Committee Reports to the 2013 Kansas Legislature

Special Committees;
Selected Joint Committees;
Other Committees, Commissions, and Task Forces

Kansas Legislative Research Department
February 2013

2012 Legislative Coordinating Council

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Special Committees;
Selected Joint Committees;
Other Committees,
Commissions, and
Task Forces

Special Committee on Elections
Special Committee on Financial Institutions and Insurance
Special Committee on Taxation
Special Committee on Transportation

Arts and Cultural Resources
Corrections and Juvenile Justice Oversight (CJJO)
Home and Community Based Services Oversight
Kansas Security
Legislative Budget
Legislative Educational Planning (LEPC)
State Building Construction
Capital Preservation
State Employee Pay Plan

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Foreword

In the 2012 Interim, the Legislative Coordinating Council appointed five special committees to study seven study topics. Legislation recommended by the committees will be available in the Documents Room early in the 2013 Session.

Joint committees created by statute met in the 2012 Interim as provided in the statutes specific to each joint committee. Several of the joint committees have reported on their activities, and those reports are contained in this publication. Legislation recommended by these committees will be available in the Documents Room early in the 2013 Session.

This publication also contains reports of other committees, commissions, and task forces that are not special committees created by the Legislative Coordinating Council or joint committees.

Reports of the following are not contained in this publication and will be published in a supplement:

Special Committee on Rural Broadband Services
Joint Committee on Energy and Environmental Policy
Joint Committee on Health Policy Oversight
Joint Committee on Information Technology
Health Care Stabilization Fund Oversight Committee

Minutes of the meetings of the special committees, joint committees, other committees, commissions, task forces, and panels are on file in the Division of Legislative Administrative Services.

A summary of each reporting entity's conclusions and recommendations may be found beginning on page v.

Table of Contents

Summary of Conclusions and Recommendations

Special Committee on Elections

Ballot Issue Explanation Statements and Other Issues. The Committee recommends an opinion be sought from the Kansas Attorney General to clarify whether various types of local governments have authority to provide ballot explanation statements under current law.

The Committee requests the elections-related standing committees examine whether an advance ballot cast must be counted under current law if the advance voter dies prior to the actual election day.

Special Committee on Financial Institutions and Insurance

Securities Commissioner and Agency Fee Funds and Revenue. The Special Committee makes no recommendation on this topic.

Regulation of Insurance Holding Companies. The Committee recommends the introduction of a bill to be drafted as a prefile with collaboration from the Kansas Insurance Department, industry representatives, and Committee staff. The bill, using 2012 HB 2077 (as further amended by Senate Committee) for its base, is to be composed of relevant insurance holding company provisions and conceptual amendments presented during the Special Committee's review. If the bill is not approved by the Legislative Coordinating Council, it should be introduced and heard concurrently in each respective chamber's appropriate committees by February 1, 2013.

Special Committee on Taxation

Not convened.

Special Committee on Transportation

Passenger Rail. The Special Committee expresses its support for expansion of passenger rail service in Kansas.

The Committee recommends the 2013 Legislature pursue private, local, state, and federal funding strategies to allow maintenance of the current route of the *Southwest Chief* through southwest Kansas.

The Committee recognizes and appreciates the efforts of communities, community leaders, and other organizations to further passenger rail in Kansas. The Committee encourages the Kansas Department of Transportation to continue to work cooperatively with the communities in Kansas and transportation agencies in nearby states on passenger rail issues.

The Committee recommends the 2013 Legislature direct $3 million toward a National Environmental Protection Act study needed before further work could proceed or federal funding pursued for the extension of the *Heartland Flyer*.

Joint Committee on Arts and Cultural Resources

Arts and Cultural Life in Kansas. Based on testimony and discussion, the Joint Committee made a number of conclusions and recommendations regarding the new Creative Arts Industries Commission (CAIC), the state of the arts programming in Kansas, the state of historical sites, and certain agency budgets. Among the conclusions and recommendations:

Creative Arts Industries Commission. The Joint Committee requested the information and materials including clarification of the current and future programming for the Poet Laureate Program; CAIC budget information, or FY 2013 and FY 2014; the CAIC strategic plan, including budget information, planned staffing levels, and programming goals; and an update on the National Endowment for the Arts (NEA) grant proposal.

State of the Arts. The Committee notes its requests for information and further requests an update on the CAIC planning. The Committee would like to convene its meeting to receive this information during the 2013 Session. Further, the Committee recognizes the distinction between public and private entities supporting the arts and requests any published documents that can be made readily available by representatives of the Kansas Arts Foundation.

State of the Historic Sites. The Committee requests representatives of the Joint Committee on State Building Construction and Appropriations Committees meet with the Historical Society and suggested Historic Sites' representatives to review long-range plans and funding issues associated with keeping the Historic Sites open on a regular basis. Capital improvements and on-going maintenance costs should be part of this discussion.

Agency budgets. The Committee notes the potential reductions in the budgets of the State Library, Historical Society, and the pass-through to the Kansas Humanities Council and requests updates on federal and other sources of funding that could help to reduce or stabilize the reductions.

Joint Committee on Corrections and Juvenile Justice Oversight

For the Department of Corrections, the Committee agreed to recommend support for the agency's efforts to enhance funding for recidivism-reducing programs, both within the facilities and in the community.

For the Juvenile Justice Authority (JJA), the Committee recommended ongoing oversight of the agency's implementation of the Legislative Post Audit recommendations for the Kansas Juvenile Correctional Complex, as well as committee study during the 2013 Legislative Session of the statutory exclusion of state institutions from state substance abuse treatment licensing requirements. The Committee also recommended continued funding at the state level of JJA programs that divert youth from the juvenile offender system such that community organizations are not solely responsible for funding such programs.

Joint Committee on Home and Community Based Services

Report of Contact with Individuals on Home and Community Based Services Physical Disability (HCBS/PD) Waiver Services Waiting List. The Committee requests the Centers for Independent Living (CILs) provide all information regarding attempts made to contact individuals on each CIL's HCBS/PD Waiver services waiting list.

Intellectual/Developmental Disability (I/DD) KanCare Pilot Project. The Committee recommends the I/DD KanCare Pilot Project be followed throughout the 2013 Legislative Session for appropriate development.

Content of Interim Committee Report. The Committee recommends its report reflect the importance of the Aging and Disability Resource Centers as an integral component of the KanCare managed care model and include the following data: for state fiscal year 2012, the number of individuals transferred from DD institutional settings into HCBS and the number of individuals added to waiver services due to crisis or other eligible program movement; and information on the Social Security Alternative Pilot and the Supplemental Security Income Employment Pilot and the intended implementation of the pilots.

Review of Oklahoma Plan to Close Public Facilities for Individuals with Developmental Disabilities. The Committee recommends a review or study (by appropriate legislative committees during the 2013 Legislative Session) of Oklahoma's plan to close all public facilities providing care to individuals with developmental disabilities and to move those individuals into non-institutional services. The recommendation is intended to encourage the study of such trends.

Letter Requesting KanCare Oversight During 2013 Legislative Session. The Committee recommends the Chairperson of the Joint Committee on Home and Community Based Services Oversight draft a letter to the President of the Senate and the Speaker of the House requesting that the health committees of the Senate and House of Representatives provide oversight of KanCare during the 2013 Legislative Session.

Proposed Legislation: A bill to create the Joint Committee on Home and Community Based Services and KanCare Oversight was proposed. The bill is to be used as a draft template for potential consideration during the 2013 Legislative Session.

Joint Committee on Kansas Security

The Committee recommends all possible funds from the executive and legislative branches be utilized to move forward as expeditiously as possible with implementing security measures recommended for the Capitol Complex.

Legislative Budget Committee

Census Management at the State Hospitals. The Committee requests 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 a monthly report be provided to the appropriate committees and subcommittees. The Committee also requested unfilled positions be examined, along with the recruitment and hiring process at the state hospitals as a whole. In addition, the Committee requested the defunding of Community Mental Health Centers be examined.

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

Financial Management System in Kansas Department for Aging and Disability Services. The Committee had no recommendations because of the actions taken to address the issues by the Administration.

Home and Community Based Services Waiting Lists. The 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.

Juvenile Justice Authority and Kansas Juvenile Correctional Complex. The 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.

KanCare Update. The 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.

Local Environmental Protection Program (LEPP). The Legislative Budget Committee finds the LEPP was intended to decrease environmental impacts in rural areas. There is no evidence that it was designed to be 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 LEPP and evaluate the impact of discontinuing the program on local communities, particularly on rural communities.

Review "Off Budget" Expenditures and State General Fund Transfers. The Committee encourages ongoing monitoring of off-budget items by the House Appropriations Committee and the Senate Ways and Means Committee as a means to maintain transparency concerning the State's accounting practices and fiscal policies.

Review of the Problem Gambling and Addictions Grant Fund. The 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 appropriate to addictions programs or other programs as the Legislature deems appropriate.

Proposed Legislation: One bill to create the Joint Committee on Home and Community Based Services and KanCare Oversight was proposed.

State Contracting Process. The Committee made no conclusions or recommendations. The Committee received testimony from the Secretary of Administration, regarding the state contracting process. Secretary Taylor stated Kansas uses a competitive bid process for awarding contracts and explained that process.

State General Fund. 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.

State Hospital Staffing, Salary, and Accreditation. 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 also requested that salary issues at state hospitals be examined, along with the recruitment and hiring process. In addition, the Committee requested that the defunding of Community Mental Health Centers be examined.

Update on Federal Funding and Other Issues of the Department of Transportation. The Committee recommends the standing Transportation Committees, the House Appropriations Committee, and the Senate Ways and Means Committee continue to monitor rail issues.

The Committee recommends 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.

Vehicle Purchases. The Committee made no conclusions or recommendations. The Legislative Research Department reported on the purchase of vehicles by state agencies in response to a request from the House Appropriations Committee for an interim committee studying vehicular replacement.

Legislative Educational Planning Committee

The Committee agreed to introduce and favorably recommend the passage of five bills proposed by the Kansas Board of Regents and one bill related to K-12 education.

Higher Education

Military Scholarship. The Committee agreed to introduce a bill expanding eligibility for military scholarships beyond persons having served in specific conflicts and campaigns.

Postsecondary Technical Education Authority. The Committee agreed to introduce a bill adding a sunset date of June 30, 2017, for the Postsecondary Technical Education Authority. (Under current law, the Authority will sunset on June 30, 2014.)

Emporia State University Apartment Sale. The Committee agreed to introduce a bill granting Emporia State University authority to sell apartments built in the 1960s as married student housing, located off campus, and closed in FY 2013 because they were not cost effective to operate.

University of Kansas Land Exchange. The Committee agreed to introduce a bill authorizing the University of Kansas to trade property with the University of Kansas Endowment Association (Endowment). This would allow flexibility related to ongoing discussions between the City of Lawrence and the Endowment to replace aging water towers adjacent to the Adams Alumni Center.

Motorcycle Educational License Plates. The Committee agreed to introduce legislation allowing motorcycle owners to purchase distinctive license plates, such as those for alumni associations of education institutions, via county treasurers.

K-12 Education

The Committee agreed to introduce a bill reauthorizing the school district property tax mill levy (20 mills) for the 2013-2014 and 2014-2015 school years. The bill also would extend the $20,000 residential property tax exemption.

Proposed Legislation: The Committee recommends the introduction of six bills.

Joint Committee on State Building Construction

The Joint Committee approved all agencies' five-year capital improvement plans. The Joint Committee reviewed and approved numerous leases from the Department of Administration. A trip was made to the Kansas State Fair, the National Guard Armory in Hutchinson, an Armory in Wichita and the National Guard Readiness Center under construction in Wichita. The Joint Committee also supports federal funding for the Kansas Highway Patrol's F Troop relocation project.

Capitol Preservation Committee

The Committee created four subcommittees, covering the topics of temporary displays, the Visitors Center, landscaping, and the *Brown v. Board* Mural, which should proceed with their assignments in 2013.

State Employee Pay Plan Oversight

The Committee makes the following conclusions and recommendation on the development, implementation, and administration of the classified state employee pay plan:

- The Committee recommends that $11.4 million, including $8.1 million from the State General Fund, be appropriated in FY 2013 to fund under market adjustments to state employee salaries. This is a State General Fund reduction of $401,770, or 4.7 percent, below the amount approved by the 2012 Legislature.

- The Committee did not recommend implementation of the new state employee pay plan in FY 2013 with revised step movement.

Report of the Special Committee on Elections to the 2013 Kansas Legislature

Chairperson: Senator Terrie Huntington

Vice-chairperson: Representative Scott Schwab

Other Members: Senators Pete Brungardt, Oletha Faust-Goudeau, Carolyn McGinn, and Vicki Schmidt; and Representatives Randy Garber, TerriLois Gregory, Jim Howell, Ann Mah, Les Osterman, John Rubin, and Kathy Wolfe-Moore

Study Topic

Study whether ballot language explanation statements are needed or advisable. If so, determine whether explanation statements should be required; if not required for every ballot issue, consider how or who should determine which issues require explanation statements. Also consider the following: whether cities are prohibited from making ballot language "explainers" currently; what other states have done in the area of ballot language explanation statements; how to draft ballot language explanation statements in a manner that controls for bias, including the possibility of (a) selecting a board or committee for each such ballot language explanation statement, how and who would select members, and whether there is further review; or (b) requiring, instead, a mechanism such as those outlined in 2012 HB 2780, as introduced, and 2012 HB 2425, as amended by the House Committee of the Whole. Examine how to make ballot language explanation statements available to all voters.

Special Committee on Elections

Ballot Issue Explanation Statements and Other Issues

Conclusions and Recommendations

The Committee recommends an opinion be sought from the Kansas Attorney General to clarify whether various types of local governments have authority to provide ballot explanation statements under current law.

The Committee requests the elections-related standing committees examine whether an advance ballot cast must be counted under current law if the advance voter dies prior to the actual election day.

Proposed Legislation: None.

Background

The Legislative Coordinating Council (LCC) approved the creation of the Special Committee on Elections and asked the Committee to study whether ballot language explanation statements are needed or advisable. If deemed necessary or advisable, the Special Committee was to determine whether explanation statements should be required; if not required for every ballot issue, it should consider how or who should determine which issues require explanation statements. The Special Committee also was asked to consider the following: whether cities are prohibited from making ballot language "explainers" currently; what other states have done in the area of ballot language explanation statements; how to draft ballot language explanation statements in a manner that controls for bias, including the possibility of (a) selecting a board or committee for each such ballot language explanation statement, how and who would select members, and whether there is further review; or (b) requiring, instead, a mechanism such as those outlined in 2012 HB 2780, as introduced, and 2012 HB 2425, as amended by the House Committee of the Whole. Finally, the Special Committee was asked to examine how to make ballot language explanation statements available to all voters.

Committee Activities

Explaining the issue. The Committee met once, on October 16, 2012. Representative Jim Howell, a Committee member and sponsor of the 2012 legislation that sparked the Committee's formation, discussed the need for ballot explainers at the local level. He provided as an example a recent ballot issue in the City of Wichita, regarding a special election on the Ambassador Hotel. The ballot read:

> Shall charter ordinance 216 entitled "A charter ordinance amending and repealing section 1 of charter ordinance No. 213 of the city of Wichita, Kansas, which amended and repealed section 1 of charter ordinance No. 183 of the city of Wichita which amended and repealed section 1 of charter ordinance No. 174 of the city of Wichita, Kansas, pertaining to the application of revenues from the transient guest tax" take effect? YES or NO

Representative Howell explained that many Wichita voters asked poll workers for assistance to determine the issue's meaning, but the poll workers indicated they were not allowed to explain the ballot question. Representative Howell followed this with additional examples of confusing ballot questions.

Information from other states. A number of the study questions assigned to the Committee by the LCC were addressed in a limited survey of other states' laws. Kansas Legislative Research Department (KLRD) staff presented an analysis of ballot language statement laws from two sets of ten states: one set for laws relating to local ballot issues and one set for laws addressing statewide issues.

For local issue ballot laws, the states examined were California, Colorado, Connecticut, Iowa, Maryland, Nebraska, Nevada, Ohio, Oregon, and Utah. Of those states, eight required explainers for local ballot issues; the other two states' laws (California and Connecticut) authorized but did not require the use of explainers. As to who prepares the explanation statements, the ten states authorized or required preparation by several different individuals or groups: the municipality's governing body (two states), the elections official or clerk (five), the municipal attorney (five), proponents and opponents (three), and a board or committee (three).

The states differed with respect to how their local ballot issue laws described the explainers, who was required to review the explainers, and where the explanation statements must be posted. Seven of the states' laws called for an "impartial analysis," while five states set a limit on the number of words (some had both requirements). Three of the ten states required the election officer or clerk to review the statements; the municipal attorney, the elections board, and the public were the designated reviewers in one state each. Likewise, the states differed on where the explainers must be posted or printed, with some states requiring or allowing multiple locations, as follows: election official or clerk's office (two states), on the ballot itself (four), in each polling place (four), sent by mail (two), and in a newspaper (one). Finally, four states provided for appeal or other corrective action when an explainer was questioned.

For statewide ballot issues, staff reviewed laws in the following ten states: Florida, Georgia, Illinois, Maryland, Missouri, Montana, Nebraska, Ohio, Utah, and Washington. These states' laws also varied as to whether the explainers were requested or required, who prepares the explainer, the description of the explanation statement, who reviews the statement, and where the explanation statement must be posted. For example, one state requires the statement in an informational pamphlet available to voters, three place a statement on the ballot, and two require the explainer to be posted in each polling place.

The discussion, and further testimony. The League of Kansas Municipalities (LKM, or the League) was represented at the meeting. LKM's representative stated the League opposed legislation to require ballot explainers or for the state to prescribe how the explainers should be prepared and distributed. Cities already are able to provide ballot explanation statements, according to the testimony. No law prohibits cities from doing so, and the League recommended that if any ballot explainer laws are passed, they should be passed at the local level.

In the discussion that ensued, distinctions were made between laws governing cities and those governing counties (two of the municipality types covered by 2012 HB 2780). According to staff from the Office of Revisor of Statutes, given cities' broad constitutional home rule authority, cities arguably could offer ballot explainers already. However, it was noted that the City of Wichita obviously did not hold with this reasoning, since the City had chosen not to provide an explainer in the Ambassador Hotel election.

On the other hand, stated Revisor staff, county home rule in Kansas is governed by statute. KSA 19-101a provides a restriction on counties that arguably could prevent them from providing ballot explainers on county ballot issues. That statute states, in part:

> (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:
>
> . . .

(6) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

The meaning of the term "municipality" varies depending on where it is used in the statutes. The term can encompass various governmental entities, such as cities, counties, townships, unified school districts, irrigation districts, fire districts, extension councils, and improvement districts. As alluded to previously, the definition of the term used in HB 2780 and HB 2425 encompassed a wide range of local government entities.

Secretary of State Kris Kobach provided information as requested on voter turnout from November 2011 through September 2012 as it relates to ballot issues, showing turnout for ballot issue elections ranged from 16.3 percent to 44.9 percent. The Secretary's Elections Director added that voter turnout can be affected by timing, and turnout has an effect on the election outcome. The Secretary of State supported HB 2780 and HB 2425 in the 2012 Session as an attempt to reduce voter confusion. The difficulty, according to testimony, is deciding who will write a statement that no one thinks is biased.

A member of the public also testified, mentioning concerns about the potential for "micromanaging" at the state level *via* a ballot explainer law.

Additional issues discussed. During the discussion on voter turnout, the discourse led to the issue of the voter photographic identification law enacted in 2011. Secretary Kobach reported of the roughly 400,000 votes cast statewide in the 2012 primary, a total of approximately 8,300 provisional ballots were cast. Of those, 405 were cast provisionally due to the lack of required identification.

Also during the discussion on voter turnout, Secretary Kobach was questioned on what the law requires when an advance voter dies after the ballot was cast but before election day. The Secretary indicated research was necessary to determine what happens in cases such as this, and whether there is a difference between an advance vote cast by mail and one cast in person. A Committee member requested this issue be mentioned in the report, and the Committee agreed.

The Executive Director of the Kansas Governmental Ethics Commission (KGEC) was asked to discuss whether there is a need to change any aspect of the candidacy filing deadline statutes. The example given was whether the law needs to be strengthened regarding when a person filing for candidacy may begin to accept contributions. The Director stated the position of the KGEC has been that new candidates first should be educated about current law when this occurs, because they may not know about the law's requirements and KGEC enforcement of them. She said 39 percent of the candidates received notices of "errors and omissions" in 2012.

The Director of the Division of Vehicles (Division), Kansas Department of Revenue, was asked to report on the status of the Division's efforts to capture and transmit required voter registration identification information. (Kansas law requires each person registering to vote in 2013 and later to provide proof of citizenship. The National Voter Registration Act of 1993 requires an individual applying for a driver's license, a nondriver's identification card offered by the Division, or social services be offered an opportunity to register to vote.) The Director indicated staff have been scanning and retaining images of birth certificates, passports, and other documents it accepts as proof of identity for new driver's licenses and for new nondriver's identification cards, which may be used for voter registration identification purposes. This was made mandatory for driver's license and nondriver's identification card issuance in the fall of 2011. The Division is working closely with the Secretary of State's Office to develop a method to transfer voter-related information from the driver's licensing system to the Secretary of State's Office. The method has not yet been finalized, but the two offices expect to implement the new, automated system in the spring of 2013. Until then, the agencies use a two-step process that involves manual transfer of information. According to the Secretary of State's Elections Director, social services offices, which also are required to capture images of documents proving identity and citizenship, will do what is required when the law goes into effect requiring proof of citizenship when registering to vote.

Staff from the Revisor of Statutes' Office were asked to report on what happens when false information is published about a candidate in a campaign. Revisor staff indicated it is very difficult for a public official to win a defamation suit. The U.S. Supreme Court, in a number of decisions, has established significant limits on the ability of public officials and in some cases private persons to impose tort liability on persons because of their speech. Staff summarized several of these decisions.

Finally, KLRD staff provided information as requested regarding voter identification laws in Kansas, Texas and Indiana and court cases challenging those laws in Texas and Indiana. Staff indicated not only did the laws differ, but the court cases themselves differed significantly. The laws of Kansas, Texas, and Indiana all require voters to provide photo identification when they vote on election day and provide free identification for voting purposes; among the ways they differ is that Kansas requires photo ID for advance voting. The difference in the cases stems from the fact that Texas is a "preclearance" state (*i.e.* it is a jurisdiction covered by Section 5 of the Voting Rights Act of 1965 and therefore subject to clearance prior to implementation by the U.S. Department of Justice or the U.S. District Court, D.C.). Indiana is not subject to preclearance. The requirements for the respective administrative or court reviews differ as a result, including which side in the case has the burden of proof. Texas' voter identification law was not upheld by either the Department of Justice or the D.C. District Court panel. In that case, those responsible for implementing the law had the burden of proof that the law did not have a discriminatory purpose and would not affect the right to vote on account of race or color. In the Indiana case, the U.S. Supreme Court upheld the law's constitutionality, and the law's challenger had the burden of proof.

Conclusions and Recommendations

The Committee recommends staff in the Revisor of Statutes Office seek an opinion from the Kansas Attorney General to clarify whether various types of local governments have authority to provide ballot explanation statements under current law.

The Committee requests the elections-related standing committees examine, during the 2013 Legislative Session, whether an advance ballot cast must be counted under current law if the advance voter dies prior to the actual election day.

Report of the Special Committee on Financial Institutions and Insurance to the 2013 Kansas Legislature

Co-chairperson: Representative Richard Proehl
Co-chairperson: Representative Clark Shultz

Vice-chairperson: Senator Ruth Teichman

Other Members: Senators Jeff Longbine, Ty Masterson, Allen Schmidt, and Vicki Schmidt; and Representatives Rick Billinger, Tom Burroughs, Gail Finney, Phil Hermanson, Gene Sullentrop, and Vern Swanson

Study Topics

- Review the impact of 2012 SB 349 on the Office of the Securities Commissioner, including its function and the role of the agency, amount of fee revenue currently collected by the Securities Commissioner, the impact of receipts currently transferred by the agency to the State General Fund pursuant to existing law, and the allocation of funds, otherwise intended for transfer to the State General Fund, to support economic development and "corporate formation."

- Study the modernization of the laws governing insurance holding companies in Kansas, including the adoption of uniform standards consistent with the National Association of Insurance Commissioner's (NAIC) model act.

- Review streamlining state regulation, the role of the supervisory college and future oversight of the Kansas Insurance Department, anticipated costs for the state regulator and insurers, and the issues non-adoption of the model law create for accreditation and domestic insurance companies subject to other states' laws.

February 2012

Special Committee on Financial Institutions and Insurance

Securities Commissioner and Agency Fee Funds and Revenue

Conclusions and Recommendations

The Special Committee makes no recommendation on this topic.

Proposed Legislation: None.

Background

The charge to the Special Committee on Financial Institutions and Insurance was to study, review, and report on three assigned topics (two are combined into one report topic): the Securities Commissioner and agency fee funds and revenue, and the regulation of insurance holding companies.

On the subject of the Securities Commissioner and agency fee funds and revenue, the Committee was directed to review the impact of 2012 SB 349 on the Office of the Securities Commissioner, including its function and the role of the agency, amount of fee revenue currently collected by the Securities Commissioner, the impact of receipts currently transferred by the agency to the State General Fund (SGF) pursuant to existing law, and the allocation of funds, otherwise intended for transfer to the State General Fund, to support economic development and "corporate formation."

The topic was requested by the Senate Financial Institutions and Insurance Committee and was assigned by the Legislative Coordinating Council for study and review.

Committee Activities

In October, the Committee received an overview of its charges and proposed legislation from Committee staff. The Committee also received a comparative review of financial services agencies' fee funds and informal comments from the Office of the Securities Commissioner.

Topic Overview: 2012 SB 349. Committee staff provided a review of SB 349, explaining the bill would have amended the Kansas Uniform Securities Act and a statutory provision governing employment under the Office of the Securities Commissioner to describe the purposes and intentions of the Act, amend existing special revenue fund requirements, establish two new fee funds, and authorize the Commissioner to appoint certain staff in the unclassified service. Among provisions highlighted, the bill would have:

- Enacted new law to clarify that, for the purposes of administrative proceedings of the Office of the Securities Commissioner, the term "agency head" means the Securities Commissioner, the Executive Director (Office of the Securities Commissioner), or person appointed by the Commissioner.

- Created a statement of intent and purpose to the Kansas Uniform Securities Act (a preamble), stating "[t]his act is intended to preserve the integrity and efficiency of the capital formation process and to ensure fairness and full disclosure in securities markets so that investors will have confidence to invest and pursue the financial benefits that are possible through financing the development and growth of businesses and organizations in our Kansas economy that are based on capitalism."

