MINUTES

LEGISLATIVE BUDGET COMMITTEE

November 14-15, 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
Representative Kasha Kelley

Members Absent

Representative Marc Rhoades (absent on November 15, 2012)
Representative Jim Denning (absent on November 15, 2012)

Staff Present

J. G. Scott, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Bobbi Mariani, Kansas Legislative Research Department
Michael Steiner, Kansas Legislative Research Department
Dylan Dear, Kansas Legislative Research Department
Reagan Cussimanio, Kansas Legislative Research Department
Shirley Morrow, Kansas Legislative Research Department
Iraida Orr, Kansas Legislative Research Department
Abigail Boudewyns, 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
Melinda Gaul, Chief of Staff, Senator McGinn's Office
Jan Lunn, Committee Secretary

Conferees

Secretary Shawn Sullivan, Kansas Department for Aging and Disability Services (KDADS)
Susan Fout, Interim Commissioner, Community Services and Programs Commission, KDADS
Kari Bruffett, Director of Health Care Finance, Kansas Department of Health and Environment
Terri Williams, Acting Commissioner, Juvenile Justice Authority
Wade Wiebe, Director of Partner Relations, Kansas Department of Transportation

Richard Cram, Kansas Department of Revenue
Kim Fowler, Kansas Judicial Branch
Dan Lara, Public Information Officer, Kansas Department of Commerce
Chip Westfall, Legislative Chair, Regional Economic Partnership
Eric Johnson, President/Director of Airports for the Metropolitan Topeka Airport Authority
Lauren Palmer, Assistant City Manager, City of Manhattan
Wayne Bollig, Director of Veterans Services, Kansas Commission on Veterans Affairs
Herbert Schwarzkopf, Veterans of Foreign Wars
Jeffery Bond, American Legion
Kayla Keith, High School Student, Valley Center

Wednesday, November 14
Morning Session

Chairperson McGinn called the meeting to order 10:09 a.m. and welcomed those attending.

State General Fund Consensus Revenue Estimates

J. G. Scott, Kansas Legislative Research Department (KLRD), provided an update on the FY 2012 State General Fund (SGF) actual receipts, which were $8.4 million above the final adjusted estimate. Of note, individual income tax receipts fell below the estimate by $47.0 million. The corporate income and retail sales taxes outperformed the estimate ($34.5 million and $16.4 million, respectively). Mr. Scott also provided an update of receipts for the first quarter of FY 2013, which were $10.2 million above the estimate. Individual income tax receipts were below the estimate by $28.6 million. Severance taxes also were under the estimate, primarily due to pricing (Attachment 1).

During review of the FY 2013 estimate, Mr. Scott indicated the estimate was a decrease of $5.2 million from the April 2012 estimate. For FY 2014, the estimate reflects the full implementation of tax law passed by the 2012 Legislature. The FY 2014 estimate is $705 million below the newly revised FY 2013 estimate. The effect of the income tax receipt reductions is an $847.8 million deficit in FY 2014, which points to growth elsewhere in receipts; the projected decline for FY 2013 is $249.2 million. Mr. Scott covered other aspects of the Consensus Revenue Estimate (CRE), including reports on Personal Income, Employment, Agriculture, Oil and Gas, the Inflation Rate, and Interest Rates. He noted the growth of the base in individual income tax receipts of 5.5 percent and the impact on sales tax receipts barring legislative action to keep the rate from lowering from 6.3 percent to 5.7 percent. The estimated sales tax is a reduction of $262 million. A final component of the estimates is net transfers. The net transfers line (on page 7 of Attachment 1) contains an SGF transfer of $27 million to the Local *Ad Valorem* Tax Reduction Fund, which is scheduled to occur in FY 2014.

During discussion concerning employment in Kansas, Mr. Scott was asked whether KLRD has the number of individuals no longer looking for work. Mr. Scott responded the unemployment rate in Kansas was 6.7 percent for FY 2011, is expected to be 5.9 percent in FY 2012, and is estimated at 5.6 percent in FY 2013. These percentages reflect employable groups, some of which are no longer in the market (included in the estimates). He indicated there were some insignificant changes in the employable group who were no longer seeking employment.

State General Fund Shifting and Underspending

Leah Robinson, KLRD, provided a listing, by agency, of expenditures shifted from FY 2012 to FY 2013 as a result of shifting or underspending (Attachment 2). The total for shifts is $27.2 million, which is now authorized to be spent in FY 2013. In addition, $1.0 million was underspent, with a bulk of that ($858,297) in the Department of Corrections. The Committee asked for more information on why those expenditures were not necessary, especially the local jail payments ($436,149). The Committee also requested more information on the Medicaid dollars shifted from FY 2013 to FY 2014, and whether shifting has anything to do with departments spending less.

