MINUTES

LEGISLATIVE BUDGET COMMITTEE

October 9-10, 2012
Room 548-S—Statehouse

Members Present

Senator Carolyn McGinn, Chairperson
Representative Marc Rhoades, Vice-chairperson
Senator Laura Kelly
Senator John Vratil
Representative Jim Denning
Representative Bill Feuerborn

Member Absent

Representative Kasha Kelley

Staff Present

J.G. Scott, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Audrey Dunkel, Kansas Legislative Research Department
Chris Courtwright, Kansas Legislative Research Department
Abigail Boudewyns, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Shirley Morrow, Kansas Legislative Research Department
Michael Steiner, Kansas Legislative Research Department
Bobbi Mariani, Kansas Legislative Research Department
Jill Wolters, Office of the Revisor of Statutes
Nobuko Folmsbee, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Jan Lunn, Committee Secretary

Conferees

Gary Haulmark, Commissioner, Community Services and Programs, Kansas Department for Aging and Disability Services
Les Sperling, CEO of the Central Kansas Foundation, Kansas Association of Addiction Professionals
Laurel Murdie, Principal Auditor, Legislative Division of Post Audit
Terri Williams, Acting Commissioner, Juvenile Justice Authority
Aaron Dunkel, Deputy Secretary, Kansas Department of Health and Environment
Nathan Eberline, Associate Legislative Director and Legal Counsel, Kansas Association of Counties
Darcy Basye, Environmental Health Coordinator, Reno County
Richard Ziesenis, Director, Lawrence/Douglas County Health Department

Scott Selee, Southwest Kansas Local Environmental Planning Group
Mike King, Secretary, Kansas Department of Transportation
Pete Meitzner, Wichita City Council Member
Bernie Koch, Kansas Economic Progress Council
Pat George, Secretary, Kansas Department of Commerce
Peter Jasso, Director, Creative Arts Industries Commission
Dennis Taylor, Secretary, Department of Administration
Kathe Decker, Deputy Secretary of Family Services, Department for Children and Families
Gina Meier-Hummel, Director of Prevention and Protection Services, Department for Children and Families
Kari Bruffett, Director of Health Care Finance, Kansas Department of Health and Environment

Tuesday, October 9
Morning Session

Chairperson McGinn called the meeting to order at 10:08 a.m.

Problem Gambling and Addictions Grant Fund

Amy Deckard, KLRD, provided a statutory background of KSA 79-4805, which established the Problem Gambling and Addictions Grant Fund (PGAGF) and provided that “all moneys credited to such fund shall be used only for the awarding of grants under this section” (Attachment 1). 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 under 2007 SB 66. Legislation provided that 2.0 percent of lottery gaming facility revenues, as well as 2.0 percent of electronic gaming machine income be paid into the PGAGF, which is 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 and under Executive Reorganization Order 41 (2012 Legislative Session), was transferred to the Kansas Department for Aging and Disability Services (KDADS). Ms. Deckard reminded Committee members the FY 2013 appropriations bill contained PGAGF funding of the Pre-paid Inpatient Health Plan (PIHP), domestic violence, and community corrections.

Ms. Deckard stated she would provide information as to which contracted provider was the recipient of funding, with regard to the FY 2013 appropriation to the PIHP fund

Concerning a question as to whether the PIHP appropriation to community corrections expanded the number of individuals eligible for substance and alcohol abuse treatment, Ms. Deckard indicated the appropriation provided funding equal to the FY 2011 level; no additional slots beyond the FY 2011 level were added.

Gary Haulmark, KDADS, provided an overview of the PGAGF, which is now administered by KDADS. He reported that in April 2012, KDADS began a strategic planning process for the PGAGF; the process involved a survey of over 200 individuals including treatment professionals, regional administrators, legislators, and consumers (Attachment 2).

Mr. Haulmark indicated the process was guided not only by the concern that spending was not as prescribed by statute but also by the vision to: provide services to those in need, identify service gaps, improve efficiency and efficacy of services, and support KDADS behavioral health service providers as partners in the process. Mr. Haulmark described the four central improvement domains contained within the finalized strategic plan for FY 2014 – 2017, which will significantly increase budget recommendations for PGAGF appropriations. The revenues from PGAGF would support:

- Programs and initiatives that crosscut through all addiction services;
- Initiatives to expand problem gambling services into existing mental health services, alcohol and drug treatment, and prevention services;
- Projects to meet current and emerging infrastructure needs; and
- Research to assess community health and program effectiveness.

Mr. Haulmark reviewed the FY 2013 anticipated revenue projection and expected distribution; he indicated the FY 2014 budget would provide for an additional $3.5 million for problem gambling. The PIHP would no longer be funded out of PGAGF, as it falls under KanCare.