Among amendments to the Act, the bill would have:

- Permitted the Administrator to require the filing of a notice as a condition of any exemption (*e.g.,* broker-dealer, agent, and investment adviser registration). The Administrator would have been allowed to require a notice filing fee, not to exceed $300 annually, for an exemption.

- Deleted provisions that had allowed for a carry forward in the Securities Act Fee Fund of $50,000 on the first day of each fiscal year. The bill instead would have allowed the Administrator to make or authorize transfers from the Securities Act Fee Fund to one or more special revenue funds under the Administrator's authority or to a special revenue fund of other executive branch agencies with responsibilities reasonably related to investment of capital, creation of jobs or other programs within the state for which the benefits of securities regulation and preservation of the integrity of the capital formation process can be realized as determined by the Administrator in consultation with heads of other such agencies. At the end of each fiscal year, the Administrator or designee would have been required to ensure that an unencumbered fund balance of at least $250,000 is retained in the Securities Act Fee Fund to carry forward for use in the following fiscal year, in accordance with appropriations acts for administration and enforcement of the Act.

    - Under the current law, in addition to the $50,000 carry forward balance, all amounts transferred from the Securities Act Fee Fund to the SGF are to be used for the purposes of reimbursement for accounting, auditing, budgeting, legal, payroll, personnel, purchasing services and other governmental services performed on behalf of the agency by other state agencies that receive SGF appropriations.

- Broadened the investor education programming outlined in statute to encompass initiatives that inform the public about personal financial literacy and investments. Under the current law, the public programming focuses on investing in securities, with particular emphasis on the prevention and detection of securities fraud. The bill also would have deleted certain requirements for the Investor Education Fund, specifying the Fund must be administered for the purposes of investor education (as described above) or for the following purposes, at the discretion of the Administrator:

    - Education of applicants for registration under this act and registrants or their representatives including official hospitality;

    - Training of the Administrator's staff; or

    - Grants to public or private schools or universities in Kansas for education in personal or business finance and related subjects.

  Under the bill, the Administrator would have been permitted to make or authorize transfers from the Securities Act Fee Fund to the Investor Education Fund when necessary to replenish the Investor Education Fund for operations, up to an aggregate maximum of $500,000 in any fiscal year. The aggregate maximum could be exceeded with the approval of the State Finance Council.

- Established the Securities Litigation Fund. This new fund would be used for the purpose of enforcing provisions of the Act through administrative hearings and actions in state and federal courts to resolve alleged violations of the Act, or a rule or regulation or order issued under the Act. The Administrator would be permitted to make or authorize transfers from the Securities Act Fee Fund to replenish the Securities Litigation Fund for operations (up to aggregate maximum of $500,000 in any fiscal year). As with the Investor Education Fund, the aggregate maximum amount could be exceeded, with State Finance Council approval.

- Established the Securities Restitution Fund, a Fund to be used for the purpose of receiving and disbursing restitution payments in connection with settlements of enforcement cases and other legal proceedings under the Act. The Administrator would be permitted to authorize restitution to be paid to Kansas residents who have been awarded damages in connection with alleged or adjudicated violations of the Act. The Administrator would be permitted to make or authorize transfers from the Securities Act Fee Fund to replenish the Securities Restitution Fund for operations (up to aggregate maximum of $500,000 in any fiscal year). As with the Investor Education Fund and the Securities Litigation Fund, the aggregate maximum amount could be exceeded, with State Finance Council approval. The Administrator, by rules and regulations or order, would be required to specify definitions, forms, procedures, and limitations for the payment of restitution awards from the Securities Restitution Fund.

- Authorized the Commissioner to appoint other staff in the unclassified service. Under the current law, the Commissioner may appoint only directors in the unclassified service.

2012 Legislation and Committee Testimony. The Committee analyst also highlighted similar legislation introduced during the 2012 Session: HB 2770 (provisions identical to SB 349) and HB 2770 (similar provisions; exceptions, maximum transfers increased to $750,000 and transfer to other state agencies capped at $3.0 million per fiscal year).

Proponents of the bill appearing at the Senate Committee hearing on SB 349 included the Securities Commissioner and the agency's General Counsel. Representatives of EverFi (financial literacy programming provisions) and the Kansas County & District Attorneys Association (creation of a litigation fund) submitted written testimony in support of specified components of the bill.

Fiscal Information. The fiscal note prepared by the Division of the Budget stated the Office of the Securities Commissioner indicated the bill would decrease SGF revenues by $10.49 million in FY 2012 and by $10.74 million in FY 2013. The fiscal note highlighted the decreases in SGF revenues and the potential effect on the November 4, 2011, Consensus Revenue Estimate for FY 2013 and the fiscal effect on state revenues for FY 2014 – FY 2017; those revenue estimates (negative) would be:

- FY 2014: ($10.8 million);
- FY 2015: ($11.0 million);
- FY 2016: ($11.2 million); and
- FY 2017: ($11.4 million).

The Office of the Securities Commissioner did not provide expenditures or transfer estimates on how it planned to make distributions from the Securities Act Fee Fund that would have been authorized by the bill. The fiscal note estimates that if the Commissioner makes the maximum transfer amounts authorized in the bill, then the Investor Education Fund, Securities Litigation Fund, and Securities Restitution Fund would each receive $500,000 in FY 2012 and each future fiscal year; other state agencies in the Executive Branch would receive transfers that total $8.79 million in FY 2012 and $9.2 million in FY 2013. The fee revenue associated with collecting fees for notice filings for an exemption from the registration requirements (a provision in the bill) was determined to be negligible. The fiscal note also commented on the potential savings associated with the agency's use of existing staff to hire an attorney to conduct its own administrative hearings. As the agency has very few hearings each year, the cost savings were estimated to be negligible.

Agency Overview and Funding Sources. Committee analyst provided information on the regulatory role of the Office of the Securities Commissioner and the funding for the Office. The agency is funded entirely by industry fees and fines and settlements, which are deposited into two fee funds:

- *The Securities Act Fee Fund*. This Fund is financed by fees received from agents of broker-dealers, investment advisers, investment companies (mutual fund issuers) and other issuers of securities offering investment capital in Kansas. State law requires 90 percent of the fees (rates set in statute) received by the Commissioner be credited to the Securities Act Fee Fund and 10 percent to the SGF, up to a yearly maximum of $100,000. On the last day of the state fiscal year, the Director of Accounts and Reports transfers all unencumbered funds in excess of $50,000 into the SGF to provide reimbursement of services provided to the agency by the Department of Education.

- *The Investor Education Fee Fund*. This Fund is financed by civil penalties received from settlements of enforcement cases. State law requires 90 percent of fees received by the Commissioner be credited to the Investor Education Fee Fund and 10 percent of the fees be credited to the SGF, up to a yearly maximum of $100,000. There is no requirement to transfer funds from the Fund to the SGF (unlike the Securities Act Fee Fund). Revenue from the Investor Education Fee Fund fluctuates from year to year depending on fines and settlements available for collection.

The Committee reviewed FY 2007 through FY 2011 revenues, expenditures, and transfers from the two funds. The analyst also provided a comparative chart of revenues, expenditures, transfers, balances, and performance measures for the State's financial services agencies.

Agency Comment. Representatives for the Office of the Securities Commissioner appeared before the Committee to answer questions regarding the legislation and agency operations. An agency representative indicated, at the current time, the Commissioner does not support SB 349 nor are plans being considered to continue pursuit of this legislation, or similar bills, for the 2013 Session.

Committee discussion included states' oversight of financial services, organization of regulatory agencies, or both; the revenue mix from domestic and out-of-state entities; appointments to the unclassified service; and the effect on agency operations from year-end transfers.

Conclusions and Recommendations

Following discussion, the Committee concluded that it would make no recommendation on the assigned topic.

Special Committee on Financial Institutions and Insurance

Regulation of Insurance Holding Companies

Conclusions and Recommendations

On the topic of insurance holding company regulation, the Special Committee recommends the introduction of a bill to be drafted as a prefile with collaboration from the Kansas Insurance Department, industry representatives, and Committee staff. The bill, using 2012 HB 2077 (as further amended by Senate Committee) for its base, is to be composed of relevant insurance holding company provisions and conceptual amendments presented during the Special Committee's review. If the bill is not approved by the Legislative Coordinating Council, it should be introduced and heard concurrently in each respective chamber's appropriate committees by February 1, 2013.

Proposed Legislation: One bill.

Background

The charge to the Special Committee on Financial Institutions and Insurance was to study, review, and report on three assigned topics (two are combined into one report topic): the Securities Commissioner and agency fee funds and revenue; and the regulation of insurance holding companies.

On the subject of the regulation of insurance holding companies, the Committee was directed to study the modernization of the laws governing insurance holding companies in Kansas, including the adoption of uniform standards consistent with the National Association of Insurance Commissioners (NAIC) model act; and review streamlining state regulation, the role of the supervisory college and future oversight of the Kansas Insurance Department, anticipated costs for the state regulator and insurers, and the issues non-adoption of the model law create for accreditation and domestic insurance companies subject to other states' laws.

The topics were requested by the House Insurance Committee and were assigned by the Legislative Coordinating Council for study and review.

Committee Activities

In October, the Committee received an overview of its charges and proposed legislation from Committee staff. The Committee received testimony from representatives of the Kansas Insurance Department and insurance companies and association representatives.

Topic Overview. The staff analyst provided a summary on recent insurance holding company legislation, including consideration of 2012 HB 2508. The bill was requested by the Kansas Insurance Department to "ensure that holding company operations outside of the domestic insurance industry do not pose a hazard to the sound operation of the domestic company, and ultimately to protect Kansas insurance consumers from such hazards." The House Committee on Insurance heard the proposed legislation in February 2012 and, after much discussion, later voted to request an interim study in lieu of working the bill. The Senate Committee on

Financial Institutions and Insurance held an informational hearing on insurance holding companies in March 2012 and later agreed to delete the contents of HB 2077, as amended by the Senate Committee (2011 Session), and to insert provisions that would create and amend the Insurance Holding Company Act (HB 2508) and provisions pertaining to the combination sale of life insurance coverage with certain health care riders (HB 2373, as amended by the House Committee). The Senate Committee also inserted amendments to HB 2508, as introduced, to delete certain references to "affiliates" and to decrease a penalty amount.

HB 2077 (as further amended by Senate Committee, 2012). The resulting HB 2077, among other provisions, would have established the Insurance Holding Company Act and amended the Insurance Code to modify existing provisions governing insurance holding companies. The analyst briefly summarized provisions of the bill as follows. Under the new Act (New Section 1), the Insurance Commissioner would be granted the power to participate in a supervisory college for any domestic insurance company (insurer) that is part of an insurance holding company system with international operations. Pertinent highlights contained in the bill (sections noted) include:

- The supervisory college oversight and powers assigned to the Commissioner (New Section 1);
- The added definition for "enterprise risk" contained in KSA 40-3302 (Section 3);
- The added requirements related to statements filed with the Commissioner and public hearings contained in KSA 40-3304 (Section 4);
- The amendments to the required information to be filed with registration statements under KSA 40-3305 (Section 5);
- The addition of a standard to the regulation of material transactions by registered insurers with their affiliates contained in KSA 40-3306 (Section 6);
- The clarification concerning examination, information requests, and subpoena power included in KSA 40-3307 (Section 7); and
- The specifications concerning confidential information and disclosure provisions under KSA 40-3308 (Section 8).

The fiscal note for HB 2508 (a fiscal note was not available for the Senate Substitute bill) was provided by the analyst and Committee discussion followed about the status of the contents of HB 2373 (excluded from insurance conference reports), types of carriers subject to requirements of the Insurance Holding Company Act, and Senate Committee amendments.

Regulation of Insurance Holding Companies. Representatives of the Kansas Insurance Department provided an overview of insurance holding companies and regulation in Kansas and commented on the substantive provisions in the proposed insurance holding company legislation.

A Department representative noted Kansas has been regulating insurance holding companies since 1974; insurance holding company law was enacted in 1974 based on an NAIC model act. The 2012 legislation also is based on an NAIC model act. The purpose of regulation is to ensure the domestic insurer is able to pay policyholders' claims. An insurance holding company is:

- A company (called a parent company) that owns other companies' outstanding stock and consists of two or more business entities including at least one insurer;
- A company could hold non-insurance companies or subsidiaries such as retailers, manufacturing, railroads, and other types of businesses;
- Subsidiaries under the ownership or common control of a parent are referred to as affiliates; and
- Collectively, the parent and subsidiaries are referred to as a holding company system.

The conferee addressed the concept of "windows" and "walls" – regulators have "windows" to scrutinize group activity and assess its potential impact on the ability of the insurer to pay its claims and "walls" to protect the capital of the insurer by requiring the insurance commissioner's approval of material related-party transactions. Examples of "windows" and "walls" were discussed in the context of current law and the proposed legislation and include:

- Windows represent access to information (KSA 40-3305) and examination authority (KSA 40-3307).
- Walls represent requirements for prior approval to acquire an insurer (KSA 40-3304) and prior approval of certain material transactions (KSA 40-3306).

The representative noted the recent financial crisis involving AIG, which resulted in insurance regulators re-evaluating their holding company system regulatory framework. Given the complexity of many holding company systems, the need was demonstrated to maintain the regulatory "walls" in place and to enhance the "windows" of the system. The representative indicated the Department would like to re-introduce the 2012 legislation (using HB 2077 as the base), with the following changes: broadening the confidentiality under Section 8 for documents filed pursuant to KSA 40-3304 as well as delaying the initial compliance date and creating a premium volume-based exemption from the new enterprise risk report requirement under Section 5. Under this proposed change, insurers with total direct and assumed annual premiums of less than $300 million would be exempted from submitting an enterprise risk report.

Defining the supervisory college, its role, and other Insurance Holding Company Act provisions. Another Department representative spoke to the definition and role envisioned for the "supervisory college" – a forum for cooperation and information sharing among regulators within an international insurance holding company system. Participating regulators could include state, federal, and international regulators. The conferee reviewed the authority the Kansas Insurance Commissioner would have related to supervisory colleges and provided an example of a supervisory college environment and discussion agenda. Additionally, supervisors have found that a range of communication channels are required for effective functioning of the colleges; these include physical meetings, video or audio conferences, secure online tools, e-mail infrastructure, and official letters. Supervisory colleges, the conferee continued, are typically held once yearly and are designed to share appropriate information with respect to the principal risks and risk management practices of the group. Information shared at supervisory colleges is confidential. Usually, the host state where an insurance company is located would provide coordination of supervisory college meetings. In discussion with the Committee, the representative emphasized the supervisory college does not delegate any authority of the Kansas Insurance Commissioner. The supervisory college functions as an information-gathering entity and holds no authority.

The Department representatives responded to Committee questions and provided additional information about the regulation of insurance holding companies, the proposed legislation, and NAIC accreditation standards. Responses included:

- *Capital requirements and material transactions.* In Kansas, a statutory provision sets minimum capital requirements for an insurance company; a risk-based capital (RBC) guideline exists which mandates action by the Department should a life, health, or accident insurer's RBC fall below 200 percent.
    - For a non-life insurance company, the Department will review any agreement that would impact 3 percent or more of an insurer's admitted assets of 25 percent of capital and surplus; for a life insurance company, the threshold is 3 percent of an insurer's admitted assets. Should these thresholds be unmet, prior approval by the Department is not required for specific material transactions.
    - The Insurance Holding Company Act does not allow the Department to

require capitalization changes of the in-state, operating company until the RBC falls beneath the statutory minimum requirements. The Act provides “windows” to request additional information from the holding company.

- *Acquisitions and mergers.* An acquiring party may be required to maintain or restore the capital of the insurer to the level required by law within 60 days after change of control. The Department has the responsibility to invoke certain requirements to ensure capital solvency; the Department controls the acquisition approval. Additionally, the Department reviews and validates five years of financial statements for companies requesting acquisition approval to ensure financial soundness of the acquiring party.

- *Accreditation and Anticipated Costs.* The proposed insurance holding company legislation presents no additional costs to the Department outside of its existing budget. The next NAIC accreditation review is scheduled for 2016, which is the deadline for implementing the Model Holding Company System Act. It is possible that Kansas’ accreditation could be jeopardized without implementation of the Kansas Insurance Holding Company Act.

A Department representative also noted that there was no opposition from consumers and industry representatives and collaboration within the industry and Department continued to adjust possible future legislation.

Industry Response to Amendments to Insurance Holding Company Regulation in Kansas. A representative of the National Association of Mutual Insurance Companies (NAMIC) testified in support of the amendments to the Insurance Holding Company Act, noting his support for retaining state-based insurance regulation and the amendment exempting small companies from the enterprise risk report. A representative for the Security Benefit Life Insurance Company spoke in support of introducing legislation, including proposed amendments to the 2012 legislation, during the 2013 Session. The legislation, the representative noted, is necessary to ensure the Department maintains its NAIC accreditation; without such legislation, an insurer would be required to undergo multiple, duplicative financial condition examinations in each state in which the parent company holds domiciled companies. Additionally, the representative noted, the amendments will prevent highly confidential financial documents from being disclosed and inappropriately available to competitors. A representative of the American Council of Life Insurers indicated the proposed legislation enhances the Insurance Commissioner’s ability to monitor and protect the financial strength of Kansas insurers while strengthening and preserving state-based regulation.

Additional written support of the proposed legislation, including the amendments presented to the Special Committee, was provided by representatives of the American Insurance Association, the Kansas Association of Property and Casualty Insurance Companies, and Polsinelli Shughart, PC.

Conclusions and Recommendations

On the topic of insurance holding company regulation, the Special Committee recommends the introduction of a bill to be drafted as a prefile with collaboration from the Kansas Insurance Department, industry representatives, and Committee staff. The bill, using 2012 HB 2077 (as further amended by Senate Committee) for its base, is to be composed of relevant insurance holding company provisions and conceptual amendments presented during the Special Committee’s review. If the bill is not approved by the Legislative Coordinating Council, it should be introduced and heard concurrently in each respective chamber’s appropriate committees by February 1, 2013.

Report of the Special Committee on Taxation to the 2013 Kansas Legislature

Chairperson: Senator Les Donovan

Vice-chairperson: Representative Richard Carlson

Other Members: Senators Tom Holland, Dick Kelsey, Bob Marshall, and Tim Owens; and Representatives Steve Brunk, Stan Frownfelter, Doug Gatewood, Dennis Hedke, Marvin Kleeb, Larry Powell, and Willie Prescott

Study Topic

Review the definition of real property.

February 2012

Special Committee on Taxation

Report

The Special Committee on Taxation was not convened during the 2012 Interim.

Report of the Special Committee on Transportation to the 2013 Kansas Legislature

CHAIRPERSON: Senator Dwayne Umbarger

VICE-CHAIRPERSON: Representative Virgil Peck

OTHER MEMBERS: Senators Kelly Kultala, Jeff Longbine, Bob Marshall, and Roger Reitz; and Representatives Tom Arpke, Sean Gatewood, Gary Hayzlett (Representative Jo Ann Pottorff replaced Representative Gary Hayzlett at the Committee meeting), Jerry Henry, Tom Phillips, and Brian Weber

STUDY TOPICS

- Review the passenger rail section of the State Rail Plan;
- Evaluate feasibility of developing the Northern Flyer route;
- Determine what costs to the state will be necessary to improve the tracks in western Kansas in order to maintain the Southwest Chief Amtrak service;
- Maintenance and development of passenger rail:
  - Service delivery plan for development of passenger rail from Kansas City to Dallas;
  - More limited extension of the Heartland Flyer service from Oklahoma City to Newton to connect with the Amtrak Southwest Chief service; and
  - Viability of the Southwest Chief service across the state connecting Chicago with Los Angeles.

February 2012

Special Committee on Transportation

Passenger Rail

Conclusions and Recommendations

The Special Committee on Transportation expresses its support for current and potential expansion of passenger rail service in Kansas.

The Committee recommends the 2013 Legislature pursue private, local, state, and federal funding strategies to allow maintenance of the current route of the *Southwest Chief* through southwest Kansas.

The Committee recognizes and appreciates the efforts of communities along the current route of the *Southwest Chief,* the efforts of officials from Wichita and other cities, and the efforts of other groups to further passenger rail in Kansas. The Committee encourages the Kansas Department of Transportation (KDOT) to continue to work cooperatively with the communities in Kansas and transportation agencies in nearby states on passenger rail issues including maintaining the current route of the *Southwest Chief* and extending the *Heartland Flyer* into Kansas.

The Committee recommends the 2013 Legislature direct $3 million toward a National Environmental Protection Act study needed before further work could proceed or federal funding pursued for the extension of the *Heartland Flyer.*

Proposed Legislation: None.

Background

The charge to the Special Committee on Transportation was to review the passenger rail section of the State Rail Plan; evaluate the feasibility of developing the *Northern Flyer* route; determine what costs to the state will be necessary to improve the tracks in western Kansas in order to maintain the *Southwest Chief* Amtrak service on its current route; and to study the maintenance and development of passenger rail, specifically to review a plan for development of passenger rail from Kansas City to Dallas, a more limited extension of *Heartland Flyer* service from Oklahoma City to Newton to connect with the *Southwest Chief* service, and the viability of the *Southwest Chief* service connecting Chicago with Los Angeles through Kansas.

The topic was requested by the House Transportation and Public Safety Budget Committee and assigned to the Special Committee by the Legislative Coordinating Council.

Committee Activities

The Committee met October 29, 2012. The agenda was divided into three main categories: general information, information related to the viability of the route of the *Southwest Chief* through southwest Kansas, and information related to possible extension of the *Heartland Flyer* route. The *Heartland Flyer* currently operates between Oklahoma City and Fort Worth. After hearing that information, the Committee discussed its conclusions and recommendations.

General Information

Staff reviewed the Committee's charge and legislative bills and reports on the topic since 2000, including 2010 SB 409 (KSA 2011 Supp. 75-5089), which authorizes the Secretary of Transportation to establish and implement passenger rail service and make loans or grants to passenger rail service providers for certain purposes and which establishes the Passenger Rail Service Revolving Fund. Although expenditures from that Fund are to be made in accordance with appropriations, none have been made thus far.

Former Lieutenant Governor Shelby Smith testified on the positive economic impact of expanded passenger rail service.

Laura Kliewer, Director of the Midwest Interstate Passenger Rail Commission (MIPRC), Council of State Governments, provided information on the purposes of the MIPRC: to promote development and implementation of improvements and plans for intercity passenger rail service in the Midwest, to coordinate and promote Midwestern interests regarding passenger rail development, and to support state department of transportation (DOT) passenger rail plans. In 2010, Kansas joined Illinois, Indiana, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, and Wisconsin as an MIRPC member state (KSA 2012 Supp. 75-5090). She outlined information about the current passenger rail network in these states and federal funding used to improve that network. Ms. Kliewer also discussed factors influencing the increasing ridership seen in passenger rail and regional economic development related to passenger rail.

Southwest Chief

The current route of the *Southwest Chief* runs from Chicago to Los Angeles through Kansas City, Newton, Dodge City, Garden City, southeast Colorado, and northwest New Mexico. It uses mostly BNSF Railway (BNSF) track in Kansas, Colorado, and New Mexico. Because of deterioration of the line, Amtrak is considering a change in the route from Newton to south of Albuquerque to go through Wichita and Amarillo, instead of through southwest Kansas.

Staff provided a review of public documents from Colorado and New Mexico related to passenger rail development. In 2010, BNSF told Amtrak that Amtrak would be responsible for additional maintenance costs for the line. Colorado's State Rail Plan, released in 2012, states its DOT should work with New Mexico and Kansas to determine whether a strategy can be developed and presented to Amtrak and BNSF to maintain the existing route; it estimated the cost at $200 million. The Colorado General Assembly also passed a joint resolution stating the Assembly asks Amtrak to continue routing the *Southwest Chief* through Colorado. In 2005, BNSF and New Mexico officials signed agreements for New Mexico to buy BNSF line from Trinidad to Belen, south of Albuquerque. The sale of the northern portion of that line, used by the *Southwest Chief*, was to close in 2008; New Mexico officials told BNSF in 2011 the state does not intend to acquire the line. BNSF does not use that portion of the line for freight traffic.

Ray Lang, Amtrak's Chief of National State Relations, Government Affairs Department, presented information on issues Amtrak faces on the *Southwest Chief*'s current route and on the proposed alternative. He stated BNSF does not use the line between LaJunta and Albuquerque for freight, and by 2016 all maintenance in New Mexico will fall to Amtrak. Amtrak is responsible for costs to maintain the track above the costs the freight railroad would incur to keep the line at freight standards, and its contract with BNSF for the current route expires in 2016. Amtrak's analysis of data provided by BNSF led to estimates of annual maintenance costs of $10 million starting in January 2016 at the latest and one-time capital needs of approximately $100 million within the next ten years. He stated decisions and financial commitments will be needed by the end of 2014 and, if they are not in place, steps will be taken to move the route away from southwest Kansas. He said existing federal grant opportunities to address capital costs may require a match, are highly competitive, and are subject to appropriations. He noted the federal transportation bill will be up for reauthorization in less than two years and passenger rail provisions could be added.

Mr. Lang said 15 states currently pay Amtrak to operate passenger trains, including Oklahoma and Texas for operation of the *Heartland Flyer*. He also stated passenger train ridership is increasing. He commended the efforts of local entities along the current route and said Mike King, Secretary of the Kansas Department of Transportation, has met with the head of Amtrak on this issue. Partnerships will be needed with all three states, he said.

Jerry Younger, Deputy Secretary and State Transportation Engineer, KDOT, said Secretary King and KDOT staff will continue to be active in discussions with Amtrak, BNSF, and affected stakeholders. He provided a copy of a letter sent to Mr. Lang in July 2012 from the heads of all three state DOTs which stated "all three states are facing budgetary challenges that prevent us from taking on additional commitments at this time."

Representatives of the *Southwest Chief* Rural Rail Partnership, which includes the cities of Newton, Hutchinson, Dodge City, and Garden City and cities in Colorado and New Mexico, presented testimony supporting the current route. They stated the Partnership is working to bring this matter to the attention of federal and Amtrak officials, including the congressional delegations of Colorado and New Mexico; requested the state support the group's efforts; and said the state of Kansas will need to participate. They made additional points, including the following: rail travel is cost-effective; passenger rail requires regional interaction; passenger rail requires long-term commitment; regional residents need travel options; the current route brings passengers from across the nation to southwest Kansas; businesses along the route rely on a high quality rail line to be competitive in national and global markets; the state should protect investments it already has main in western Kansas; needed repairs and upgrades must be identified and their costs estimated; and local communities also face financial constraints. Those presenting testimony were Matthew Allen, City Manager, Garden City; Reynaldo Mesa, President, Garden City Area Chamber of Commerce; Robert Tempel, WindRiver Grain, Garden City; Ken Strobel, City Manager, Dodge City; and Barbara Burns, Community Advancement Coordinator, Newton. John Deardoff, City Manager, Hutchinson, submitted written testimony.