Human Services Caseload Estimates

Bobbi Mariani, KLRD, highlighted Human Services Caseload Estimates for FY 2013 and FY 2014. Caseload estimates include expenditures for Nursing Facilities, Regular Medical Assistance, Temporary Assistance to Families (TAF), the Reintegration/Foster Care Contracts, Psychiatric Residential Treatment Facilities (PRTF) and Out-of-Home Placements. The combined estimate for FY 2013 and 2014 is an all funds (AF) decrease of $46.4 million and a SGF decrease of $18.8 million. For FY 2013, the decrease is due, largely, to reduced estimates for Regular Medical expenditures and Nursing Facilities expenditures, as well as a decrease in TAF. A total of $45.9 million AF ($21.5 million SGF) is decreased as a result of anticipated savings from KanCare. The nursing facilities estimate declines by $9.2 million, due to the reduction in the number of people served and a slight cost reduction. For FY 2014, the decrease is attributable to recent changes in the state's policies that have resulted in a decline in the TAF population. KanCare estimated savings are predicted to curb growth in Medicaid spending, with regular medical expenditures growing at $27.3 AF ($5.9 million SGF). The nursing facility estimate declines in FY 2014 for the same reasons as in FY 2013 (Attachment 3).

When asked why the State's Maintenance of Effort (MOE) funding appears to decrease for the federal Temporary Assistance for Needy Families (TANF) Program, Amy Deckard, KLRD, stated the overall MOE is not actually decreasing. Upon review, the method of funding changed; special revenue funds and other funding sources are used rather than adding SGF funds to the MOE requirement.

A Committee member asked for clarification concerning the FY 2013 revised estimate of an $18.8 million reduction from the SGF as compared to the budget approved by the 2012 Legislature. Ms. Mariani stated the SGF decrease is attributable to a slowed caseload growth below the approved amount for FY 2013; the AF decrease is due largely to reduced estimates for regular medical expenditures and nursing facilities expenditures, as well as a decrease in the State's TAF program. A Committee member inquired why facilities expenditures appear to be decreasing by $9.2 million (AF). Ms. Mariani explained the CRE group reviews trends, and the trend indicates a decrease in the number of individuals served as well as the cost per person. She added the CRE group does not evaluate specific factors relating to individuals' placements in nursing facilities (including assessment scores that are used to determine eligibility). Ms. Deckard stated the actual difference in the FY 2013 nursing facilities estimate is related to the original consensus estimate, which was not as high as originally anticipated in FY 2012. She reiterated there is no percentage of cost reduction in FY 2013; the decreases reported for FY 2013 reflect the difference from the original estimate, not from actual expenditures.

School Finance Estimates

Reagan Cussimanio, KLRD, reviewed the changes in School Finance Estimates, which were based on the November 2012 estimates. She indicated a total of $21.3 million SGF is necessary to maintain Base State Aid Per Pupil (BSAPP) for FY 2013. Should funding not be appropriated, the BSAPP would drop to $3,807 for the 2012-13 school year. The additional funding is needed as a result of lower than anticipated property valuations, reduction in School District Finance Fund receipts, and an increase in weighted full-time equivalent enrollment. The consensus group also reported approximately $91.3 million SGF would be needed for FY 2013 Supplemental State Aid to stay at the flat appropriation generally appropriated each fiscal year since FY 2010. Without it, districts are estimated to receive a proration of 78.8 percent. The special education need for FY 2013 is estimated to increase by approximately $47.8 million, due to a base salary increase and additional teachers/paraprofessionals hired. If the Special Education figure is not funded, then the percentage of costs drops from 92 percent to 88 percent. The Kansas Public Employee Retirement System (KPERS) – School requirement is estimated to increase by $4.8 million for FY 2013 to cover higher than estimated pay increases; the group also estimated $40.5 million for FY 2014 KPERS – School. The remainder of the FY 2014 estimates is covered in the School Finance Estimates document (Attachment 4).

Expanded Lottery Act Revenues Fund

Dylan Dear, KLRD, noted the changes in the Expanded Lottery Act Revenues Fund (ELARF) for FY 2013. The April 2012 CRE estimate ($87.7 million) was $8.4 million higher than the revised November 2012 estimate ($79.3 million). The lower estimate also negatively affects the revenue into the Problem Gambling and Addictions Grant Fund (PGAGF) by $770,000, funding to cities and counties by $1.2 million, and Gaming Managers by $28.1 million. The decline is due to higher projected revenue from the Hollywood Casino being unrealized. Total revenue of approximately $85.5 million is anticipated for FY 2014. Mr. Dear reviewed the ELARF's total transfers and expenditures, most tied to reducing debt service. Since the estimating group reduced its November gaming revenue estimate to $79.3 million, it will be necessary either to reduce ELARF expenditures in various agencies or adjust transfers made from ELARF to compensate for a forecast ELARF FY 2013 ending balance of negative $7,360,016 (Attachment 5).

Economic Development Initiatives Fund

Michael Steiner, KLRD, reviewed the final approved expenditures for FY 2012 and FY 2013 from the Economic Development Initiatives Fund (EDIF). The EDIF has a projected ending balance of $100,582 for FY 2013. No changes have been made to the expenditures approved by the Legislature (Attachment 6).

State Water Plan Fund

Abigail Boudewyns, KLRD, provided information related to the FY 2012 and FY 2013 final approved expenditures from the State Water Plan Fund. She reported the projected, ending balance for FY 2013 is $277,164. A Committee member inquired whether the information reported included predicted receipt increases in FY 2012 for additional Municipal Water Fees, Clean Drinking Water Fees, and Pesticide Registration Fees. Ms. Boudewyns will investigate potential fee increase revenue with the Kansas Water Office (Attachment 7).