Discussion and questions were heard as follows:

- When asked how the agency will assess treatment outcomes, numbers of individuals served, and other measurements related to program effectiveness, Mr. Haulmark provided information, see Attachment 2, entitled, "Kansas Problem Gambling Treatment Enrollments FY 12." Commissioner Haulmark affirmed the state had not previously conducted sufficient research to evaluate effectiveness of programs; however, he indicated comprehensive analysis would be done in the future.
- Stakeholders involved in the strategic planning process were concerned that, historically, funding had not been allocated in a manner consistent with legislative intent. Consequently, portions of PGAGF funding were used to substitute for State General Fund (SGF) allocations. Therefore, the FY 2014 agency budget will contain a request for an additional $3.5 million bringing the total available funding to $4.2 million.
- Commissioner Haulmark indicated the anticipated software infrastructure expenditure to be $3.0 million.
- Commissioner Haulmark confirmed that $3.5 million would be used to replace SGF funding in the Community Mental Health Center grants.
- Committee members expressed concern that the agency's proposal allows $3.5 million, raised by the PGAGF, to be funneled to state programs unrelated to issues of gambling or addiction and discussed potential amendment to the current statute. Committee members requested a written opinion from the agency's legal counsel concerning the matter.

Les Sperling, Chief Executive Officer of the Central Kansas Foundation and representing the Kansas Association of Addiction Professionals, spoke in support of the KDADS Strategic Plan for PGAGF (Attachment 3). He indicated the Strategic Plan would address long-standing funding deficiencies, co-occurring addiction issues, as well as prevention services. In addition, Mr. Sperling verbalized his organization's support for the proposed software infrastructure upgrade.

With regard to Committee members' questions, Mr. Sperling responded:

- There are three distinct outcomes measurements related to substance abuse: the Communities that Care Dataset, which is used throughout schools to measure risk factors; National Outcome Measures; and Healthcare Effectiveness Data and Information Set (HEDIS) measures. Using these measurements, an agency can determine efficacy of treatment and services provided. The measurements are program specific and could be used as a tool for the determination of program funding allocations. Mr. Sperling indicated he would provide additional information (from outcomes measurements discussed) concerning various programs' effectiveness to Committee members prior to the FY 2013 Legislative Session.

- The total amount of funding received by Kansas addiction providers is: $13.0 million from the federal block grant and SGF; alcohol and liquor taxes received locally; Medicaid recipients; and under provisions contained in 2013 SB 123, $7.0 million is allocated. Effectiveness of programs can be measured under the outcome measurement datasets discussed, and with the addition of KanCare's three Managed Care Organizations (MCOs), Mr. Sperling expressed confidence that the benefit of these expenditures would be documented.

- Approximately 16,000 to 17,000 Kansans are served under the federal block grant for prevention and treatment of substance abuse. Currently, the next available bed at the recovery center facility is scheduled to open in February 2013. According to Mr. Sperling, approximately 6,000 Kansas residents are eligible for Medicaid funding for these programs, which include programs for adolescents and children.

Legislative Post Audit Performance Report: Juvenile Justice Authority (JJA) Evaluating the Kansas Juvenile Correctional Complex, Part 1 and the Judge Riddel Boys Ranch:

Ms. Laurel Murdie, Legislative Post Audit (LPA), discussed the findings related to the Kansas Juvenile Correctional Complex (KJCC) located in Topeka, which houses 220 male and 20 female juvenile offenders (Attachment 4). The entire report can be found at: http://www.kslpa.org/docs/reports/r-12-006.pdf. Ms. Murdie reviewed the audit's scope statement and confirmed issues identified that related to safety and security problems; personnel management; and the overall security environment. Many specific examples of identified problems were reviewed by Ms. Murdie. In addition, she indicated in 2009, KJCC opted to provide services as an unlicensed treatment facility since it was apparent that accreditation from its regulatory agency could not be achieved. Findings and recommendations were presented to JJA; JJA officials agreed with LPA's findings and began the process of implementing LPA's recommendations.

With regard to a question relating to the population at Larned Juvenile Correctional Facility (LJCF), Ms. Murdie responded that the LCJF houses approximately 110 juveniles. Ms. Murdie could not respond as to whether or not the resident population had been consistent at KJCC. Ms. Murdie indicated that the key to functional facilities are consistent and good leadership from the executive management team. Ms. Murdie could not answer what the Superintendent at KJCC is paid.

Terri Williams, Acting Commissioner, JJA, testified that since her appointment as the Acting Commissioner on March 30, 2012, she recognized critical issues within the agency; many of which were complex, widespread, and representative of a long-standing ineffective and unhealthy culture. Based on her assessments and the LPA information, the agency has begun the process of correcting issues related to training, human resources, policies, and leadership (Attachment 5). Acting Commissioner Williams described the corrective actions currently being implemented. One action has been to address the disparity in starting pay issues between Department of Corrections and Juvenile Justice Authority officers.

