Approved: January 24, 2006
Date

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:45 A.M. on January 10, 2006 in Room 123-S of the Capitol.

All members were present.

Committee staff present:
- Jill Wolters, Revisor of Statutes Office
- Michael Corrigan, Revisor of Statutes Office
- Alan Conroy, Director, Kansas Legislative Research Department
- J. G. Scott, Kansas Legislative Research Department
- Reagan Cussimanio, Kansas Legislative Research Department
- Audrey Dunkel, Kansas Legislative Research Department
- Judy Bromich, Chief of Staff
- Mary Shaw, Committee Secretary

Conferees appearing before the committee: none

Others attending:
See attached list.

Chairman Umbarger welcomed all the members of the committee to the 2006 legislature, introduced his staff and introduced Mike Corrigan, Office of the Revisor of Statutes, who will also be staffing the Senate Ways and Means Committee.

The following sets of minutes from the Senate Ways and Means Committee meetings that were held during the Special Legislative Session were distributed to the Committee for review:

- June 20, 2005
- June 21, 2005
- June 22, 2005 (a.m.)
- June 22, 2005 (p.m.)
- June 23, 2005
- June 25, 2005
- June 27, 2005 (a.m.)
- June 27, 2005 (p.m.)
- June 28, 2005

The Chairman noted that the Committee would approve the minutes at the January 19, 2006, meeting and to notify the committee secretary if there are revisions.

The Chairman recognized Jill Wolters, Senior Assistant, Revisor of Statutes, who distributed a memorandum regarding select bills remaining in the Committee and provided information on the status of each of those bills (Attachment 1).

Senator Barone moved, with a second by Senator Wysong, that the following bills be not passed:

SB 20--KPERS, calculation and certification of employer rates of contribution

SB 21--Payment to KPERS claimants on canceled warrants

SB 22--KPERS, affiliation date for certain employers to provide death benefits for employees

SB 95–KPERS, retirement benefit options for spouse of member in certain circumstances

SB 99–Retirement plan for certain employees of state board of regents and certain educational institutions thereunder

SB 279–Death and disability benefits for certain employees of educational institutions under management of state board of regents

SB 286–Compensation and salaries for state officers and employees, increases, semimonthly payroll periods, appropriations for FY 2006

SB 291–KPERS, increased employer contributions for death and disability benefit plan

SB 293–Shawnee Indian mission state historic property, sale of a portion to city of Fairway, proceeds for site redevelopment;

and retain the following bills:

SB 189--Increasing KPERS lump-sum death benefit to $5,000

SB 236--KPERS, postretirement benefit adjustment of 3% for retirants who retired prior to July 1, 2004

SB 237--Retirant dividend payment to certain KPERS retirants

Motion carried.

Chairman Umbarger referred the following bills to the KPERS Issues Subcommittee:

SB 189--Increasing KPERS lump-sum death benefit to $5,000

SB 236--KPERS, postretirement benefit adjustment of 3% for retirants who retired prior to July 1, 2004

SB 237--Retirant dividend payment to certain KPERS retirants

The Chairman acknowledged J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department, who presented an overview of the Reports of the Joint Committee on the Legislative Budget committee to the 2006 Kansas Legislature (Attachment 2). The study topics were the State General Fund, Utilization of State Juvenile Justice Correctional Facilities, State Park Financing and Operations, Mental Health Issues that Impact State Mental Health Facilities and the Impact on Prison Capacity, Base Realignment and Closure Commission-Kansas Army Ammunition Plant, Structure of the State Board of Tax Appeals, Nursing Facility Reimbursement, Funding for Technical Colleges, and Veterans' Benefits and Services.

The meeting adjourned at 12:00 noon. The next meeting was scheduled for January 11, 2006.

SENATE WAYS AND MEANS
GUEST LIST

Date January 10, 2006

NAME	REPRESENTING
Ali Sultani	
Bill Henry	KCUA
Lois Weeks	SRS
[illegible]	LGR
Mike Huttles	KAMU
Ron Seeber	Hein Law Firm
MARK BORANYAK	Capitol Strategies
Kathy Damron	Damron & Associates
CHRIS SHEPARD	DAMRON & ASSOCIATES
BRAD HARRELSON	KFB

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MEMORANDUM

To: Committee on Ways and Means

From: Jill Ann Wolters, Senior Assistant Revisor JW

Date: January 10, 2006

Subject: Review of select Bills remaining in Committee

The following is a review of select bills remaining in Committee :

SB 20 By Joint Committee on Pensions, Investments and Benefits

Clarifies the determination of KPERS' state group and school group employer contribution rates by specifying that the rates will be calculated as if the two groups were combined in any year when the state rate is less than the combined rate.

Passed in 2005 Sen. Sub. for HB 2037.

SB 21 By Joint Committee on Pensions, Investments and Benefits

Authorizes the director of accounts and reports to reissue outlawed KPERS warrants using a warrant reduction equal to administrative costs of reissuing the warrant.

Passed in 2005 Sen. Sub. for HB 2037.

SB 22 By Joint Committee on Pensions, Investments and Benefits

Allows participating employers to affiliate for optional group life insurance on January 1 or July 1.

Passed in 2005 Sen. Sub. for HB 2037.

SB 95 By Sens. Lee and Allen and others

KPERS, retirement benefit options for surviving spouse of judges when judge dies before reaching retirement age.

Passed in 2005 Sen. Sub. for HB 2037.

SB 99 By Legislative Educational Planning Committee

Retirement plan for certain employees of state board of regents and certain educational institutions under the Regents.

Passed in 2005 Sen. Sub. for HB 2037.

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Attachment 1

SB 189 By Hensley and others

Increasing KPERS lump sum death benefit from $4,000 to $5,000.

No action recommended by the subcommittee.

SB 236 By Hensley and others

Provides a one-time 3% COLA for members who retired or were disabled prior to July 1, 2004.

No action recommended by the subcommittee.

SB 237 By Hensley and others

Provides retirant dividend payment equal to one-half of monthly benefit payment for members who retired or were disabled prior to July 1, 2004.

No action recommended by the subcommittee.

SB 279 By Committee on Ways and Means

Death and disability benefits for certain employees of educational institutions under management of state board of regents.

Passed in 2005 Sen. Sub. for HB 2037.

SB 286 By Committee on Ways and Means

Compensation and salaries for state officers and employees, increases, appropriations for FY 2006.

Passed in 2005 SB 225.

SB 291 By Committee of Ways and Means

KPERS, increased employer contributions for death and disability benefit plan from 0.6% to 1.0% effective July 1, 2005.

Passed in 2005 Sen. Sub. for HB 2037, as 0.6%% to 0.8% on July 1, 2005, and increased to 1.0% on July 1, 2006.

SB 293 By Committee on Ways and Means

Shawnee Indian mission state historic property.

Re-referred to Committee March 21, 2005.

Reports of the Joint Committee on Legislative Budget to the 2006 Kansas Legislature

CHAIRPERSON: Representative Melvin Neufeld

VICE-CHAIRPERSON: Senator Dwayne Umbarger

OTHER MEMBERS: Senators Jim Barone and Steve Morris; and Representatives Bill Feuerborn, Brenda Landwehr, and Ray Merrick

STUDY TOPICS

State General Fund

Study the Utilization of State Juvenile Justice Correctional Facilities

State Park Financing and Operations

Mental Health Issues that Impact State Mental Health Facilities and the Impact on Prison Capacity

Base Realignment and Closure Commission—Kansas Army Ammunition Plant

Structure of the State Board of Tax Appeals

Nursing Facility Reimbursement

Funding for Technical Colleges

Veterans' Benefits and Services

December 2005

Senate Ways and Means
1-10-06
Attachment 2

Legislative Budget Committee

STATE GENERAL FUND

CONCLUSIONS AND RECOMMENDATIONS

- With regard to length of stay limitations on Level V and VI group homes and therapeutic foster care placements, the Committee asked the Chairman to draft a letter to the affected agencies indicating the Committee's concern that, while providers should be encouraged to comply with the requirements, no child should be moved out of a placement based solely on concerns regarding Medicaid reimbursement for the stay.

- With regard to the bonds requested by the Kansas Department of Transportation, the Committee recommended to the Legislative Coordinating Council that the $60.0 million in bonds authorized in 2004 Senate Bill 384 be issued to the Kansas Department of Transportation for the Comprehensive Transportation Program to make up for the shortfall in the assumed $250.0 million in additional federal funds for FY 2005 to FY 2009.