Children Initiatives Fund (CIF)

Ms. Deckard presented the FY 2012 and FY 2013 final approved expenditures from the Children's Initiatives Fund (CIF) and reported there were no adjustments to these amounts. The projected tobacco revenue transfer from the Kansas Endowment for Youth (KEY) Fund for FY 2013 is $55.8 million (Attachment 8). The informal consensus group did not finalize an estimate for FY 2014 due to the uncertainty of expected receipts. Discussion and inquiries are listed below:

- The ending balance for FY 2013 is projected at a positive $1,073, which resulted from global changes in the final Appropriations Bill and subsequent certification of those numbers.

- The consensus revenue estimating group could not finalize an estimate for the tobacco settlement revenue for FY 2014, which is deposited into the KEY Fund. The Children’s Cabinet has not met.

- It is hoped the arbitration process will conclude in the early spring, at which time the estimating group could finalize an estimate.

- Agencies are budgeting for CIF-funded projects according to the Governor’s target of reducing expenditures. It is anticipated the Governor’s Budget Report (GBR) during the 2013 Legislative Session will include a tobacco settlement estimate. A Committee member requested the Governor’s targeted reduction percentage or dollar figures be provided to the Committee.

- A Committee member commented that, since the consensus estimating group lacked sufficient information to forecast the tobacco settlement receipts (into the KEY Fund), it would be difficult for the Legislature to develop a consensus estimate prior to the 2013 Legislative Session.

  Ms. Deckard responded that the KEY Fund estimating group is an informal group and not an official estimating group; the KEY Fund group noted budgetary concerns and ultimately declined to develop an estimate.

  Mr. Scott responded that KLRD has reviewed information concerning the arbitration process and has noted the risk of forecasting a number. However, he indicated the settlement receipts could range from a low level of $10 million to $55 million or $56 million. He stated that. until arbitration is completed, the State cannot know the strength or weakness of its case.

  The members of the KEY Fund estimating group represent the office of the Attorney General, Kansas Division of the Budget, and the Kansas Legislative Research Department.

  A Committee member expressed concern with shifting the role of budgetary estimating and forecasting to other bodies less educated in the State’s previous practices and procedures.

  A Committee member expressed concern with lowering FY 2014 expenditures while arbitration over the settlement is ongoing.

State General Fund Profile

Mr. Scott presented the SGF Profile, which showed an estimated ending balance of $471.7 million for FY 2013. The profile is adjusted to reflect the $27.2 million in shifts, the reductions in Human Services Caseloads, and the $21.3 million for the BSAPP Education Caseload. FY 2014 expenditures include $14.9 million for school finance and $50 million for KPERS increases. To bring an ending balance to zero would require $302.1 million in expenditure or revenue adjustments. The Committee inquired about the outlook for FY 2015. Mr. Scott indicated none had been created with the new estimates. The Committee discussed other potential expenditures, noting there has been no salary increase for state employees (other than undermarket pay adjustments) since FY 2009. Additionally, the Committee noted the KPERS figure will continue to rise in the out-years (Attachment 9).

Chairperson McGinn recessed the meeting until 1:30 p.m.

Afternoon Session

Chairperson McGinn reconvened the meeting at 1:38 p.m.

Department for Aging and Disability Services—
Update on Issues Previously Discussed and Possible Committee Recommendations

Secretary Shawn Sullivan, KDADS, presented testimony concerning the Problem Gambling and Addiction Grant Fund (PGAGF), state hospital census numbers, and staffing and salary issues.

Susan Fout, Acting Commissioner of Community Services and Programs for KDADS, was present to provide an update on the Home and Community Based Services (HCBS) Physically Disabled (PD) Waiver Services waiting list, as well as to provide information relative to the Financial Management System (FMS) (Attachment 10).

During the October meeting, Committee members expressed concern that the KDADS FY 2014 strategic plan contained a recommendation for an additional PGAGF funding request of $3.5 million, which would be funneled to state programs unrelated to issues of gambling or addiction for FY 2014. At that time, Committee members requested a written opinion from the agency's legal counsel concerning the agency's intent to utilize PGAGF funding as a substitute for SGF allocations. Secretary Sullivan stated the agency's chief counsel was asked to review the law concerning the use of the PGAGF. Secretary Sullivan presented the agency's legal response to the usage of PGAGF, which confirmed that PGAGF could be used to finance expenditures other than those related to gambling and other addictions. During the 2012 Session, the Legislature passed House Substitute for SB 294, which authorized transfers from the PGAGF to the domestic violence grants fund, to child advocacy center grants, and to the community corrections special revenue fund.

Secretary Sullivan also updated the Committee on the specific outcomes related to Problem Gambling Prevention, Problem Gambling Treatment, and Problem Gambling Awareness.

The Average Daily Census from July through October 2012 at the Larned, Osawatomie, and Rainbow state facilities were reviewed by Secretary Sullivan. He noted:

- Larned State Hospital is budgeted for 90 beds; the average daily census has been 94. Larned has been over its budgeted census 71 percent during the time period. When the census reaches a threshold of 100, census management procedures are implemented, which divert patients to Via Christi or Prairie View (dependent on patient acuity).