Responding to questions, Acting Commissioner Williams indicated:

- Currently, there are 5 correctional officers in training; another class (in 3 weeks) includes 4 trainees. Additional training classes will be added to more expeditiously provide the training component as positions are recruited and filled. Currently, there are 17 unfilled correctional officer positions. Two staff members are dedicated to training at KJCC and there is one staff training position at LJCF. Ms. Williams could not respond as to the average cost of training per correctional officer; she indicated she could provide that information at another time.

- Ms. Williams indicated she reports monthly to the Legislative Post Audit Committee concerning issues resolution and corrective actions being implemented. These reports are public records.

- When asked to describe her background, Ms. Williams informed Committee members she held the position of Deputy Secretary of Community and Field Services in the Kansas Department of Corrections; she had been employed as a supervisor in various private, not-for-profit, community-based halfway houses in Kansas and Connecticut, as a supervisor in non-residential programs, as well as a parole officer. She indicated she has been in the criminal justice field for twenty years.

- With regard to the agency's FY 2014 budget and in accordance with the Governor's request, a budget containing a 10 percent reduction was submitted accompanied by several enhancement requests for FY 2014.

Acting Commissioner Williams informed Committee members of her multiple discussions with Mark Masterson, Director of the Sedgwick County Department of Corrections, as well as the Director of Public Safety concerning potential solutions to the budget shortfall at the Judge Riddel Boys Ranch. She indicated she would be meeting with Secretaries Gilmore and Sullivan later in the month to discuss rates. The broader issue of existing data and information concerning program effectiveness will be examined. She estimated that the State spends approximately $31.0 to $32.0 million on the provider network for residential services system with limited data on program effectiveness, evidence-based best practices, or programs that reduce recidivism or the risk to reoffend. The agency is collaborating with field experts to ensure funding is spent on the most effective programs.

When asked where the Judge Riddel Boys Ranch residents would be placed should that facility close, Ms. Williams responded that they would be sent to other Youth Residential Center II Facilities (YRC) in the state. There are 400-415 YRC II beds among 24 facilities in the state. The average reimbursement is $126 per resident per day.

The Committee also discussed the unique education financing arrangement at the Ranch and USD 259. While the Ranch is located outside of the Wichita School District, it receives educational services through that district at a statutory funding rate of double the school funding rate at other juvenile residential facilities; it is the only facility in the State which receives this statutory funding rate. Committee members requested a review of this arrangement, including information as to why the facility does not receive services from its geographical district of Goddard.

A Committee member requested clarification on a policy which prohibits food (other than that prepared at the facility) from being brought into the residential facility. Acting Secretary Williams informed Committee members the policy is a matter of safety for the residents.

Tuesday, October 9, 2012
Afternoon Session

The meeting was reconvened at 1:45 p.m.

Local Environmental Protection Program (LEPP)

Abigail Boudewyns, KLRD, distributed a handout, which provided background information on LEPP (Attachment 6). The program, statutorily created and begun in 1990, provides state environmental protection grants to local health departments or other local entities for the purpose of developing and implementing environmental protection plans and programs. Examples of these plans include solid waste management, hazardous waste management, public water supply safety program, nonpoint source pollution control, and water and wastewater plans. Ms. Boudewyns reviewed the program core components required as well as the program funding.

Ms. Boudewyns reported that LEPP funding was through the State Water Plan and is administered by the Kansas Department of Health and Environment (KDHE). Since LEPP began, a total of $34.2 million has been provided, with a local match required (10-20 percent based on size of grant). The Governor recommended $750,000 for LEPP in FY 2012 and recommended elimination of the funding in FY 2013. The Legislature added an appropriation of $800,000 for LEPP in FY 2013, which was vetoed by the Governor.

Aaron Dunkel, Deputy Secretary, KDHE, provided a historical overview of LEPP and the transition plan, which was communicated to local communities as a result of LEPP being discontinued (Attachment 7). Mr. Dunkel indicated that from 1990 through FY 2012, grant funds were provided to 49 agencies representing 104 Kansas counties. In addition to the $34.2 million in grant funding, local agencies provided approximately $31.5 million in matching funds to implement these programs. Program goals were reviewed and transition planning was drafted in January 2012, in anticipation of the loss of LEPP funding. While funding for LEPP no longer exists, the State has encouraged local counties to maintain the programs; 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 contamination of public wells and drinking water. Mike Tate, Chief of KDHE Bureau of Water Technical Services Section, was present and described additional consequences such as septic tank failure, which could cause groundwater pollution and well pollution. The State does not have the staffing to follow up on each issue should local communities discontinue their programs, which could result in litigation and federal government intervention.

Nathan Eberline, Associate Legislative Director and Legal Counsel, Kansas Association of Counties, testified concerning the impact on local governments with the elimination of LEPP funding (Attachment 8). He indicated the elimination of LEPP has a two-fold effect: a.) it reduces the incentive for county action; and b.) it invites action by the federal government (EPA) to mandate improved standards. He encouraged consideration of the return of LEPP funding and noted that the program provides a reasonable investment and long-term solutions to the public issue of safe and healthy water standards.