- Concerning the Board of Regents' concerns with deferred maintenance, the Committee notes that many state agencies are in similar positions concerning deferred maintenance on state facilities and believes that any plan put before the Legislature during the 2006 Session should be statewide in scope.

Proposed Legislation: None.

BACKGROUND

The Legislative Budget Committee, as provided by law (KSA 46-1208), can set its own agenda. The Committee conducted its usual monitoring of the State General Fund and other state finances. In addition to other topics specifically assigned by the Legislative Coordinating Council, the Committee also reviewed the following: Level V group homes; length of stay issues for Level V and VI group homes and therapeutic foster care placements; Kansas Public Employees Retirement System (KPERS) exemptions for retired nurses at state hospitals; the tobacco master settlement agreement (MSA); water litigation; Hurricane Katrina relief efforts; unemployment benefit overpayments; historical trends in tax collections; State Park 24; funding and activities of the Attorney General's Consumer Protection Division; the Comprehensive Transportation Plan (CTP); lottery and parimutuel activities; Capitol Complex space needs; Medicaid and Medicare issues; driver's license examination stations; the Wichita aviation research initiative; state visitors centers; and university deferred maintenance issues.

COMMITTEE ACTIVITIES

State Finances

At each meeting, staff of the Legislative Research Department presented a report comparing estimated and actual receipts to the State General Fund. In addition, staff also provided the Committee with information on actual FY 2005 State General Fund expenditures, the shifting of certain State General Fund expenditures from FY 2005 to FY 2006, and updated State General Fund profiles. Staff also presented

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information on the October 2005 caseload estimates for the Department of Social and Rehabilitation Services, the Department on Aging, and the Division of Health Policy and Finance of the Department of Administration, and the November 2005 State General Fund Consensus Revenue Estimates. In addition, information on the status of the Economic Development Initiatives Fund also was presented to the Committee. Finally, information on personal income, state debt, FY 2006 State General Fund supplemental requests, and state-owned aircraft also was presented to the Committee.

Level V Group Homes

The Deputy Secretary for Integrated Service Delivery of the Kansas Department of Social and Rehabilitation Services provided background and an update on the status of Level V Group Homes. She noted that in June 2005, the Kansas Department of Social and Rehabilitation Services (SRS) and the Juvenile Justice Authority (JJA) were notified that some Level V facilities were closing or converting their beds to Level VI. She cited three reasons for the changes: financial considerations resulting from a change in the payment method for children in the child welfare system; a diminishing reliance on residential facilities as greater effort is being made to place children with relatives or in family foster homes in the community where the child is from; and potential changes coming from the federal Medicaid Program.

The Deputy Secretary explained that a change in the payment method which began July 1, 2005 resulted in residential treatment facilities no longer being directly paid by the child welfare providers. The residential treatment facilities will bill Medicaid directly for their services. The current state rate for Level V residential treatment facilities is $106.50 per day.

The Deputy Secretary indicated that a need has been identified for a service that will meet the treatment needs of youth that exceed those provided within the base Level V per diem rate. She also mentioned that while those needs exceed Level V services, the youth do not meet the criteria for Level VI treatment.

During the 2005 Special Legislative Session, members of the House Appropriations Committee recommended that JJA and SRS look into increasing the basic Level V facility rate to $121.50 per day. The last increase occurred in 2001.

The Deputy Secretary noted that approximately 165 youth are in need of specialized Level V services on any given day. She noted this is about 20 percent of all youth in Level V facilities and includes youth in both the SRS and JJA systems. She defined children in need of specialized Level V services as children having medically necessary mental or behavioral health needs that cannot be met through the standard Level V program. She indicated that behavioral and safety issues of youth in intermediate care may require staffing ratios that exceed state licensing requirements, and specialized professional treatment services in addition to standard Level V behavior management requirements.

In regard to the Centers for Medicare and Medicaid Services (CMS), the Deputy Secretary indicated that JJA and SRS are presenting the concept of intermediate care to CMS. CMS must agree with this concept before Title XIX funding will be available for the enhanced rate. As of the Committee's July meeting, that approval has not yet been received.

Finally, the Deputy Secretary noted that SRS and JJA are in complete agreement that therapeutic foster care is a preferable manner in which to treat this population of youth. She noted that therapeutic foster care is $70 per day and that this rate has not been raised since 2002.

The Acting Commissioner of the Juvenile Justice Authority also presented information regarding Level V rates. The Commissioner noted that following a July 2005 meeting between JJA, SRS, the Division of Health Policy and Finance of the Department of Administration, and Level V providers, a new service called intermediate care is being developed to serve the youth. He noted that the proposed per diem rate for intermediate care is $145 per day. He estimated that if the plan was implemented without CMS approval, JJA would require an additional $6.0 million from the State General Fund to pay for the new service.

A representative of Saint Francis Academy, a residential service provider, stated that there should be a systems change discussion in addition to a rate discussion. She provided an overview of services and service challenges for youth in Level V residential care. A Licensed Specialist Clinical Social Worker from Saint Francis Academy provided a description of the kind of youth in need of these services. She indicated that many of these youth have reactive attachment disorders, have pervasive development disorders, demonstrate symptoms of developing personality disorders, especially borderline personality disorders with cutting or other self abuse behaviors, require multiple medications, are victims of chronic sexual, physical and emotional abuse, are sex offenders, display chronic sexual acting out, demonstrate addiction behaviors, and have multiple failed Level V or foster home placements.

The Chief Financial Officer of Saint Francis Academy provided information regarding the cost drivers associated with the facility. She noted the following additional expenses which are incurred serving the population of an enhanced Level V program: increased levels of training for staff to provide services for high risk youth; higher salaries for professionals due to work with higher need youth; higher liability insurance as a result of behaviors staff manage; higher workers compensation costs; accreditation costs to maintain a level of excellence and meet CMS and State of Kansas requirements.

A representative of United Methodist Youthville explained that in terms of payment mechanisms, every state is structured differently and comparable rates in other states are anywhere from $240 to $400 a day.

Length of Stay Issues in Level V and VI Group Homes and Therapeutic Foster Care Placements

At the December meeting, the Committee heard testimony regarding the length of stay limitations on placements in Level V and VI group homes and therapeutic foster care placements.

The Secretary of the Department of Social and Rehabilitation Services (SRS) testified that pursuant to the Medicaid State Plan, to access federal funding, certain length of stay limitations apply. For Level V group homes, the limit is 140 days, and for Level VI group homes and therapeutic foster care placements, the limit is 180 days. While these limits have been in place for some time under the terms of the state plan, they have not been strictly enforced. Beginning January 1, 2006, however, any claim submitted by a provider for Medicaid reimbursement for these placements will be denied as a general rule where the length of stay limitations have been exceeded. The Secretary indicated that as many 100 children in SRS custody are currently in placements which exceed the limitations. He noted that SRS was working with providers to develop a review process to allow for case-by-case evaluation of circumstances necessitating an extension of a youth's length of stay in a particular facility.

The Acting Commissioner of the Juvenile Justice Authority (JJA) indicated that as many as 100 children in JJA custody are currently in placements which have exceeded the length of stay requirements. He indicated that JJA is working with providers to ensure compliance and to address exceptional circumstances. He noted that additional State General Fund amounts would be

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available to accommodate these extended stays.

Representatives of two providers, Saint Francis Academy and United Methodist Youthville, expressed concerns providers have with the announced changes and the relatively short time frame providers have to address this change.

Committee members expressed concern that the services provided to children need to be of paramount concern, and noted that while it was important to encourage compliance with the terms of the state plan, no child should be moved to an inappropriate setting solely based on funding or payment concerns.

Kansas Public Employees Retirement System (KPERS) Exemptions for Retired Nurses at State Hospitals

The Executive Director of the Kansas Public Employees Retirement System (KPERS) provided a review of the KPERS exemption for retired nurses at the state hospitals. In regard to the earnings limitation for retirees, he explained that, generally, annual compensation of retired KPERS members returning to work for a previous employer is statutorily limited to $15,000. The state is one employer for this purpose. He noted there is no limitation if the retiree works for a different KPERS employer, the federal government, or the private sector. He explained that the statutory exemption for nurses applies to licensed professional and licensed practical nurses employed by the State at: Osawatomie State Hospital; Rainbow Mental Health Facility; Larned State Hospital; Parsons State Hospital and Training Center; Kansas Neurological Institute; the Kansas Soldiers' Home; and the Kansas Veterans' Home.

