Hartman responded that they are not at this time. He noted that he can see it moving that way because his personal opinion and prediction after dealing with this intensely the past three or four weeks is that performance bonds are going to become very difficult to get for anyone. PHS noted that, if they had to write a stand-by letter of credit for \$6 million, PHS as a company would have to put up between 5 and 10 percent of that amount as collateral so they would be losing the use of that money over a period of time.

Representative Wilk asked if prison labor is used for health care services. Mr. Haden responded that inmate labor is used only for maintenance of the area, not for any direct health care services. He did indicate that they have just begun experimenting at Lansing with an inmate assistance program to help with suicide watch. Dr. Baker mentioned a concern that an inmate in that situation could face intense pressure to steal drugs or other items

Senator Feleciano asked if the Kansas Department of Corrections is planning a no-smoking policy in the correctional facilities in Kansas and asked if there was data from other states on what the effects of such a ban might be. Secretary Simmons responded that a total non-smoking policy will be implemented in March 2003 and 18 states have now gone tobacco free. He feels that this will not be a problem in Kansas, and noted that no one, including staff, inmates, volunteers, or visitors would be allowed to possess tobacco in the facility and it will be considered a contraband item. Other states have successfully done it and Secretary Simmons feels it will improve the environment, improve security, eliminate ongoing complaints of exposure to second-hand smoke, and reduce the possibility of accidental and intentional fires.

Senator Kerr mentioned that given the enormous amount of health care provided by the State of Kansas, it might be beneficial to explore other opportunities for PHS to provide medical services to the state. Mr. Hartman indicated that PHS would be interested in that.

Keith Meyers, Deputy Secretary, Kansas Department of Administration, gave an update on the progress of the "Kansasgrants.org" website and the grant writing training that has been made available by the Kansas Department of Administration (Attachment 12). Mr. Meyers mentioned that based upon feedback received from users of the website, efforts are currently being made to improve its user-friendliness. The Grant Proposal Writing course has been contracted through Cypress Media. Forty-five individuals have attended training at sessions offered in Topeka and Wichita. Feedback from the training participants has been very positive. Participants have come from a wide range of entities: state agencies, cities, counties, school districts, and non-profits.

Chairman Morris expressed his appreciation to the Department of Administration for being pro-active in setting up the website.

Jim Murphy, Assistant for Fiscal Management, Kansas Department of Health and Environment, spoke regarding maximizing federal grant funds (Attachment 13). Mr. Murphy mentioned that approximately 85 percent of the budget for the Division of Health comes from federal funds and other private funding sources.

Mr. Murphy also distributed copies of charts indicating Expenditures by Fund Type and by Fund for the Kansas Department of Health and Environment (Attachment 14) which he used to try to determine how the agency is maximizing its funds.

Representative Nichols asked if there were any barriers to the agency in accessing these grants and what suggestions there are that the Legislature could do to help. He mentioned that Kansas was below the middle in comparison to other states in competitive federal grants the states receive and noted that some states have offices in Washington, D.C., and some have a centralized grant office under the Legislature or the Governor's office and asked whether an office like that would help to move Kansas up on the list. Mr. Murphy explained that at times there is a lack of general funding to meet federal matches and on occasion, an unwillingness to go through the various joint committees for reviews; but, it has not been his experience. Mr. Murphy also indicated a clearinghouse might save costs in the long-run. Representative Nichols requested that the Department of Health and Environment discuss the issue of a Washington, D.C., office or consultant or whether it would make more sense to have cross functional agency teams such as between the Kansas Department of Social and Rehabilitation Services or Kansas Department of Health and Environment who both serve similar populations. Mr. Murphy also noted that he was not aware of the Department of Administration's website until the meeting and he will pass that information regarding the grants back to his agency.

Representative Neufeld asked for information regarding funding available for the Centers for Disease Control to fight the West Nile Virus funding and asked if the agency will look into whether the money could be used to update its laboratory. Mr. Murphy mentioned that he has been told that the money available to the State of Kansas is roughly \$200,000 through CDC. The moneys that seem to be available now are both for testing of mosquitos and enforcement. Mr. Murphy will check further into the money available.

Susan Duffy, Chief Fiscal Officer, Kansas Corporation Commission (KCC), spoke regarding how the KCC monitors the availability of federal funds within their agency (Attachment 15). Ms. Duffy mentioned that she was not aware of the Department of Administration website regarding accessing federal grants and the KCC will take a look at it.