Darcy Basye, Environmental Health Coordinator of the Reno County Health Department, provided Committee members information concerning the LEPP in Reno County, and the impact of the funding elimination, which has resulted in significant fee increases for services. (Attachment 9). Ms. Basye emphasized the importance of preserving water and the State's natural resources.

Richard Ziesenis, 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 the procedures used to ensure septic waste is treated and disposed of properly. Mr. Ziesenis also provided the fee structure for Lawrence/Douglas County Health Department (Attachment 10).

When asked concerning water well and septic inspections, Mr. Ziesenis indicated water well drillers' reports are sent to the State; the septic report is not. In Kansas, the minimum standard is a septic system and water well must be 50 feet apart.

Mr. Dan Partridge, Director of the Lawrence/Douglas County Health Department, responded to several questions related to the county's fee structure. The Income and Expense statement (2010) indicates that of the $95,000 cost to enforce the sanitary code, approximately 43 percent, or $41,462, came from LEPP grant funding, $37,000 came from fees, and $16,000 from local taxes. The County worked with the local homebuilders association to create a cost analysis of the fee structure, which resulted in a recommendation to increase fees 300 percent (to cover the elimination of LEPP grants). The county ultimately endorsed a 50 percent fee increase and appropriated an additional $30,000 to cover the shortfall.

Scott Selee, Southwest Kansas Local Environmental Planning Group, described his group as 9 counties (Clark, Finney, Gray, Grant, Hodgeman, Hamilton, Kearney, Meade, and Stanton) that collaborated to provide environmental protection services in that 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 (Attachment 11). Mr. Selee 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, Mr. Selee answered as follows:

- Grant County has exited the 9-county Planning Group and has incorporated environmental protection duties into the other responsibilities of a city employee.

- There was no license fee prior to 2009; in anticipation of LEPP funding decreases, the permit fee is now $250. Counties pay $4,000 each to participate in the Planning Group.

- Mr. Selee could not respond as to whether all counties in the Planning Group were in the State's Rural Opportunity Zone (ROZ) Program.

- Each county's environmental sanitary code dictates the minimum county standard; in the Southwest Kansas Local Environmental Planning Group all counties have codes.

Chairperson McGinn requested Mr. Tate and Mr. Dunkel, answer additional questions:

- The State does have a minimum septic tank state standard; KDHE, with current resources, could not enforce or inspect septic tanks to ensure they meet the minimum standard; however, the State has taken action when specific problems or issues have been reported.

- Mr. Dunkel, KDHE, indicated LEPP's primary intent was to fund the development of county plans. Mr. Tate, KDHE, 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. Mr. Tate informed those attending that State law authorizes documentation of water wells (there could be hand dug wells prior to the statute, which are undocumented); there is no similar authority related to documentation of septic systems.

- A Committee member requested a copy of the original Kansas Water Plan and KDHE's Transition Plan (see Attachment 7).

Written testimony was received from: Todd Rogers, On-site Program Manager, Johnson County Department of Health and Environment, Olathe, Kansas (Attachment 12). Mr. Rogers supported reinstatement of LEPP funding.

Update on Kansas Department of Transportation Assets, Passenger Rail, Federal Revenue, Progress on T-Works and Other Budget Issues

Mike King, Secretary, Department of Transportation (KDOT), testified regarding evaluation of efficiencies within the Department consisting of: assets, budget savings, and operations management. He informed Committee members that recently the Department 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 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 were also reviewed.

T-Works, a $7.8 billion transportation program, was discussed. Secretary King 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 (Attachment 13). The program's revenue sources and expenditures were reviewed. Secretary King informed the Committee that when funding is shifted from KDOT for other statewide programs or services, the impact is felt on T-Works maintenance, operations, and finally various projects.

Secretary King introduced Deputy Secretary Jerry Younger, Lindsey Douglas from KDOT's Office of Governmental Affairs, and Kent Olson from the Division of Fiscal and Asset Management. Deputy Secretary Younger elaborated that should significant funding be shifted from the State Highway Fund to the State General Fund (SGF) 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, Secretary King elaborated there are 9 years remaining on the bonds, which was not extended past the original issue. Interest savings of $33.0 million will be targeted for remaining KDOT projects.

Secretary King announced KDOT has scheduled the last "Local Consult" meeting (Wichita) of the eight scheduled biennially; he indicated 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.

Secretary King 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.

Lindsey Douglas added 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. She indicated the results of the surveys would be available by the start of the 2013 Session.

The Committee heard comments concerning passenger rail service, Amtrak's Southwest Chief (see Attachment 13), and Amtrak's concerns regarding deterioration of the tracks. Secretary King 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 states' Secretaries expressed interest in investing funds for this project.