The exemption for nurses is effective from July 1, 2005 through June 30, 2008, and retirees must be off the institution's payroll for 30 days before returning to work and must be eligible for normal retirement to qualify for the exemption. The 30 day requirement is an Internal Revenue Service issue.

The Director of Human Resources of the Department of Social and Rehabilitation Services noted that SRS is hopeful that this new capability will help them in addressing the critical shortage of nurses in SRS facilities. He explained that as of July 2005, there are four registered nurses and one retired practical nurse who have returned to work at two facilities.

The Executive Director of the Kansas State Nurses Association requested that consideration be given to expanding the exemption to include 18 community hospitals across the state who participate in KPERS retirement.

Update on Master Settlement Agreement (Tobacco)

At the July and September meetings, a representative of the Attorney General updated the Committee on the status of the Master Settlement Agreement (MSA). He noted some threats to the projected revenue stream of the MSA. The most imminent threat is a mechanism in the MSA that allows the participating manufacturers to seek a rebate of some of the monies they have paid to the states in certain years. The triggering mechanism revolves around market share. When the market share falls below a certain level, companies are then entitled to start the procedures to seek a refund of monies. The year 2003 monies were the first for which companies are eligible to seek a rebate. If the companies are successful, it could cost the State of Kansas $9 million and potentially more. The tobacco companies would have to demonstrate that the MSA was the significant factor in the degradation of their market shares. After meeting that standard, the companies would have to prove that the states have not been diligent in enforcing their statutes and the various requirements of the agreement. Only after demonstrating this would the companies be qualified for a refund.

Other concerns noted include: company bankruptcies; the U. S. Department of Justice Racketeer Influenced and Corrupt Organizations (RICO) suit against the major tobacco companies; legal liabilities that could impact manufacturers making payments to the State; and a loophole which could stop non-participating manufacturers selling products in the state, but not prevent a participating manufacturer from selling in the state without paying anything to the state.

At the September meeting, the representative of the Attorney General informed the Committee that the state is now subject to two lawsuits and threats to the MSA are continuing to grow. He requested that the Legislature address the issue of protecting the MSA revenue stream during the 2006 Session.

Update on Water Litigation

A representative of the Attorney General provided the Committee with an update on the Colorado water litigation. He noted that in November 2003, the Special Master issued his fourth report and the Attorney General's Office took some exceptions to it. These exceptions were argued October 4, 2004. Subsequent to the oral arguments, the Supreme Court issued a decision on December 7, 2004. He explained that the Supreme Court affirmed the Special Master's recommendations in the fourth report. He noted that subsequent to the December 7, 2004, order, differences arose over the level of detail to be contained in the decree. Colorado wants a flexible decree and Kansas wants a more detailed decree. The Special Master is still considering the position of each state on the level of detail to be included in the decree. He noted that, regarding a timeline on the decree, negotiations were started on March 12, 2005 and would end September 12, 2005. Anything not decided by then will be submitted to arbitration. If there is arbitration, it could last six months. With no arbitration, the Attorney General's Office fully expects a final decree by the Special Master by the end of the current calendar year. If there is arbitration, it is expected to have a final decree no later than the Spring of 2006.

Regarding the Nebraska water litigation settlement, the representative of the Attorney General explained that this is the first year of full implementation of the settlement and he noted that some local water user groups and natural resources districts have been resistant to the implementation of the settlement. He noted that with drought conditions, the likelihood of more difficulty with compliance is on the rise and Kansas must remain vigilant to be sure to enforce the settlement and insure its water rights in the Republican River basin.

The Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture provided an update on both the Colorado and Nebraska disputes. He updated the Committee on the agency's efforts to enforce the Arkansas River Compact with Colorado and the Republican River Compact with Nebraska. He noted that significant progress has been made in both cases in recent years, but more work must be done to implement the Republican River settlement. He noted that there has been significant agreement on one groundwater model. There are now clear data collection requirements and accounting methods.

In addressing other water issues, he indicated that it is possible that litigation also may be needed to protect Kansas' equitable share of the Missouri River or to resolve federal reserved water rights for Indian tribes. He also noted that there is a potential concern with the Ozark Plateau Aquifer in southeast Kansas. He noted that the Aquifer laps over into Missouri in the Springfield area which is an area of high growth and that a portion laps over into Oklahoma. He mentioned that there is no compact and there is no mechanism to allocate water between the three states. Kansas has a significant regulatory structure in place, Missouri does not and Oklahoma is somewhere in between in terms of regulation. He explained that water laws are very different in Kansas than in Oklahoma. There is a compact with Oklahoma that covers all of the Arkansas River Basin from the Cimarron area, into southeast Kansas and as far west as Wichita. It allocates storage in reservoirs, but does not regulate groundwater pumping in either state unless there is an inter-basin transfer which could be an issue in this case.

Hurricane Katrina Relief Efforts

Representatives of a number of state agencies appeared before the Committee to address issues regarding the state's actions to aid Gulf Coast states following Hurricane Katrina. The Committee was informed at the September meeting that the state's foster care system would receive 20 Level IV foster care children on September 1 and would soon receive 10 developmentally-disabled adults from hurricane impacted areas of Mississippi soon.

The Deputy Secretary for Integrated Service Delivery of the Department of Social and Rehabilitation Services stated that SRS is working to coordinate services through the Red Cross, assisting with housing, emergency food, clothing, and other needs. Victims of the hurricane will be treated as Kansans with regard to availability of food stamps, medical and cash assistance. The Department has organized a human response team and will work with the Federal Emergency Management Agency (FEMA) to develop a list of available housing.

The Secretary of the Department on Aging provided a list of contacts at the county level and in various communities throughout Kansas who are available to assist those elderly individuals who might come to Kansas from the affected areas.

A representative of the Foster Care Licensing Program of the Department of Health and Environment (KDHE) informed the Committee that seven staff members are accompanying the group of foster children being transported to Kansas from Mississippi. She advised that KDHE is working with other agencies to amend the staff members' licenses to allow them to work within the state of Kansas, and is working to provide services to school age children, such as waiving immunization requirements for the first 60 days of school.

The President and Chief Executive Officer of the Board of Regents indicated that several institutions are making selected services available to students displaced by the hurricane.

Unemployment Benefit Overpayments

The Director of Employment Security of the Department of Labor presented an update on unemployment overpayments during 2005. He stated that while a program has been established which allows applicants to submit applications over the internet and through call centers, the program does not allow applicants to register for work with the public employment service. The result has been a disconnect in the services, leading to some potential overpayment issues. He stated that new computer software will allow for a more user-friendly application and allow for the applicant to automatically be registered with job service when applying for unemployment benefits. The new computer program is in the first phase of implementation. He also noted that no penalties for technical errors caused by the current system have been assessed by the federal government.

Historical Trends in Tax Collections

The Secretary of Revenue and the Director of Financial Services for the Kansas Insurance Department presented the Committee with information on historical trends in the collection of certain taxes, including: individual and corporate income tax; sales and compensating use taxes; cigarette and tobacco taxes; liquor taxes; mineral taxes; financial institutions taxes;

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and insurance premium taxes.

The Secretary of Revenue noted that individual income and sales taxes make up approximately 80 percent of all tax receipts. She indicated that the recent amnesty program was successful, resulting in approximately $56 million from all sources, almost twice what the state had expected to receive. Because of a drop in taxes from financial institutions, the Secretary noted that the department is in the process of reviewing these tax returns to determine what factors are contributing to this drop.

The Director of Financial Services of the Kansas Insurance Department indicated that premium tax receipts for FY 2005 show little growth from the prior year after a growth in the prior three years. She stated that two factors contribute to the slow growth between FY 2004 and FY 2005: (1) previous credits available to the insurance companies have been exhausted; and (2) there has been some stabilization in the appraised value of property and premiums.

At the request of the Committee, the Department of Revenue provided additional information at the October meeting on accounts receivable. The Department's representative noted that gross accounts receivables at the end of September, 2005, were $503 million, with a net realizable value (gross accounts receivables less bankruptcies and uncollectible amounts) of approximately $152 million. He also noted that of the eighteen additional agents approved by the 2005 Legislature, 14 have been hired and the next four would be hired within the next several months.