- Osawatomie State Hospital is budgeted at 176 beds; the average census has been 179. The census management threshold for this facility is 190, which has been reached on one occasion during the time period for a total of 51 bed days.

- Rainbow State Hospital is budgeted for 35 beds; the average daily census has been 36 during the time period. When census management procedures are implemented at 36 patients, patients are diverted to Osawatomie State Hospital.

- KDADS has expanded its intensive case management from four counties to an additional four (Sedgwick, Barton, Ellis, and Saline).

- Hospital salary updates were reviewed, and Secretary Sullivan commented that Larned's registered nurse (RN) vacancy rate has decreased from 30 percent to 22 percent.

A Committee member inquired whether ComCare crisis beds are paid through Sedgwick County funding sources and whether an agreement was reached during the interim session for reimbursement rates for Via Christi and Prairie View. Secretary Sullivan indicated he would furnish that information at a later time.

With regard to RN/LPN vacancy rates at Osawatomie State Hospital, Secretary Sullivan stated the direct care vacancies are increasing. At the current time the vacancy rate is 17 percent out of 400 employees. He could not provide the specific RN or LPN rates.

Secretary Sullivan stated direct care staff positions are automatically approved for posting and do not undergo an additional review and approval process; non-direct care positions are posted following review and approval by Secretary Sullivan (or his staff) on a weekly basis. When asked why Osawatomie State Hospital is experiencing an increase in vacancies (45 at the current time), Secretary Sullivan stated the agency is investigating this matter, but he suspects there are recruitment issues.

Kansas Department for Aging and Disability Services Summary of Issues

Ms. Mariani provided a summary concerning the Legislative Coordinating Council's assigned topics to the Legislative Budget Committee. Chairperson McGinn encouraged all Committee members to begin evaluation of potential recommendations (Attachment 11).

Update on PD Waiting List

Susan Fout, KDADS, updated Committee members on the PD waiver waiting list. She described the telephone call survey, conducted in the spring, in which certification by Centers for Independent Living (CIL) revealed 1,226 individuals should be removed from the waiting list (Attachment 10). The waiting list is now 2,197 (addition of 250 since the waiting list verification project began). Ms. Fout indicated that, should an individual (severed from the waiting list due to the verification process) contact KDADS, a Center for Independent Living, or other service provider and indicate services were still needed, that person would retain his or her priority placement following an eligibility determination. Ms. Fout indicated the state now will manage the PD waiting list. KanCare Managed Care Organizations (MCOs) will manage the care of those who are Medicaid eligible; the State will follow-up with all non-KanCare waiting list, eligible individuals on a quarterly basis.

Financial Management System (FMS) Update

Ms. Fout reported there has been little change in this area. Recently the FMS Workgroup met with MCOs to review and to discuss how FMS works under KanCare. There are 64 FMS providers and interest from other interested providers (Attachment 10).

Approval of Minutes

Upon a motion by Representative Marc Rhoades and a second by Senator Laura Kelly to approve the minutes of September 12 and 13, 2012, the motion passed by voice vote.

Upon a motion by Representative Marc Rhoades and a second by Senator Laura Kelly to approve the minutes of October 9 and 10, 2012, the motion passed by voice vote.

KanCare Update

Ms. Mariani presented a summary of Legislative Coordinating Council (LCC) assigned topics for the Kansas Department of Health and Environment (KDHE), as well as issues identified as concerns with the KanCare implementation (Attachment 12).

Kari Bruffett, KDHE, reported the initial KanCare MCO assignments (for Medicaid beneficiaries) had been made and mailings of members' packets began last week. Approximately 10,000 to15,000 packets will be mailed daily during the month of November. An example of the material contained in each member packet is included in Ms. Bruffett's testimony (Attachment 13). She mentioned that Aging and Disability Resource Centers (ADRCs) have begun to receive calls. The majority of provider manuals have been approved by the State; the exceptions are value-added services as follows:

- Amerigroup—dental and transportation;
- Sunflower State—behavioral health, Financial Management System; and
- United—dental and durable medical equipment.

Ms. Bruffett reviewed the KanCare readiness review process, which established that KanCare MCOs should be ready to begin enrolling members and providers should be ready to begin providing Medicaid services upon federal approval of the State's Section 1115 Demonstration Waiver.

The status of the Section 1115 application was reviewed, as well as protections for HCBS waiver services, which include the right to a fair hearing meeting State standards, hiring of a KanCare Ombudsman, rights to grievance and appeal processes, quality assessment and performance improvement, I/DD waiver delay and pilots, front-end billing solution, information technology testing, inclusion of current 1915(c) waiver structures and protections, and eligibility determination by the State.

Other issues discussed were the reorganization of five KDADS staff members to KDHE for the purpose of creating an interagency monitoring team (KDADS/KDHE) to provide agency oversight of the program; the November 19, 2012, benchmark date for 100 percent of network adequacy; the format for safety-net hospital pools; the process in 2013 for transitioning portions of safety-net hospital pools into delivery-system reform incentive pools; the length-of-choice period for beneficiaries to change MCO assignments; the timing of the pilot projects; on-going completion of HCBS functional assessments; HCBS plans of care (POC), which remain effective for a period of 90 days or until MCO care coordinators have reassessed each beneficiary's POC (whichever is the later of those dates); decreases in HCBS POCs will undergo additional review and approval by the state; MCO provider training; coordination and documentation among all call centers the state utilizes for providing information as well as MCO enrollment; and member advocate training.