A Committee member 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. Secretary King 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. Gary Ridley, Secretary of Oklahoma Department of Transportation, has expressed no interest in participating in a partnership to bring that service from Oklahoma City to Kansas, according to Secretary King; however, Oklahoma is evaluating the feasibility of a study in extending the service from Oklahoma City to Tulsa. Lindsey Douglas, KDOT, elaborated that Texas and Oklahoma have agreed to perform a "service development plan," which doesn't 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. According to Secretary King, an interim Joint Transportation Committee will be discussing rail service in the upcoming weeks.

In response to a question concerning the proposed construction expenditure for the Heartland Flyer Kansas route from Newton to Oklahoma City, Ms. Douglas indicated the cost would be $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.

With regard to a question concerning funding for local safe streets and bike lanes, Deputy Secretary Younger informed the Committee that as collaboration occurs with local partners, KDOT continues to integrate safe street components into project development. He indicated 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.

When asked whether KDOT requires contractors to warrant the road for a specified length of time, Deputy Secretary Younger informed the Committee that stricter criteria on materials and placement of materials has replaced any warranty requirements.

A Committee member asked whether KDOT is selling equipment at a higher level than usual. Deputy Secretary Younger reported that as part of KDOT's asset evaluation, a package of equipment (purchased with State funds) was identified, which will be sold at auction in November 2012. Funds generated from the sale of the equipment will be returned to the State Highway Fund; a Committee member emphasized the importance of using generated revenue for highway projects.

Ms. Douglas clarified that the Special City-County Highway Fund (SCCHF) is a pass-through account that takes one-third of the State's motor fuel taxes and distributes those funds to city and county governments by a statutory distribution formula. Cities and counties use those funds for bridges and roads; the distribution is not correlated to the amount of taxes coming from each specific county.

With regard to the “10-Year 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, according to Secretary King. The federal funds portion of the 10-Year Revenue Sources, at a projected 22.0 percent rate, is valid until fiscal year 2014; there is no guarantee that rate will be maintained after FY 2014. However, Deputy Secretary Younger clarified that 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 concern is that 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.

Based upon a question from a Committee member, Secretary King stated he has no specific plans for additional layoffs and no specific plans for privatizing any functions within KDOT.

Deputy Secretary Younger updated the Committee on the Northwest Bypass in Sedgwick County; rights of ways continue to be purchased in order to preserve that corridor.

Pete Meitzner, Wichita City Council Member, discussed his community’s support of continued dialogue to pursue the Heartland Flyer proposed route through Wichita to Kansas City (Attachment 14). He acknowledged the challenges previously discussed and indicated Wichita’s readiness to capture opportunities the Heartland Flyer would bring to the city and region. Mr. Meitzner emphasized the importance of the movement of commerce across the I-35 corridor.

Matthew Allen, City Manager of Garden City, Kansas, submitted written testimony supporting the preservation of the Southwest Chief rail service through western Kansas (Attachment 15).

County and Income Tax Overview

Chris Courtwright, KLRD, provided an extensive presentation 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. Further, he explained the full picture related to the tax base (assessed valuation), demand for public services, adoption of alternative tax sources, and any number of other factors impacting property tax burdens and equity issues (Attachment 16). His presentation included local tax structure, of which property/vehicle taxes account for 82 percent of revenue; local sales tax growth; and policy questions. Charts were presented demonstrating:

- County-by-county mill Levies from 2006 through 2011,
- Cities of the First Class mill Levies from 2006 through 2011, and
- USD mill Levies from 2006 through 2010.

Bernie Koch, Executive Director, Kansas Economic Progress Council, provided an overview of the Kansas 2012 Income Tax Legislation report:

http://ksepc.org/2012/09/october_tax_report/ (Attachment 17).

Mr. Koch reviewed the legislation, the cost of the income tax reduction, public reactions to the legislation, technical problems which could require administrative rules and regulations clarification, and an overview of other states' income tax structure. The Committee heard information from a report by Dr. John Wong that indicates a positive effect to reducing income tax rates, but a negative impact on reduced State spending that more than cancels out any positive effect. Mr. Koch listed other factors as important to attracting and growing jobs such as:

- Investment in plant and equipment,
- Human capital and efficiency of labor,
- Technological innovation and improvement,
- Public policy that supports economic freedom, and
- Reliable legal systems.

The Committee heard additional information concerning government employment in Kansas and how those rates compare to other states, the percentages of government employment in Kansas areas (*i.e.*, Wichita, Topeka, Lawrence, Manhattan), and rates of government employment in other non-income tax states.

Mr. Koch suggested 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:

- The technical issue involving the determination of "tax basis,"
- The uncertainty of the implementation of the federal Affordable Care Act (ACA) hampers businesses' ability to plan, and
- The uncertainty of whether or not existing tax cuts will be preserved.

A Committee member requested Mr. Koch verify the figures he presented, which indicated that as a result of the tax cut Kansas will add 23,000 new jobs by 2020. The Committee member's understanding was that 23,000 new jobs would be added by 2013. In addition, a Committee member inquired how many of the 66,800 jobs from FY 2003-2004 to FY 2007-2008 (contained in the report) were government jobs. Mr. Koch was unable to respond.