A representative of the Kansas Star Casino stated in written testimony that the Casino supports efforts to extend passenger rail service along the I-35 corridor and proposed a stop in Mulvane. Also in written testimony, the Director of Sumner County Economic Development requested passenger rail through Sumner County with at least one stop in the county, at least in part to allow passengers to take advantage of the Casino's entertainment venue.

Extension of the *Heartland Flyer*

The *Heartland Flyer* began its service, which is between Oklahoma City and Fort Worth, in 1999. It is the only passenger rail service sponsored by two states.

Staff reviewed summaries of information previously presented to legislators on estimates of costs to extend the service of the *Heartland Flyer* from Oklahoma City to Newton and from Oklahoma City through Newton to Kansas City, for ridership on the projected routes, and for benefit-cost ratios related to those extension scenarios. The Kansas City-Wichita-Oklahoma City-Fort Worth Corridor Passenger Rail Service Development Plan (Plan) done for KDOT and the Oklahoma Department of Transportation and released in 2011 showed total estimated costs of $136.5 million to extend the *Heartland Flyer* service from Oklahoma City to Newton and $436 million to extend the service to Kansas City during the daytime. Staff noted Oklahoma officials had stated that determining additional amounts needed to maintain a track at the standards required for passenger service (which are more stringent than those for freight service, to allow safe operation at higher speeds) is not a science and requires considerable negotiation between the parties. Additional factors may affect the estimates. For example, staff said the Federal Railroad Administration determines which studies are required under the National Environmental Protection Act (NEPA) and is in the process of updating its criteria. Also, the 2008 Passenger Rail Investment and Improvement Act requires changes to the method Amtrak must use to allocate its costs to the states to provide service on state-sponsored trains such as the *Heartland Flyer*, to be in effect in 2013.

Estimates for ridership in the Plan were 89,200 riders on the current *Heartland Flyer* route in 2012; 111,300 or 175,600 with an extension to Newton, depending on the stops; and 255,700 – 270,500, depending on the stops, with an extension to Kansas City and daytime service.

Benefit-cost ratios previously presented ranged from 0.83 using a conservative methodology based on Federal Railroad Administration guidelines, in the Plan from 2011 to an estimate of 3.58 over ten years in a study produced in 2009 by The University of Kansas School of Business Consulting. In 2005, Oklahoma reported a ratio of 2.02 for the Heartland Flyer using the income method. It was noted that the estimates used in benefit-cost ratio studies change as additional information becomes available and that different methodologies produce different results, *e.g.,* whether the method includes anticipated economic activity related to a new stop.

Staff also reviewed selected passenger rail developments in Oklahoma, taken primarily from its Statewide Freight and Passenger Rail Plan released in May 2012. Those developments include establishment of a rail tax in 1978, buying lines from bankrupt railroads in the early 1980s, directing a portion of gasoline taxes to rail in 1993, receiving a $23 million federal grant in 1997 used to establish the *Heartland Flyer*, official designation of the Tulsa-Oklahoma City-Dallas high-speed corridor by the USDOT in 2000, and work since 2010 on planning for a passenger line from Tulsa to Oklahoma City. It also was noted that the Texas DOT in October 2012 began a two-year study to explore the best options for passenger rail to connect Oklahoma City to Austin and San Antonio through Dallas/Fort Worth.

KDOT Secretary King told the Committee he has talked with his counterpart in Oklahoma and that Oklahoma places a higher priority on establishing a Tulsa-Oklahoma passenger rail line than an Oklahoma City-Wichita line. He said the next step in developing the *Heartland Flyer* extension project would be to conduct required NEPA analyzes for the service and track improvement projects plus complete some preliminary engineering work. The estimated cost for the analysis and preliminary engineering work is $5.3 million, $3 million of it Kansas' share. He provided estimates from May 2012 of costs for an extension of the *Heartland Flyer* of $102 million and of $187 million for daytime service from Kansas City to Fort Worth; those service options were estimated to add $5.5 million and $14.5 million in additional annual Kansas wages, respectively.

Representatives of the City of Wichita testified on points including these: the I-35 corridor, expected to grow significantly in population and commerce, includes a gap in passenger rail service between Kansas City and Oklahoma City; ridership on passenger trains has been increasing, and demographic changes point to further increases in demand for passenger rail; the Wichita area is responsible for more than 50 percent of the state's exports; investments of $3 million in the new downtown arena have resulted in $60 million in economic benefits and increasing demand for coordinated travel; a passenger rail stop in Wichita, perhaps at the Union Terminal which will be renovated, could be coordinated easily with Wichita Transit and connected with expanding air service in Wichita; rail improvements for passenger also increase freight capacity; and the state must take steps to go forward on passenger rail to prevent passenger rail from bypassing the state. They also stated they were working with their city counterparts in Oklahoma to increase support in that state for the extension of the *Heartland Flyer*. Those presenting were Pete Meitzner, Wichita City Council member; Jeff Fluhr, President, Wichita Downtown Development Corporation; Gary Schmitt, Executive Vice President, Intrust Bank; and Gary Oborny, Chief Executive Officer, Occidental Management.

Deborah Fischer Stout, President, *Northern Flyer* Alliance, presented that organization's recommended next steps to move passenger rail forward in Kansas. She stressed the importance of funding and completing NEPA studies necessary to make the corridor shovel-ready and therefore more likely to be eligible for federal funding for rail infrastructure improvements. The organization also recommended the state create a passenger rail task force to identify stakeholders, who could include state DOTs, cities along the route, universities and the Alliance, to learn from and coordinate with passenger rail activities in other states, to ensure the NEPA studies are conducted in a timely manner, and to recommend funding for state match and for operating expenses. She stressed the importance of regional coordination on the issue. She also stated Kansas could be bypassed in the national passenger rail network if it does not take action soon. She noted the extension of the *Heartland Flyer* likely would increase ridership on the *Southwest Chief*, additional information makes earlier studies outdated, and anticipated costs are comparable to costs for single major highway interchanges.

In response to Committee questions, KDOT staff stated federal support for passenger rail often is in appropriations bills and the current federal transportation bill, Moving Ahead for Progress in the 21st Century (known as *MAP-21*), does not directly address passenger rail but will be up for reauthorization within two years.

Conclusions and Recommendations

The Special Committee on Transportation expresses its support for current and potential expansion of passenger rail service in Kansas.

The Committee recommends the 2013 Legislature pursue funding strategies to allow maintenance of the current route of the *Southwest Chief* through southwest Kansas. The Committee recognizes that this will mean working with Amtrak and BNSF and could mean directing state dollars toward this effort. The Committee encourages the pursuit of moneys available from the federal government for improved rail service.

The Committee recognizes and appreciates the efforts of communities along the current route of the *Southwest Chief* to maintain service on that route, including community leaders' work with their counterparts in Colorado and New Mexico. Similarly, the Committee recognizes and appreciates the efforts of the City of Wichita and others to work with their counterparts in Oklahoma to extend passenger rail service in Kansas. The Committee encourages the Kansas Department of Transportation (KDOT) to continue to work cooperatively with the communities in Kansas and transportation agencies in nearby states on passenger rail issues including maintaining the current route of the *Southwest Chief* and extending the *Heartland Flyer* into Kansas.

The Committee recommends the 2013 Legislature direct $3 million toward a National Environmental Protection Act study needed before further work could proceed or federal funding pursued for the extension of the *Heartland Flyer.*

Report of the Joint Committee on Arts and Cultural Resources to the 2013 Kansas Legislature

Chairperson: Senator Jean Schodorf

Vice-chairperson: Representative John Rubin (replaced Representative Lana Gordon)

Other Members: Senators Oletha Faust-Goudeau, Marci Francisco, Julia Lynn, and Dwayne Umbarger; and Representatives Sydney Carlin, Sheryl Spalding, Vern Swanson, and Caryn Tyson

Study Topic

The Committee is mandated to study, investigate, and analyze goals appropriate to the future of the arts and cultural life in Kansas; the role that the state government and the Kansas Legislature should play in the realization of these goals; art legislation in other states and at the federal level; the budget and programs of the Kansas Creative Arts Industries Commission and other state supported arts and cultural programs; the status of arts education in Kansas; and the impact of arts and culture on the economy of the state.

February 2012

Joint Committee on Arts and Cultural Resources

Arts and Cultural Life in Kansas

Conclusions and Recommendations

Based on testimony and discussion, the Joint Committee makes the following conclusions and recommendations:

Creative Arts Industries Commission. The Joint Committee requested the following information be provided to the Committee for its review:

- Letter of clarification from the Kansas Creative Arts Industries Commission (CAIC) to clarify the current and future programming for the Poet Laureate Program;
- Copy of the CAIC budget, in a format similar to prior budget submissions of the Kansas Arts Commission, for FY 2013 and FY 2014 (requested to specify if a ten percent cut is applicable to the CAIC appropriations);
- Copy of the CAIC strategic plan, including budget information, planned staffing levels, and programming goals;
- Quarterly updates on the balances in CAIC funds, with particular attention to reporting for the Creative Industries Fund, detailing gifts, bequests and donations. The Joint Committee is interested in all funding sources. The Committee also requested comment from the CAIC regarding matching dollars and anticipated resources from private sources and in-kind supports. This response should detail projections for funds made available through the arts individual income tax check-off and the license plates; and
- Update on the National Endowment for the Arts (NEA) grant proposal.

State of the Arts. The Committee notes its requests for information and further requests an update on the CAIC planning, with particular attention to the NEA application and available matching funds, as well as grant opportunities for local arts organizations. The Committee would like to convene its meeting to receive this information during the 2013 Session.

Further, the Committee recognizes the distinction between public and private entities supporting the arts and requests any published documents that can be made readily available by representatives of the Kansas Arts Foundation (*e.g.,* annual reports, including financial statements and documented in-kind supports, and donor recognition). Other documents, if available, detailing current and future supports to local arts organizations also are appreciated.

State of the Historic Sites. The Committee requests representatives of the Joint Committee on State Building Construction and Appropriations Committees meet with the Historical Society and suggested Historic Sites' representatives to review long-range plans and funding issues associated with keeping the Historic Sites open on a regular basis. Capital improvements and on-going maintenance costs should be part of this discussion. This dialogue should occur early in the 2013 Session.

Agency budgets. The Committee appreciates the updates provided by state agencies on programming and planning for statewide arts and cultural activities. The Committee notes the potential reductions in the budgets of the State Library, Historical Society, and the pass-through to the Kansas Humanities Council and requests updates on federal and other sources of funding that could help to reduce or stabilize the reductions.

Proposed Legislation: None.

Background

The Joint Committee on Arts and Cultural Resources was established by the 1989 Legislature. KSA 46-1801 directs the Committee to study the arts and cultural life in Kansas and the role the Legislature and state government should play in the realization of these goals. The law also directs the Committee to study arts legislation in other states and at the federal level; review the budget and programs of the Kansas Creative Arts Industries Commission (CAIC) and other state-supported arts and cultural programs and agencies; review the status of arts education in Kansas; and study the impact of the arts and cultural programs on the Kansas economy.

Committee Activities

Committee Testimony

On September 25, 2012, the Committee convened at the Statehouse to discuss, among other things, private and public support for the arts and legislation enacting the CAIC, the various arts and humanities programs and their budgets and activities, and the state of Kansas tourism. Committee members also toured the Capitol and received a renovation update. Presenters included the Committee staff; the Director of the CAIC; representatives of the Kansas Arts Foundation; the Executive Director of the Kansas Historical Society; the Executive Director of the Kansas Humanities Council; the State Librarian; the Director of the Tourism Division, Kansas Department of Wildlife, Parks and Tourism; the Fine Arts Consultant, State Department of Education; and the Statehouse Architect.

State of the Arts in Kansas—Public and Private Support for the Arts. Committee staff presented a review of the 2012 legislation enacting the Kansas Creative Arts Industries Commission. Senate Sub. for HB 2454 created the CAIC within the Department of Commerce and merged the existing powers, functions, and duties of the Kansas Arts Commission and Kansas Film Commission. The CAIC is to measure, promote, support, and expand the creative industries to drive the Kansas economy, grow jobs, and enhance the qualify of life for all Kansans (New Section 2 (a)). The bill also created a new individual income tax check-off program to provide an additional funding source for the CAIC. Beginning in tax year 2013, individual income taxpayers will have the option of donating to the Kansas Creative Arts Industries Commission Checkoff Fund. The CAIC may authorize the use of its logo to be affixed on license plates issued to support the Kansas arts; royalty payments derived from the sale of the plates will be credited to the CAIC special gifts fund. The bill also established the Creative Industries Fund and designated the CAIC as the official state agency for the development and coordination of the arts and employment development in the creative arts industries. The Joint Committee, the analyst concluded, retains oversight of the budget and programs of the CAIC, as it had with the Kansas Arts Commission.

The Director of the CAIC provided an update on the CAIC activities, noting the CAIC is a program in the Department of Commerce's Business and Community Development Division that is focused on the creative industries sector of the economy. The goal of the CAIC, the Director noted, is to further economic development through promotion and expansion of the creative industries in Kansas by,

- Providing a fast growth, dynamic industry cluster;
- Helping mature industries become more competitive;
- Providing critical ingredients of innovative places;
- Catalyzing community revitalization; and
- Delivering a better prepared workforce.

The Director highlighted efforts to integrate and consolidate the previous Kansas Arts Commission assets into the Department, with work being done to merge communication avenues for creative businesses and organizations across all disciplines. A strategic planning process soon would begin, resulting in a statewide plan of the creative industries in Kansas. In response to a question from the Committee, the Director indicated that the strategic planning process (part of the National Endowment for the Arts application for grant moneys), would be completed at the end of the first quarter, 2013, and the planning could help identify the portion of grant dollars that could be matched. The Director also confirmed the Poet Laureate program would be placed in the Kansas Humanities Council.

The Director was asked to discuss recent film production activities in Kansas. Over the past year, written testimony indicates, the Film Commission provided assistance to over 1000 productions including independent features (the *Sublime and Beautiful, Wilt, Kick Me*), cable TV shows (National Geographic, Shed Media), commercials, documentaries ("Magical History Tour"), and shorts (SenoReality, Through a Glass). During FY 2011, film production dollars spent in Kansas totaled an estimated $20 million. Using a commonly used multiplier, the revenues would likely be closer to $40 million statewide. Since 1985, a total of $432.0 million in production dollars has been spent in Kansas. Also noted, the Kansas Film Production Tax Credit is set to sunset on January 1, 2013; Kansas, the Director noted, will continue to lose several large productions each year over this issue, including some which would have been set in Kansas.

The Vice-President of the Kansas Arts Foundation (KAF) next provided a report on the KAF's activities. The KAF is a 501 (c)(3) private charitable organization, created in February 2011, and sees abundant evidence that local arts organizations through volunteer efforts have been emboldened to strengthen local private support for their arts and cultural programs. The conferee highlighted events and programming in Dodge City, Marysville, McPherson, Liberal, Iola, Paola, and Salina, as evidence of the vitality and imagination of private support, local initiative, and volunteerism in Kansas. Through statewide fund raising and the launching of new initiatives supporting the commercial viability of Kansas arts, the conferee noted, the KAF seeks to engage new donors and expand support among Kansans.

The testimony highlighted recent developments and future planning, including:

- The KAF's first photographic competition for Kansas photographers; and
- The KAF has adopted an Artist in Residence program and a Creative Connections Program.

The conferee noted the KAF has openly endorsed the establishment of public-private partnerships to stimulate Kansas arts efforts and reduce the burden of transitioning from a taxpayer-funded model to private funding.

Committee discussion followed, with the conferee responding to questions about the KAF website, fund-raising efforts and disclosure of expenditures, local arts organizations and festivals, and the issue of transparency in a public-private partnership for support of the arts. The KAF representative confirmed that plans were in progress for two types of grants, to be awarded on an annual basis (eight regions have been established). It was noted that the Foundation is a 501(c)(3) organization, and files a form with the Internal Revenue Service.

Staff provided a briefing on the disclosure of information and the state open records law. The Kansas Arts Foundation does not meet the definition of "public agency" (KSA 45-217(f)(1)) as it is a 501(c)(3) private charitable organization and is funded solely by private donations. Further, the revisor noted, the KAF, as a private-funded entity, is not a public agency, and therefore, its records are not considered "public records." The staff member concluded, the KAF is not required to disclose any records in its possession pursuant to the Kansas Open Records Act.

An Executive Committee member from the KAF appeared before the Committee and noted the next challenge for the KAF – starting to offer arts programming and awarding grants, at the same time fund-raising efforts are increased. The conferee highlighted his thoughts on the arts in Kansas:

- The arts can and should be an integral part of our Kansas culture; and
- If it is financially viable to do so, a strong majority of Kansans would prefer a private arts funding model over a public arts funding model.

Agency Budget Reports: Kansas Historical Society. The Executive Director opened her remarks by noting that, in FY 2012, the agency's programs and services drew more than 6,000,000 people, with an additional nearly 6,000,000 through a partnership with Ancestry.com. The agency serves as the repository and caretaker of state records, administers both state and federal historic preservation programs, and provides curriculum materials on state history and government to K-12 schools. The conferee noted that, in the past eight years, the agency has seen a steady decrease in State General Fund (SGF) moneys which results in a total decrease of nearly $2,000,000 or 29 percent. To deal with reduced resources, the agency employed the following strategies: increased efficiencies; eliminated programs not directly related to statute; laid off employees and reorganized the agency; eliminated any services that may overlap with programs of other agencies or organizations; formed partnerships where possible; increased user fees (earned income); and continued seeking private dollars and in-kind donations for appropriate programs.

With changes in budgets, the Executive Director continued, the agency has employed a variety of strategies to operate its historic sites. With the aim to stabilize a funding base for the historic sites, the agency would like to start a dialogue to explore the possibility of a dedicated funding source for the sites to provide them with a stable base while at the same time increasing their earned income.

The Executive Director also addressed the agency's current services budget request for FY 2014. The agency is requesting two enhancements from agency fee funds for the restart of the historic highway markers program and a capital improvement request for the William Allen White State Historic Site. The agency has been asked to submit a reduced resources budget that would reduce the SGF budget by ten percent ($480,371). In order to meet this target, the agency would need to:

- Reduce pass-through funds to the Kansas Humanities Council and the Kansas Heritage Center by 10 percent;
- Reduce hours at the State Historic Sites;
- Reduce hours in the Topeka research room;
- Reduce information technology funding; and
- Lay off a projected 7 full-time equivalent and 13 part-time positions.

Following the presentation, Committee members inquired about the agency's historic sites budget and reduced resources budget request. Committee members suggested a continued dialogue about the funding of the State Historic Sites and solutions for communities and the State. Research room hours and scheduling also were discussed.

Agency Budget Reports: Kansas Humanities Council (KHC). The Executive Director spoke to the KHC's funding request, $60,886 for both FY 2013 and 2014. With the Historical Society's reduced resources package, the KHC will experience a 33 percent cut; the reduction would be in outreach services. Primary support for the KHC comes from the National Endowment for the Humanities with money from fund-raising and the State providing matching funds for federal dollars. State funds do not support staff salaries, rent, utilities, or other overhead expenses, the Executive Director noted. All KHC awards are matched at the local level with cost share or in-kind services. Funding from the State supports two categories of grants: Heritage Grants and Humanities Outreach Support Grants. In 2011, the KHC supported 618 humanities activities with participation by 264,270 Kansans.

Among 2012 activities highlighted was the Smithsonian Institution's traveling exhibition, "The Way We Worked"; six sites were selected for the exhibition with additional sixteen communities joining as partner sites. The KHC's partnership with the State Library and the Center for the Book's annual "All Kansas Reads" program has resulted in the selection of a work-themed book for discussion statewide. Following the presentation, a Committee member inquired about a potential alignment with the CAIC; the Executive Director indicated that KHC will be interested in CAIC activities and programming, as potential partnerships.

Agency Budget Reports: Kansas State Library. The State Librarian outlined the impact of a ten percent reduction in the Library's budget, noting the Library would experience a reduction of $388,099 for FY2014; additionally, with the $800,000 of KAN-ED removed from the Library's FY 2013 budget, the change from FY 2013 to FY 2014, would total a reduction of $1,196,638.

After highlighting the general responsibilities of the State Library, the State Librarian spoke about the Library's role in the coordination of Ready to Read ("6 by 6") program. This program makes caregivers aware of the importance of helping the children in their care develop the six skills they need to be prepared to read in kindergarten. The program was made possible by a grant from the Children's Cabinet. The State Library also is partnering with the Kansas Pediatric Foundation for the Turn a Page, Touch a Mind program wherein pediatricians distribute books to parents when they bring their children in for baby check-ups.

The State Librarian also noted the Library's issuance of a request for proposals for a statewide contract of electronic content accessible to all Kansans; one resource highlighted was a language database. The Library was able to get this statewide subscription due to the $800,000 of funding put in the Library's budget. If the funding is not restored, most of the eContent available to residents and schools will not be renewed. A handout was provided detailing the projected statewide costs avoidance of nearly $51 million (the cost if individual libraries purchased the same databases).

State of Kansas Tourism—FY 2012 Report. The Director of the Tourism Division, Kansas Department of Wildlife, Parks and Tourism, appeared before the Committee with a report on the impact of tourism in Kansas, noting that key indicators for this impact include lodging rates and sales tax revenue. The Director highlighted the role of partnerships in the tourism industry, including those with Kansas communities.

The Division has invested with various social media outlets as more individuals are using search engines when planning vacations. Broadcast and cable marketing has delivered some 45.6 million impressions. A new website, LikeKansas.com, is available, with five new different TV spots. The Division also has used 23 print advertising publications with a combined circulation of 15.9 million through magazines and regional publications. For destinations online, the Division has used Google, Yahoo, and Bing; there are an estimated 10,000 followers on social media and there have been 582,000 deliveries of the twice monthly targeted E-Blasts. The TravelKS.com website has been redeveloped and viewed more than 2 million times. A new blog has been released with monthly themes, with two postings per week. The Faces and Places tour logged over 15,000 miles to more than 50 locations or events statewide. The Division will return to publishing an annual Visitors Guide.

The representative also reviewed travel shows and media relations events and a partnership with Oklahoma to target wholesale tour operators, retail travel agencies, and travel media from Germany, Austria, Switzerland, the United Kingdom, and Ireland. Other partnerships highlighted include a partnership with the Kansas Lottery (a $1.00

scratch-off ticket) and the Attraction Development Grants. Major initiatives noted included state support for recreational trails, an EZ pass and pocket-ranger App for Kansas parks, expanding camping opportunities, and focus on Native American heritage. Committee members and the conferee discussed recreational trails and publicity for historic sites and signage.

Agency Report: Kansas State Department of Education (KSDE). The Fine Arts Consultant next appeared before the Committee with a report on fine arts education in the schools. The update highlighted:

- Next Generation Fine Arts Standards. The Consultant serves as a writer on the Visual Arts Committee.
- Career pathways in the Fine Arts and the relevance to education in Kansas. A progress report on the Kansas Model Curricular Standards for Theatre Education was provided.
- Common Core and Fine Arts Standards. College and career readiness for the Fine Arts also was discussed.

The Consultant noted the formation of the Kansas Alliance for the Arts (the Consultant serves as a resource to the Alliance); the Alliance is composed of various arts organizations across the state in order to help give them one voice.

Committee members and the conferee discussed the Poetry Out Loud grant-funded program. The Consultant indicated the program is currently housed in the KSDE; the conferee supported moving the program to the CAIC next year. Also discussed were the theatre standards and the interaction with Kansas community colleges.

Capitol Tour and Renovation Update. The Statehouse Architect conducted a tour of the renovations of the Capitol; a representative of contractor JE Dunn and the Project Architect also were present for the tour. The Committee began its tour on the fifth floor and toured all floors of the Capitol. The tour also included the ground floor North Wing and discussion was held about the Visitor's Center, auditorium, school tours, and exhibit locations for artifacts associated with Kansas and its governance.

Conclusions and Recommendations

Based on testimony and discussion, the Joint Committee makes the following conclusions and recommendations:

Creative Arts Industries Commission. The Joint Committee requested the following information be provided to the Committee for its review:

- Letter of clarification from the Kansas Creative Arts Industries Commission (CAIC) to clarify the current and future programming for the Poet Laureate Program;
- Copy of the CAIC budget, in a format similar to prior budget submissions of the Kansas Arts Commission, for FY 2013 and FY 2014 (requested to specify if a ten percent cut is applicable to the CAIC appropriations);
- Copy of the CAIC strategic plan, including budget information, planned staffing levels, and programming goals;
- Quarterly updates on the balances in CAIC funds, with particular attention to reporting for the Creative Industries Fund, detailing gifts, bequests and donations. The Joint Committee is interested in all funding sources. The Committee also requested comment from the CAIC regarding matching dollars and anticipated resources from private sources and in-kind supports. This response should detail projections for funds made available through the arts individual income tax check-off and the license plates; and
- Update on the National Endowment for the Arts (NEA) grant proposal.

State of the Arts. The Committee notes its requests for information and further requests an update on CAIC planning, with particular attention to the NEA application and available matching funds, as well as grant opportunities for local arts organizations, at a meeting during the 2013 Session.

Further, the Committee recognizes the distinction between public and private entities supporting the arts and requests any published documents that can be made readily available by representatives of the Kansas Arts Foundation (*e.g.,* annual reports, including financial statements and documented in-kind supports, and donor recognition). Other documents, if available, detailing current and future supports to local arts organizations also are appreciated.

State of the Historic Sites. The Committee requests representatives of the Joint Committee on State Building Construction and Appropriations Committees meet with the Historical Society and suggested Historic Sites' representatives to review long-range plans and funding issues associated with keeping the Historic Sites open on a regular basis. Capital improvements and on-going maintenance costs should be part of this discussion. This dialogue should occur early in the 2013 Session.

Agency budgets. The Committee appreciates the updates provided by state agencies on programming and planning for statewide arts and cultural activities. The Committee notes the potential reductions in the budgets of the State Library, Historical Society, and the pass-through to the Kansas Humanities Council and requests updates on federal and other sources of funding that could help to reduce or stabilize the reductions.