Ms. Bruffett reiterated the administration is confident the Section 1115 waiver will be approved, and the State continues to move toward the January 1, 2013, KanCare implementation date.

When asked to describe the KanCare enrollment process, Ms. Bruffett stated the following:

- The ADRCs' role is to coordinate, assist, and provide information to older adults, individuals with disabilities, their family members, and caregivers about Kansas' long-term supports and services. When a beneficiary contacts an ADRC, the ADRC provides information and does not provide any recommendation relative to which MCO the beneficiary should choose.

- The ADRC could refer the beneficiary to an MCO or to the State's KanCare Enrollment Call Center, which is operated by Hewlett Packard (HP).

- Each beneficiary can make changes by contacting the Enrollment Center at 1-866-305-5147, by facsimile transmission, or by mail.

Ms. Bruffett indicated a provider list would be electronically distributed by KLRD to Committee members. In response to a question concerning levels of network adequacy, Ms. Bruffett stated network adequacy standards refer to 90 percent (or 100 percent for November benchmark) of the population having access to services within the access standards required in MCOs' contracts. She added that on-going work continues to ensure all providers have executed MCO contract(s); particular attention is being paid to long-term services and supports HCBS providers to ensure a robust network is in place.

Ms. Bruffett responded to questions with the following:

- MCO plans have agreed to include all nursing facilities as "in-network" providers for at least 90 days (after January 1, 2013). MCO contract provisions include "out-of-network" nursing facilities (with established resident/beneficiary relationships) will be treated as "in-network" for the first 90 days. She stated beneficiaries will not be required to move from a residential facility; the MCOs are responsible to execute contracts with residential facilities. Should the residential facility choose not to execute an MCO contract; the resident will not be required to relocate, but may be required to pay "out-of-network" rates at the conclusion of the 90-day period. Ms. Bruffett stated this 90-day provision is one issue under discussion with the CMS.

- All MCO plans provide adult dental services; Ms. Bruffett indicated each plan has several hundred dental providers signed; the state has approximately 600 Medicaid-enrolled dental providers.

- Ms. Bruffett referred Committee members to "Geo-Access Requirements for Future Reports" and "Geo-Access Requirements for Future Reports Behavioral Health Standards" (contained in her written testimony), which contain mileage standards by provider/service type, and by geographic definition (urban, semi-urban, densely-settled rural, rural or frontier).

  Effie Swanson, KDHE, clarified geographic access is determined by the Geo-Access Report, which maps out where beneficiaries are located in the state and where the providers are located in the state. Adult dental services are excluded from federally required Medicaid-provided services and, therefore, are excluded from geographical mapping even though they are provided as a "value-added" service by Kansas MCOs. Dental services for children are required by federal Medicaid standards; dentists providing Medicaid services to children will be included in the Geo-Access Mapping. Adult dental providers will be listed in each MCO's provider list.

- A Committee member expressed concern that local pharmacists have not seen the same focus and attention as has been the case with other providers. An example was discussed in which a pharmacist requested a provider manual from one of the contracting MCOs; the MCO requested the pharmacist provide credentialing and pricing list information before a manual was provided. Ms. Bruffett stated, as with any transition, unanticipated issues will arise; she indicated she would work with the Committee member to rectify any error. She welcomed any provider issues or questions be directed to KDHE or KDADS staff members and suggested the Wednesday "stakeholder call" would be an appropriate forum in which to clarify identified issues.

- A Committee member inquired what triggers the beneficiary's Medicaid card. Ms. Bruffett indicated each MCO will notify each beneficiary by letter with the beneficiary's Medicaid card. The KMAP website will be available for "look-up" functions such as beneficiary eligibility and to which MCO plan the beneficiary is assigned.

- For the HealthWave program, choosing a primary care physician (PCP) is not new; for other Medicaid beneficiaries, choosing a PCP is required. Should a beneficiary not designate a PCP, a PCP is assigned based on the beneficiary's past State of Kansas medical claims history.

- A Committee member requested additional information concerning the I/DD pilot project; Ms. Bruffett will ensure information is appropriately disseminated.

Juvenile Justice Authority and Judge Riddel
Boys Ranch Update and Possible Committee Recommendations

Terri Williams, Acting Commissioner, Kansas Juvenile Justice Authority (JJA), provided follow-up to questions raised about the Judge Riddel Boys Ranch (JRBR) at the previous Committee meeting. Her testimony included the statutory reference of the unique education funding provided for Ranch residents. Ms. Williams indicated she was unable to locate another Youth Residential Center II that receives additional BSAPP similar to that provided at JRBR. Ms. Williams also provided the statutory reference related to USD #259 Wichita serving the JRBR population, rather than Goddard, where the Ranch is located (Attachment 14). When asked for a reason why JRBR would receive unique funding or why Goddard provides educational services (instead of Wichita), Ms. Williams had no response.