The meeting was recessed at 4:55 p.m.

Wednesday, October 10
Morning Session

Chairperson McGinn reconvened the meeting at 9:08 a.m.

Kansas Main Street Update and Creative Arts Industries Commission Update

Pat George, Secretary, Kansas Department of Commerce, testified that due to recent restructuring in September 2012, 18 Department of Commerce positions were eliminated, some departments and divisions were moved or downsized, and the Kansas Main Street program funding was eliminated. Secretary George 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 has also decided to allow revolving loan funds, through the "Incentives without Walls" program, to continue to be used by the Main Street cities (Attachment 18).

Secretary George responded to Committee members' questions as follows:

- The $25.9 million Community Development Block Grant allows the Department of Commerce to distribute federal funds to cities and counties for improvement. The demand is two to three times the available funding and is used for infrastructure improvements, community facilities, and other community improvement uses. The project and size of the community determines the local community matching requirement.

- With regard to a question concerning the Department's downsizing or moving of departments or divisions, the Department of Commerce Rural Division was moved within the Business Development Division; the Trade Division was downsized, which resulted in the loss of three positions; and the Marketing Division was downsized.

- With the notification that federal funding for administration of the Department's Workforce Division would be reduced by approximately 60 percent, Secretary George informed the Committee he would provide the budget impact of that reduction at a later time.

- Hallmark Cards recently announced they would close their Topeka operations; the announcement came with no previous notice. Secretary George explained his Department's processes and responses to such announcements. He expressed confidence in his Department's ability to recruit and retain businesses in Kansas.

- A Committee member requested information concerning the number of jobs created and retained over the previous five years as a result of the Kansas Main Street program. Secretary George will provide that information.

- Secretary George testified that over the past 19 months, the Department has assisted in the recruitment or expansion of businesses that have created more than 1,500 jobs in small, rural communities. A Committee member requested a list outlining in what rural communities those jobs were created.

- Secretary George confirmed that several companies have asked how the new income tax legislation could impact the PEAK program. He stated his intention to honor current PEAK program commitments; to date there have been no requests to revise any commitment.

Secretary George turned his attention to the Creative Arts Industries Commission and its primary focus to develop strategies to utilize the State's creative sector to grow the Kansas economy and create jobs. He introduced Peter Jasso, Director of the Kansas Creative Arts Industries Commission, within the Department of Commerce.

Peter Jasso, 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 (Attachment 19). Mr. Jasso 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 to serve create 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 total budget appropriation for FY 2013 is $699,467, with administrative costs estimated at $150,000.

Considerable discussion was held concerning the fact that none of the budgeted appropriation has been distributed to local arts agencies or groups; in addition, that no distributions are planned until the Strategic Plan is finalized. Various Committee members inquired repeatedly about the Commission's refusal to release already appropriated funding; Mr. Jasso indicated that the Creative Arts Industries Commission's new focus is job creation and economic development. The Strategic Plan is an integral component to determine grant funding eligibility that meets the Commission's new mission. The Department of Commerce employs staff members with grant-writing expertise, which meet National Endowment for the Arts guidelines for grant applications. He indicated that in other states' experience, strategic planning takes 16-24 months; Kansas has expedited the process. With the fiscal year ending in June 2013, Committee members verbalized concern that by the time the Commission is ready to accept grant applications and disburse funds, there is a possibility that funds may not be awarded by fiscal-year end. Additionally, Committee members encouraged Mr. Jasso to balance the Commission's strategic planning and administrative processes with the urgency of getting available funds into the hands of the arts entities that use them.

A Committee member asked Mr. Jasso to summarize the previous funding under the Kansas Arts Commission and efforts to raise funding through the sale of license plates. Mr. Jasso responded that the previous agency received $810,000 from the state. The agency also received federal funds, bringing the total funding to $1.6 million. Thus far, 250-275 license plates have been requested; the goal is to sell 4,000.

Mr. Jasso discussed the formation of the KCAIC Board and a Strategic Planning Steering Committee, which was formed with representatives of each economic region defined by the Department of Commerce.

State Contracts, Domestic Violence Contracts, Foster Care Contracts

Secretary Dennis Taylor, Kansas Department of Administration, provided a step-by-step description of the State's contracting process, which is based, as a general rule, on competitive bidding. In addition, he provided information concerning the competitive bidding requirement and exceptions to the competitive bidding process (Attachment 20).

Kathe Decker, Deputy Secretary for Family Services, Kansas Department for Children and Families (DCF), testified that the agency has offered $2.0 million in grants directly to the state's community domestic violence centers to fund domestic violence services they provide to clients of DCF's Temporary Assistance to Needy Families (TANF) Program (Attachment 21). The grant opportunity closes October 12, 2012, and grants will be awarded by November 2, 2012. The grant funding opportunity to local providers was the result of the Kansas Coalition against Sexual and Domestic Violence (KCSDV) withdrawing its contractual bid to oversee case management for local providers in June 2012; there were no other bidders for the State's contract. Ms. Decker elaborated the agency met with statewide provider groups and the administration of DCF to develop the grant opportunity, which included lifting some of the previous contractual restrictions related to a victim's employment, psychological evaluation before receiving services, a lifetime cap on benefits, etc. A copy of the grant application was provided to Committee members (Attachment 22).