State Park 24

The Secretary of Wildlife and Parks noted that while the department is now housed on North Wanamaker Road in an office with a two-year lease on State Park 24 property, at this time, the state does not have title to the property and no improvements are being made to the property. Some problems contributing to this failure to secure title include differences with the owners over naming of the park, boundaries of the park and changes in the financial plan.

Funding and Activities of the Attorney General's Consumer Protection Division

Representatives of the Attorney General presented a review of funding and activities of the Consumer Protection Division. Staff of the Legislative Research Department noted that the Consumer Protection Division is funded half from recouped fees assessed on violations and half from the State General Fund (SGF). Because of the instability of the recouped fees, during the 2005 Legislative Session, the Legislature began to shift some of the division's salaries from those fees to the SGF. The representatives of the Attorney General addressed Committee questions regarding unsolicited cell phone calls and gasoline prices. With regard to cell phone calls, there is no specific clause in the Kansas law pertaining to cell phones, however, federal law does allow for protection from unsolicited cell phone calls.

Regarding gasoline prices, the Consumer Protection Division can protect the individual consumer from "price gouging" but cannot protect the wholesaler because, under the law, the definition of consumer does not include an incorporated entity.

Comprehensive Transportation Plan (CTP)

The Director of the Division of Planning and Development of the Kansas Department of Transportation (KDOT), presented a briefing on the new federal transportation program (SAFETEA-LU). He stated that savings of $800 million from FY 2004 within KDOT made the CTP financially sound as long as federal funding was approved at the estimated amount. He noted, however, that it does not now appear that federal funding in the new program will be as much as originally anticipated.

At the December meeting, the Secretary of Transportation appeared before the Committee to seek the Committee's favorable recommendation to the Legislative Coordinating Council for the issuance in $30 million in bonds to augment funding for the CTP. The additional bonding authority was authorized by legislation enacted by the 2004 Legislature which restructured the program's funding. The legislation provided for contingent bond funding should the increase in federal transportation funding fall short of the then anticipated $250 million. The Secretary noted that in addition to this amount, an additional $150 million in bonding authority (which requires review by the House and Senate Transportation Committees) would also be sought.

A representative of Economic Lifelines also appeared before the Committee in support of the favorable recommendation on the bond issuance.

Lottery and Parimutuel Activities

Following a staff review on lottery and parimutuel activities over the past five years, the Executive Director of the Kansas Lottery presented information concerning transfers from the Lottery to the State General Fund. He noted that the Kansas Lottery has experienced increases in sales in all games in the last five years. With regard to sales, he projected between $191 and $192 million in sales for the months of July and August, with expectations to surpass last year's sales. Advertising is primarily focused on Kansas and Kansas products with 80 percent of the advertising budget spent on radio advertising. With regard to bordering states, it is anticipated that on-line ticket sales will be available in Oklahoma in October resulting in a possible loss of sales of $12 to $15 million in Kansas.

The Executive Director of Racing Operations of the Kansas Racing and Gaming Commission presented a review of historical trends on expenditures and revenue for racing and gaming. He indicated that there has been a decline of 32 percent in parimutuels in the state over the last five fiscal years. In order to maintain a desired fiscal year ending balance of $200,000, it is projected that the racing budget will need to be supplemented by approximately $710,000 from the State General Fund before the end of the current fiscal year. He noted some of the reasons for the decline include fewer horses running at the tracks, fewer race dates, smaller purse sizes with larger purses in other states, limited advertising, river boat casinos in Kansas City and the opening of Indian casinos in northeast Kansas.

Capitol Complex Space Needs

The Director of the Division of Facilities Management of the Department of Administration presented a review of space needs for the Capitol Area Complex. He stated that because of the estimated 77,000 square feet of vacant space in the Docking Building at the present time, agencies will be approached, as leases expire, to move to the available space in Docking. He indicated that with the move of some members of the Legislature to the seventh floor, the vacant space will be reduced to 58,000 square feet. It is projected that there will be an adjustment in rent rates in FY 2007 because of utility rate increases. A survey of agency rental space and needs is being reviewed at this time to determine how to proceed on remodeling of the Docking Building and possible abandonment of the Landon Building. He also indicated that the cost of renovation of the Dillon House is projected at $2.7 million.

Medicaid and Medicare Issues

The Medicaid Director of the Division of Health Policy and Finance of the Department of Administration presented an update on Medicaid provider assessments, Medicaid deferrals, and the Medicare Part D clawback issue. At this time, Kansas Medicaid is continuing to work with the Centers for Medicare and Medicaid Services (CMS) to get approval of the hospital provider assessment with a retroactive date of July 1, 2004. The

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variables associated with the "clawback" effect of the new Medicare Part D program make it difficult to project clawback payments. It was noted that there may be individuals who are eligible for Medicaid who have never applied and will now apply for drug benefits under the Medicare Part D program, causing a "woodwork" effect or increase in the state's Medicaid responsibility. CMS has developed a program that will automatically enroll dual-eligible individuals. The Medicaid Director indicated he hoped to have more information in January after the November enrollment period.

At the December meeting, the Deputy Secretary of the Department on Aging appeared before the Committee to address the impact of Medicare Part D coverage on the nursing facility population. She provided information regarding information from the Centers of Medicare and Medicaid Services (CMS) on the transition process for dual eligibles, and responded to questions regarding unit dose packaging requirements in nursing facilities.

Driver's License Examination Stations

The Director of Vehicles of the Department of Revenue presented an update on driver's license renewals. She stated that in 1991, the Department of Revenue started partnering with county treasurer's offices to process driver's license applications and renewals with an investment of approximately $20,000 to set up each of these offices. Since that time, because of budget cuts, several examination positions and 13 offices across the state have been eliminated. A lack of space in the county courthouses has also been a problem. Approximately 700,000 driver's licenses are processed annually. The American Automobile Association (AAA) contacted the Department of Revenue concerning the possibility of offering driver's license service in the AAA offices. In early May, 2005, a pilot program was established in the AAA office in Lawrence. The program will offer driver's license renewals only. All other services must still be conducted at a county treasurer's office or the Department of Revenue. An interest in the program also has been expressed by some insurance companies. Any locations participating in the program must be located in a part of the state that is currently underserved, be available for five-day per week service, serve all citizens, provide adequate parking and waiting areas, be American with Disabilities Act (ADA) compliant, and not solicit business. If the pilot program is successful, the Department of Revenue will consider reduced services in county treasurer's offices. The Department of Revenue is continuing to look at ways to provide driver's license services at a reasonable rate to all citizens.

Aviation Research Initiative

The Vice President of Engineering for Cessna Aircraft presented an update on the Kansas Aviation Research Initiative and the current economic growth of the aircraft industry in Wichita. He noted that the refurbished crash test site at Wichita State University's National Institute for Aviation Research (NIAR), is one of the premier test sites in the United States. He also stated that it should prove to be a highly productive facility. The wind tunnel upgrades have been completed making it competitive and comparable to other test facilities. He stated that it is important for all members of the Wichita aircraft industry to work together to remain aggressive and competitive in the world market. Current products and development of new aircraft depend on the research being conducted at NIAR. He indicated that state funding continues to be important in the development of new aircraft with a proposed request of $2 million from the 2006 Legislature. At the present time, he indicated that the industry is healthy, very competitive, and continuing to grow. It is anticipated that 300-500 additional positions will be filled in the near future with an upswing in high paying technical jobs.

The Executive Director of NIAR stated that the research facility is working to

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become profitable, but noted that some aspects of the research, such as the wind tunnel, might only reach the break-even point. He also stated that the NIAR facility now belongs to NIAR; but that approximately $10 million in equipment was donated by Raytheon. Due to the location of the facility, an agreement with Raytheon on utilities has been reached under which NIAR pays Raytheon for utilities used at the facility. At the time the NIAR equipment was transferred, 18 Raytheon employees became state employees.

State Visitor Centers

The Director of Travel and Tourism of the Department of Commerce presented an update on the travel information centers in Kansas. Members of the Committee voiced some concern about the closing of the visitors center at the Kansas Speedway, noting that the state may be missing an opportunity to advertise other state attractions. The Director stated that the agency also is looking for other ways to put Kansas products before travelers as they travel across the state. In addition, research is being done on offering Kansas products at the visitors centers by allowing people to place orders through the internet. As a result of a recent study, the Department of Commerce is now assessing a fee for brochure distribution in some travel centers. Several members of the Committee expressed concern that small industries do not have the funds for this type of advertising and this action will result in a disconnect between the visitors centers and small businesses.