Report of the Joint Committee on Corrections and Juvenile Justice Oversight to the 2013 Kansas Legislature

Chairperson: Senator Pete Brungardt

Vice-chairperson: Representative Pat Colloton

Other Members: Senators Terry Bruce, David Haley, Dick Kelsey, Kelly Kultala, Jeff Longbine, and Tim Owens; and Representatives Doug Gatewood, Jim Denning, Jana Goodman, Jerry Henry, Virgil Peck and Jim Ward

Study Topic

The Joint Committee on Corrections and Juvenile Justice Oversight is statutorily directed to monitor the adult inmate population and study the programs, activities, plans and operations of the Kansas Department of Corrections and the adult correctional institutions; monitor the establishment of the Juvenile Justice authority and study its programs, activities, plans and operations and the juvenile correctional facilities; review and study the adult correctional and juvenile offender local programs and related entities; and report annually to the Legislative Coordinating Council.

February 2012

Joint Committee on Corrections and Juvenile Justice Oversight

Report

Conclusions and Recommendations

The Committee agreed to recommend:

- Support for the Kansas Department of Corrections' efforts to enhance funding for substance abuse, mental health, and sex offender treatment both within the facilities and in the community, given the effectiveness of such treatment in reducing recidivism;
- Ongoing oversight of the Juvenile Justice Authority's implementation of the recommendations given in parts I and II of the performance audit report on the Kansas Juvenile Correctional Complex;
- Continued funding at the state level of Juvenile Justice Authority Tier II and Tier III programs that divert youth from the juvenile offender system such that community organizations are not solely responsible for funding such programs; and
- Committee study during the 2013 Legislative Session of the statutory exclusion of state institutions from state substance abuse treatment licensing requirements, pursuant to KSA 59-29b46.
- ***Proposed Legislation:*** None.

Background

The 1997 Legislature created the Joint Committee on Corrections and Juvenile Justice Oversight to provide legislative oversight of the Kansas Department of Corrections (KDOC) and the Juvenile Justice Authority (JJA). The KDOC, as part of the criminal justice system, contributes to public safety and supports victims of crime by exercising safe and effective containment and supervision of inmates; managing offenders in the community; and actively encouraging and assisting offenders to become law-abiding citizens. KDOC operates eight correctional facilities: El Dorado Correctional Facility, Ellsworth Correctional Facility, Hutchinson Correctional Facility, Lansing Correctional Facility, Larned Correctional Mental Health Facility, Norton Correctional Facility, Topeka Correctional Facility, and Winfield Correctional Facility. KDOC also operates parole offices throughout the state and is responsible for the administration of funding and oversight of local community corrections programs.

The JJA leads a broad-based state and local, public and private partnership to provide the state's comprehensive juvenile justice system. This includes prevention and intervention programs, community-based graduated sanctions, and juvenile correctional facilities (JCFs). Individuals as young as 10 and as old as 17 years of age may be adjudicated as juvenile offenders (JOs) and ordered into the custody of the Commissioner of the JJA. The JJA may retain custody of a JO in a JCF to age 22.5 and in the community to age 23.

The JJA has two operational correctional facilities: Larned Juvenile Correctional Facility (LJCF) and Kansas Juvenile Correctional Complex (KJCC).

The Committee is composed of 14 members, with 7 members each from the House and Senate. The duties of the Committee are outlined in KSA 46-2801. For oversight of the KDOC, the Committee is charged to monitor the inmate population and review and study its programs, activities, and plans regarding its statutorily prescribed duties, including the implementation of expansion projects; the operation of correctional, food service, and other programs for inmates; community corrections; parole; and the condition and operation of the correctional institutions and other facilities under the Department's control and supervision. Similarly, the Committee is charged to review and study the adult correctional programs and activities and facilities of counties, cities, and other local governmental entities, including the programs and activities of private entities operating community correctional programs and facilities and the condition and operation of jails and other local governmental facilities for the incarceration of adult offenders.

For oversight of the JJA, the Committee is charged to review and study its programs, activities, and plans regarding its statutorily prescribed duties, including the responsibility for the care, custody, control, and rehabilitation of JOs, and the condition and operation of the state JCFs under its control and supervision. The Committee also is charged to review and study the JO programs and activities and facilities of counties, cities, school districts, and other local governmental entities, including programs for the reduction and prevention of juvenile crime and delinquency, programs and activities of private entities operating community juvenile programs and facilities, and the condition and operation of local governmental residential or custodial facilities for the care, treatment, or training of Jos.

Committee Activities

The Committee requested eight meeting days, but was granted three. The Committee met November 8, 9, and 29.

November 8

FY 2013 Adult Inmate Prison Population Projection Report. Scott Schultz, Executive Director, Kansas Sentencing Commission (KSC), presented the KSC's adult inmate prison population projections for FY 2013. Projections are based on the number of offenders admitted to prison and length of sentence. The KSC projects a population of 11,484 inmates by 2022, an increase of 2,114 or 22.6 percent, with the largest increases among those serving sentences for drug severity level 2 and 3 and nondrug severity level 1, 3, and 5 offenses. Current male populations already exceed capacity, 8,442, and are expected to increase. Female populations also are expected to reach and exceed capacity, 795, in the next 10 tears. For the third year, admissions have exceeded releases in FY 2012, with 1,975 direct new commitments; 1,682 probation condition violators; and 955 parole or postrelease condition violators. The full report is available at: www.kansas.gov/ksc/documents/FY2013Prison_Population_Projection_Report.pdf.

KDOC Overview. Ray Roberts, Secretary, KDOC, gave an overview of agency operations, highlighting its focus on:

- Protecting public safety through reduced recidivism, offender success, and sound security practices;
- Identifying the driving cost of corrections and developing efficient management strategies;
- Managing the rising prison population by developing expansion options and increasing the provision of evidence-based programs; and
- Promoting collaborative relationships.

Secretary Roberts spoke about capacity issues and the availability of additional beds for males at Ellsworth Correctional Facility and in the Butler and Cowley County jails, as well as for female offenders at the Topeka Correctional Facility. He also discussed the agency's continued efforts to move geriatric offenders to specialized low to medium facilities with secure fences to free up space for higher risk offenders. Discussing the needs of the current population, Secretary Roberts identified the ongoing need for behavioral health treatment, substance abuse treatment, sex offender treatment, recidivism-reducing programs, and managing the increasing numbers of offenders with gang involvement. To address these issues, he reminded the Committee the Pew Center on the States' Results First initiative and the Justice Reinvestment Working Group are analyzing current criminal justice policies to determine the most cost-effective and beneficial programs.

Secretary Roberts then turned the discussion to recidivism rates in Kansas, which are calculated based on returns to prison after 36 months for both conditional violations and new offenses. The current rate is 33.7 percent, compared to the rate 10 years ago, 55.1 percent, and the national average, 43.3 percent. Looking at offenders released in 2008, the rate for sex offenders is 41.8 percent overall with 38.4 percent returning for conditional violations and 3.5 percent, or 18 people, returning for new offenses. Offenders with mental health levels 4-7 have a 35.8 percent rate. The rate for males is 31.1 percent, while the rate for females is 20.3 percent. Comparing level of risk, the rate for high-risk offenders is 39.0 percent, the rate for moderate-risk offenders is 28.4 percent, and the rate for low-risk offenders is 15.8 percent.

The Secretary shared the Department's goal of reducing recidivism by 1 percent per year after 36 months for offenders released in 2009 and 2010 and after 12 months for offenders released in 2011, 2012, and 2013. In furtherance of this goal, KDOC anticipates an increase in the number of offenders who will receive skills-building, recidivism-reducing services in FY 2013, and the Secretary described some of the agency's existing services. For example, Kansas was awarded a $1 million grant from the Department of Justice for the Second Chance Act, Adult Offender Comprehensive Statewide Recidivism Reduction Program. The program provides services for 80 mentally-ill offenders in prisons and 50 high- or moderate-risk offenders in the community, as well as fidelity audits of all skills-building classes and groups; cognitive services in 3 prisons for offenders with serious and persistent mental illness; a demonstration project in Saline County with parole and community corrections working together to target high-risk and high-need offenders; support for the Kansas Reentry Policy Council; mentoring coordinators with 3 or 4 lead organizations; and evaluations of recidivism-reducing programs.

Secretary Roberts also spoke about the Second Chance Act, Family-Based Adult Offender Substance Abuse Treatment Program, which will serve 20 female offenders and their families each year. This two-year grant provides funds for intense case management, peer mentoring, substance abuse treatment, and parenting and other services, offered pre- and post-release, for female offenders and their minor children. All of the children will have case plans, and the families will be placed at Ashby House in Salina for six months after release to assist transition.

Next, the Secretary summarized the progress of the Mentoring 4 Success program, which has matched 936 mentors with offenders leaving prison since July 2011. Mentors provide a pro-social model and accountability; 47 percent of mentors have helped offenders find jobs and 45 percent have helped obtain housing.

Finally, Secretary Roberts briefed the Committee on the federal Prison Rape Elimination Act (PREA), which was enacted in 2003 to eliminate sexual abuse in confinement. PREA standards effective August 20, 2012, provide for external audits beginning August 20, 2013, and require one third of KDOC facilities to be compliant each year. The cost to comply is estimated at $55,000 per facility.

The Secretary then answered Committee members' questions. On the issue of increased gang violence, he reported ongoing efforts to identify gang members and make placement decisions accordingly. When asked about the Governor's request for agencies to prepare a budget with a 10 percent reduction, the Secretary answered the budget could not be reduced without a serious impact on public safety. If the reductions are made, the central office would be scaled down and the burden on community corrections would increase. The Secretary noted, however, the Governor has indicated he did not want to impact education, Medicaid, or public safety, and the

Secretary remarked he hoped the Governor and the Legislature would keep that in mind during the budget process.

Progress of Pew Center on the States' Results First Initiative. Jeremy Barclay, Special Assistant and Communications Director, KDOC, provided an update on the Results First initiative. Kansas is 1 of 12 states participating in the initiative, which relies on a model used by the State of Washington for the past 15 years and incorporates state-specific data and costs. The model reviews the best national research to identify effective evidence-based programs (EBP), estimates programs' impact on Kansas population characteristics, and uses Kansas fiscal data to predict total costs and benefits for each program.

The result is a prediction of Kansas-specific return on investment (ROI) for each program, which will be used to invest in programs that increase public safety at lower costs. Additional data from the courts and other entities still are needed to more accurately predict outcomes and JJA data have yet to be added to the model. In other states, the model has been used in the areas of education, child welfare, public health, and housing, among others; however, results in corrections typically are seen more immediately.

Progress of the Justice Reinvestment Working Group. Andrew Barbee, Council of State Governments' (CSG) Justice Center, summarized the progress of the Justice Reinvestment Working Group. CSG is a national non-profit, non-partisan membership association of state government officials, engaging members of all three branches of state government. Its Justice Center, in cooperation with the U.S. Department of Justice and the Pew Center on the States, provides technical assistance to states that demonstrate a bipartisan interest in justice reinvestment, a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety. To do this, it relies on four evidence-based strategies: focus on the people most likely to commit crime; use programs proven to work and ensure they are high quality; deploy supervision policies and practices that balance sanctions and treatment; and target places where crime and recidivism rates are highest.

To take advantage of this resource, the 2012 Kansas Legislature enacted HB 2684 to create the Justice Reinvestment Working Group, which was charged with analyzing the Kansas criminal justice system and, based upon that analysis, providing evidence-based policy options that would reduce recidivism and, at the same time, the increasing prison population. With direction from the Working Group, the Justice Center would analyze data, engage stakeholders, develop policy options, and present those options to the Working Group to ensure they were based on sound factual analysis. Thereafter, the options would be forwarded to the Kansas Department of Corrections (KDOC) for its recommendations and presented to the 2013 Kansas Legislature.

The Justice Center identified three public safety challenges in Kansas contributing to growth in the corrections system: crime, probation, and reentry. Mr. Barbee reported more than 60 percent of counties face rising crime or have rates exceeding the statewide average; more than half of all counties are experiencing significant increases in domestic violence; and constrained resources are limiting the ability of law enforcement to be more effective in preventing crime. Additionally, crime prevention is hampered due to insufficient Kansas Bureau of Investigation (KBI) capacity to process evidence. Specifically, a survey of local law enforcement highlighted long waits for analysis results, with DNA taking approximately one year and toxicology, approximately nine months; a lack of adequate physical lab space; and difficulty finding, training, and retaining technicians. As a result, 35 percent of law enforcement agencies have used their own funds to use a private lab, 25 percent of cases were dismissed or had charges reduced due to delays, and 75 percent of prosecutors surveyed said they had cases ready to prosecute but could not due to KBI processing delays.

Further, Mr. Barbee reported probation revocations to prison have increased almost 25 percent in the past 3 years, contributing to prison population growth, with a 17 percent increase due almost exclusively to conditions violators. He also stated most revoked high-risk probationers do not receive adequate community programming, which is significant because higher-risk probationers with behavioral health needs cost the state $20 million annually when revoked, based on an average stay in prison of 365 days and average cost per day of $70. Additionally, successful, low-risk probationers are being supervised as long as high-risk probationers, the impact of which can be seen in the considerable difference among revocation rates: 4 percent for low-risk probationers, 37 percent for moderate-risk, and 76 percent for high-risk.

To resolve these issues, Mr. Barbee explained graduated sanctions coupled with targeted programs and supervision are less costly and more effective than traditional approaches, where at a cost of around $25,000 for 12 months incarceration, there is limited access to programs to reduce risk while in prison and a lack of supervision upon release to monitor risk and mitigate recidivism. The suggested approach, at $13,800 per person, would provide 3 months incarceration, a 3-month program in the community, and approximately 18 months remaining on supervision, which has been shown to reduce recidivism by roughly 20 percent. Barriers exist to implementing these more effective supervision practices in Kansas, however. Additionally, on the issue of reentry, there are opportunities to expand on past success in reducing recidivism for those released to post-release supervision (PRS), including increased delivery of behind-the-walls programming for those in need and focusing supervision resources on the high-risk PRS population.

Finally, advocates have identified many obstacles to preserving victims' interests, as well as opportunities for better restitution collection such as collecting restitution from inmates before work release, using tax return garnishments and similar methods to collect funds, requiring an inmate to be current in meeting restitution obligations to access the commissary, and providing easy access to payment history and amount owed for parole and PRS officers.

The Justice Center's complete recommendations will be presented to the Working Group at its December 7 meeting.

Response to Department of Justice Report on Topeka Correctional Facility. Having been asked to address the Committee in response to the Department of Justice's audit report on the Topeka Correctional Facility (TCF), Secretary Roberts stated KDOC has responded to all allegations of sexual abuse found in the report. Moreover, changes have been made in TCF administrative staff, including the hiring of a female warden, deputy warden, and facility services administrator. KDOC also plans to aggressively advertise, recruit, and employ female correctional staff at TCF. Further, Warden Cooper has established expectations of professionalism, accountability, and reliability, as well as safety, dignity, and respect throughout the facility.

The Secretary went on to explain the TCF Program Management Committee, which is made up of TCF's warden, deputy warden, and PREA coordinator, meets weekly to review and discuss all PREA complaints and assured the Committee all allegations of staff sexual misconduct are taken seriously, placing anyone involved in a post with no inmate contact or on administrative leave. Additionally, many measures have been taken to prevent sexual misconduct: staff and inmates are informed about PREA requirements; inmates are able to make anonymous complaints; policies and procedures have been adapted to minimize unsupervised staff-inmate interactions; and a task force created in January 2012, which includes community partners such as the Kansas Coalition Against Sexual and Domestic Violence and YWCA Family Peace Initiative, met to discuss power and control dynamics and developed a survey for inmates.

Update on Community and Field Services. Jennifer Welch, Parole Service Manager, KDOC, provided an update on parole and community corrections. The Community and Field Service Division includes Interstate Compact for Adult Offender Supervision, Parole Services, and Community Corrections. The Interstate Compact for Adult Offender Supervision, required by federal and state law, is responsible for tracking all supervised offenders coming into and leaving Kansas; parole National Crime Information Center warrant entries; and tracking and extradition of absconders arrested out of state. The number of courtesy supervision cases is virtually an even exchange with Kansas parole officers supervising a total of 1,669 offenders from other states and 1,663 Kansas offenders being supervised in other states.

Moving on to Parole Services and Community Corrections, Ms. Welch explained effective supervision practices and revocation rates are two of the main indicators for both. Current supervision tools include a focus on reentry; the Level of Services Inventory – Revised (LSI-R); case management; motivational interviewing; specialized officers for high-risk or mentally-ill offenders, among other populations; global positioning system (GPS) monitoring; mentoring; and referral for services on topics including substance abuse, anger management, housing, and domestic violence. Through the implementation of these tools, EBP, and other policy initiatives, from FY 2000 to FY 2012, the number of condition violators returned to prison has decreased by 70 percent, without an increase in violators who return to prison with a new sentence. Between FY 2002 and FY 2007, Kansas was 1 of only 6 states whose rate fell by more than 10 percent and Kansas had the second largest percentage drop in recidivism, from 55 percent to 43 percent. From FY 2009 to FY 2012 alone, the reduction in condition violators returned to prison saved taxpayers $3.3 million.

At the same time, the workload for parole officers has increased. Using EBP and case management strategies has yielded huge results, but is more time consuming. From FY 2009 to FY 2012, the percentage of persons falling in the high- and moderate-supervision categories increased from 60 percent to 68 percent. Additionally, in spite of the slight increase in parole officer staff, from FY 2002 to FY 2011, the average caseload per parole officer increased by 44 percent.

The State provides around $17 million in funds, as well as technical assistance, to local programs for Community Corrections, which seeks to divert offenders from state correctional facilities. Risk reduction efforts include partnering with community organizations, such as mental health centers, workforce development centers, and adult education centers; refreshing staff trained in EBP; reviewing policy and procedure to align with EBP; and developing intermediate sanction models of supervision. At the community level, staff develop quality assurance procedures; carry specialized caseloads; engage community and family of offenders in the supervision process; and educate stakeholders, including advisory boards, the courts, district attorneys, and law enforcement. In FY 2013, KDOC plans to provide 15 training sessions statewide for community corrections and some juvenile staff in Effective Practices in Correctional Settings (EPICS) with on-site follow-up, on-site assistance with applying the EPICS techniques to case planning, Health Insurance Portability and Accountability Act (HIPAA) training, and on-site quality assurance.

Operation of Prison Programs (Sex Offenders, Food Service, and Healthcare). Johnnie Goddard, Deputy Secretary for Facilities Management, KDOC, provided an overview of current contracts for sex offender treatment, food service, and healthcare. The **Sex Offender Treatment Program** (SOTP) contract was awarded to Clinical Associates (CA) in July 2011 at a cost of $1.7 million annually, with the option of renewing it for four additional, one-year periods. CA interviews and assesses all sex offenders admitted at the Reception and Diagnostic Unit; offers evidence-based sex offender evaluation and treatment services at the Lansing, Hutchinson, and Topeka Correctional Facilities, with 230 male participants annually and 6 female participants; and provides treatment to 676 sex offenders in the community. CA is contractually required to maintain a 75 percent statewide success rate, and all participants in SOTP are subject to ongoing polygraphs to validate past and current behavior. SOTP therapists are licensed at the masters' level through the State Behavioral Sciences Regulatory Board.

The **food service** contract is with Aramark Correctional Services, Inc., and is effective through June 30, 2022. The food service budget for FY 2013 is $14.0 million, with a cost per meal of $1.389 or $4.17 per day. Aramark is responsible for all labor, food, supplies, and materials required for the delivery of food services and will serve approximately 9.5 million meals a year. Aramark utilizes a standardized menu on a five-week rotation, which changes twice per year, Fall/Winter and Spring/Summer. Aramark also provides 18 standardized medical diets, including diabetic, cardiac, broken jaw, and pregnancy diets; a combined religious/medical diet; and other medically-ordered special diets. Religious diets are prepared in compliance with the Religious Land Use and Institutionalized Persons Act. All diets are certified by a dietician with calorie and nutritional requirements based on weekly averages of 2,900 calories per day for males and 2,200 calories per day for females. Aramark also provides a vocational food service program titled Inmate to Work (IN2WORK) at most facilities, giving inmates an opportunity to earn the National Restaurant Association ServeSafe certification, which qualifies them to work in most restaurants; 69 inmates completed the program in 2012. IN2WORK is funded by the Fresh Favorites incentive meal program, which allows inmates to buy a meal prepared by the vocational students.

The **healthcare services** contract is with Correct Care Solutions, Inc. (CCS), which provides all necessary medical, mental health, dental, and forensic evaluation services. The healthcare budget is 18 percent of KDOC's State General Fund budget. The CCS contract costs $14.36 per inmate per day, or $49.4 million for FY 2013, and ends December 31, 2013. The national average cost per inmate per day is $17.69 for FY 2013 and is estimated to reach $18.11 for FY 2014; annual healthcare costs increase nationally at 14.0 percent compared to KDOC's 4.6 percent annual increase. KDOC entered into a Memorandum of Agreement with University of Kansas Physicians in 1995 to monitor and oversee this contract at a cost of $1.1 million annually, ensuring CCS meets the community standard of care.

November 9

Performance Audit Report, "Evaluating the Topeka Juvenile Correctional Complex." Laurel Murdie, Legislative Division of Post Audit (LPA), presented the performance audit report, "Evaluating the Topeka Juvenile Correctional Complex, Part I". The full report is available at http://www.kslpa.org/docs/reports/r-12-006.pdf. Part I of the audit addressed whether the Kansas Juvenile Correctional Complex (KJCC) takes adequate steps to ensure the safety of JOs and staff. The audit found KJCC staff have not adequately supervised JOs, leading to offender injuries and misconduct; left doors propped open or unlocked, allowing juveniles to freely roam living units and access unauthorized areas; done a poor job of keeping prohibited items out of the facility; and failed to track, inventory, or secure keys and tools.

The audit also found safety and security problems at KJCC have been compounded by poor personnel management: persons with felony and drug convictions were hired in error due to inadequate facility procedures for background checks; juvenile corrections officers are poorly trained; KJCC officials have done a poor job of disciplining staff for policy violations; and there is some evidence shifts have not been sufficiently staffed and supervised. Additionally, the environment at KJCC has not been conducive to ensuring the safety and security of JOs and staff. KJCC's management has been disorganized and done a poor job of both communicating policies and addressing problems once aware of them. Further, severe problems with turnover have increased risk.

Based on these findings, LPA made numerous recommendations for supervision of JOs, keeping prohibited items out of the facility, key and tool control, security and safety policies and procedures, hiring processes and background checks, adequate staffing of the facility, staff discipline and training, minimizing staff turnover, and ensuring critical incident reviews are completed. LPA also recommended JJA and KJCC officials report on implementation of the recommendations to the Legislative Post Audit Committee by December 2012 and the Legislative Post Audit Committee consider a follow-up audit.

Facility Security Improvements. Terri Williams, Commissioner, JJA, responded to the audit, updating the Committee on facility security improvements at KJCC. Commissioner Williams introduced her leadership team and stated to establish stability, JJA is getting back to basics. In the area of human resources (HR), JJA has updated background check policies; improved the organization of files; developed and implemented a statewide HR hiring checklist, as well as a revised HR database; remedied starting salary disparity between JJA correctional officers and their KDOC counterparts; increased shift differential to that paid by KDOC; requested to add juvenile correctional officers to Corrections KPERS; worked with the Department of Administration to increase recruitment; and overhauled training.

Speaking about security, Commissioner Williams indicated JJA has modified staffing and supervision practices, including implementation of a multi-departmental quality assurance team with a process for security; issued directives on expectations for rounds checking and door security with spot checks for compliance; established vulnerability checks and drills; trained staff in evidence collection and implementation of evidence storage practices; repaired and refashioned doors; replaced perimeter lighting; obtained authorization for purchase of monitoring equipment; set up a system of twice-daily perimeter checks; revised standards for visitor access to the facility, including limiting items allowed in and requiring everyone to go through metal detectors; and increased facility and canine searches.

Commissioner Williams then answered Committee members' questions. Concerning staffing needs, the Commissioner indicated there are 17 current vacancies. The Committee Vice-chairperson asked Commissioner Williams to prepare an estimate of staff needed to minimize use of overtime, based on current numbers of staff and overtime required, and encouraged the Committee to recommend support for filling those positions. Additionally, the Vice-chairperson asked for a summary of the amount spent on diversions this year and in previous years and the amount needed next year. When asked about the Governor's request for agencies to prepare a budget with a 10 percent reduction, Commissioner Williams answered prevention services would be reduced and the JJA is considering lowering from 22.5 to 19 the maximum age for an offender to remain in JJA custody. Like Secretary Roberts, Commissioner Williams referred to the Governor's statement indicating he did not want reductions to impact public safety.

Future of Facility Programs. Commissioner Williams provided an overview of JJA programs, which include educational and vocational training, substance abuse education, sex offender treatment, anger management, cognitive behavioral therapy, mental health services, life skills, and parenting courses. JJA offers EBP along the continuum of services, from community-based prevention to facility-based and reentry-focused programs. Specifically, JJA has partnered with Fort Scott Community College to provide the Water Technologies Curriculum, which is funded through a 2-year, Department of Labor Education Training Administration grant, which will begin in January 2013 and serve 24 students every 6 months.

The Commissioner also spoke about JJA's gender-responsive programming, including Girls Circle, a structured support group for girls ages 9 to 18 that integrates relational theory, resiliency practices, and skills training in a format designed to increase positive connection, personal and collective strengths, and competence. It has demonstrated increases in self-efficacy, attachment to school, positive body image, and social support, as well as decreases in self-harming behavior and alcohol use. Another gender-responsive service is Seeking Safety, a trauma-informed substance abuse curriculum, and JJA is evaluating possible use of Moving On, a cognitive behavioral therapy, in addition to collaborating with TCF on resources for trainings and staff skill-building.

Other plans for future program improvements include training and quality assurance; motivational interviewing; measuring the effectiveness of programs and investing or reinvesting in those that work; and a Worker Alliance Inventory, which measures levels of appropriate bonds between staff and youth.

Systems Trends and Data. Randy Bowman, Director of Community Based Programs, JJA, spoke to the Committee on JJA data and trends, which reflect decreases in JCF admissions by 58 percent; JO cases filed from FY 2002 to FY 2011 by 30 percent; intake and assessment intake events by 31 percent; new case management and conditional release admissions from FY 2005 to FY 2012 by 37 percent; and new Juvenile Intensive Supervision admissions by 20 percent. Not only has there been a reduction in system contact, but also measurable action taken among juvenile justice system stakeholders. For instance, local units of government providing juvenile justice services invested $3.9 million in local funds in FY 2011 and leveraged another $967,346 from foundations, program fees, and other sources. Additionally, 30 Juvenile Corrections Advisory Boards regularly meet to address juvenile crime and the needs of young people who touch the system.