A Committee member requested clarification on the definition of "TANF recipients and non-TANF eligible participants" contained in the conferee's written testimony. Ms. Decker indicated that to be TANF eligible the recipient's income level has to be 130 percent of the Federal Poverty Level (FPL). Non-TANF eligible participants are those individuals who are not receiving a TANF cash benefit, according to Ms. Decker.

Ms. Decker indicated there are 28 established groups within the state providing services; the grant application was targeted for these groups.

Gina Meier–Hummel, Director of Prevention and Protection Services, DCF, testified concerning a posted Request for Proposal (RFP) for reintegration, foster care, adoption and family preservation contracts, which include factors to strengthen families. Ms. Meier-Hummel reviewed some of the RFP's highlights such as: clear communication, supporting relative and foster home placements, the development of regional advisory boards, health assessments to include fetal alcohol spectrum disorder screening, psychotropic medication monitoring, the state's intent of closely monitoring placements, after-care programming, specific requirements for the 16 years and older population, program improvement plans, corrective action plans, complaint-response process, and enhanced after-care programming to adoptive families. Contracts will be in place four years and include renegotiation of reimbursement rates every two years. Specific to family preservation contracts, bidders were asked to specify the model of family preservation they would implement and how family and group decision-making principles would be incorporated into their practice model (Attachment 23).

Concerning how local advisory boards differ from providers who currently have existing boards, Ms. Meier-Hummel responded the focus of these boards is on families and providers and is a mechanism to provide local feedback to child welfare contracts.

Ms. Meyer-Hummel defined "family-centered practice values and components" as the family being the central point in planning and execution of the family preservation program.

Vehicle Purchasing

Upon a request from the House Appropriations Committee for an interim study on vehicle replacement, Audrey Dunkel, KLRD, reviewed the Department's work relating to this request (Attachment 24). Ms. Dunkel indicated that to prepare for the study, KLRD has begun to develop a database of vehicle purchases and a survey of state vehicle replacement policies. While neither of these projects is fully complete, she summarized the preliminary data. She reviewed the vehicle replacements and associated funding for the FY 2013 budget and compared that to vehicle replacements and funding for FY 2012. Ms. Dunkel also reviewed the survey contents and preliminary information; to date, 27 states have responded to the Kansas questionnaire.

Update on State General Fund Receipts (SGF)

J. G. Scott, KLRD, reviewed total SGF 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. Mr. Scott reminded Committee members that the new income tax legislation becomes effective January 1, 2013; therefore, these receipts reflect current law (Attachment 25). Mr. Scott reviewed tax sources above and below the estimate.

Of note was that 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 has now been repealed. In addition, Mr. Scott reminded Committee members that under "Other Revenue – Transfers" on the chart (contained in his testimony) a balance of $22.4 million is the difference between actual and estimated transfers to the Kansas Bioscience Authority (KBA). Of that amount, $22.3 million is targeted for transfer to the KBA in December 2012.

Compensating use taxes include on-line internet sales in addition to taxes paid on vehicles and machinery purchased out-of-state and brought into Kansas.

Concerning a question on the reduction in severance taxes collected, Mr. Scott commented the force behind the reduction appears to be the amount of gas coming from reserves accompanied by the market price on both gas and oil.

Overview of Kansas Personal and Disposable Income

Leah Robinson, KLRD, reviewed a yearly analysis of Kansas' personal and disposable income based on data for calendar year 2011. She provided definitions of personal income and disposable personal income. Charts were reviewed concerning:

- “Kansas Total Personal Income and Per Capital Income and Two Measures of Inflation from 1969 through 2011”

- “Kansas Personal Income by Major Components and Industries, 2006, 2010, and 2011”

- “Kansas Personal Income by Major Components and Industries, 1981 and 2011”

- “Kansas Farm Personal Income 1969-2011”

- “Total Personal Income by Major Components and Industries, United States and Kansas, 2011”

- “Percent of Income by Major Components and Industries”

- “Relative Importance of Components of Personal Income 2011”

- “Per Capita Income by State – 2011”

- “Disposable Per Capita Income by State – 2011”

- “Kansas Government Employment by Type of Employer, Actual Numbers of Full- and Part-Time Employees, 1981-2011”

- “Expenditures from All Funds and State General Fund, Fiscal Years 1966-2013 (Approved)”

Committee members discussed the trends in personal and disposable personal income contained in Ms. Robinson’s reports, noting the volatility of farm income, transfer payments have increased, steady growth over the last five years, and other information. In response to a question concerning transfer payments, Ms. Robinson explained these are one-way payments by the government for which no current services or goods are received; examples are pension payments, disability payments, and unemployment compensation.