University Deferred Maintenance Plan

Staff presented a plan approved by the Kansas Board of Regents to address the deferred and annual maintenance issue of the state universities. The main components of the plan are:

- Request authority for $150 million in bonds to be issued over the course of three fiscal years to be used for deferred maintenance;
- Request legislation for a 1/10 of one cent sales tax to sunset after ten years to be used for deferred maintenance;
- Request legislation for a 1 mill increase for the Educational Building Fund to be used for annual maintenance and debt service of the bonds;
- Require a commitment by the universities to fund the ongoing annual maintenance of buildings constructed using private funds;
- Revise the allocation process for Educational Building Fund moneys so that the age and complexity of the buildings are considered; and
- Require architectural program statements for new construction to include how any vacated space would be utilized.

Conclusions and Recommendations

- With regard to length of stay limitations on Level V and VI group homes and therapeutic foster care placements, the Committee asked the Chairman to draft a letter to the affected agencies indicating the Committee's concern that, while providers should be encouraged to comply with the requirements, no child should be moved out of a placement based solely on concerns regarding Medicaid reimbursement for the stay.
- With regard to the bonds requested by the Department of Transportation, the Committee recommends to the Legislative Coordinating Council that the $60.0 million in bonds authorized in 2004 Senate Bill 384 be issued to the Kansas Department of Transportation for the Comprehensive Transportation Program to make up for the shortfall in the assumed $250.0 million in additional federal funds for FY 2005 to FY 2009.
- Concerning the Board of Regents'

concerns with deferred maintenance, the Committee notes that many state agencies are in similar positions concerning deferred maintenance on state facilities and believes that any plan put before the Legislature during the 2006 Session should be statewide in scope.

Legislative Budget Committee

STUDY THE UTILIZATION OF STATE JUVENILE JUSTICE CORRECTIONAL FACILITIES

CONCLUSIONS AND RECOMMENDATIONS

The Committee requests that the Juvenile Justice Authority make a report regarding the agency's plan for the future of the Topeka Juvenile Correctional Facility by February 15, 2005.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to study the current utilization of state juvenile correctional facilities, including new and unused facilities. The Committee also was requested to review the new juvenile correctional population projections that should be available during the 2005 interim, and how those population projections impact current and future juvenile correctional facilities capacity.

COMMITTEE ACTIVITIES

At the July meeting, the Acting Commissioner presented testimony to the Committee regarding the current status of the Kansas Juvenile Correctional Complex (KJCC) and the Topeka Juvenile Correctional Facility (TJCF) as well as a review of future plans for TJCF. The Commissioner testified that the Juvenile Justice Authority intends to run a single facility which will be known as the Kansas Juvenile Correctional Complex with a bed capacity of 270. This includes 60 medium-security beds, 150 maximum-security beds, and 60 reception and diagnostic unit beds. The 15 bed infirmary is not being utilized and should the population increase, these beds could be utilized to bring the total bed capacity to 285.

According to testimony, all living units at TJCF are closed and youth previously housed in the facility have been moved to KJCC. Educational services at TJCF Lawrence Gardner High School have been moved in time to start fall classes at the new complex. Also, an old sallyport/control center is being used until the end of the month. The Commissioner noted that after the closure of TJCF, all access to the campus will be through the control center at KJCC. In addition, KJCC will continue to utilize the warehouse/commissary, vocational technology classrooms, industry programs, maintenance offices, and the greenhouse located on the grounds of TJCF. According to testimony, the use of these buildings has always been a part of the plan for operations of KJCC. In response to a question regarding the maintenance of TJCF, the Commissioner stated that he would like to have an assessment performed to assure that the facility is properly maintained while vacant. The Commissioner also would like to have an estimate done to compare the cost to keep the buildings properly maintained and the cost to tear down the buildings and construct new buildings, if needed, in the future.

CONCLUSIONS AND RECOMMENDATIONS

The Committee requests that the Juvenile Justice Authority make a report regarding the agency's plan for the future of the Topeka Juvenile Correctional Facility by February 15, 2005.

Legislative Budget Committee

STATE PARK FINANCING AND OPERATIONS

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends that the Secretary develop alternative mechanisms for funding state parks, and that those alternatives be presented to the 2006 Legislature. In addition, the Secretary should report to the appropriate committees of the 2006 Legislature the latest information about the funding shortfall for the state parks and the measures to be undertaken in addressing that shortfall in revenue.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to study state park finances and operations. Specifically, the Committee was directed to:

- Review state park financing, including 2005 SB 87 (imposing a new outdoor recreation motor vehicle registration fee);
- Study the possible acquisition of federal campgrounds; and
- Review the indirect cost share for central administration of the Parks Division of the Department of Wildlife and Parks, which originally was underfunded by $717,000 in FY 2006.

COMMITTEE ACTIVITIES

During the September meeting, the Secretary of Wildlife and Parks presented a report on revenues and expenditures for the Department of Wildlife and Parks. The Secretary stated that there is a serious problem in funding for the state park system, noting that State General Fund (SGF) support declined over the past 10 years from 50 percent to 16 percent of the agency's budget, resulting in increased reliance on park user fees. He noted that originally the state parks were funded entirely by the SGF, and indicated that user fees are no longer sufficient to fund the budget of the state parks. As user fees have increased, state park visitations declined. The Secretary estimated that the state parks will be underfunded by $400,000 in the Parks Fee Fund by the end of FY 2006. He reiterated support for 2005 SB 87 as a solution to the state park funding problem and promised to support other appropriate approaches which might be proposed as alternative funding means by the Legislature. 2005 SB 87 would assess a $5 outdoor recreation registration fee on motor vehicle registrations. Of this amount, $4 would fund state parks and $1 would be used to fund a local government outdoor recreation grant program. All state park user entrance fees for state residents would be eliminated with the enactment of this legislation. The Secretary indicated his belief that such legislation would establish a stable funding source for the state parks. He noted the need to focus on a long-term solution, and indicated that a last option for solving the problem would be to close some state parks. SB 87 was amended and recommended for passage during the 2005 Session by the Senate Ways and Committee, and remains on General Orders in the Senate for the 2006 Session.

Representatives of the Kansas Recreation and Parks Association also expressed support for 2005 SB 87 at the September meeting.

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Conclusions and Recommendations

The Committee recommends that the Secretary develop alternative mechanisms for funding state parks, and that those alternatives be presented to the 2006 Legislature. In addition, the Secretary should report to the appropriate committees of the 2006 Legislature the latest information about the funding shortfall for the state parks and the measures to be undertaken in addressing that shortfall in revenue.

Legislative Budget Committee

MENTAL HEALTH ISSUES THAT IMPACT STATE MENTAL HEALTH FACILITIES AND THE IMPACT ON PRISON CAPACITY

CONCLUSIONS AND RECOMMENDATIONS

The Committee requests that the Secretary of the Department of Social and Rehabilitation Services submit proposed legislation for consideration by the 2006 Legislature for improvements to the Sexual Predator Treatment Program.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to study mental health issues that impact state facilities at Larned and the impact on prison capacity. Specifically, the Committee was to review:

- The increase in admission to mental health facilities in Kansas and how to address the need for additional bed space for that population;
- The impact on prison capacity by housing mentally ill inmates in the general inmate population, the potential impact on the Department of Corrections' inmate capacity if mentally ill inmates were placed in secure mental health treatment programs, rather than the general prison population;
- The possibility of establishing a re-entry facility for transitioning the mentally ill inmate back into the general prison population; and
- The recent Legislative Post Audit report on the Sexual Predator Treatment Program, including how to manage that population and integration of those offenders back into society.

COMMITTEE ACTIVITIES

Sexual Predators

At the October meeting, the Committee heard testimony from a Legislative Post Audit staff member regarding the April 2005 audit, *Larned State Hospital: Reviewing the Growth in the Sexual Predator Program*. In general, the audit found that the program's population has increased significantly in both the number of offenders committed and in the average length of stay since the inception of the Sexual Predator Treatment Program (SPTP). This growth is expected to continue given current trends. The conclusion of the auditors was that the state either will have to change policies to commit fewer sex offenders to the SPTP, allow clients to be released sooner, or commit to supporting a new class of institutionalized individuals. During discussions with the conferee, the Committee noted that it might be more important for sexual offenders to participate in an enhanced curriculum while they are serving their prison sentence as opposed to participating in the program upon release from prison. The auditor noted that the comparison of the Kansas programs to other states was hindered by the amount of information that could be obtained from the sixteen states who also have a civil commitment law.