Concerning a meeting held in September and October with Sedgwick County and JJA officials regarding the current funding structure of JRBR, Ms. Williams requested additional information on the JRBR reimbursement rate of $201 per day (excluding educational and healthcare costs), since other JJA facilities are reimbursed at the rate of $217 per day (including educational and healthcare costs). A Committee member indicated subsequent contact with Ms. Williams would be made to ascertain the results of her analysis.

Kansas Department of Transportation Equipment Sale

Wade Weibe, Kansas Department of Transportation (KDOT), provided a list of all surplus property sold at auction in October 2012, which yielded $854,562.50 in sales. He indicated a second auction in November has resulted in sales of $1,301,660 as of November 13, 2012; the auction closes on November 20, 2012 (Attachment 15). Mr. Weibe noted these are on-line auctions conducted by Purple Wave Auction, Inc. KDOT is not required to go through the State Surplus Property Program. KDOT retains all proceeds (receipted into the State Highway Fund) with the exception of 10 percent of the total, which is paid to Purple Wave Auction, Inc.

Update on Oil and Gas Severance Tax

Richard Cram, Kansas Department of Revenue (KDOR), presented information concerning the decline in severance tax collections, which is a result of a softening in prices. He reviewed mineral tax distributions by fund, as well as mineral tax collections by product. He noted the severance tax receipts are anticipated to grow for FY 2014 (up to $137.4 million total), with gas increasing from $21.2 million to $33.4 million, and oil increasing from $78.9 million to $104.0 million. Mr. Cram noted an increase in speculative activity, which will show in revenues as taxes are receipted (Attachment 16).

When asked whether drilling permits are tracked and whether the oil production increase is a result of the number of barrels produced or the price per barrel, Mr. Cram stated the KCC website shows intent-to-drill permits by county location. Mr. Cram was unable to answer whether geographic-access reports are available. Revenue increases are a result of increases in both number of barrels produced and the price per barrel.

Follow-up Information – State Water Plan

Ms. Boudewyns reported contact was made with the Water Office to obtain updated figures related to fee increases, which resulted in a net revenue increase in FY 2012 of

$890,778. These receipt increases change the FY 2012 projected carry-over balance to $1,856,708 (Attachment 17).

Chairperson McGinn recessed the meeting and announced the meeting would be reconvened at 9:00 a.m. on November 15.

Thursday, November 15
Morning Session

Follow-up Information on Children's Initiatives Fund

Ms. Deckard provided follow-up information concerning the Children's Initiative Fund discussed in her report on November 14. She directed Committee members' attention to a revised agency estimate for FY 2013 and the agency's budget request for FY 2014. She indicated the agencies receiving CIF moneys requested approximately $55.8 million in expenditures for FY 2013 and approximately $11.8 million for FY 2014 (Attachment 18). The programs funded with CIF in FY 2013 with no FY 2014 expenditures requested are (by Department): KDHE—Newborn Screening; Department for Children and Families—Children's Accountability Fund, Child Care Services, and Family Preservation; and Department of Education—Parents as Teachers and Pre-K Pilot. In addition, the combined block grant (Early Childhood and Smart Start) was reduced from $18.1 million in FY 2013 to $305,000 for FY 2014. Ms. Deckard noted the FY 2012 budget includes a transfer of $485,593 from the KEY Fund to the Attorney General. In addition, Ms. Deckard stated the four separate agencies independently submitted their budgets and the information included on the CIF "Final Approved and Agency Budget Submission" spreadsheet reflects what was submitted for the GBR.

Judicial Branch Update

Kim Fowler, Budget and Fiscal Officer, Office of Judicial Administration, presented testimony concerning three topics: the e-filing project, clerks' fees revenue, and the FY 2014 base budget and enhancement requests (Attachment 19).

E -Filing

Information technology staff within the Judicial Branch have been working with various vendors to create the links between the various systems required to develop a functional e-filing system. Training of the initial system users is under way; the system is scheduled for installation in selected "pilot" courts in December 2012. E-filling judicial district installations (by fiscal year) were presented as represented on a map contained in Ms. Fowler's testimony. The FY 2014 budget request includes $1.1 million for e-filing installations in 14 of the remaining 28 judicial districts. Ms. Fowler stated the maintenance costs for e-filing are $306,000 yearly. Additional information can be accessed at http://www.kscourts.org/Kansas-Courts/E-filing/default.asp.

There was discussion regarding the "home-grown" e-filing system created and utilized by Johnson County. A Committee member expressed disappointment that additional funds are required to be expended for an e-filing system and maintenance when the Johnson County model could have been implemented statewide at lesser expense. Ms. Fowler responded, with the platform used by the Johnson County model, the Judicial Branch would have had to employ additional information technology analysts to provide technical support. She assured Committee members that once the State's e-filing system is operational, the Johnson County e-filing system would seamlessly interface with the state's e-filing system.

Clerks' Fees

Clerks' fees have steadily declined more than 5.0 percent from FY 2010 to FY 2011 and more than 6 percent from FY 2011 to FY 2012. Typically 35.0 percent of clerks' fees revenue is received in the first four months of the year. Applying that percentage, the annualized revenue in FY 2013 is anticipated to be 9.0 percent lower than in FY 2012. The reduction in revenue affects several funds and programs, including the Access to Justice Fund, the Alternative Dispute Resolution Fund, the Education Fund, the Technology Fund, and the Permanent Families Account in the Family and Children Investment Fund. The FY 2014 budget excluded surcharge revenue because statutory authority for the surcharge sunsets at the end of FY 2013. There was discussion as to reasons why case filings have decreased. Ms. Fowler indicated, at the current time, she was unsure as to reasons for reductions in case filings.