A Committee member noted that the information appears to confirm that personal income is increasing during a period of recession; Personal income is a pure dollar amount, which includes all sources such as unemployment benefit payments.

The Committee recessed for lunch.

Wednesday, October 10
Afternoon Session

The Committee was reconvened at 1:25 p.m.

KanCare Update:

Kari Bruffett, Kansas Department of Health and Environment, provided the Committee with an update regarding the KanCare implementation, which is scheduled for January 1, 2013. She reviewed the formal readiness reviews with the three managed care organizations (MCOs); to date, the reviews have not suggested any adjustments to the implementation timeline. MCOs are incorporating State changes into provider manuals, which will be finalized when changes are completed. She indicated that key KDHE and Kansas Department for Aging and Disability Services (KDADS) officials and staff (approximately ten) are scheduled to meet with the federal Centers for Medicare and Medicaid Services (CMS) review team in Baltimore on October 18. October 19 is the “Go/No-Go” decision date for running the file on October 24 for Medicaid beneficiaries’ initial assignments. Final educational meetings will occur in November, after initial assignment has occurred. Discussion was heard concerning network adequacy and access to care in rural areas. Ms. Bruffett indicated that all MCOs are working to ensure all Medicaid providers are contracted with each MCO; however, where access gaps exist in hospital or specialty services, the plan provides for a 90 percent out-of-network reimbursement.

Ms. Buffett added that weekly stakeholder calls and weekly meetings with MCOs continue. She referenced one call, which had 190 participants of which the majority were providers.

In response to questions, Ms. Bruffett indicated:

- The Kansas Eligibility and Enforcement System (KEES) on-line application is now in a “live” environment (since September 7). To date, 12.0 percent of the Medicaid applications have come through the on-line portal. The full functionality for other benefits (TANF, Supplemental Nutrition Assistance Program) is targeted for October 2013.

- MCO provider manuals were submitted to the State prior to the contractual requirement; the State is working to ensure all requirements are reflected in the manuals. A Committee member expressed concern that providers are asked to sign contracts without these resources.

- Concern was expressed relating to the lack of a Section 1115 waiver from CMS. A Committee member asked what safeguards exist to ensure Medicaid services will be provided on January 1 if a Section 1115 waiver has not been approved. Ms. Bruffett indicated approval of the Section 1115 waiver is not required for many of the reforms contained in KanCare. It is required for a 45-day versus a 90-day choice period, mandatory enrollment for the dual-eligible population, and the provision of long term services and supports. Ms. Bruffett said the State will move forward with every aspect under its authority if the waiver is not in place by Jan. 1, 2013; Kansas Medicaid beneficiaries will continue to receive services on that date.

- Ms. Bruffett clarified that a small fee-for-service Medicaid provider structure will continue to exist in Kansas.

- MCO contracts are available to the public on the Department of Administration website.

- Concern was expressed regarding the transition from HealthWave to KanCare. Ms. Bruffett emphasized that KanCare is the new model and to "co-brand" HealthWave and KanCare would create more confusion in the long term.

- With regard to the Medicaid enrollment process, all Medicaid beneficiaries will receive a member packet, which contains a welcome letter, selection materials, the comparison of value-added services, and contact information. Ms. Bruffett indicated all data related to enrollees will continue to be tracked. A beneficiary is not required to take action unless he or she wishes to select another MCO by December 31, 2012; the beneficiary will have either 45 or 90 days (dependent on waiver approval) after January 1, 2013, to change his or her assignment.

- If the MCO network adequacy benchmark of 90 percent is not met on October 12, 2012, daily MCO updates are required; November 16, 2012, is the date MCOs must certify network adequacy.

- A Committee member asked Ms. Bruffett whether there was any "foot dragging" from the federal government when the federal project leader reviewing KanCare was replaced. Ms. Bruffett indicated that while one particular individual was promoted to another position and the resulting transition had caused some delays; core team members remained the same.

- Ms. Bruffett reported that the State, at the current time, is unaware of how many providers have contracted with the MCOs; that information will be known when MCOs submit their network adequacy report to KDHE on October 12, 2012.

Additional questions and comments:

A Committee member commented that following the LEPP topic, she requested information on the original State Water Plan to determine whether or not there was a requirement or expectation in rules or regulations or statute that financial responsibility of the program would gradually shift to the local governmental level (as indicated in KDHE testimony). The Committee member reported that following her evaluation of the report, there was nothing in the State Water Plan that confirms an objective to phase out the LEPP and that counties would assume full responsibility of the program.

A Committee member expressed concern with the selling of equipment by KDOT and requested a list of all equipment identified for sale over $5,000 or less than five years old.

The Committee was adjourned at 2:10 p.m.

Prepared by Jan Lunn
Edited by Leah Robinson

Approved by the Committee on:

January 9, 2013
(Date)