The Acting Secretary of the Department of Social and Rehabilitation Services (SRS) addressed the Committee to discuss the safe and effective management of sexually violent predators. The Secretary provided information on projecting the census growth, service capacity and costs for several different scenarios. The information included the estimated date additional space will be required and increased funding and positions needed to treat clients. In the testimony, the Secretary also reviewed social barriers, treatment challenges and the bigger issue of sexual offenders in society who never participate in the SPTP. Specifically, the Secretary suggested changing the program to create four "tracks" for release to accommodate the characteristics of the clients and enhance community safety. Statutory changes would be needed to accomplish the types of releases suggested by SRS. After hearing the testimony, the Committee indicated that it might be helpful to combine the Larned State Hospital treatment program with the programs currently being used by the Department of Corrections (DOC).

Increased Admissions to State Mental Health Facilities

Also at the October meeting, the Acting Secretary for the Department of Social and Rehabilitation Services presented information on state mental health hospital admission increases. The Secretary began by assuring the Committee that the Department has no intention to cease state hospital admissions or close any facilities. The Committee was informed that the number of Kansans turning to the public mental health service system for services increased by 21.1 percent between FY 2000 and FY 2004 including an increase in state hospital admissions. However, the rate of admissions has been similar to rates across the country.

A number of factors have contributed to the increase in admissions, but the Secretary highlighted the decline in the number of private psychiatric hospital beds available in Kansas. From 2002 to 2004, there was a loss of 111 private psychiatric hospital beds. Currently, there are only 13 private hospitals that have acute psychiatric service beds with only a portion of the beds available for people who are involuntarily committed to care. Other factors cited are the number of new patients who are unknown to the community public mental health system and the increased number of people with serious mental illness accessing public services.

The Secretary's testimony also discussed treatment challenges at the hospitals. In particular, he noted that over half of patients have a co-occurring diagnosis such as substance abuse, serious physical conditions or functioning issues which cause more intensive hospital treatment and complicate discharge back into the community. There also are a significant number of patients admitted from correctional facilities, primarily local jails who cause challenges due to behavioral disorders, limited access to medications, and security risks.

The increase in admissions is coming at a time when hospitals are struggling to meet budget allocations due primarily to higher drug costs, utility bills and outside medical expenses. The agency has managed shortfalls internally by shifting money and holding staff positions vacant but these options are disappearing. The Secretary stated that with the increase in admissions, holding vacancies open could cause longer stays, inadequate care and endanger the safety of staff and patients. To cover non-salary operating expenditures, the state hospitals are requesting a supplemental appropriation of about $2 million and an enhancement for FY 2007 of $1.9 million for drugs and utilities.

The Secretary presented the key elements of a census management protocol that has been developed between hospital staff and community partners to manage state hospital admissions more effectively. He also outlined options being actively assessed or implemented by the census management workgroup and others.

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Representatives of the Association of Community Mental Health Centers of Kansas, Inc. presented information about the mental health system and made recommendations regarding capacity. The first conferee focused on a statewide perspective including factors impacting the increased utilization of state hospitals, critical concerns of Community Mental Health Centers (CMHCs), the need for state hospitals in the safety net and the Project Steering Committee for Inpatient Services created by SRS. Recommendations to assure the availability of inpatient care included the development of a system of regional state operated inpatient units; public and private partnerships to increase private acute care inpatient resources; and per diem funding structures for state hospitals. The conferee suggested that without the above measures, additional temporary beds should be added at the state hospitals, and that KSA 59-3968 should be amended to remove the option of closing admissions to the state hospitals unless an alternative is available. The second CMHC representative focused on Larned State Hospital and western Kansas. Specifically, he addressed: limited inpatient resources; county jail inmates; the need for transition services; and concerns about Medicaid cuts affecting the ability to create additional services.

The Committee requested additional information on allocations for each Community Mental Health Center (CMHC) for admissions and number of placements.

Mentally Ill Inmates

At the October meeting, the Secretary of Corrections stated that out of 8,339 inmates who have a record of mental illness, 1,856 (22.3 percent) had no specific diagnosis; 1,734 (20.8 percent) had an Axis I (clinical mental illness) diagnosis only; 1,141 (13.8 percent) had an Axis II (personality disorder or developmental disability) diagnosis only; and 3,608 (43.3 percent) had both an Axis I and Axis II diagnosis. Inmates who are categorized as Severely and Persistently Mentally Ill make up about 10 percent of the inmate population systemwide and require intensive services. The average number of mentally ill inmates was 718 per month in FY 2004 and 894 per month in FY 2005. Inmates on psychotropic medication increased from 16.8 percent of the inmate population during FY 2003 to 17.7 percent of the inmate population during FY 2004.

The Secretary of Corrections estimated that between 30 and 40 developmentally disabled or mentally ill inmates currently in the correctional system could benefit from some specialized sex offender treatment. In addition, the secretary estimated that between 10 and 15 inmates are suffering from severe disabilities due to dementia or stroke. An estimated 20 male and 15 female inmates in the general population systemwide have mental illness symptoms but are currently not housed in treatment or mental health facilities due to lack of space. He estimated that another 25 inmates at Lansing Correctional Facility, 25 to 40 inmates at Hutchinson Correctional Facility, and 58 El Dorado Correctional Facility inmates, currently either in segregation or the general population, could benefit from and function more safely in another type of housing.

The Warden of the El Dorado Correctional Facility indicated that approximately 38 percent of the inmates entering the facility have a known mental health history. As of October 7, 2005, 238 inmates at El Dorado Correctional Facility Central Unit (EDCF-CU) have an Axis 1 diagnosis. There also are an additional 54 inmates in the general population who have a history of mental illness. The total number of inmates requiring mental health services in the EDCF-CU is 292 inmates, with 164 of those inmates housed in the general population. The remaining 128 inmates are assigned to long term administrative segregation status. At this time, 30 percent of the general population and 24 percent of those housed in segregation status are diagnosed as mentally ill. Thirty-two of the mentally ill inmates housed in the general population require single cell housing and have a significantly greater potential for needing more specialized intervention. It has been determined that 26

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inmates housed in segregation would be more appropriately placed in a specialized mental health facility due to their severe and persistent condition.

To treat mentally ill inmates there are special mental health housing units at:

Facility	Capacity
Isaac Ray Building, LSSH, (April 2006)	90
Lansing Correctional Facility (TRU)	78
Larned Correctional Mental Health Facility	150
Larned State Security Hospital (LSSH)	25
Topeka Correctional Facility (MHU) (Females)	15
TOTAL CAPACITY	358

The President of the Kansas Psychiatric Society presented concerns about the increase in the number of inmates in state facilities in need of mental health treatment and the issues this creates. Specifically, the conferee spoke to the need for better community-based services, inadequate treatment and victimization of mentally ill inmates during incarceration, the lack of options for police when arresting a mentally ill person, and the ineffective community transition services provided by the corrections system. The conferee also noted a concern with the inability of providers to access patient records upon release from prison until the offender signs a release of records, resulting in the loss or delay of suggested follow-up treatment for the patient.

The Acting Secretary of the Department of Social and Rehabilitation Services described the status of the Larned State Hospital State Security Program (LSH/SSP) which serves Department of Corrections inmates who require specialized inpatient services. Due to inadequate capacity at the LSH/SSP, the 2005 Legislature approved $1.1 million and 70.0 FTE positions to serve up to 90 additional inmates for the last three months of FY 2006. He indicated that an additional $3.6 million will be needed to serve these inmates for all of FY 2007. Inmates in this expanded program will receive intensive hospital care and then longer-term supports and treatment to remain stable.

The Executive Director of the Pawnee County Economic Development Commission spoke about issues concerning mentally ill inmates and the need for additional treatment facilities. The testimony addressed the increasing number of mentally ill inmates, the need for better mental health treatment in prison, and the lack of appropriate facilities to address the problem. The conferee recommended that Kansas expand the Larned Correctional Mental Health Facility to create a transitional "step-down" program for inmates who received acute care but need a transitional phase in order to safely return to the general inmate population.