Nevertheless, populations at Youth Residential Center II (YRCII) facilities have increased by 17 percent since 2008, and 12-month and 24-month recidivism rates also are on the rise. The 12-month rate for youth released from a JCF is increasing both in terms of new charges and adult commitments, and the 24-month rate shows a gradual increase for technical violations, new charges, and an increase from 41 to 55 adult commitments for juveniles released in 2008 to 2010. For youth released from state custody, the 12- and 24-month recidivism rates show a decline in juvenile recommitments but an increase in adult commitments. In response to a question from a Committee member, Mr. Bowman replied the LSI-R has not been adapted for youth and no comparable risk-assessment tool is in use.

Stakeholder Involvement. Mr. Bowman provided an update on stakeholder involvement. The **Kansas Advisory Group on Juvenile Justice and Delinquency Prevention** (KAG) was established by KSA 75-7007 and as directed by Section 223(a)(3) of the federal Juvenile Justice and Delinquency Prevention Act. KAG is composed of 20-33 members, appointed by the Governor to 4-year terms, who represent a cross section of juvenile justice stakeholders. Currently, KAG has 22 members, including 20 percent who were under age 24 at the time of appointment, 3 members who have been under the jurisdiction of the juvenile justice system, and 10 members who joined in the past year.

KAG is statutorily directed to participate in the development and review of the juvenile justice plan; review and comment on all juvenile justice and delinquency prevention grant applications and make recommendations regarding those applications; receive reports from local citizen review boards regarding the status of JOs under the supervision of the district courts; examine the effectiveness of programs in reducing racial, geographic, and other biases that may exist in the juvenile justice system; and report to the Commissioner of JJA annually on which programs are effective. In the past, KAG has studied the use of pepper spray in JCFs and the closure of the Beloit facility. Currently, it is studying the interface between the Department for Children and Families and JJA.

The Community Advisory Committee (CAC) was established by the Commissioner of JJA pursuant to KSA 75-7056 to examine and report to the Commissioner on efficiencies in the delivery of community supervision services, including prevention, intervention, and graduated sanctions programs; effectiveness and enhancement of existing prevention and interventions and graduated sanctions; identification of new interventions; and effectiveness of juvenile justice prevention, intervention, and graduated sanctions programs in reducing racial, geographic, and other biases that may exist in the juvenile justice system.

Keith Clark, Director, 4th Judicial District Community Corrections, presented comments regarding the purpose of CAC and its ongoing relationship with JJA. The Juvenile Justice Reform Act was modeled from the Community Corrections Act; however, in the original Act there was no mechanism for local communities to effectively participate in the annual budget planning process for block grant funding for juveniles. The CAC was established to give them that opportunity. The Commissioner must designate four regions in the State and appoint two individuals from each region, in addition to two at-large members from the Kansas Community Corrections Association.

Clayton Carr, Director, 16th Judicial District Juvenile Services, presented comments regarding the current activities of the CAC. The data show significant and lasting reductions in JOs served at intake and assessment, juvenile court filings, youth in state custody, and in JCFs. Community engagement, prevention, and earlier interventions at the local level, along with use of evidence-based assessments and programming, adequate staff resources, and better training deserve much credit for these successes, he said. Judges have demonstrated they will use less-restrictive sentencing alternatives when they are proven to be effective and safe. This has prevented many youths from moving deeper into the system, where services are far more costly and less effective in reducing future offenses.

Community-Based Programs – Update and Future Plans. Mr. Bowman provided a summary of Community-Based Programs, beginning with the ongoing work of the Juvenile Detention Alternatives Initiative (JDAI) in Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte

Counties, and addressed the work plans for each of these counties.

Statewide, Mr. Bowman reported, JJA invests significant amounts of resources in community placement. In FY 2012, JJA is projected to spend more than $31 million in various residential placements and roughly $20 million will be spent on youth residential centers and detention. Kansas is a high consumer of group home services and ranks 13th nationally for highest use per 100,000 people. Currently, JJA does not have systemic data on the effectiveness of programs, individually or by model type, used by each provider. The current contracting process requires most providers to maintain licensure with the Kansas Department of Health and Environment, and each provider determines program content, such that among like models, there is great variation. EBP are not required and providers identify a lack of rate increase over several years as a challenge to augmenting services. Alternatively, JJA could use the correctional program checklist as a baseline performance score for providers; develop EBP training opportunities to providers; consider restructuring rates based upon checklist score, which would build in preference for fidelity to EBP, giving a higher rate for higher scores; use the Pew Results First model to help demonstrate effectiveness; or add to the menu of services to include more EBP.

One example of a possible EBP, Mr. Bowman said, is Multisystemic Therapy (MST), which is an intensive, evidence-based, family- and community-based treatment that views youth as embedded within multiple interconnected systems. It requires fidelity to the model, including licensure by the MST Institute, and highly credentialed staff. Currently, 32 states, the District of Colombia, and 12 countries have a licensed MST program, but there are none in Kansas. MST targets youth ages 12 to 17, both male and female, who are at high risk of out-of-home placement, such as chronic, violent, or substance-abusing JOs, and their families. Potential outcomes include a reduction of long-term rearrest rates by 25 percent to 70 percent and out-of-home placements by 47 percent to 64 percent. Additionally, it helps families to function better, decreases substance use, and lessens mental-health problems. In the long term, a 14-year, follow-up study done in Missouri showed up to 54 percent fewer rearrests, 57 percent fewer days of incarceration, 67 percent fewer drug-related arrests, and 43 percent fewer days on adult probation. Further, the cost is lower than both YRC II and detention services and shows an ROI of $12.40-$28.33.

The recommendation is to start with changes with an earlier ROI and which are widely researched, as well as investing in a pilot program, likely in Wyandotte County, at a cost of roughly $300,000-$350,000 annually. A team typically consists of a program director, clinical supervisor, and 3 therapists who would serve roughly 50 youth each year. Each therapist carries a caseload of three, four, or five families. JJA would pilot the program until it begins paying for itself. The proposed site must have enough youth eligible for the program and JJA staff would have to work with site stakeholders beforehand to determine interest and commitment to its successful implementation. Implementation would require a procurement process to select the vendor, communication and outlining of how the program would be evaluated, choosing the pilot site, and training staff.

Next, Mr. Bowman summarized JJA's efforts to comply with PREA standards by August 20, 2013, or face losing 5 percent of federal funding. This is applicable to the 2 state JCFs, the 12 juvenile detention centers operated by local governmental agencies, and facilities used primarily for the confinement of juveniles pursuant to the juvenile justice system. Thus far, JJA has designated a PREA Coordinator as required by law, revised agency policies, and notified contracted residential service providers of the PREA law. Training for staff and youth is under way and JJA will conduct a self audit in the spring of 2013.

Finally, Mr. Bowman spoke about the Council of Juvenile Correctional Administrators Positive Youth Outcomes Committee, saying reliance on recidivism as a primary indicator of success or failure discourages collection and utilization of positive outcomes data for youth. Instead, the Committee is reviewing relevant literature, surveying staff, and examining instruments to measure positive changes, which in the future will give direction and opportunities to collect and measure success of Kansas youth.

November 29

Performance Audit Report, "Evaluating the Topeka Juvenile Correctional Complex Part II." Ms. Murdie presented the performance audit report, "Evaluating the Kansas Juvenile Correctional Complex, Part II." The full report is available at http://www.kslpa.org/docs/reports/ r-12-011.pdf. Part II of the audit looked at whether education programs at KJCC are adequate to prepare offenders for future academic and work opportunities; whether programs are equitable for male and female offenders; whether the JJA is legally authorized to operate its JCFs as unlicensed substance abuse treatment facilities; and whether being unlicensed has an effect on services. Overall, the audit found KJCC provides adequate academic programs to help JOs earn a high school diploma or equivalent: the high school and GED programs are accredited through the Department of Education, are flexible and accommodate frequent entry and exit of JOs, and provide basic literacy and job skills. Further, the audit found, with some exceptions, the academic programs are equitable for male and female offenders: offenders generally are provided the same core academic courses and electives, and while the academic courses are delivered to males and females in different ways, the courses are not necessarily inequitable. Physical-education and life-skills courses, however, were not provided equitably to males and females.

Additionally, the audit found technical education and work study programs are not adequate to prepare juveniles for future work opportunities and are not delivered equitably. The programs do not provide training in advanced job skills or work experience in high-demand occupations or industries, and females have access to only two of the seven technical education programs and three of the eight work-study programs while males have access to all. Also, JJA does not offer postsecondary programs to JOs.

Finally, the report states JJA and KJCC officials have taken a hands-off approach to education programs. Officials have not formulated plans or established partnerships for appropriate technical education, work study, or postsecondary education or regularly or systematically assessed the effectiveness of KJCC education programs. To remedy these issues, LPA made a series of specific recommendations, including to develop and implement plans for technical education, work study, and postsecondary programs, as well as monitoring, evaluating, and modifying education programs based on outcomes. Further, LPA recommended JJA and KJCC officials develop a plan for bringing the quality and availability of education programs for female offenders in line with those provided to male offenders.

Concerning KJCC's substance abuse programs, the audit found under current state law, JCFs are allowed to provide such programs without being a licensed facility, and in 2009, JJA voluntarily stopped licensing its substance abuse programs in the JCFs. Given a lack of independent review of those services, LPA predicts this may affect the quality of services and limit some federal funding opportunities, which is significant as an estimated 70 percent to 85 percent of offenders at JCFs need substance abuse services, and receipt of such services is an important key to keeping JOs from re-offending. The audit also found substance abuse services at KJCC are not properly designed to meet the individual needs of offenders: KJCC offers only a small portion of needed services, JOs receive little or no individualized treatment, and no screening or assessment tools are in place to determine individual need. Further, after significant reductions in services in 2008 and the cessation of individualized services in lieu of a behavior-modification-focused curriculum, from July 2011 to January 2012, JJA suspended all substance abuse services. Finally, the report stated, JJA and KJCC officials do not know how many male JOs need services, no means of measuring effectiveness of services is currently in place, substance abuse records are in disarray, and failure to track services provided has led to some JOs being released without receiving needed services.

To address these issues, LPA recommended first that JJA, KJCC, and Larned officials reconsider whether the facilities should be licensed and suggested an interim study of the statutory provision related to exempting state institutions from substance abuse licensing requirements. It was recommended further that JJA officials provide a status update on the education and substance abuse programs to the Legislative Post Audit Committee and the Joint Committee on

Corrections and Juvenile Justice Oversight by June 1, 2013.

Response to Performance Audit Report. Commissioner Williams provided the agency's response to Part II of the KJCC audit. Commissioner Williams stated the administration is committed to public safety initiatives, including programs, has committed to implement all of the LPA recommendations, and has already achieved some progress. In the area of technical education, JJA, KJCC, and Lawrence Gardner High School (LGHS) have partnered with Fort Scott Community College (FSCC) to offer water technologies training free of charge on the KJCC campus to 24 KJCC students, both male and female, every 6 months over a 2-year period. The program is a blend of technical water training and water conservation learning projects that provides an opportunity to earn college credit hours and encourages participants to become water operators. The grant application for this program included some collection of data on recidivism impact, and staff will be working with FSCC on how best to collect and report that data. Additionally, LGHS is working with Westar Energy on a project to grow milkweed plants and with a battery company in western Kansas to cut and package particle board. LGHS also facilitated a career day with Westar Energy in May 2012 at KJCC, which included some experiential learning opportunities.

Further, as part of the initial development of a more formalized, agency comprehensive plan, Commissioner Williams reported JJA has established an LPA Part II Implementation Team to draft the initial plan; held preliminary meetings with LGHS officials concerning how to improve technical education and work study programs; begun to evaluate the portfolios provided to youth at release (The portfolios contain a list of coursework completed, skills reports, certificates of completion, and resumes.); and solicited feedback from other states on the types of educational and vocational programs offered at their correctional facilities. JJA staff also has met with KDOC staff regarding Offender Workforce Development Specialist (OWDS) Training. Currently JJA has only one staff member at KJCC and two at LJCF who are OWDS trained; however, JJA has been advised another training class will be offered in the spring of 2013 and will be allowed to send staff to be certified.

JJA is collaborating with the Kansas Department of Commerce (Commerce) as well, which already has offered information on high-demand jobs in Kansas that JOs would be eligible to perform and on vocational certification programs in place in other correctional settings across the state. More specifically, KJCC, LGHS, and Commerce staff have met to discuss strategic planning for building relationships, training of staff, and providing transitional services for youth leaving KJCC, and Commerce will be coming to KJCC quarterly to meet with youth scheduled for release in the upcoming quarter to help educate them on available resources. Commerce also will work with JJA and community partners to extend the strategic planning process for continuation of services and training for community staff, which will ensure youth are provided consistent information throughout the system.

Concerning postsecondary programs, the Commissioner reported JJA has offered them sporadically at KJCC since Fall 2008, recognizes the need for such programs, and will develop a plan to address this shortfall, including input from officials from other juvenile correctional institutions and relevant state agencies, such as the Board of Regents and the Department of Education. As to equitable delivery of programs, Commissioner Williams stated JJA will develop a plan to bring the quality and availability of education programs for female offenders in line with what is provided to male offenders, including language in JJA's educational contract specific to gender equity. Finally, Commissioner Williams stated JJA will develop a more formalized and comprehensive plan for monitoring, evaluating, and modifying educational programs based on outcomes. These plans will be provided to the Legislative Post Audit Committee and the Joint Committee on Corrections and Juvenile Justice Oversight by June 1, 2014.

Responding to the LPA recommendations for substance abuse programs, Commissioner Williams told the Committee JJA recognizes current programs can and should be enhanced and is committed to developing and implementing a plan for improving substance abuse services that reflect best practices, allow for individualized treatment, and include an evaluation component. Currently, JJA, KJCC, LJCF, and University of Kansas Physicians, Inc., are working on the initial substance abuse services plan components, and JJA recently was awarded a grant for technical assistance from the Office of Juvenile Justice and Delinquency Prevention to incorporate an evaluation component. Commissioner Williams concluded the agency response by reinforcing that JJA is committed to operating a better, safer, more transparent, and more accountable state agency, and the LPA process has helped JJA to focus on areas that need improvement. While the findings in Part l of the audit are of a more "urgent" nature, she said JJA's goal is to offer services to the offender population that are well researched, evidence-based, reduce recidivism, and help successfully reintegrate offenders safely back into the community.

Following up on questions asked at the November 9th meeting of the Joint Committee concerning overtime and staffing at KJCC, the Commissioner stated KJCC is authorized for 290.5 FTE positions, including 137 Juvenile Corrections Officer I positions. Overtime hours for July through November 2012 totaled 14,574.75 hours, an increase of 1,465.25 hours for the same period in 2011. She indicated optimal staffing to minimize overtime would be 144 Juvenile Corrections Officer I positions, with the additional positions likely being funded from the corresponding reduction in overtime costs. Concerning diversion funding, the Commissioner reported funding over the past several years for prevention programs has been reduced by $3.8 million, from $5.6 million in FY 2010 to $1.8 million in FY 2013. She indicated JJA's FY 2014 budget request includes a request for level funding of prevention and an enhancement of $700,000 to match the $700,000 the Legislature allocated to JJA in the last fiscal year.

The Commissioner also addressed questions and concerns from the Committee. Specifically, when asked about education funding, Commissioner Williams answered some programs, such as the water program, are grant funded, while educational costs at the correctional facilities come from the JJA budget. Additionally, when asked about diversion funding prior to FY 2010, Mr. Bowman responded the funding varied by only hundreds of dollars between 2003 and 2010.

KDOC Program Update. Secretary Roberts provided a program update to the Committee. He stated from FY 2012 to FY 2013, KDOC spent $2.5 million on programs and increased programming significantly. The Secretary then elaborated on the expansion of the Department's mentoring program, which has matched 1,156 mentors with offenders leaving prison since July 2011. Gloria Geither leads the Mentoring 4 Success program, with 7 mentoring coordinators within KDOC and 14 lead organizations staffed by volunteers. The Secretary introduced two of these coordinators: Marcy Konkader, Mentoring Coordinator Region 3, and Candice Ayala-Pagan, Mentoring Coordinator, Lansing Correctional Facility, to provide information about the program and its success.

Finally, Secretary Roberts responded to questions from the Committee concerning the mentoring program, such as whether the program was being used as a substitute for EBP within the facility and whether there is a measure of its effectiveness. The Secretary stated KDOC has been collecting data on conditional violations and new crimes among mentoring participants, which will be more useful in showing effectiveness in a year. In the meantime, he explained, mentoring is used to supplement the other programs and provides a level of support and accountability that programs themselves cannot.

Conclusions and Recommendations

The Committee agreed to recommend:

- Support for the Kansas Department of Corrections' efforts to enhance funding for substance abuse, mental health, and sex offender treatment both within the facilities and in the community, given the effectiveness of such treatment in reducing recidivism;

- Ongoing oversight of the Juvenile Justice Authority's implementation of the recommendations given in parts I and II of the performance audit report on the Kansas Juvenile Correctional Complex;

- Continued funding at the state level of Juvenile Justice Authority Tier II and Tier III programs that divert youth from the juvenile offender system such that community organizations are not solely responsible for funding such programs; and

Committee study during the 2013 Legislative Session of the statutory exclusion of state institutions from state substance abuse treatment licensing requirements, pursuant to KSA 59-29b46.

Report of the Joint Committee on Home and Community Based Services to the 2013 Kansas Legislature

CHAIRPERSON: Representative David Crum

VICE-CHAIRPERSON: Senator Carolyn McGinn

OTHER MEMBERS: Senators Laura Kelly, Kelly Kultala, and Dwayne Umbarger; and Representatives Barbara Ballard, Jerry Henry, Brenda Landwehr, and Peggy Mast

STUDY TOPIC

To help ensure that long-term care services, including home and community based services, are provided through a comprehensive and coordinated system throughout the state, the Committee is to oversee the savings resulting from the transfer of individuals from state or private institutions to home and community based services and to ensure that any proceeds resulting from the successful transfer be applied to the system for the provision of services for long-term care and home and community based services. Additionally, the Committee is to review and study other components of the state's long-term care system.

February 2012

Joint Committee on Home and Community Based Services

Annual Report

Conclusions and Recommendations

Based on the testimony heard and the Committee deliberations, the Joint Committee on Home and Community Based Services (HCBS) Oversight reached the following conclusions and made the following recommendations:

- The Committee recommends the proposed draft bill creating the Joint Committee on Home and Community Based Services and KanCare Oversight, as refined, be used as a draft template for potential consideration during the 2013 Legislative Session;
- The Committee requests the Centers for Independent Living (CILs) provide all information regarding attempts made to contact individuals on each CIL's Home and Community Based Services Physical Disability (HCBS/PD) Waiver services waiting list;
- The Committee recommends the Intellectual/Developmental Disability (I/DD) KanCare Pilot Project be followed throughout the 2013 Legislative Session for appropriate development;
- The Committee recommends the Committee report include data for state fiscal year 2012 on the number of individuals transferred from DD institutional settings into HCBS and the number of individuals added to waiver services due to crisis or other eligible program movement;
- The Committee recommends the Committee Report reflect the importance of the Aging and Disability Resource Centers and their implementation as an integral component of the KanCare managed care model;
- The Committee recommends the Committee Report contain information on the Social Security Alternative Pilot and the Supplemental Security Income Employment Pilot and the intended implementation of the pilots;
- The Committee recommends a review or study (by appropriate legislative committees during the 2013 Legislative Session) of Oklahoma's plan to close all public facilities providing care to individuals with developmental disabilities and to move those individuals into non-institutional services. The recommendation is intended to encourage the study of trends related to providing care for individuals with developmental disabilities; and
- The Committee recommends the Chairperson of the Joint Committee on Home and Community Based Services Oversight draft a letter to the President of the Senate and the Speaker of the House requesting that the health committees of the Senate and House of Representatives provide oversight of KanCare during the 2013 Legislative Session.

Proposed Legislation: One bill to create the Joint Committee on Home and Community Based Services and KanCare Oversight was proposed.

Background

The Joint Committee on Home and Community Based Services Oversight operates pursuant to KSA 2012 Supp. 39-7,159, *et seq.* The Oversight Committee was created by the 2008 Legislature in House Sub. for SB 365. The Committee oversees long-term care services, including home and community based services which are to be provided through a comprehensive and coordinated system throughout the state. The system, in part, is to emphasize a delivery concept of self-direction, individual choice, services in home and community settings, and privacy.

The Oversight Committee is composed of nine members, five from the House of Representatives and four from the Senate. Members are appointed for terms that coincide with their elected or appointed legislative terms. The Committee is to meet at least four times each year at the call of the chairperson. In its oversight role, the Committee is to oversee the savings resulting from the transfer of individuals from state or private institutions to home and community based services (HCBS) and to ensure that any proceeds resulting from the successful transfer be applied to the system for the provision of services for long-term care and home and community based services. Additionally, the Committee is to review and study other components of the state's long-term care system.

As required by statute, at the beginning of each regular session, the Committee is to submit a written report to the President of the Senate and the Speaker of the House of Representatives, which includes the number of individuals transferred from state or private institutions to home and community based services, as certified by the Secretary of Social and Rehabilitation Services and the Secretary of Aging, and the current balance in the Home and Community Based Services Savings Fund. (See Addendum A for the 2012 Annual Report.) Additionally, the Kansas Department on Aging (KDOA) and the Kansas Department of Social and Rehabilitation Services (SRS), in consultation with the Kansas Department of Health and Environment (KDHE), are to submit an annual report on the long-term care system to the Governor and the Legislature during the first week of each regular session.

The 2012 Legislature approved the implementation of the Governor's Executive Reorganization Order No. 41 (ERO No. 41), effective July 1, 2012, consolidating all disability waiver and mental health services. ERO No. 41 renamed the Department on Aging and the Secretary of Aging as the Kansas Department for Aging and Disability Services (KDADS) and the Secretary for Aging and Disability Services, respectively. The ERO also renamed the Department of Social and Rehabilitation Services and the Secretary of Social and Rehabilitation Services as the Department for Children and Families (DCF) and the Secretary for Children and Families, respectively. As a result of ERO No. 41, KDADS is responsible for all HCBS waivers.

Committee Activities

The Oversight Committee held two days of meetings during the 2012 Interim (September 26 and November 8). In accordance with its statutory charges, the Committee's work focused on the following issues:

- Overview and update of developments in KanCare (an implemented managed care model);
- Intellectual and Developmental Disability KanCare Pilot Project;
- Reorganization of KDADS;
- Update on the transition of services and waivers;
- Long-term care quarterly report;
- Updates on the status of HCBS waivers and waiting lists, including steps taken by KDADS to reduce the waiting lists;
- Targeted case management in programs administered by KDADS;
- Historical spending for HCBS waivers and historical waiting list;

- Aging and Disability Resource Centers;
- KanCare Employment Related Pilots;
- Proposed legislation to expand the membership and charge of the Committee to provide KanCare oversight;
- KanCare oversight considerations; and
- KanCare implementation concerns.

The Committee received testimony on these issues from state agencies, providers, associations, and other stakeholders. The Committee received the Annual Report to the 2013 Legislature from KDADS, which is included in this report as Addendum A. Corrections to the Annual Report provided by KDADS on November 8, 2012, were incorporated in the report. As recommended by the Committee, the proposed KanCare oversight draft bill reviewed by the Committee is included as Addendum B.

Conclusions and Recommendations

Based on testimony heard and Committee deliberations, the Joint Committee on Home and Community Based Services Oversight reached the following conclusions and recommendations.

KanCare Oversight

The Committee recommends a proposed draft bill creating the Joint Committee on Home and Community Based Services and KanCare Oversight, which is to be refined, be used as a draft template for potential consideration during the 2013 Legislative Session.

The Committee discussed the proposed bill draft (Addendum B), which would expand the Committee's scope to include KanCare oversight. The proposed bill draft was considered a starting point for legislation to create KanCare oversight.

Representatives of KDHE and KDADS provided Committee members with an overview of KanCare, followed by an update at the second Committee meeting.

The Director of the Division of Health Care Finance, KDHE, reported the state submitted its formal KanCare Section 1115 waiver application to the Centers for Medicare and Medicaid Services (CMS) on August 6, 2012, and was notified by CMS on August 21, 2012, that the application met all requirements for completeness. CMS began its official comment period on August 21 and comments were accepted through September 20, 2012. Communications between CMS and state agencies continued on a weekly basis.

The Director discussed the KanCare website (www.kancare.ks.gov/), which includes all questions from educational tours held throughout the state and will serve as KanCare's "launching pad." The website also contains information concerning the Governor's KanCare Advisory Council, policies and reports, plan information and application, current news, and the status of the 1115 waiver application and comments.

According to the Director, the state engaged Mercer, a global consulting firm, to assist with education, managed care organization (MCO) readiness reviews, CMS interaction, and staff training. She indicated four external stakeholder groups were created to ensure a smooth transition to KanCare: Providers, MCOs, Member Involvement and Protection, and Specialized Healthcare and Network Issues. There also is an internal workgroup consisting of intra-agency (KDADS and KHDE) representatives and a Governor's Advisory Council, which is charged with providing the Administration with ongoing insight and recommendations on the implementation of KanCare.

The Director provided key dates for evaluation of MCOs readiness for the January 1, 2013, implementation date. Of note was the state's "Go/No-Go" decision date of October 19, 2012, at which time the state would determine whether the "beneficiary assignment" algorithm file (used to populate the beneficiaries' initial enrollment assignments to each MCO) would be ready to run on October 24, 2012. The file was necessary to send beneficiaries their letters of assignment by November.

On October 19, the Administration announced its plan to move forward with the January 1, 2013, implementation date by processing the initial beneficiary assignment file. According to the Director, key members of the KanCare implementation team met with CMS representatives in Baltimore, Maryland, on October 18, and that positive meeting contributed to the Administration's decision to move forward with preparations for a January 1, 2013, implementation date. Until the CMS Section 1115 waiver was signed and approved by CMS, the Director could not provide assurances to Committee members concerning CMS's intentions related to waiver approval.

Further, the Director outlined CMS-defined issues which are a part of intensified communications between the state and CMS. These issues included an increase in the amount of time during which beneficiaries may choose an MCO in 2013 to 90 days after January 1, 2013 (with exceptions allowed for a "change for good cause"), rather than the initial 45 days; formatting of safety net hospital pools to improve health care access; and assuring HCBS beneficiary protections to prepare for transition to a long term services and supports (LTSS) managed care model. A detailed list of HCBS beneficiary protections was provided.