SGF Budget Request for FY 2014

The FY 2014 SGF budget request is $17.3 million more than the request for FY 2013. Of that figure, $11.1 million is to offset the elimination of surcharge revenue. The Judicial Branch also has requested $13.6 million in enhancements, including $6.1 million for the weighted caseload study results (22 additional judges; 58 additional clerks). Also, $4 million is included for a 5.25 percent undermarket pay adjustment. Judicial Branch employees were not included in the undermarket pay increase authorized by the 2012 Legislature (Attachment 20).

Update on Affordable Airfares Program

Dan Lara, Public Information Officer, Kansas Department of Commerce, updated the Committee on the Affordable Airfares Program and Air Service Support Funding for Manhattan and Topeka, which is administered by the Commerce Department (Attachment 21). Mr. Lara stated the Commerce Department and the Regional Economic Area Partnership (REAP) came to agreement on the terms for an independent, third party review of the Fair Fares Program in July 2012. The cost of the study will be borne by REAP; a preliminary report will be submitted no later than January 15, 2013.

Chip Westfall, Harvey County Commissioner and Chair of the REAP Legislative Committee, provided testimony concerning REAP's actions (as administrator of the Kansas Affordable Airfares Program) and information on the performance and effectiveness of the Program. Mr. Westfall spoke about the Legislative Post Audit Report conducted in FY 2011 and its recommendations to enhance program performance and financial reporting. He noted the $5.0 million Legislative appropriation (2012) will be split between Sedgwick County ($4.75 million) and Garden City ($250,000). The Sedgwick County appropriation is to address all statutory criteria for the allocation of funding including the priorities of maintaining affordable airfares to eastern and Western destinations; renew a contract with AirTran for 12 months beginning July 1, 2012; provide for the Frontier revenue guarantee agreement to continue through June 2013; and provide for the local match of 25 percent (Attachment 22).

A contingent of Harvey and Sedgwick County representatives accompanied Mr. Westfall to the meeting, one of whom was David Unruh, Sedgwick County Board of Commissioners. A

Committee member requested Mr. Unruh brief the Committee members on election issues identified in Sedgwick County on November 6, what role the Board of County Commissioners will play in an audit, and whether other elected officials will participate in the process. The audit is to be conducted by the Kansas Secretary of State. Mr. Unruh stated the Sedgwick County Election Commissioner is an appointed position (by the Kansas Secretary of State). He indicated a delegation from the Secretary of State's office had met with the Election Commissioner and her staff; to date, there no conclusions or recommendations provided. Mr. Unruh stated, upon finalization of the investigation, the Secretary of State will provide recommendations. It appeared the issues related to tabulation of votes in the Election Commission Office were human error and not a software problem. Mr. Unruh reported Marvin Duncan led the Board of Commissioners team, but they were excluded from the process and meeting with the Secretary of State's delegation.

Eric Johnson, President/Director of Airports, Metropolitan Topeka Airport Authority (MTAA), provided an update regarding the Department of Commerce's grant to MTAA for the promotion of commercial air service. He described the organization's short- and long-term goals. He stated MTAA is finalizing an effort to obtain letters of support from area businesses to demonstrate the community's interest in air service. Mr. Johnson also reported representatives from MTAA had met with two airlines to discuss Topeka opportunities; an agreement with an airline is anticipated by June 2013 (Attachment 23).

Lauren Palmer, Assistant City Manager, City of Manhattan, Kansas, testified concerning Manhattan's success story with regional jet service. She provided an historical time line of legislative appropriations, which resulted in an air service agreement with American Eagle. This air service agreement was structured as a revenue guarantee incentive. By the time the agreement ended in August 2011, Manhattan returned to the State of Kansas its full investment of $2 million plus approximately $20,000 in accrued interest (Attachment 24) .

Main Street Program Update

Dan Lara, Kansas Department of Commerce, provided testimony relating to the Kansas Main Street Program. He reported, on October 15, 2012, the Department of Commerce announced a plan to transition the Kansas Main Street program to local control. Mr. Lara included an historical summary of the impact of the Incentive Without Walls (IWW) funding provided to communities since 1996, and the number of new jobs created (by community) attributed to the Main Street Program. The IWW has been a significant component of the Main Street Program, and the Department of Commerce has agreed to allow the current IWW funding in use by communities to continue to be used as long as it is for economic development and downtown revitalization efforts (Attachment 25).

Veterans Claim Assistance Program

Wayne Bollig, Director of Veterans Services, Kansas Commission on Veterans Affairs, presented the statutorily required "Annual Report to the Legislature on the Veterans' Claims Assistance Program (VCAP) and the Service Grant Program" (Attachment 26). He stated the Program has completed its sixth successful year of operation; he provided the Program's legislative background and progress during FY 2012. Mr. Bollig discussed the Veterans Claims Assistance Advisory Board, its purpose and structure, and he named participating veterans service organizations. Statistical Information was presented relating to service organizations claims by location and their claims production; expenditures also were reviewed. Mr. Bollig concluded his testimony by reviewing VCAP significant accomplishments during FY 2012.