Conclusions and Recommendations

The Committee requests that the Secretary of the Department of Social and Rehabilitation Services submit proposed legislation for consideration by the 2006 Legislature for changes to the Sexual Predator Treatment Program to create additional "tracks" for release in order to address the needs of residents and community safety.

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Legislative Budget Committee

BASE REALIGNMENT AND CLOSURE COMMISSION– KANSAS ARMY AMMUNITION PLANT

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends that the Executive Committee of the Local Redevelopment Authority continue to keep the Legislature informed on committee activities and the plans regarding future use of the Kansas Army Ammunition Plant site. It is the intent of the Legislative Budget Committee to continue to monitor the work of the Local Redevelopment Authority and provide any assistance that would be helpful for a successful transition of the property.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to review the U. S. Department of Defense recommendation to close the Kansas Army Ammunition Plant in Parsons. The closure was recommended as part of the federal Base Realignment and Closure (BRAC) Commission. The BRAC recommendations passed into law on November 9, 2005.

COMMITTEE ACTIVITIES

A representative from the Governor's Strategic Military Planning Commission provided the Committee information on the impact of the Base Realignment and Closure (BRAC) 2005 proposal to close the Kansas Army Ammunition Plant (KAAP) in Parsons. He noted that the state did not consider closure of the KAAP until notification by the BRAC on May 13, 2005. It also was noted that the BRAC Commission did not consider over 300 non-federal employees at the plant. The plant has eight federal employees. The Governor's Strategic Military Planning Commission made a decision to not fight the closure and to look for ways for the closure to have a positive impact on southeast Kansas.

A Labette County Commissioner and member of the Executive Committee of the Local Redevelopment Planning Authority presented information on the proposed future use of the property and facility. The Planning Authority has developed the following goals in relation to the KAAP:

- A no cost or low cost transfer of the real property;
- Expedited environmental clean up of the real property to at least an industrial level;
- Retention of the personal property, at no cost, located at the facility, preferably including equipment utilized by the current contractor, Day and Zimmerman, to manufacture munitions; and
- Retention of Day and Zimmerman as a tenant.

A member of the steering committee for the Local Redevelopment Planning Authority presented information on the future use of the property, including the retention of Day and Zimmerman as a tenant. He also stated that the Planning Authority is developing a comprehensive economic development plan as part of the transition, including infrastructure needs, housing needs, job training, and marketing.

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In response to Committee questions, the conferees indicated that the property and equipment owned by Day and Zimmerman on the site is all tax-exempt. The extent of contamination on the property is not yet known; however, there are considerable environmental issues associated with the property. Day and Zimmerman currently has a contract through 2007. It was reported that information current on the date of the Committee meeting indicated that the BRAC recommendation was to be implemented by 2011. This includes plant closure and disposal of the property. Other discussions have included the construction of a power plant on a portion of the property.

Conclusions and Recommendations

The Committee recommends that the Executive Committee of the Local Redevelopment Authority continue to keep the Legislature informed on committee activities and the plans regarding future use of the Kansas Army Ammunition Plant site. It is the intent of the Legislative Budget Committee to continue to monitor the work of the Local Redevelopment Authority and provide any assistance that would be helpful for a successful transition of the property.

Legislative Budget Committee

STRUCTURE OF THE STATE BOARD OF TAX APPEALS

CONCLUSIONS AND RECOMMENDATIONS

The Committee requests that the State Board of Tax Appeals keep the Legislature informed on issues regarding the status of cases filed with the Board and report to the appropriate legislative committees by February 1, 2006 on plans and progress in dealing with these issues. Those plans could include the use of retired Board members or other qualified individuals who could serve on a pro tem basis, or suggested changes to Board member qualifications in light of the reduction in size of the Board.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to study the structure of the State Board of Tax Appeals. Specifically, the Committee was directed to review the operations of the State Board of Tax Appeals since 2003 HB 2005 reduced the number of members of the Board from five to three members.

COMMITTEE ACTIVITIES

At the September meeting, the Executive Director of the Board of Tax Appeals (BOTA), presented an overview of the agency's structure and operations. The Committee noted the increase in the number of cases outstanding and number of average days to close a case. The Executive Director stated that the backlog is not due to the reduction of members on the Board from five members to three members, but is attributable to litigants on the commercial side, reduction of staff, the number of cases filed and the vacancy of one position on the Board. The Committee voiced concern with the backlog and deadlock of cases.

The Committee requested that the agency provide information at the Committee's October meeting on BOTA's recommendation for addressing the overload problem, and a list of potential qualified pro tem (temporary) members and procedures for pro tem members. In addition, information was requested on BOTA's travel in the state within the last eighteen months, how travel decisions are determined and the procedure in place for future travel.

At the October meeting, the Executive Director, in conjunction with the Chairperson of BOTA, presented a detailed overview of the operations of the Board of Tax Appeals, as well as suggestions for improving the efficiency of the agency. The Chairperson stated that it was the general consensus of the Board that the Board's membership not be increased to five positions. She indicated that the Board is working to improve the computerized case management system and use new technology to reduce time needed to resolve cases. The agency is exploring options for a new case management system that will interface with the Department of Revenue's information technologies. The agency will request a one-time capital outlay enhancement package of $225,000 to fund these upgrades from the 2006 Legislature. It was noted that some modifications to statute could allow for an earlier resolution of cases. BOTA suggested that the Kansas district courts be granted jurisdiction to resolve deadlocked cases.

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Conclusions and Recommendations

The Committee requests that the State Board of Tax Appeals keep the Legislature informed on issues regarding the status of cases filed with the Board and report to the appropriate legislative committees by February 1, 2006 on plans and progress in dealing with these issues. Those plans could include the use of retired Board members or other qualified individuals who could serve on a pro tem basis, or suggested changes to Board member qualifications in light of the reduction in size of the Board.

Legislative Budget Committee

NURSING FACILITY REIMBURSEMENT

CONCLUSIONS AND RECOMMENDATIONS

The Committee believes that the Legislature made the assumption and had the expectation that upon the transfer of the Nursing Facility Survey Program from the Kansas Department of Health and Environment to the Kansas Department on Aging, the issues surrounding targeting certain homes for violations would cease. The Legislative Budget Committee requests that the Department on Aging report back to the 2006 Legislature regarding what corrective action has been taken by the agency regarding surveyors who may be engaged in adverse action against specific facilities.

Additionally, the Legislative Budget Committee requests that the Department on Aging report back during the 2006 Session regarding the movement of residents from one facility to another which has a higher daily rate.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to study the funding formula for nursing facility reimbursement within the Kansas Department on Aging.

COMMITTEE ACTIVITIES

At the November meeting, a representative of Financial Management Inc. presented testimony on the nursing facility reimbursement formula. The testimony presented items of concern in Medicaid reimbursement and possible solutions to these problem areas including:

- Cost report processing freezes which allow up to seven years to lapse before another cost report is required for rate setting purposes;
- Excessive costs within the nursing facility field;
- Problems existing between surveyors and the nursing facilities;
- Physical plant compliance issues; use of artificial data to set the real and personal property fee (RPPF) component of reimbursement; and
- The 85 percent occupancy rule; and the quarterly Case Mix Index (CMI) Medicaid rate adjustments.

A representative from the Kansas Health Care Association (KHCA) presented testimony regarding the funding formula for the Medicaid Nursing Facility Reimbursement Program, including a state-by-state comparison on rates and costs. The representative noted that the American Health Care Association projects that Medicare rates for nursing home care will decrease by $16 a day on January 1, 2006 and noted that KHCA believes by partnering with the state's Medicaid agency, additional federal dollars can be directed to Kansas. The testimony also addressed the need for changes to the current cost report procedure, change to a property fair value rental system, implementation of a nursing facility reimbursement add-on to cover costs of care, enhance the nursing facility workforce, and increase targeted case manager fees.