As part of the readiness review evaluation, MCOs were required to demonstrate 90 percent of their network providers were in place by October 12 and 100 percent were in place by November 16, 2012. The Director stated the MCOs met the October benchmark of 90 percent network adequacy. She indicated MCOs were encouraged to include every current Medicaid provider in Kansas in their networks. For areas with access issues, the MCOs were encouraged to sign additional network Medicaid providers. Though the three MCO basic plans are the same, the provider network and value-added services offered could vary from one MCO to another. Value-added services are previously non-covered services to beneficiaries provided at to cost to the state and include adult preventive dental benefits, rewards programs for healthy behaviors, respite care, and other health services.

The Director discussed the billing process options through the Medicaid Management Information System (MMIS), commercial clearinghouses, or directly to the MCO. She noted the state would possess real-time access to the claims data for the purpose of validating timely claims payments, monitoring health data, and making data-based decisions concerning the KanCare delivery system.

In response to a Committee member question, the Director indicated contingency plans were being developed should the CMS 1115 waiver approval be delayed. The primary issues requiring waiver approval were the following: move nearly all Medicaid populations into managed care; cover all services, including LTSS, through managed care; establish safety net care pools to reimburse hospitals for uncompensated care costs; and create pilot projects to serve as alternatives to Medicaid.

The Secretary of KDADS provided a brief overview of the KanCare MCO assignment process. After initial assignment, the beneficiary would consult with Aging and Disability Resource Centers (ADRCs) for assistance in choosing the optimal MCO based on value-added services and in-network providers. Following the first year of implementation, performance standards and matrices could become part of the choice process, in addition to the competitiveness created by value-added services and each MCO's provider network.

Representatives of the Kansas Hospital Association; LeadingAge Kansas; the Kansas Health Care Association and the Kansas Center for Assisted Living; Midwest Health, Inc.; Johnson County Developmental Supports; and InterHab provided testimony regarding KanCare implementation.

In discussing KanCare implementation, a representative of the Kansas Hospital Association indicated that organization has worked closely with KHDE and many issues have been resolved, but several concerns remain. The Association continued to receive feedback from member hospitals related to reimbursement structures (particularly for critical access hospital), MCO provider manuals, and whether the state would receive waiver approval prior to the intended implementation date of January 2013.

A representative of LeadingAge Kansas indicated that while some of the organization's concerns have been addressed by the state and KanCare MCOs, anxiety remained due to KanCare representing a fundamental change for nursing homes not only in provision of care but also billing and reimbursement. She stated the compressed timeline for KanCare and the lack of provider manuals resulted in many nursing homes delaying contract execution.

A representative of the Kansas Health Care Association and the Kansas Center for Assisted Living spoke about existing concerns throughout rural Kansas. She discussed networking experiences with counterparts in Arizona and Tennessee who shared their experiences with their states' managed care models which resulted in ongoing delayed payments.

Concerns also were expressed by a representative of Midwest Health, Inc., regarding the need for a uniform assessment tool for the provision of care to residents. Further, he cited concerns related to him by counterparts in Arizona and Tennessee regarding the rate structure, case manager issues, and the timeliness of payments and appeals processes.

A representative of Johnson County Developmental Supports expressed concern regarding the inclusion of long term non-medical services and support into KanCare.

KanCare implementation concerns also were expressed by a representative of InterHab. Among the concerns was what the organization viewed as the confusing and incomplete communications strategy used in educating HCBS I/DD beneficiaries about KanCare. The InterHab organization supported a six-month delay in KanCare implementation to improve the Medicaid reform initiative. The representative stated the DD population has not been in managed care, making the transition difficult for care managers and direct care workers providing services to individuals with developmental disabilities.

With regard to the proposed bill draft reviewed by the Committee, the Secretary of KDADS stated he reviewed the draft and supports the type of legislative KanCare oversight committee contemplated in the proposed bill draft. The Director of Health Care Finance, KDHE, stated the Administration is supportive of legislative oversight for the KanCare program.

Representatives of the Kansas Health Consumer Coalition, the Disability Rights Center of Kansas, the Kansas Chapter of the National Association of Social Workers, InterHab, and AARP Kansas testified before the Committee in support of legislative oversight of KanCare. Written testimony in support of legislative oversight also was provided by Kansas Action for Children and Kansas Advocates for Better Care. Reasons cited for support of legislative oversight included the need to provide transparency of the public and private partnership, to identify and address emerging problems, and to focus on quality of care services.

HCBS/Physical Disability Waiver Waiting List

The Committee requested that the Centers for Independent Living (CILs) provide all information regarding attempts made to contact individuals on each CIL's HCBS/Physical Disability Waiver services waiting list.

The Committee heard testimony from the Secretary of KDADS regarding the waiting list for individuals with a physical disability (PD) and the steps taken by KDADS to validate the accuracy and integrity of the list. KDADS contracted with a third-party call center to contact each of the 3,462 individuals on the waiting list, using the telephone contact information supplied by the service provider who placed the individual on the list. As only 11 percent of those on the waiting list were able to be contacted by the call center, KDADS contacted the PD waiver service provider agencies to update the waiting list information submitted by each agency, correcting and removing individuals from the list when appropriate. The results of the waiting list certification by the CILs and other case management entities were reported. Subsequent to certification by these service provider agencies, the waiting list was reduced by approximately one-third, to 1,947. Approximately 250 new individuals were added to the list since the certification process began, for a new HCBS/PD waiting list total of 2,197 individuals waiting for services, as reported on November 8, 2012.

Committee members were assured by the KDADS Secretary that if any individual (who was removed from the waiting list as a result of the certification process) calls KDADS or a contracted agency stating the person was removed from the PD waiting list and still requires services, the person would be reinstated to his or her previous priority placement, once eligibility has been determined.

Intellectual/Developmental Disability KanCare Pilot Project

The Committee recommends the Intellectual/Developmental Disability (I/DD) KanCare Pilot Project be followed throughout the 2013 Legislative Session to ensure appropriate development related to claims filing, plans of care, extraordinary funding, the role of the Community Developmental Disability Organizations (CDDOs), and other pilot project issues.

The Committee heard testimony from the Secretary of KDADS concerning the I/DD KanCare Pilot Project, which is targeted for implementation during March 2013. The Secretary indicated the delay would allow additional time for KDADS and the I/DD Pilot KanCare Advisory Committee to ensure a smooth implementation, while expanding the pilot's original scope. He provided information related to the pilot's purpose, impact, criteria and participation process, and additional options for participation focused on employment supports and behavioral supports. These additional options would provide support for selected volunteering members who need additional targeted work-around assistance to remove barriers and build solutions to support employment options, or to access needed behavioral supports in order to successfully remain in their homes and communities.

The Secretary stated Kansas is the only state to create an I/DD pilot project; however, several other states are moving in that direction. The pilot project is voluntary, and the State will measure performance outcomes. The Secretary expressed confidence that the pilot will be created to include geographically diverse areas, which will yield valuable information on program design and structure.

Quarterly Census Reports

The Committee recommends the number of individuals transferred from developmental disability institutional settings into home and community based services during state fiscal year 2012, together with the number of individuals added to waiver services due to crisis or other eligible program movement during state fiscal year 2012, be reflected in the Committee report.

The Committee, as part of its charge, reviewed the number of individuals transferred from state or private institutions to home and community based services, as reported by the Secretary of KDADS, recognized no savings resulted from these transfers, and reviewed other components of the State's long-term care system. Addendum A to the Committee report includes information reported by KDADS regarding the number of individuals transferred to HCBS waiver services.

Aging and Disability Resource Centers (ADRCs)

The Committee recommends the Committee report reflect the importance of the ADRCs and their implementation as an integral component of the KanCare managed care model.

The Committee heard testimony from KDADS Secretary Sullivan concerning the ADRC's purpose, collaborative interaction with community agencies and organizations for accessing long-term services and supports, key features provided by ADRCs within the KanCare model, and the timeline of events from the time the request for proposal was released until KanCare's anticipated implementation date of January 1, 2013.

Secretary Sullivan defined ADRCs as the primary entry point for both individuals eligible for publicly funded services and supports and individuals with private resources. He noted ADRCs provide a central source of information for assisting people in understanding available options and will serve people of all ages, disabilities, and income levels. The Southwest Area Agency on Aging was awarded the ADRC contract and will subcontract with ten other Area Agencies on Aging throughout the state. ADRCs are to assume the functional assessment for HCBS Frail Elderly, Traumatic Brain Injury, and Physical Disability (PD) waivers on January 1, 2013. Community Mental Health Centers are required statutorily to perform mental health assessments; CDDOs will continue to provide assessments for those individuals accessing HCBS DD waiver services. Additional information on ADRCs is available at www.ksadrc.org.

Social Security Alternative Pilot and Supplemental Security Income (SSI) Employment Support Pilot

The Committee recommends the Committee report contain information on the Social Security Alternative Pilot and the Supplemental Security Income Employment Pilot and how they are intended to be implemented.

The Committee received testimony from a representative of KDHE on the Social Security Alternative Pilot and the SSI Employment Support Pilot which will be implemented to encourage the hiring of individuals with disabilities, reduce the reliance on Social Security disability benefits, and increase community engagement. The KDHE representative reported these pilots present an opportunity for a maximum of 600 individuals with disabilities to become employed.

The KDHE representative explained the SSI Employment Support pilot is designed for a maximum of 400 individuals currently on HCBS I/DD or PD Waivers waiting lists. The pilot provides a monthly, capped dollar amount to participants in order to pay for personal and employment support services to assist them to live and work in the community. These support services are available to participants in a community-based setting and are inappropriate for institutional residents or residents who work in sheltered employment.

Information also was provided by the KDHE representative on the Social Security Alternative Pilot, which is designed for a maximum of 200 individuals who meet the Social Security Administration (SSA) criteria for disability, but who have not yet been determined eligible for Social Security (SSI/SSDI) cash benefits or Medicaid coverage. This pilot would serve individuals willing to become employed in an occupation or profession that provides a level of earning which exceeds the SSA Substantial Gainful Activity amount and includes employer-provided health insurance. Participants would receive assistance in obtaining employment and Medicaid-like coverage, until employment and employer-sponsored health insurance have been obtained.

The KDHE representative indicated these pilots would be tracked and regular reporting would be made to the Kansas Legislature. The tracking of these pilot participants would include hiring, the extent of provision of accommodations these plans offer, and fulfillment of outreach plans.

Review of Oklahoma's Closure of Public Facilities Providing Care to Individuals with Developmental Disabilities

The Committee recommends a review or study (by appropriate legislative committees during the 2013 Legislative Session) of Oklahoma's plan to close all public facilities providing care to individuals with developmental disabilities and to move those individuals into non-institutional services. Oklahoma has begun this process, along with ten other states. The recommendation is intended to encourage the Legislature to study trends related to providing care or alternative care options for individuals with developmental disabilities so as to prepare in advance of the need to re-examine similar closures in Kansas, thereby avoiding last-minute decision-making.

The Committee reviewed cursory information regarding the State of Oklahoma's decision to close two public facilities for the care of people with developmental disabilities and to move those individuals to non-institutional services; any subsequent savings would be used to reduce the DD waiting list. A Committee member suggested Kansas review existing resources and Oklahoma's progress (for informational purposes).

KanCare Oversight During 2013 Legislative Session

The Committee recommends the Chairperson of the Joint Committee on Home and Community Based Services Oversight draft a letter to the President of the Senate and the Speaker of the House requesting that the health committees of the Senate and House of Representatives provide oversight of KanCare during the 2013 Legislative Session.

The Committee heard testimony related to the importance of a KanCare Oversight Committee to ensure the success of the program, provide transparency, and ensure quality care is provided to Medicaid beneficiaries. A proposed bill draft to allow for KanCare oversight by a legislative committee was considered by the Committee (Addendum B). The Committee recommended the proposed bill be used as a template for potential 2013 legislation. Concern expressed by Committee members that limited legislative review would occur during the legislative session resulted in the recommendation for the letter requesting KanCare oversight by the Senate and House health committees during the 2013 Legislative Session. **On December 18, 2012, a letter was sent by Representative Crum, Chairman of the Committee, pursuant to the Committee recommendation.**

ADDENDUM A

HOME AND COMMUNITY BASED SERVICES OVERSIGHT COMMITTEE

ANNUAL REPORT FOR THE 2013 LEGISLATIVE SESSION
(As corrected on November 8, 2012)

The Home and Community Based Services Oversight Committee is charged by statute to submit an annual written report on the statewide system for long-term care services to the President of the Senate and the Speaker of the House of Representatives at the start of each regular legislative session. The authorizing legislation (KSA 39-7,159) creating a comprehensive and coordinated statewide system for long-term care services became effective July 1, 2008.

The Committee's Annual Report is to be based on information submitted quarterly to the Committee by the Secretary of the Department of Social and Rehabilitation Services (SRS), and the Secretary of the Department on Aging. The Annual Report is to provide:

- The number of individuals transferred from state or private institutions to home and community based services (HCBS), including the average daily census in state institutions and long-term care facilities;

- The savings resulting from the transfer of individuals to HCBS as certified by the Secretary of SRS and the Secretary of the Department on Aging; and

- The current balance in the Home and Community Based Services Savings Fund.

The following table and accompanying explanations are provided in response to the Committee's statutory charge.

Number of individuals transferred from state or private institutions to home and community based services including the average daily census in state institutions and long-term car facilities:

Number of Individuals Transferred – the following table provides a summary of the number of individuals transferred from developmental disability (DD) institutional settings into home and community based services during state fiscal year 2012, together with the number of individuals added to home and community based services due to crisis or other eligible program movement during state fiscal year 2012. The following abbreviations are used in the table:

- ICF/MR – Intermediate Care Facility for the Mentally Retarded;
- SMRH – State Mental Retardation Hospital; and
- MFP – Money Follows the Person program.

DD INSTITUTIONAL SETTINGS	
Private ICFs/MR:~number served at start of SFY 2012	153
State DD Hospitals – SMRH:~number served at start of SFY 2012	327
MFP: number discharged into MFP program from **Private ICFs/MR**	(16)
MFP: number discharged into MFP program from **Public ICFs/MR SMRH**	(18)
Private ICFs/MR: number not discharged into MFP	(8)
Public ICFs/MR – SMRH: number not discharged into MFP	1
Sub-Total – **Private ICFs/MR**	129
Sub-Total – **Public ICFs/MR - SMRH**	310
Private ICFs/MR: New admissions	11
Public ICFs/MR: New admissions	12
Sub-Total – **Private ICFs/MR**	129
Sub-Total – **Public ICFs/MR - SMRH**	310
Private ICFs/MR: Total Net Changes	(5)
Public ICFs/MR: Total Net Changes	(6)
Total DD Institutional Changes	(11)
DD HCBS WAIVER SERVICES	
DD Waiver Community Services :~number served at start of SFY 2012	7,647
MFP :~number joining into this program throughout SFY 2012	42
Subtotal	7,689
Net Number added to DD HCBS waiver community services due to crisis/other eligible programs	228
Subtotal	7,875
Total Net Changes DD Waiver	270
Total Net Changes DD Waiver and Institutional	259

The following table provides a summary of the number of individuals transferred from nursing facility institutional settings into home and community based services during state fiscal year 2012. These additional abbreviations are used in the chart:

- FE – Frail Elderly Waiver;
- PD – Physical Disability Waiver; and
- TBI – Traumatic Brain Injury Waiver.

FE/ PD/ TBI INSTITUTIONAL SETTINGS	
Nursing Homes -Avg Mo Caseload SFY 11 *adjusted per mass adjustments	9,939
MFP FE: number discharged into MFP program receiving FE Services	52
MFP PD: number discharged into MFP program receiving PD Services	127
MFP TBI: number discharged into MFP program receiving TBI Services	11
Additional people-Net Admissions/Discharges	(not known at this time)
Nursing Homes-Avg Mo Caseload SFY 12 *adjusted per mass adjustments	10,026
FE / PD / TBI COMMUNITY SERVICES	
FE WAIVER:~number served at start of SFY 2012 (unduplicated totals)	5,706
PD WAIVER:~number served at start of SFY 2012 (unduplicated totals)	6,271
TBI WAIVER:~number served at start of SFY 2012 (unduplicated totals)	376
FE MFP:~number joining into this program throughout SFY 2012 (unduplicated totals)	94
PD MFP:~number joining into this program throughout SFY 2012 (unduplicated totals)	279
TBI MFP:~number joining into this program throughout SFY 2012 (unduplicated totals)	20
These numbers reflect Federal MFP Grant only at this time	
FE Subtotal	5,800
PD Subtotal	6,550
TBI Subtotal	396
Subtotal Estimated Net Changes via MFP: FE/PD/TBI Waivers	393

Average Daily Census in State Institutions and Long-Term Care Facilities

Kansas Neurological Institute:		FY 2008 - 160
		FY 2009 - 158
		FY 2010 - 157
		FY 2011 - 156
		FY 2012 - 152
Parsons State Hospital:		FY 2008 - 194
		FY 2009 - 192
		FY 2010 - 186
		FY 2011 - 186
		FY 2012 - 175
Private ICFs/MR:		FY 2008 - 236
		FY 2009 - 178
		FY 2010 - 171
		FY 2011 - 162
		FY 2012 - 153
Nursing Facilities:		FY 2008 – 10,581
		FY 2009 – 10,817
		FY 2010 – 10,442
		FY 2011 – 9,939*
		FY 2012 – 10,026*
*These numbers are adjusted due to mass adjustments made during the SFY.		

Savings Resulting from the Transfer of Individuals to HCBS

The "savings" through *Money Follows the Person* translates into real dollars only when individuals move into a community setting from an institutional setting and the bed is closed behind the individual. This process would result in a decreased budget for private ICFs/MR and an increase in the MR/DD (HCBS/DD) Waiver budget as a result of the transfers.

For nursing facilities and state ICFs/MR, the process is consistent with regard to individuals moving to the community. The difference is seen in "savings." As previously stated, savings are seen only if the bed is closed. In nursing facilities and state ICFs/MR, the beds may be refilled when there is a request by an individual for admission that requires the level of care provided by that facility. Therefore, the beds are not closed. In addition, even when a bed is closed, only incremental savings are realized in the facility until an entire unit or wing of a facility can be closed.

In addition to these considerations, people coming onto the waiver programs for reasons other than transferring from an institution affects what possible savings there are in the respective systems. The savings realized are “cost avoidance” savings, in that individuals transferring from institutional to community services results in a smaller growth in institutional service utilization. This supports an increase in access to community based services, retains all resources within the service system, and results in proportionally slower growth of costs in the system.

As certified by the Secretary of the Kansas Department for Aging and Disability Services (KDADS), the savings resulting from transferring the individuals to home and community based services, as of September 21, 2012, was zero dollars.

Current Balance in the KDADS Home and Community Based Services Savings Fund

KDADS Savings Fund – the balance in the KDADS Savings Fund as of September 21, 2012, was zero dollars.

Addendum B

2013 13rs0003

BILL NO. ____

AN ACT creating the joint committee on KanCare oversight; amending K.S.A. 2012 Supp. 39-7,160 and 39-7,162 and repealing the existing sections; also repealing K.S.A. 2012 Supp. 39-7,161 and 46-3501.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2012 Supp. 39-7,160 is hereby amended to read as follows: 39-7,160. (a) There is hereby established the joint committee on home and community based services and KanCare oversight. The joint committee shall review the number of individuals who are transferred from state or private institutions and long-term care facilities to the home and community based services and the associated cost savings and other outcomes of the money-follows-the-person program. The joint committee shall review the funding targets recommended by the interim report submitted for the 2007 legislature by the joint committee on legislative budget and use them as guidelines for ~~the~~ future funding planning and policy making. The joint committee shall have oversight of savings resulting from the transfer of individuals from state or private institutions to home and community based services. As used in K.S.A. 2012 Supp. 39-7,159 through 39-7,162, and amendments thereto, "savings" means the difference between the average cost of providing services for individuals in an institutional setting and the cost of providing services in a home and community based setting. The joint committee shall study and determine the effectiveness of the program and cost-analysis of the state institutions or long-term care facilities based on the success of the transfer of individuals to home and community based services. The joint committee shall consider the issues of whether sufficient funding is provided for enhancement of wages and benefits of direct individual care workers and their staff training and whether adequate progress is being made to transfer individuals from the institutions and to move them from the waiver waiting lists to receive home and community based services. The joint committee shall review and ensure that any proceeds resulting from the successful transfer be applied to the system of provision of services for long-term care and home and community based services. The joint committee shall monitor and study the implementation and operations of the home and community based service programs, the children's health insurance program, the program for the all-inclusive care of the elderly and the state medicaid programs including, but not limited to, access to and quality of services provided and any financial information and budgetary issues. In addition, the joint committee may hold a hearing on any policy issue involving the health and well-being of Kansans in general. Any state agency shall provide data and information on KanCare programs, including, but not limited to, pay for performance measures, quality measures and enrollment and disenrollment in specific plans, to the joint committee, as requested.

(b) The joint committee shall consist of ~~nine~~ 11 members of the legislature appointed as follows: (1) ~~One member~~ Two members of the house of representatives appointed by the speaker of the house of representatives; (2) one member of the house of representatives appointed by the minority leader of the house of representatives; (3) ~~one member~~ two members of the senate appointed by the president of the senate; (4) one member of the senate appointed by the minority leader of the senate; (5) one member of the house ~~of representatives~~ committee on appropriations appointed by the chairperson of the house committee on appropriations; (6) one member of the senate committee on ways and means appointed by the chairperson of the senate committee on ways and means; (7) one member of the house ~~of representatives~~ committee on apprporiations appointed by the ranking minority member of the house committee on appropriations; (8) one member of the senate committee on ways and means appointed by the ranking minority member of the senate committee on ways and means; and (9) one member of the house of representatives appointed by the majority leader of the house of representatives.

(c) Members shall be appointed for terms coinciding with the legislative terms for which such members are elected or appointed. All members appointed to fill vacancies in the membership of the joint committee and all members appointed to succeed members appointed to membership on the joint committee shall be appointed in the manner provided for the original appointment of the member succeeded. ~~The first meeting of the joint committee shall be held before August 1, 2008.~~

(d) The members originally appointed as members of the joint committee shall meet upon the call of the member appointed by the speaker of the house of representatives, who shall be the first chairperson, within 30 days of the effective date of this act. The vice-chairperson of the joint committee shall be appointed by the president of the senate. Chairperson and vice-chairperson shall alternate annually between the members appointed by the speaker of the house of representatives and the president of the senate. The ranking minority member shall be from the same chamber as the chairperson. The joint committee shall meet at least four times each year at the call of the chairperson of the joint committee. ~~Five~~ Six members of the joint committee shall constitute a quorum.

(e) (1) At the beginning of each regular session of the legislature, the committee shall submit to the president of the senate and the speaker of the house of representatives a written report on numbers of individuals transferred from the state or private institutions to the home and community based services including the average daily census in the state institutions and long-term care facilities, savings resulting from the transfer certified by ~~the secretary of social and rehabilitation services and~~ the secretary of aging in a quarterly report filed in accordance with K.S.A. 2012 Supp. ~~39-7,161 and~~ 39-7,162, and amendments thereto, and the current balance in the home and community based services savings fund of the ~~department of social and rehabilitation services and the~~ department on aging.

(2) Such report submitted under this subsection shall also include, but not be limited to, the following information on the KanCare program:

(A) Quality of care and health outcomes of individuals receiving state medicaid services under the KanCare program, as compared to the provision of state medicaid services prior to January 1, 2013;

(B) integration and coordination of health care procedures for individuals receiving state medicaid services under the KanCare program;

(C) availability of information to the public about the provision of state medicaid services under the KanCare program, including, but not limited to, accessibility to health services, expenditures for health services, extent of consumer satisfaction with health services provided and grievance procedures;

(D) provisions for community outreach and efforts to promote the public understanding of the KanCare program;

(E) comparison of the actual medicaid costs expended in providing state medicaid services under the KanCare program after January 1, 2013, to the actual costs expended under the provision of state medicaid services prior to January 1, 2013, including the manner in which such cost expenditures are calculated; and

(F) comparison of the estimated costs expended in a managed care system of providing state medicaid services under the KanCare program after January 1, 2013, to the actual costs expended under the KanCare program of providing state medicaid services after January 1, 2013.

(3) The joint committee shall consider the external quality review reports and quality assessment and performance improvement program plans of each managed care organization providing state medicaid services under the KanCare program in the development of the report submitted under this subsection.

(f) Members of the committee shall be paid compensation, travel expenses and subsistence expenses or allowance as provided in K.S.A. 75-3212, and amendments thereto, for attendance at any meeting of the joint committee or any subcommittee meeting authorized by the committee.

(g) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee.

(h) The joint committee may introduce such legislation as it deems necessary in performing its functions.

Sec. 2. K.S.A. 2012 Supp. 39-7,162 is hereby amended to read as follows: 39-7,162. (a) (1) There is hereby established the home and community based services savings fund in the state treasury which shall be administered by the secretary of aging. All savings resulting from transferring individuals from the institutions to home and community based services shall be deposited in this fund. All expenditures from the home and community based services savings fund shall be in accordance with the provisions of appropriation acts upon vouchers approved by the secretary of aging or the secretary's designee.

(2) Whenever an individual, who is residing in an institution, transfers to home and community based services, the secretary of aging shall determine the savings attributable to such transfer and shall certify the amount or amounts of such savings to the director of accounts and reports. Upon receipt of each such certification, the director of accounts and reports shall transfer the amount or amounts specified in such certification from the funds and accounts specified to the home and community based services savings fund of the department on aging in accordance with such certification. The secretary of aging shall transmit a copy of each such certification to the director of the budget and to the director of legislative research.

(b) The secretary shall certify to the joint committee on home and community based services and KanCare oversight at the beginning of each calendar quarter the amount of savings resulting from transferring individuals from institutions to home and community based services that have been transferred during the preceding calendar quarter to the home and community based services savings fund from each institution during the preceding quarter.

Sec. 3. K.S.A. 2012 Supp. 39-7,160, 39-7,161, 39-7,162 and 46-3501 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

Report of the Joint Committee on Kansas Security to the 2013 Kansas Legislature

CHAIRPERSON: Senator Jay Emler

VICE-CHAIRPERSON: Representative Mario Goico

OTHER MEMBERS: Senators Anthony Hensley, Carolyn McGinn, Tim Owens, and Allen Schmidt; and Representatives Stan Frownfelter, Judith Loganbill, Peggy Mast, and Connie O'Brien

STUDY TOPIC

The Joint Committee on Kansas Security is statutorily directed to study, monitor, review, and make recommendations on matters regarding the security of state employees and state-owned buildings or property; matters regarding the security of the public, including public buildings and facilities; matters regarding the security of the Kansas infrastructure, including information systems; and measures for the improvement of security for the State of Kansas. The Committee also is charged to review and monitor federal moneys received by the state for homeland security or other security purposes.