Ms. Duffy explained in her written testimony that the KCC concluded the following information:

- Federal grant writing is time consuming and requires a tremendous amount of research, skill, and good contacts in requisite federal agencies;

- Accepting and implementing federal grants requires a great time commitment of staff; and
- Finding matching funds, requesting reimbursement, and meeting monthly, quarterly, and yearly reporting requirements requires support and coordination from the Accounting Office.

Ms. Duffy noted that the KCC receives federal funds in the following programs:

- Energy Office (State Energy Block Grant), Department of Energy (based on formula);
- Utilities Division (pipeline safety section), USDOT (based on formula); and
- Conservation Division (class II injection wells) (formula driven).

Ms. Duffy noted that she feels that a Washington, D.C., office would be good but it is that day-to-day contact with federal officials that makes a big difference and expressed concerns in light of the current budget situation, that restriction on out-of-state travel could present a barrier to maintaining those necessary agency contracts.

Marvin Burris, Acting Chief Executive Director, Kansas Board of Regents, spoke regarding the State General Fund allotments (Attachment 16). Mr. Burris mentioned the total higher education reductions of \$24.3 million, or 3.4 percent. He also detailed in his written testimony information regarding the technical schools and colleges, Community Colleges, Washburn University, Kansas Board of Regents, and the state universities. Mr. Burris also detailed in his written testimony the institutional responses to funding cuts and how the state universities responded to FY 2003 budget reductions.

Mr. Burris also provided information on the Regents Faculty of Distinction Program (Attachment 17). Mr. Burris mentioned that the program was authorized by the 2000 Legislature to encourage major gifts by private donors to enhance the ability of institutions to attract and retain faculty of distinction and detailed additional information in his written testimony.

Senator Feleciano mentioned that he has been contacted by several contractors in his area who are concerned about the process taking place relative to selecting contractors for the \$120 million Regents research initiative. His understanding is that on September 16, 2002, there are five firms to be interviewed and his question to the Board of Regents concerned how those five firms were arrived at and what procedures were used. Mr. Burris responded that he believed that to get the whole process moving along, the architects being interviewed were "short-listed" using normal processes and procedures that would be used on any state building construction project. Representative Nichols responded that some of the concerns were brought to his attention after the last meeting of the subsidiary

corporation that is in charge of this research and development initiative. Representative Nichols further noted he was appointed by the House of Representatives as Minority party representative to the commission and he will share these concerns at the group's next meeting.

Chairman Morris asked that Representative Nichols express the concerns brought up by Senator Feleciano to the Board and that the Board of Regents can pass on to the committee any information regarding the five firms.

Ms. Bernatis distributed and explained the following information in response to questions posed by the Committee:

- Estimated Budgeted Cost of Group Health Insurance FY 2004 (Attachment 18).
- Information regarding Kansas State Employees Health Care Commission - Projected Health Plan Costs 2000 - 2004 (Attachment 19).

Ms. Bernatis mentioned that she has talked with AdvancePCS and representatives from PCS will be present to speak before the Committee and will stand for questions at the September 30 or October 1 meeting of the Committee. Chairman Morris mentioned that the Committee would like to know how they do business in Kansas and Representative Neufeld asked that PCS suggest other options the state can explore to reduce health care costs. Ms. Bernatis suggested eliminating choice might be one thing the state could do.

Representative Ballou asked for information regarding a survey on special education services from Mr. Dennis. Chairman Morris asked that staff look into the response that Mr. Dennis will be sending regarding the samples as discussed earlier in the meeting.

Senator Feleciano expressed interest in pursuing:

- Department of Corrections using Medicaid and MediKan and attempt to get waivers from SRS to be used at the hospitals and how to go about that;
- Address the nursing shortage and implementing program incentives;
- Put together a list of various agencies to bring to the table with executives of the Prison Health Services and visit with them about prescription drug components and other ways to utilize their services; and
- Provide services, using health clinics, to help indigents.

Chairman Morris mentioned that perhaps Senator Feleciano should discuss the first three items with PHS and that the Committee would look at the nursing shortage and

providing incentives, including looking at the university and community slots available for training nurses.

The next meeting is scheduled for September 30 and October 1, 2002.

The meeting adjourned at 12:20 p.m.

Prepared by Mary Shaw
Edited by Leah Robinson

Approved by Committee on:

September 30, 2002