A representative of the Kansas Association of Homes and Services for the Aging (KAHSA) presented testimony on nursing facility reimbursement. The representative noted that a new life-safety code has been adopted at the federal level resulting in increased surveillance at the state level from the State Fire Marshal. The KAHSA representative indicated that it is important to rebase annually, look at aging facilities in small rural communities, provide flexibility in regulations, encourage private rooms in nursing facilities, and reward quality of care. The KAHSA representative indicated that the Association is opposed to taxing private-pay nursing home residents or creating a lower standard of care for Medicaid clients. The testimony included some reasons for opposition to the provider tax including: targeting people who need care; possible use of funds for other purposes; and the possibility of assets being spent down more quickly followed by the individual being qualified for Medicaid. The Committee requested additional information on:

- The cost of the unfunded federally mandated Health Insurance Portability and Accountability Act (HIPAA);
- The variance between Medicaid rate and private-pay rate;
- List of states with a provider tax and more detail on the negative effect of the provider tax in other states; and
- How many private-pay individuals are covered by long-term care insurance and is long-term care insurance accomplishing what it was expected to do.

A representative of the Kansas Department on Aging presented testimony on the nursing facility rate setting methodology. The Committee voiced concern with the change in the safety code by the State Fire Marshal which could result in the loss of the bonus situation because of deficiencies. In addition, the Committee voiced strong concern for the procedure used by surveyors in inspecting nursing facilities and the reported harassment being experienced by the facilities. The Committee directed the Department on Aging to address the situation and report to the Legislature in January 2006 on what corrective measures are being taken to improve the situation. The Committee requested additional information on training, education, and qualification requirements for surveyors.

A representative of the Department of Administration, Division of Health Policy and Finance, presented testimony on estate recovery. The agency is reviewing options to address reporting procedures, review joint-owner liability and streamline the collection process. The representative answered questions concerning the procedure used to determine assets and recovery when a nursing home resident applies for Medicaid. With reference to staffing of the Estate Recovery Unit, the representative indicated the unit is presently staffed by two attorneys and two support staff personnel. The agency representative noted that as the program moves forward, there may be a need for additional staff.

Conclusions and Recommendations

The Committee believes that the Legislature made the assumption and had the expectation that upon the transfer of the Nursing Facility Survey Program from the Kansas Department of Health and Environment to the Kansas Department on Aging, the issues surrounding targeting certain homes for violations would cease. The Legislative Budget Committee requests that the Department on Aging report back to the 2006 Legislature regarding what corrective action has been taken by the agency regarding surveyors who may be engaged in adverse action against specific facilities.

Additionally, the Legislative Budget Committee requests that the Department on Aging report back during the 2006 Session regarding the movement of residents from one facility to another which has a higher daily rate.

Legislative Budget Committee

FUNDING FOR TECHNICAL COLLEGES

CONCLUSIONS AND RECOMMENDATIONS

The Committee notes that the Higher Education Coordination Act (1999 SB 345) did not address the funding mechanism for the technical colleges and that the statutory formula has not been fully funded in several years. The Committee chooses to take no action on the issue, however, pending action being considered by the Legislative Educational Planning Committee (introduction of legislation allowing technical schools to revert back to governance by local school districts) and a report from the Board of Regents' task force on technical institutions.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to review the statutory funding mechanism and the amount of funding for technical colleges. This item was requested by both the House Appropriations and the Senate Ways and Means Committees.

COMMITTEE ACTIVITIES

At the September meeting, the President and Chief Executive Officer of the Kansas Board of Regents presented a historical review of technical education in the state, examples of funding for technical institutions used prior to the implementation of block grant funding, and the recommendations of the Northwest Education Research Center (NORED) in the area of technical education. The conferee also stated that the Board of Regents is planning to work to find solutions to the difficult funding formula and ways to address structural and organizational problems.

The President of Wichita Area Technical College testified concerning funding problems which that particular institution has faced since separating from USD 259. In addition, the President of the Kansas Association of Technical Schools and Colleges discussed the funding difficulties for the technical institutions and the fact that the Association is working with the Board of Regents on a solution.

CONCLUSIONS AND RECOMMENDATIONS

The Committee notes that the Higher Education Coordination Act (1999 SB 345) did not address the funding mechanism for the technical colleges and that the statutory formula has not been fully funded in several years. The Committee chooses to take no action on the issue, however, pending action being considered by the Legislative Educational Planning Committee (introduction of legislation allowing technical schools to revert back to governance by local school districts) and a report from the Board of Regents' task force on technical institutions.

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Legislative Budget Committee

VETERANS' BENEFITS AND SERVICES

CONCLUSIONS AND RECOMMENDATIONS

The Legislative Budget Committee recommends the introduction of legislation during the 2006 Session that allows veterans service representatives employed under the joint employment agreement to receive compensation from the Veterans' Service Organizations in addition to the compensation from the State. Current law has been interpreted by the Governmental Ethics Commission to prohibit this manner of compensation.

Proposed Legislation: The Committee recommends the introduction of one bill on this topic.

BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to review the current range of state benefits provided to veterans, including: the Commission on Veterans' Affairs, medical and long-term care services, educational benefits, death benefits for survivors, and state-operated veterans' cemeteries; study the current number of veterans within Kansas and estimate the number of veterans there will be in the state in the future; and review the needs of current and future veterans that the services provided by the state are appropriate and will meet the obligation of the state to our veterans.

COMMITTEE ACTIVITIES

At the October meeting, staff presented an update from the 2006 Kansas Legislator Briefing Book pertaining to benefits provided by the state of Kansas to military personnel and veterans.

A representative from the Kansas Commission on Veterans' Affairs (KCVA) provided a review of veterans' benefits and services within the State of Kansas and services available to dependents of veterans. Also included in the presentation was information on the mission of KCVA, demographics, the joint employment agreement, and the future of benefits for veterans. Benefits available for Kansas veterans include veterans' cemeteries, nursing homes, educational assistance, war bonus payments for World War I veterans (one still living in Kansas), distinctive license plates, no state income tax on military retirement not taxed for state income tax purposes, and hunting and fishing licenses available for National Guardsmen. The KCVA representative stated that upgrades and construction at the veterans' cemeteries at Fort Dodge, WaKeeney and Winfield have been completed with anticipation that the Fort Riley cemetery will open in 2007, all at a total cost of $20.0 million, and fully funded by a federal grant. Representatives from the Kansas Soldiers' Home and the Kansas Veterans' Home provided an update on the services and benefits available at each location. Responding to a question from the Committee with regard to service-connected pensions, it was noted that these payments continue to be counted in total income for Medicaid purposes. Also it was indicated that the difference between the projected 347 spaces and the actual filled 147 spaces at Winfield Veterans' Home is due to a significant funding shortfall and staffing limitations. The Committee requested information from KCVA on models used by other states in the handling of veterans benefits and claims.

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A representative of the Kansas Board of Regents presented an overview of postsecondary education benefits available to veterans, members of the military and their spouses and dependents. The two major programs administered by the Board of Regents are the Reserve Officer Training Corps (ROTC) program and the Kansas National Guard Educational Assistance program.

A representative of the Adjutant General's Office presented information on service member's group life insurance reimbursement provided by the State of Kansas. The representative stated that death benefits have been paid, as authorized by the Legislature, to the families of the three Kansas soldiers killed in combat.

A representative of the Department of Commerce presented information on workforce development programs for veterans.

A representative from the Kansas Commission on Veterans Affairs' (KCVA) provided information on the joint employment agreement (JEA) between KCVA, and veterans service organizations, specifically, the American Legion and Veterans of Foreign Wars (VFW). This agreement, which has been in existence since 1998 with some partnerships in effect for the past 60 years, allows KCVA to provide Veteran Service Representatives (VSR) and office assistants to the veterans service organizations. In addition to salaries received from the State General Fund, these employees also are receiving stipends and bonuses from the veterans service organizations. In addition, office space and equipment are sometimes provided by the veterans service organizations. Because of anticipated problems with the agreement and a September 29, 2005 ruling by the Ethics Commission, a committee was formed with the major stakeholders to review and recommend changes to the JEA. At this time, no changes or recommendations have been forthcoming from the committee. It was noted that it is important to find a solution in order to have veterans service representatives available to assist veterans with their needs and access to benefits.

Representatives of the Veterans of Foreign War, the American Legion, and the Disabled American Veterans presented testimony on the joint employment agreement. Additionally, a Veterans' Service Representative (VSR) presented testimony addressing current issues within the Veterans Services Division of the Kansas Commission on Veterans Affairs.

Conclusions and Recommendations

The Legislative Budget Committee recommends the introduction of legislation during the 2006 Session that allows veterans service representatives employed under the joint employment agreement to receive compensation from the Veterans' Service Organizations in addition to the compensation from the State. Current law has been interpreted by the Governmental Ethics Commission to prohibit this manner of compensation.

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