February 2012

Joint Committee on Kansas Security

Annual Report

Conclusions and Recommendations

The Committee recommends all possible funds from the executive branch and the legislative branch be utilized to move forward as expeditiously as possible with implementing security measures recommended by the Department of Homeland Security for the Capitol Complex and other appropriate security measures.

Proposed Legislation: None.

Background

The 2004 Legislature created the Joint Committee on Kansas Security (KSA 46-3301) to study, monitor, review, and make recommendations for the following:

- Matters relating to the security of state officers and employees;
- Security of buildings and property under the ownership or control of the state;
- Matters relating to the security of a public body or agency, public building, or facility;
- Matters relating to the security of the infrastructure of Kansas, including any information system; and
- Measures for the improvement of security for the State.

The Committee is to submit an annual report by December 31 on its findings and recommendations concerning Kansas security to the Legislature.

Committee Activities

The Committee met November 7, 2012, to hear information concerning a vulnerability assessment of the Capitol Complex performed by the Department of Homeland Security and to receive a briefing on the Kansas Fusion Center. Both topics were discussed in sessions closed to the public under KSA 75-4319; paragraph (b)(13) of that statute permits portions of an open meeting to be closed so that members may discuss certain matters relating to security measures, if that discussion would jeopardize such security measures. Those present at the closed sessions included Committee members, staff of the Kansas Highway Patrol, staff of the Fusion Center, and the Attorney General.

Following the discussion and briefing, the Committee met in open session. The Committee discussed the procedures for requesting a review by the Legislative Division of Post Audit of possible diversion of funds donated to assist veterans. There was consensus that a scope statement for such an audit should be developed and an audit requested.

The Committee also discussed its potential recommendations to the 2013 Legislature regarding Kansas security, specifically approaches to statutorily clarifying responsibility for security in various buildings in the Capitol Complex. The Capitol Complex includes the Statehouse;

Memorial Hall; the Kansas Judicial Center; the Dillon House; the former Topeka Women's Club housing the Insurance Department; the Curtis, Docking, Eisenhower, and Landon State Office Buildings; and environs. The Committee took these actions:

- The Committee voted to request a report from the Division of Facilities Management on security in all Capitol Complex buildings by December 1;
- The Committee voted to have the Chairperson send a letter to the Attorney General requesting the Attorney General cooperate with the Division of Facilities Management to determine the necessary steps, including the exclusion of weapons, to bring the Memorial Building's security measures in line with standards utilized at the Statehouse and other Capitol Complex facilities as quickly as possible;
- The Committee voted to recommend high priority be given to funding adequate security measures for the Capitol Complex and to ensure the Appropriations and Ways and Means Committees are notified of this recommendation;
- The Committee voted to request the Kansas Highway Patrol work with the Division of Facilities Management, Department of Administration, and recommend an approach to authority for security in Capitol Complex buildings; and
- The Committee requested the Kansas Highway Patrol determine how other states assign responsibility for security in the buildings near their statehouses and report to the Committee in January on its findings.

Conclusions and Recommendations

The Committee recommends all possible funds from the executive branch and the legislative branch be utilized to move forward with implementing security measures recommended by the Department of Homeland Security for the Capitol Complex and other appropriate security measures as expeditiously as possible.

Report of the Legislative Budget Committee to the 2013 Kansas Legislature

CHAIRPERSON: Senator Carolyn McGinn

VICE-CHAIRPERSON: Representative Marc Rhoades

OTHER MEMBERS: Senators Laura Kelly and John Vratil; and Representatives Jim Denning, Bill Feuerborn, and Kasha Kelley

STUDY TOPIC

The Committee shall compile fiscal information, study and make recommendations on the state budget, revenues and expenditures, the organization and functions of the state, its departments, subdivisions and agencies with a view of reducing the cost of state government and increasing efficiency and economy.

ASSIGNED TOPICS:

- Review expenditures that are classified as off budget, the review also would include items that were expended from State General and are now included as expenditures in other funds.
- Review vehicle purchases made by special revenue funded agencies to determine if the purchases are necessary and the vehicle appropriate to accomplish the goals for which the agency was established.
- Review the implementation of the Financial Management System (FMS) in the Department for Aging and Disability Services and monitor the effectiveness of the new system.
- Review the number of individuals on the Home and Community Based Services waiting lists and the possible impact concerning the *Olmstead* case and any information from the Centers for Medicare and Medicaid and the Department of Justice.

February 2012

- Census Management at the state hospitals.
- Review of 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.
- Review state hospital staffing and salary issues including pay parity within the state hospital system and receive an update on Larned State Hospital Accreditation.
- Review funding and distribution of funding under the Local Environmental Protection Program (LEPP).
- Review the Department of Revenue's transition of the old motor vehicles registration system to the new information technology system. Also review the impact of the transition on the counties.
- Update on the Juvenile Justice Authority, including changes to the Kansas Juvenile Correctional Facility.
- Update on federal funding issues of the Department of Transportation, previously discussed by LBC in the last interim.
- An update on KanCare, including information on transition to the new program and the impact on the Home and Community Based Services waivers.
- An overview of state contracts and the state contract process.

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 actually could 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 also were provided for special appropriated funds and for Kansas personal income. In addition, the Committee received further updates on the Main Street Program; 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 the new income tax legislation becomes effective January

1, 2013; therefore, receipts discussed represent those receipts under current law. Staff indicated a main concern was the shortfall of year-to-date individual income tax receipts, which was approximately $19 million below expectations. Staff also noted 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, disposable personal income in Kansas, and comparisons with other states.

At the November meeting, KLRD staff of the 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 the amount ($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 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, KLRD staff 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 also has 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 also has 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 to the legislature 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 also were 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 also were 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

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 Training 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

In September, 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 CMI was activated on August 24, 2012, for the first time in FY 2013. The CMI 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 CMI 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 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);

- Osawatomie 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 Mental Health Facility 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 Osawatomie 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 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.

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 the presentation reflect 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 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 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 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 the 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, 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 KDOR'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. 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 to check-in or "queue."

Committee members praised Ms. Keith for her ingenuity and encouraged 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 the presentation reflect 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 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

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

In September, 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 also should 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

In September, 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 also may target 1915(c) waivers by specific illness or condition.

Waiver services are not required to be made available to all Medicaid recipients and may 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 Disability Services 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

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 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.

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, 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 a 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. The annoucement 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

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 it was designed to be 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.

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 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

The Kansas Legislative Research Department analyst distributed a handout which provided background information on the LEPP.

The 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. The conferee 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.

The 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.

The 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.

The 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.

The 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. The conferee also indicated that water well drillers' reports are sent to the State but that the septic report is not.

The 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.

The 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. He 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, the conferee 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 $250.0

Representatives 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. The conferees 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. The conferees 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 it was designed to be 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

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 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 representatives led 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 Committee analyst 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 the Senate Ways and Means Committee as a means to maintain transparency concerning the State's accounting practices and fiscal policies.

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 appropriate 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 allocated 2.0 percent of lottery gaming facility revenues, as well as 2.0 percent of electronic gaming machine income, be deposited 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 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 by conferees 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 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 the 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 Sub. 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 moneys for addictions or other programs as the Legislature deems appropriate.

Legislative Budget Committee

State Contracting Process

Conclusions and Recommendations

The Committee made no conclusions or recommendations on this topic.

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 2012 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.
- 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.

- Cannot sign contracts before bidding.

- Cannot split orders to stay under delegated authority (KSA 2011 Supp. 75-3739(e)).

Exceptions and Exemptions to the Competitive Bid Process:

- KSA 2012 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 are 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

State Hospital Staffing, Salary, and Accreditation

Conclusions and Recommendations

- The Committee recommends, with regard to census management at the state hospitals, 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 a monthly report be provided to the appropriate committees and subcommittees. The Committee also requested unfilled positions be examined, along with the recruitment and hiring process as a whole. In addition, the Committee requested 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, 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 Training Center (PSHTC), Osawatomie State Hospital (OSH), and Rainbow Mental Health Facility (RMHF).

KNI: State Hospital Recruitment Challenges

The Commissioner stated 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 reflecting above-step hiring rates before and after implementation of under-market pay increases for all KNI staff to ensure 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 the 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 percent 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 currently are 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 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 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 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, 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 unfilled positions be examined, along with the recruitment and hiring process as a whole. In addition, the Committee requested 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, the House Appropriations and the Senate Ways and Means Committees and appropriate subcommittees continue to monitor salary issues at state hospitals.

Legislative Budget Committee

Update on Federal Funding and Other Issues of the Department of Transportation

Conclusions and Recommendations

- The Committee recommends the standing Transportation Committees, the House Appropriations Committee, and the Senate Ways and Means Committee continue to monitor rail issues.
- The Committee recommends 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 ten 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 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 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 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 state’s secretary 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 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 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 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 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 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 the standing Transportation Committees, the House Appropriations Committee, and the Senate Ways and Means Committee continue to monitor rail issues.

The Committee recommends 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

Vehicle Purchases

Conclusions and Recommendations

The Committee made no conclusions or recommendations on this topic.

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 the 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.[1] The State replaced 172 trucks and 91 sedans as well as various vans and sport utility vehicles (SUVs).

Twenty-seven states[2] 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 branch.

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1 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.

2 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.

- 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[3]; alternatives include reimbursement rates as low as $0.20 per mile, a set percentage below the federal rate between $0.04 and $0.03 per mile, or varying rates depending on whether a rental or motor pool vehicle is available.

Conclusions and Recommendations

The Committee has no conclusions or recommendations at this time.

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

Report of the Legislative Educational Planning Committee to the 2013 Kansas Legislature

CHAIRPERSON: Senator Jean Schodorf

VICE-CHAIRPERSON: Representative Steve Huebert

OTHER MEMBERS: Senators Marci Francisco, Terrie Huntington, Bob Marshall, Ruth Teichman, and John Vratil; and Representatives Clay Aurand, Barbara Ballard, Owen Donohoe, Lana Gordon, Eber Phelps, and Jo Ann Pottorff (Representative Mitch Holmes replaced Representative Pottorff in the last meeting.)

STUDY TOPIC

The Committee is directed to plan for public and private postsecondary education, study preschool and K-12 education, and review State Department of Education implementation of legislation relating to educational matters.

February 2012

Legislative Educational Planning Committee

Annual Report

Conclusions and Recommendations

The Committee agreed to introduce and favorably recommend the passage of five bills proposed by the Kansas Board of Regents and one bill related to K-12 education.

Higher Education

Military Scholarship

The Committee agreed to introduce a bill expanding eligibility for military scholarships beyond persons having served in specific conflicts and campaigns.

Postsecondary Technical Education Authority

The Committee agreed to introduce a bill adding a sunset date of June 30, 2017, for the Postsecondary Technical Education Authority. (Under current law, the Authority will sunset on June 30, 2014.)

Emporia State University Apartment Sale

The Committee agreed to introduce a bill granting Emporia State University authority to sell apartments built in the 1960s as married student housing, located off campus, and closed in FY 2013 because they were not cost effective to operate.

University of Kansas Land Exchange

The Committee agreed to introduce a bill authorizing the University of Kansas to trade property with the University of Kansas Endowment Association (Endowment). This would allow flexibility related to ongoing discussions between the City of Lawrence and the Endowment to replace aging water towers adjacent to the Adams Alumni Center.

Motorcycle Educational License Plates

The Committee agreed to introduce legislation allowing motorcycle owners to purchase distinctive license plates, such as those for alumni associations of education institutions, *via* county treasurers.

K-12 Education

The Committee agreed to introduce a bill reauthorizing the school district property tax mill levy (20 mills) for the 2013-2014 and 2014-2015 school years. The bill also would extend the $20,000 residential property tax exemption.

Proposed Legislation: The Committee recommends the introduction of six bills.

Background

The Legislative Educational Planning Committee (LEPC) is a statutorily-created committee with authority over preschool, elementary, secondary, and postsecondary education. The Committee is statutorily charged with monitoring the implementation and ongoing operation of the Kansas Higher Education Coordination Act (KSA 74-3201a through KSA 74-3289). Legislation enacted by the 2005 Legislature changed the LEPC's role to exclude matters relating to school finance. This action was intended to eliminate duplication between the LEPC and the 2010 Commission, an entity created by the 2005 Legislature with responsibility for monitoring school district funding. However, the 2010 Commission ceased to exist on December 31, 2010. 2011 HB 2012 would have returned the responsibility for monitoring school district funding to the LEPC. The bill was referred to the House Education Budget Committee but never received a hearing.

The LEPC consists of seven House members and six Senate members appointed by the Legislative Coordinating Council (LCC). The LEPC may initiate its own studies or be assigned study topics by the LCC.

Committee Activities

The LCC approved three meeting dates for the LEPC. Those meetings were held September 7, November 13, and December 18. A brief description of the items presented at those meetings follows.

K-12 Education

Kansas Elementary and Secondary Education Act (ESEA) Flexibility Waiver. Dr. Diane DeBacker, Kansas Commissioner of Education, presented an update on Kansas' application for a waiver from the federal ESEA requirements, often referred to as No Child Left Behind (NCLB). The Commissioner was notified in August 2012 by the U.S. Department of Education that the State's flexibility waiver had been approved, with the understanding Kansas eventually would receive approval of a teacher and principal evaluation system which would include a student growth component.

The Commissioner explained why Kansas sought the waiver:

- To move away from the narrowly-defined accountability system of NCLB which required 100 percent proficiency by 2014;
- To develop a new accountability system using multiple measures and goals unique to each school and school district; and
- To gain a more meaningful measure of the success and progress of Kansas schools.

Technical Education. The 2012 Legislature passed SB 155, which included initiatives to encourage high school students to earn college credit in technical courses without paying tuition. At the same time, high school students would earn an industry credential recognized by employers. The Legislature provided funding for student tuition support ($8.75 million), school transportation costs ($500,000), incentives to high schools when a student graduated with an industry-recognized credential in key occupations designated by the Kansas Department of Labor as high need industries ($1.5 million), and marketing the initiative ($50,000).

Dr. Blake Flanders, Vice President of Workforce Development, Kansas Board of Regents, presented an update on this technical education initiative. In anticipation of and to assist in the development of this initiative, a Secondary/Postsecondary Career Technical Education Taskforce was established which included 90 individuals from across the State representing business and industry; the Kansas Postsecondary Technical Education Authority; the secondary Kansas Advisory Committee for Career and Technical Education; and administrators, curriculum specials, career and technical education coordinators, guidance counselors, and admissions personnel from both secondary and postsecondary institutions – both rural and urban.

Dr. Flanders estimated about 2,600 high school students have taken advantage of the technical education initiative, although the first official count of students will be taken in February 2013.

Dr. Flanders told Committee members while cooperation between higher education and K-12 education has been great, there remain articulation challenges that educators continue to address. He also indicated because high school students are attending institutions of higher education tuition-free, legislators should consider this in future appropriations.

Community college representatives testified regarding efforts of Kansas community colleges to be responsive, affordable, and accessible to high school students pursuing technical credentials *via* higher education.

A representative of the Kansas Association of Community College Trustees presented a list of the Kansas Community College 2013 legislative priorities to the Committee at its December meeting. Those priorities are listed below:

- Fund additional $8.0 million for further implementation of the tiered technical education funding model;
- Fully fund SB 155 (the 2012 Legislature funded approximately one-half of the estimated costs of SB 155 as developed by the Board of Regents); and
- Extend tax credits and reinstate the Postsecondary Educational Institution Long-Term Infrastructure Maintenance Program (PEI) loans – these are the only sources of state assistance for deferred maintenance.

The President of the Wichita Area Technical College outlined some issues and problems associated with the technical education initiative for consideration:

- Even though tuition is paid for the student, the cost of books, tools, and fees can present a barrier for students;
- A student may not have sufficient time to obtain an industry-recognized credential before high school graduation;
- Students receiving GEDs are not eligible to participate in the program;
- College calendars and high school calendars do not mesh, which can lead to problems; and
- The list of high demand industries provided by the Secretary of Labor presents a "moving target" for students and schools.

Achievement of Kansas Students. Members heard presentations regarding Kansas students' achievement on state assessments and the ACT (formerly known as the American College Testing service) at each of its three meetings.

Mr. Brad Neuenswander, Deputy Commissioner, Kansas Department of Education, presented the Kansas State Report Card to members at the November meeting. Following are summary comments presented by Mr. Neuenswander regarding the 2012 state assessment results.

- Graduation rates increased from 80.7 percent to 83 percent, including all subgroup graduation rates.
- Attendance rates were high at 95 percent.
- Of the five performance levels, nearly a third of all students - in both reading and math - were in the highest level-exemplary.
- For the first time since NCLB started, the percent of Kansas students meeting standards decreased in reading, math, science, and history/government.
- The student populations experiencing the greatest declines were special education, English language learners, Hispanic, African American, and students qualifying for free lunch.
- Almost one out of every two students (48.9 percent) qualify for free or reduced-price meals.

- Although the achievement gap was reduced significantly over the past 12 years, the gap has started to widen again in 2012.

(Achievement gap refers to the disparity on a number of educational measures between the performance of groups of students, especially groups defined by gender, race, ethnicity, and socioeconomic status.)

A representative of the Kansas Association of School Boards (KASB) presented data on Kansas College Readiness. A historical perspective indicated that the trend of Kansas' ACT previously referenced scores has been upward since testing started in 1994. The KASB representative told Committee members of the 27 states where a majority of the students take the ACT, Kansas consistently appears as a top-performing state, most recently ranking seventh among these 27 states. Comparing Kansas' percentage of students meeting all four ACT benchmarks out of total graduates moves Kansas up to a ranking of fifth.

Representatives of the Kansas Policy Institute (KPI) presented an alternative picture of achievement by Kansas students. Regarding ACT scores, only 29 percent of Kansas' high school graduates are college ready in all four benchmarks (English, reading, math, and science.) KPI representatives stated ACT scores in Kansas only appeared to decline slightly because demographics shifted, that is the percentage of white students taking the ACT test was lower in 2012 than 2011 (white students historically score higher on the ACT than other groups), while the percentage of minority students increased. The KPI representative concluded, "Once again, funding changes have no impact on independent national tests."

KPI representatives told members Kansas 4th grade reading standards are lower than 40 states. In addition, KPI representatives emphasized that of the five performance categories on state assessments, only the top two – exemplary and exceeds standards – represent students' having "full comprehension" of material. Furthermore, the category of "meets standards" only indicates "satisfactory comprehensive" and should not be used when calculating percentages of students "proficient" in a subject.

Oklahoma's Lindsey Nicole Henry Scholarship (LNH) for Students with Disabilities

Rep. Jason Nelson of the Oklahoma Legislature presented information on the LNH Scholarship program created by the Oklahoma Legislature in 2011. Rep. Nelson said the program was a bipartisan effort which allows disabled students to attend certain private schools using funding that is the state equivalent to the total State Aid factors for the applicable school year multiplied by the grade and disability weights generated by that student. Currently, 188 students have taken advantage of the program saving the state approximately $127,000, according to Rep. Nelson. Parents and students give up their rights under the federal Individuals with Disabilities Education Act (IDEA) when entering the program and parents must pay any difference between the state-funded amount and a private school's tuition.

Governor's School Efficiency Task Force. In September, Governor Brownback appointed an eleven-member task force "to examine school spending and to develop guidelines on how to get more funding into the classroom where teachers teach and students learn." The Chairperson of the Task Force provided regular updates on the Task Force's progress to the Committee. At the Committee's final meeting, the Chairperson indicated the Task Force's recommendations will be provided to the Governor and the Legislature in January 2013.

Emergency Safety Interventions (Seclusion and Restraint) Update. The LCC charged the Committee with a review of issues on seclusion and restraint. This came in response to a letter sent by the Chairperson of the Senate Education Committee to the Chairperson of the State Board of Education (the Board) which requested the Board consider developing rules and regulations related to the issue.

The Kansas Department of Education (Department) Director of Special Education discussed this issue at the November meeting. The Director explained that in 2011, the Department broadened reporting by school district to the

Department to include instances of seclusion and restrain for all students and approved the use of "Emergency Safety Interventions" to refer to seclusion and restraint.

In March and April 2012, Department officials and the Special Education Advisory Council held meetings and solicited testimony from key stakeholders, including parents, technical assistance providers, Kansas Parent Information Center, Disability Rights Center, Families Together, Kansas Association of School Boards, United School Administrators, Project STAY, and the Kansas Association of Special Education Administrators. This work led to proposed rules and regulations which are set for a public hearing in February 2013. The goal is for final rules and regulations to be in place by April 2013.

In summary, the proposed rules and regulations contain a definitions section, require school districts to develop and implement written policies governing the use of emergency safety interventions, require such policies to be provided to students' parents on an annual basis as well as appear on a district's website, outline the limitations for use of emergency safety interventions, and describe notification to parents and the Department of any interventions used. The proposed rules and regulations also require districts to have a written policy regarding dispute resolutions, including how parents may file complaints.

In answering Committee members' questions regarding whether or not states were entirely moving away from the use of seclusion and restraint, the Director indicated the use of positive behavior supports was the recommendation for use on a daily basis, while the use of seclusion and restraint was to be used only on a limited, short-term basis.

Training Teachers to Deal with Dyslexic Students. The LCC charged the Committee with a review of teacher training programs related to teaching students with dyslexia. Following the tabling of a bill on this subject in the 2012 Legislative Session, the Chairperson of the Senate Education Committee requested the Kansas Board of Regents and State Board review this issue and report to the Committee.

The Dean of the College of Education at Pittsburg State University and an Assistant Professor from Wichita State University described courses that each future teacher must successfully complete before student teaching and seeking licensure. Those include: introduction to dyslexia, methods of identifying dyslexic students, and instructional methods for use with dyslexic students. While presenters provided course descriptions for future teachers and how those courses could assist these future teachers, the presenters also indicated there is increasing pressure not to increase credit hours in an attempt to keep this bachelor's degree affordable to future teachers.

KLRD staff reviewed legislation (Oklahoma Senate Bill 1565) passed by the 2012 Oklahoma Legislature creating the Reading in Higher Education Impact Pilot Project. While no state funding was appropriated for this project, the bill's intent was that the Oklahoma State Regents for Higher Education contract with a nonprofit education center to establish a comprehensive dyslexia teacher training pilot program. The Payne Education Center in Oklahoma City has created a pilot with the assistance of private foundation funding. The pilot is just getting underway, so no outcomes are yet available.

Out-of-State Tuition for Military Personnel, Their Spouses, and Dependents. Another topic assigned to the Committee by the LCC, dealt with military personnel and their families and their qualifications as a Kansas resident, thus making them eligible to pay in-state tuition rates. Staff from the Revisor of Statutes Office reviewed this issue describing current law as well as proposed legislation from 2011 and 2012.

Current law states the following military-related individuals are eligible to pay in-state tuition.

- A resident of Kansas for 12 months, or if a minor, the parents have been residents for 12 months.

- Spouse or dependents of a person in military service if the person in military service is reassigned from Kansas to another duty station and the spouse or dependents remain in Kansas.

- If authorized by the State Board of Regents, military personnel, spouses, and dependents, who qualify under 2012 Supp. KSA 76-729(b).

Staff described proposed legislative changes from the 2011 and 2012 Legislative Sessions which would have expanded this eligibility for in-state tuition.

Governor Brownback's Excellence in Education Act. The final LCC topic assigned to the Committee to review was the finance and teacher evaluation plans included in the Governor's school finance reform package of 2012 (referred to as the Excellence in Education Act) and not passed by the Legislature. KLRD staff reviewed the details of the legislation, with some of the major items described below:

School Finance Reform

- Base State Aid per Pupil would be funded at the statutory amount of $4,492, at a minimum;

- State mandated 20-mill property tax levy would be sent to the state and placed in a Property Valuation Equalization Fund with the fund equalized "to pay greater amounts to those school districts with lower property tax valuations";

- A Baseline Amount Requirement (BAR) would be established for each school district so that no district would receive less funding than the base year;

- A Supplemental Equalization Fund would make payments to districts that would not meet a district's BAR through the base state aid per pupil, equalization fund payments, and local effort;

- All weightings, including bilingual education and at-risk, would be eliminated;

- Each school district would be expected to levy the same tax rate for the local option budget to maintain the current budget level; and

- There would be no state-imposed limits on local mill levies for general education purposes.

Teacher Evaluations

- Teacher evaluations would be based on objective student achievement and growth using student assessment measures;

- Each teacher would be given an evaluation designation of highly effective, effective, progressing, or ineffective;

- To the extent feasible, no student would be instructed for two consecutive years by an ineffective teacher;

- Each teacher's name and evaluation designation would be published on a district-maintained website; and

- A Teacher Performance Incentive Program would be established in the Department of Education with $5,000 awards to teachers increasing student achievement of at-risk students.

Charter Schools and Carpe Diem Schools. A member of the Committee requested a presentation from the founder of the Carpe Diem Charter School, located in Yuma, Arizona. To place the presentation in context, staff of the Office of the Revisor of Statutes first compared charter school law in Kansas with that in Arizona.

A pivotal difference between the two states' laws lies in their respective constitutions. The *Kansas Constitution* requires the State Board of Education to "have general supervision of public schools, educational institutions and all the educational interests of the state...." Alternatively, the *Arizona Constitution* grants its legislature the authority to govern Arizona public schools.

The second major difference is Kansas law provides that only the local school district board of education may sponsor a charter school. Arizona law authorizes a broader sponsorship through those entities listed below: (Arizona has over 500 charters schools, while Kansas has only 15.)

- School district governing board;
- State board of education;
- State board of charter schools;
- Board of regents of a university;
- Community college; or
- Group of community colleges with a combined enrollment of at least 15,000.

Rich Ogston, of Carpe Diem Schools, presented information on the "blended learning" approach of Carpe Diem Schools. Blended learning combines traditional classroom instruction with wide use of technology.

When asked about academic achievement at the Yuma, Arizona, school, Mr. Ogston told Committee members there were errors in the ACT data, so the data was not adequate for review. He also said the school had recently had a curriculum change as well as lost an administrator, to which he attributed a drop in proficiency.

Conclusions and Recommendations

Higher Education

Military Scholarship

The Committee agreed to introduce a bill expanding eligibility for military scholarships beyond persons having served in specific conflicts and campaigns. Current law is very detailed and restrictive. The Board of Regents requests this program be made more general, thus opening eligibility to more students.

Postsecondary Technical Education Authority

The Committee agreed to introduce a bill adding a sunset date of June 30, 2017, for the Postsecondary Technical Education Authority. (Under current law, the Authority will sunset on June 30, 2014.) With increased focus on career and technical education, the Authority continues to be an important part of expansion of this effort in the state. The membership of the Authority includes: three gubernatorial appointees; one House leadership appointee; one Senate leadership appointee; four Board of Regents' appointees; one representative from community colleges, one from technical colleges, and three *ex-officio* members, including the Secretaries of Commerce and Labor and the Commissioner of Education.

Emporia State University Apartment Sale

The Committee agreed to introduce a bill granting Emporia State University authority to sell apartments built in the 1960s as married student housing, located off campus, and closed in FY 2013 because they were not cost effective to operate. The University would seek 100 percent of the sale proceeds going toward improvements in other University housing.

University of Kansas Land Exchange

The Committee agreed to introduce a bill authorizing the University of Kansas to trade property with the University of Kansas Endowment Association (Endowment). This would allow flexibility related to ongoing discussions between the City of Lawrence and the Endowment to replace aging water towers adjacent to the Adams Alumni Center.

Motorcycle Educational License Plates

The Committee agreed to introduce legislation allowing motorcycle owners to purchase distinctive license plates, such as those for alumni associations of education institutions, *via* county treasurers.

K-12 Education

The Committee agreed to introduce a bill reauthorizing the school district property tax mill levy (20 mills) for the 2013-2014 and 2014-2015 school years. The bill also would extend the $20,000 residential property tax exemption.

Report of the Joint Committee on State Building Construction to the 2013 Kansas Legislature

Chairperson: Senator Dwayne Umbarger

Vice-chairperson: Representative Jo Ann Pottorff

Other Members: Senators Marci Francisco, Laura Kelly, Jeff Longbine, and Carolyn McGinn; and Representatives Steve Brunk, Bill Feuerborn, Bob Grant, and Kay Wolf

Study Topic

The Committee is directed to study and make recommendations regarding the five-year capital improvement and facilities plans and capital improvement budget estimates submitted by state agencies and monitor the progress and results of all capital improvement projects for construction of buildings or for major repairs or improvements to buildings for state agencies.

Joint Committee on State Building Construction

Annual Report

Conclusions and Recommendations

The Joint Committee approved all agencies' five-year capital improvement plans. The Joint Committee also supports federal funding for the Kansas Highway Patrol's F Troop relocation project.

Proposed Legislation: None.

Background

The Joint Committee was established during the 1978 Session. The Special Committee on Ways and Means recommended the bill creating the Joint Committee, 1978 HB 2765. It is composed of five members of the Senate and five members of the House of Representatives. Two members each are appointed by the Senate President, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader. The Chairperson of the Senate Committee on Ways and Means and the Chairperson of the House Committee on Appropriations serve on the Joint Committee or, in lieu of the Chairperson, a member of such committee will be appointed by that chairperson to serve (KSA 46-1701).

Terms of office are until the first day of the regular legislative session in odd-numbered years. A quorum of the Joint Committee is six members. The Chairperson and Vice-chairperson are elected by the members of the Joint Committee at the beginning of each regular session of the Legislature and serve until the first day of the next regular session. In odd-numbered years, the Chairperson is to be a Representative and the Vice-chairperson is to be a Senator. In even-numbered years, the Chairperson is to be a Senator and the Vice-chairperson is to be a Representative (KSA 46-1701).

The Joint Committee may meet at any location in Kansas on call of the Chairperson and is authorized to introduce legislation. Members receive the normal *per diem* compensation and expense reimbursements for attending meetings during periods when the Legislature is not in session (KSA 46-1701).

The primary responsibilities of the Joint Committee are set forth in KSA 46-1702. The Joint Committee is to review and make recommendations on all agency capital improvement budget estimates and five-year capital improvement plans, including all project program statements presented in support of appropriation requests, and to continually review and monitor the progress and results of all state capital construction projects. The Joint Committee also studies reports on capital improvement budget estimates that are submitted by the State Building Advisory Commission. The Joint Committee makes annual reports to the Legislature through the Legislative Coordinating Council (LCC) and other such special reports to the appropriate committees of the House of Representatives and the Senate (KSA 46-1702).

Each state agency budget estimate for a capital improvement project is submitted to the Joint Committee, the Division of the Budget, and the State Building Advisory Commission by July 1 of each year. Each estimate includes a written program statement describing the project in detail (KSA 2012 Supp. 75-3717b).

The budget estimate requirement does not apply to federally-funded projects of the Adjutant General or to projects for buildings or facilities of the Kansas Correctional Industries of the Department of Corrections that are funded from the Correctional Industries Fund. In those cases, the Adjutant General reports to the Joint Committee each January regarding the federally-funded projects, and the Director of Kansas Correctional Industries advises and consults with the Joint Committee prior to commencing such projects for the Kansas Correctional Industries (KSA 2012 Supp. 75-3717b and 75-5282).

The Secretary of Administration issues monthly progress reports on capital improvement projects including all actions relating to change orders or changes in plans. The Secretary of Administration is required to first advise and consult with the Joint Committee on each change order or change in plans having an increase in project cost of $125,000 or more, prior to approving the change order or change in plans (KSA 2012 Supp. 75-1264). This threshold was increased from $25,000 to $75,000 in 2000 HB 2017, and to $125,000 in 2008 HB 2744. Similar requirements were prescribed in 2002 for projects undertaken by the State Board of Regents for research and development facilities, state educational facilities (KSA 2012 Supp. 76-786) and in 2004 for projects undertaken by the Kansas Bioscience Authority (KSA 2012 Supp. 74-99b16).

For cases when the Joint Committee will not be meeting within 10 business days, and the Secretary of Administration determines that it is in the best interest of the state to approve a change order or change in plans with an increase in project costs of $125,000 or more, 2000 HB 2017 provided an alternative to prior approval by the Joint Committee. Under these circumstances, a summary description of the proposed change order or change in plans is mailed to each member of the Joint Committee, who may request a presentation and review of the proposal at a meeting of the Joint Committee. If, within seven business days of the date the notice was mailed, two or more members notify the Director of Legislative Research of a request to have a meeting on the matter, the Director will notify the Chairperson of the Joint Committee, who will call a meeting as soon as possible. At that point, the Secretary of Administration is not to approve the proposed action prior to a presentation of the matter at a meeting of the Joint Committee.

If the proposed matter is not requested to be heard by two or more members, the Secretary of Administration is deemed to have advised and consulted with the Joint Committee and may approve the proposed change order, change in plans, or change in proposed use.

In the comprehensive energy bill, 2009 Senate Sub. for HB 2369, the State is required to establish energy efficient performance standards for state-owned and -leased real property, and for the construction of state buildings. State agencies are required to conduct an energy audit at least every five years on all state-owned property, and the Secretary of Administration is prohibited from approving, renewing, or extending any building lease unless the lessor has submitted an energy audit for the building. Each year, the Secretary of Administration shall submit a report to the Joint Committee that identifies properties where an excessive amount of energy is being used.

Committee Activities

The LCC approved four meeting dates for the Joint Committee on State Building Construction. Those meetings were held August 15, September 10, November 13, and December 6. During the 2012 interim meetings, the Joint Committee reviewed agencies' five-year capital improvement plans. All plans were approved.

At its September 10, 2012, meeting, the Joint Committee traveled to Hutchinson and Wichita to review State-owned buildings. The first visit was to the National Guard Armory in Hutchinson to hear Jeffery Terrell, Facilities Manager Branch Chief, Kansas Adjutant General's Office, provide an overview of Kansas National Guard facilities: 2.55-million square feet and 222 buildings, the latter of which include 35 community armories and 79 ancillary buildings.

Mr. Terrell responded to members' questions:

- The Governor's request of 10 percent across-the-board cuts from all state agencies may mean closing more armories, but the new Readiness Center being built in Wichita will add 120,000 square feet.

- The average armory's annual maintenance costs total approximately $20,000 and the total recurring cost per armory is about $32,000.

- Since its inception in 2001, a bond program has provided needed renovation for a number of armories, enabling expenditures totaling $32 million.

- Many other states build new armories. By contrast, Kansas has renovated and maintained current facilities, thus minimizing new construction costs but resulting in higher maintenance costs.

- Colonel Chris Burr added that, when the Wichita Readiness Center is completed, at least one armory in Wichita will be closed. The federal Department of Defense (DOD) has determined, based on soldier census, Kansas is currently 746,000 square feet short of space.

- Any new facility in addition to the Readiness Center will require 100 percent state funding.

- Mr. Terrell explained the DOD recommends $7.46 per square foot (psf) for maintenance and repair; during the past fiscal year, Kansas funded maintenance at $.98 psf, and this fiscal year at $1.40 psf. Further cuts would be detrimental to future maintenance for Kansas National Guard facilities.

The Committee then traveled to the Kansas State Fair. Fair Board President Jeff Deeds welcomed members, and General Manager Denny Stoecklein reviewed capital improvement issues related to the Fair. He expressed appreciation for the Legislature's funding of its statutory obligation ($300,000) for the year; however, failure to fund previous years has left a $1.3 million shortfall. He listed three major projects to be done: roof replacement on the Eisenhower and the Expocenter buildings and changing lighting to light-emitting diode (LED). He stated the Fair hosts over 400 non-Fair events during the year, the recreational vehicle park has been expanded and is full during the Fair, and the WIC Company collaborated with the Future Farmers of America to build a new building on the Fair campus.

Board member Brad Rayl, commenting that one building (the White House) on the fairgrounds is owned by a private foundation, asked for input from Committee members on how to supplement the foundation's fund-raising efforts in order to renovate the building.

Anthony Fedele, State Americans with Disabilities Act (ADA) Coordinator, in evaluating the Fair's compliance with the ADA, said the Fair was making good progress in meeting ADA standards. The present focus is the need to fill pavement potholes.

After a brief tour of the White House, Committee members disbanded to meet later in Wichita.

Committee members gathered at the Wichita armory at 3535 Douglas, where Mr. Terrell and Sergeant Carl Long gave a tour of the facility. Mr. Terrell pointed out new outdoor LED lighting, which reduces electrical consumption by 39 percent. He noted that by using bond funds, over 1,000 fixtures across the state were retrofitted rather than replaced. Sergeant Long stated the facility, with 14 full-time staff, is used by more than 100 soldiers on weekends. He pointed out the need to replace the inefficient single-pane windows in the office sections of the building.

At the intersection of I-35 and K-96, Mr. Terrell gave a tour of the National Guard Readiness Center under construction, the single largest building ever built by the National Guard. He said the $20.8 million facility is funded entirely with federal funds, but maintenance funding is 50 percent federal and 50 percent State General Fund. He added that the companion Field Maintenance Shop, an $18.9 million structure, is funded and will be maintained entirely with federal funds. He noted the FY 2013 state budget did not include maintenance funding for the

Readiness Center, so a budget enhancement will be needed to meet the estimated $148,000 annual utility bills.

At its December 6, 2012, meeting, the Joint Committee was provided the Excess Property report from the Kansas Department of Transportation (KDOT). Dan Scherschligt, Director of Engineering and Design, KDOT, presented information regarding the agency's inventory records of real property and real estate transactions; with this inventory the agency can locate potential excess property. He stated a thorough review had been completed and, at the end of FY 2012, 1,187 potential excess tracts of land had been identified. Of these, 113 were considered marketable, and 24 tracts comprising 96 acres were sold for a total of $438,793. Mr. Scherschligt replied some land is returned to the original owners or is deeded to other government entities. A staff of right-of-way agents decides which properties are marketable.

William Vicory, Right-of-Way Bureau Chief, KDOT, explained some properties are too small to be marketable and some are only easements. Since the governing statutes for agency real estate sales require a purchase price of at least two-thirds of the appraised value, many potential buyers are deterred from purchasing certain properties. He said KDOT always obtains three appraisals for real property.

The Joint Committee was provided an update on the F Troop relocation. Kim Torrey, Chief Financial Officer, Kansas Highway Patrol (KHP), announced, after 21 years of seeking to relocate Troop F, the initiative is nearing fruition by utilizing federal forfeiture funds to construct a new headquarters on KDOT property east of Wichita. She explained KDOT will assist in site preparation, saving KHP $1.0 million. The Kansas Bureau of Investigation (KBI) will co-locate in the building, providing savings for both KHP and the KBI. The projected total cost will be $3.5 million.

During the meeting conclusion and wrap-up, the Joint Committee supported the funding for the F Troop relocation project. One member recommended the reinstatement of the deferred maintenance tax credit for the regents universities.

Conclusions and Recommendations

The Joint Committee approved all agencies' five-year capital improvement plans. The Joint Committee also supports federal funding for the KHP F Troop relocation project.

Report of the Capitol Preservation Committee to the 2013 Kansas Legislature

CHAIRPERSON: Jennie Chinn, State Historical Society, Chairperson

SENATE PRESIDENT'S APPOINTEES: Joanne Budler, State Librarian; and John Pinegar

HOUSE SPEAKER'S APPOINTEES: Representative Elaine Bowers, Acting Secretary Lana Gordon

SENATE MINORITY LEADER'S APPOINTEE: Timothy R. Graham

GOVERNOR'S APPOINTEES: Peggy Palmer, Landon Fulmer

HOUSE MINORITY LEADER'S APPOINTEE: Representative Valdenia Winn

OTHER MEMBERS (*EX OFFICIO*): Barry Greis, Statehouse Architect; Peter Jasso, Kansas Creative Arts Industries Commission

STUDY TOPICS

The Committee is charged to develop plans for the placement of a mural in the State Capitol commemorating the United States Supreme Court decision in the case of *Brown v. Board of Education*. After January 1, 2013, the Committee is responsible for approval for all proposals for renovation of all areas of the State Capitol, the Capitol Visitor Center, and the grounds surrounding the State Capitol. The Committee is required to submit an annual report of its activities and recommendations to the Governor and the Legislature.

February 2012

Capitol Preservation Committee

Annual Report

Conclusions and Recommendations

The Capitol Preservation Committee makes the following conclusions and recommendations:

- The Committee's four subcommittees, covering the topics of temporary displays, the Visitors Center, landscaping, and the *Brown v. Board* Mural should proceed with their assignments.
- The Committee plans to meet during the first five months of 2013 to hear from area art historians and experts for the purpose of educating the Committee on murals, their cost, historical importance, and other factors to be considered by the Committee when it evaluates artists' submissions.
- The Committee requests guidance from the Legislature as to the appropriate means by which future donors are recognized.
- The Committee is willing to work with legislators to resolve the ambiguity over the jurisdiction of the 1st Kansas (Colored) Voluntary Infantry Regiment mural. If necessary, the Capitol Preservation Committee would be willing to assume responsibility for this other mural.

Proposed Legislation: None.

Background

The Capitol Preservation Committee was created by the Legislature in 2010. As provided by KSA 2012 Supp. 75-2269, the Committee has 12 members, with the Governor appointing three, the President of the Senate and the Speaker of the House each appointing two, and the Minority Leaders of the Senate and House each appointing one. The Committee's three *ex-officio* members are the Statehouse Architect, the Executive Director of the State Historical Society, and the Director of the Creative Arts Industries Commission. The Governor has the authority to appoint the chairperson from amongst the Committee's membership.

Committee Activities

The Capitol Preservation Committee met on October 24 and December 12, 2012.

At its meeting in October, the Committee learned that 36 artists from around the country, including 14 Kansas artists, submitted their qualifications for purposes of consideration for the *Brown v. Board* Mural. The Committee also learned that a new Walk of Honor, comprising plaques affixed to the sidewalk around the Capitol, had been initiated. Thus far, plaques have been installed for Vice President Charles Curtis, U.S. Senator Robert Dole, Amelia Earhart, and Nobel Prize-winning physicist Jack Kilby. The Walk of Honor will remind visitors to the Capitol of the important contributions made by Kansas residents to the nation and the world.

Three subcommittees were appointed to address guidelines for temporary displays, the Visitors Center, and the *Brown v. Board* mural.

At its meeting on December 12, at the request of the Governor, a landscape subcommittee was appointed. A design of the entire grounds will be completed with the proposed assistance of landscape architects Bartlett and West. The physical work on the grounds may not commence until August or September of 2013.

Subcommittee on Guidelines for Temporary Displays

The Subcommittee on Guidelines for Temporary Displays reviewed the guidelines adopted by six other states (Massachusetts, Nebraska, Ohio, Oklahoma, Texas, and Utah) which have renovated their capitol buildings. The Subcommittee proposed to use the policies for the Kansas Statehouse and Capitol Complex that were adopted in 2003 but never implemented as a foundation for the new guidelines. The following modifications would be made:

- Include an "Introduction," discussing why new guidelines are necessary;
- Bar displays or events that may cause damage to the building or impact safety and security; and
- Prohibit the use of the parking garage for displays.

The Subcommittee proposed dividing the Capitol into three primary usage areas:

- The Visitors Center, which would be under the jurisdiction of the Capitol Preservation Committee and operated by the Kansas Historical Society;
- The Capitol grounds and areas outside the building, which could continue to be under the jurisdiction of the Office of Facilities and Property Management; and
- The Capitol Building, proper, which would have split jurisdiction:
  - The Legislative Coordinating Council (LCC) would have jurisdiction over Floors 3, 4 and 5. Legislative Administrative Services would approve requests to use space on those floors;
  - The Office of Facilities and Property Management would have jurisdiction over, and approve requests to use space on Floors 1 and 2; and
  - Regardless of the floor, setup costs would be paid by sponsoring organizations.

Displays would be allowed on Floors 1 and 2 only and exhibited for no longer than a week. Displays must relate to Kansas history or culture. The Subcommittee will recommend guidelines which will prohibit displays intended to solicit commercial activity.

The Guidelines Subcommittee recommended the adoption of the food usage guidelines recommended by the LCC.

Subcommittee on the Visitors Center Exhibits

The Subcommittee on the Visitors Center Exhibits said the goal for the new facility is to challenge the perception of Kansas history and the Kansas landscape held by visitors. Since the Capitol does not lend itself to comprehensive historical exhibits, the focus should be on iconic documents, artifacts, or art work.

A documentary film on the Capitol should be available in the Visitors Center, along with interactive features which engage the public. The Subcommittee hopes the Legislature will provide guidance as to the means by which donors are recognized.

The next step in the process is to determine whether special display cases will be necessary. The Kansas Historical Society will develop detailed cost estimates.

Subcommittee on *Brown v. Board* Mural

The Subcommittee on the *Brown v. Board* Mural established tentative deadlines for the mural project:

- By January 4, 2013, review applications submitted by artists;
- By January 11, 2013, finalize a list of artists who will be invited to submit a proposal;
- By February 1, 2013, send letters to those artists;
- Between February and May 2013, the Capitol Preservation Committee should hear from area art historians and art experts for the purpose of educating the Committee on murals, cost, factors of historical importance, and other factors to be considered by the Committee when it evaluates an artist's submission; and
- By October 2015, dedicate the mural.

The Committee also heard about the lack of progress on the mural commemorating the 1st Kansas (Colored) Voluntary Infantry Regiment. Currently the Committee has no authority over that mural, which was statutorily authorized prior to the *Brown v. Board* Mural.

Conclusions and Recommendations

Based on testimony and discussion, the Committee makes the following conclusions and recommendations:

- The four subcommittees should proceed with their assignments.
- The Committee should meet during the first five months of 2013 to hear from area art historians and experts for the purpose of educating the Committee on murals, their cost, historical importance, and other factors to be considered by the Committee when it evaluates artists' submissions.
- The Committee requests guidance from the Legislature as to the appropriate means by which future donors are recognized.
- The Committee is willing to work with legislators to resolve the ambiguity over the jurisdiction of the 1st Kansas (Colored) Voluntary Infantry Regiment mural. If necessary, the Capitol Preservation Committee would be willing to assume responsibility for this other mural.

Report of the State Employee Pay Plan Oversight Committee to the 2013 Kansas Legislature

CHAIRPERSON: Representative Annie Tietze

VICE-CHAIRPERSON: Senator Vicki Schmidt

OTHER NON-LEGISLATIVE MEMBERS: Governor's Appointees Steve Anderson, Director, Division of Budget, and Steven Kearney; and Non-Voting *Ex Officio* members Karin Brownlee, Secretary of Labor, or designee, and Dennis Taylor, Secretary of Administration, or designee

STUDY TOPIC

The purpose of the Committee is to study the progress made in the development, implementation, and administration of the new classified state employee pay plans and the associated performance management process. The Oversight Committee is required to report annually to the Legislature. The Committee will sunset on July 1, 2014.

State Employee Pay Plan Oversight Committee

Undermarket Pay Plan

Conclusions and Recommendations

Based on Committee testimony and discussion, the Committee makes the following conclusions and recommendation on the development, implementation, and administration of the classified state employee pay plan:

- The Committee recommends $11.4 million, including $8.1 million from the State General Fund, be appropriated in FY 2013 to fund under market adjustments to state employee salaries. This is a State General Fund reduction of $401,770, or 4.7 percent, below the amount approved by the 2012 Legislature.

- The Committee did not recommend implementation of the new state employee pay plan in FY 2013 with revised step movement.

- The Committee's recommendations were based on the following testimony received from the Department of Administration:

  - 5,724 employees, or 30 percent of the classified state employee work force, have not received a market adjustment;

  - 87 percent of classified state employees are paid below market;

  - To achieve 90 percent parity in pay between state employees and public private sector equivalents would cost approximately $56.7 million;

  - To achieve full parity in pay between state employees and public private sector equivalents would cost approximately $126.7 million; and

  - Kansas will have spent $58.7 million on market adjustments in FY 2009, FY 2010, FY 2011, and FY 2013.

Proposed Legislation: None.

Background

The role of the State Employee Compensation Oversight Commission, as established by the Legislature in April 2007, was to develop recommendations for a new pay plan for classified employees to be presented to the 2008 Legislature. The genesis of the work of the Commission was a report on an extensive market survey that was conducted for the state by Hay Group in the latter part of 2006. This showed that the level of competitiveness of both pay ranges and actual pay lagged the market. In addition, concern was expressed by both legislative and executive branch leadership of the wisdom of increasing the funding of a classified pay plan that had not been viewed as being effective due to:

- Being a "one size fits all plan";
- Step increases not being funded;
- Internal equity issues; and
- A significant passage of time since the plan was last reviewed.

It was highlighted to the Commission on numerous occasions that the State is a complex employer in terms of the wide variety of the nature of work and the types of classifications in the classified service. The compensation philosophy adopted in June 2007 recognized the need for some common fundamental principles such as fairness but allowed for the flexibility to have multiple pay plans. Accordingly, five pay plans were recommended to the Commission: the Management Pay Plan, the Professional Individual Contributor Pay Plan, the Protective Services Pay Plan, the Basic Vocational Pay Plan, and the General Classified Pay Plan.

Prior to implementation of the Employee Pay Plan, the Commission recommended providing market pay adjustments to select classes of state employees. Under that five-year plan for implementation, salaries would not be fully aligned until year three for each implementation group. In the interim, since the State is so far behind market in many positions, market adjustments are proposed for those classes determined to be most in need. This adjustment would reduce the inequity in wages between state employees and non-state employees but would not bring the state employees' wage rates up to the market. The practice of moving entire classes preserves a small distribution within the system while providing an equal adjustment to employees performing the same or similar work. As the result of this adjustment, all employees in that class, regardless of their current positions within the pay grade to which that class is assigned, would receive an increase as part of a market adjustment. This methodology has been used consistently for the increases provided.

It is important to remember this is only the first phase of aligning to market. As additional salary surveys are completed, and more specific job data are obtained, increases under the plan will become more strategic. At this point, it is simply not feasible to provide market adjustments on an individual basis. Not only could this potentially amount to 22,000 separate pay adjustments, but it also would result in even more wage compression as employees would all be grouped around the identified market average. Pay grades and ranges provide for rates on either side of the market rate because it is expected, and in fact desirable, that there will be a natural distribution throughout the range.

The Legislature appropriated $16.0 million, including $8.5 million from the State General Fund, in Fiscal Years 2009, 2010, 2011, and 2013 to fund under market adjustments. The full balance of funds appropriated was not expended in each year. Of the $59.0 million appropriated, Kansas has spent $47.3 million on market adjustments. The $11.4 million appropriated by the Legislature for FY 2013 had not yet been distributed by the State Finance Council when the Committee met.

Under the original pay plan proposal, FY 2011 would have been the first year that the new pay plan was to be implemented. At its January 13, 2010 meeting, the Oversight Committee voted to delay the implementation of the new pay plans for one-year, meaning that the classifications assigned to Group 1 were not moved to the new pay plans until the beginning of FY 2012. All other facets of the implementation (including classification review and salary survey) were planned to continue as scheduled, including plans for market adjustments in FY 2011.

The Oversight Committee did not meet during the 2011 interim. The 2011 Legislature voted to suspend implementation of the pay plan for FY 2012 and did not appropriate funds for under market adjustments scheduled for FY 2012 and FY 2013.

Committee Activities

The Committee met June 25, 2012, to hear testimony from the Department of Administration regarding ongoing negotiations with the state employee organizations. Representatives of the state employee organizations also were present but declined to testify.

The Committee convened on September 4, 2012, to receive updated recommendations from the Department of Administration and issue the Committee recommendations.

The Committee received the following testimony from the Department of Administration:

- 5,724 employees, or 30 percent of the classified state employee work force, have not received a market adjustment;
- 87 percent of classified state employees are paid below market;
- To achieve 90 percent parity between in pay between state employees and public private sector equivalents would cost approximately $56.7 million; and
- To achieve full parity between in pay between state employees and public private sector equivalents would cost approximately $126.7 million.

Conclusions and Recommendations

Based on Committee testimony and discussion, the Committee makes the following conclusions and recommendations:

- The Committee recommends $11.4 million, including $8.1 million from the State General Fund, be appropriated in FY 2013 to fund under market adjustments to state employee salaries. This is a State General Fund reduction of $401,770, or 4.7 percent, below the amount approved by the 2012 Legislature.
- The Committee's recommendations were adopted for implementation by the State Finance Council on September 17, 2012.
- The Committee did not recommend implementation of the new state employee pay plan in FY 2013 with revised step movement.

Kansas will spend $58.7 million on market adjustments in FY 2009, FY 2010, FY 2011 and FY 2013. The most recent round of under market adjustments will provide salary increases for 4,296 employees. The majority of the salary increases are for nurses, maintenance technicians, and correctional employees.

The FY 2013 under market adjustments were implemented in October 2012. For all employees except state troopers, the employees were to receive a bonus with their first paycheck, effectively extending the market increase back to the beginning of the fiscal year. The state troopers elected to forgo bonus payments in order to receive a slightly higher market adjustment.