When asked if the Veterans' Services Office participates with the Department of Commerce to identify potential employment opportunities for veterans, Mr. Bollig clarified the Veterans' Services Office does offer job fairs and other employment-focused activities with the Department of Commerce, however, those activities are not included in the VCAP. Mr. Bollig could not provide the exact figures, but he indicated that Kansas' unemployment rate among veterans is below the national average and below the state's unemployment rate.

Herbert Schwarzkopf, Veterans of Foreign Wars, and Jeffery Bond, American Legion, were present. They presented verbal testimony (no written comments submitted) concerning the success of the program and expressed appreciation for the Legislature's support.

Follow-up Information on the *Olmstead* Decision

Jill Wolters, Office of the Revisor of Statutes, noted that at the September meeting, she was asked to research any updates or modifications to the *Olmstead* decision related to the Americans with Disabilities Act. She indicated her office is collaborating with KLRD staff to update information. Committee members will receive information resulting from the offices' collaborative effort at a later time.

Division of Motor Vehicles Issues

Kayla Keith, a Valley Center high school student, presented "Be Part of the Solution, Not the Problem," which outlined her ideas for reducing wait times at the Division of Vehicles offices through the use of a call-ahead system. Such systems use the power of technology through computers and mobile phones. She researched the program utilized by Great Clips, created by Innovative Computer Software. Ms. Keith estimated the costs involved at: $95 per month for service; hardware fee of $399; and 50 cents per check-in. Donna Shellite, Director of the Division of Vehicles, Department of Revenue, spoke about the "queue" program utilized by Johnson County, which allows customers to check-in prior to visiting the office. At this time, Sedgwick and Shawnee Counties have declined to participate in the program (Attachment 27).

Committee members praised Ms. Keith's ingenuity and encouraged her to work with Ms. Shellite to create a cost estimate of such a project. Ms. Shellite indicated an algorithm could be developed to estimate wait times based on transaction averages for title renewal and title registration.

LCC Assigned Topics and Committee Recommendations

Topics Assigned

- Review expenditures that are classified as off-budget; the review to include items expended from the State General Fund and are now included as expenditures in other funds.

- The Committee reviewed the topic as assigned and concluded that off-budget items are managed and accounted for in agency operating expenditures but taken off-budget for accounting purposes so as not to double count the expenditure; other off-budget items are removed for policy reasons.

- Recommendation: The Committee encouraged on-going monitoring of off-budget items by the House Appropriations Committee and by the Senate Ways and Means Committee as a means to maintain transparency concerning the State's accounting practices and fiscal policies.

- Review vehicle purchases made by special-revenue-funded agencies to determine whether the purchases are necessary, and the vehicles are appropriate to accomplish the goals for which the agency was established.

  The Committee reviewed the topic as assigned.

  Recommendation: None

- Review the implementation of the Financial Management System (FMS) in the Department for Aging and Disability Services and monitor the effectiveness of the new system.

  The Committee reviewed the topic as assigned.

  Recommendation: None

- Review the number of individuals on the Home and Community Based Services waiting lists and the possible impact concerning the *Olmstead* case and any information from the Centers for Medicaid and Medicare and the Department of Justice.

  The Committee reviewed the topic as assigned.

  Recommendation: Request the House Appropriations and Senate Ways and Means Committees as well as appropriate standing committees in each respective chamber continue to monitor the Home and Community Based Services waiting list; that these Committees are updated with information on *Olmstead*; and that these Committees be kept informed regarding CMS and the Department of Justice investigations.

- Review census management at the state hospitals.

  The Committee reviewed the topic as assigned.

  Recommendation: Request that the House Appropriations and Senate Ways and Means Committees continue to monitor census management at the state hospitals. The Committee expressed concern over the average daily census at Larned and Osawatomie State Hospitals and requested that a monthly report be provided to the appropriate committees/subcommittees. The Committee also requested that unfilled positions be examined, along with the recruitment and hiring process as a whole. In addition, the Committee requested that the defunding of Community Mental Health Centers be examined.

- Review of the Problem Gambling and Addictions Grant Fund, including a review of the enabling statute regarding types of allowable expenditures, projected revenues into the fund, particularly from the Expanded Lottery Act, and recent expenditures from the fund.

The Committee reviewed the topic as assigned.

Recommendation: The Committee has provided the 2013 Legislature with three options regarding usage of the fund. They are: (1) follow the law; (2) introduce legislation to write the law more broadly; or (3) repeal the statute and send the revenue to the State General Fund.

- Review state hospital staffing and salary issues including pay parity within the state hospital system and receive an update on the Larned State Hospital accreditation.

  The Committee reviewed the topic as assigned.

  Recommendation: The House Appropriations and the Senate Ways and Means Committees and appropriate subcommittees should continue to monitor salary issues at state hospitals.

- Review funding and distribution of funding under the Local Environmental Protection Program (LEPP).

  The Committee reviewed the topic as assigned. Senator Vratil moved that the Committee introduce legislation to appropriate funding to the LEPP program at $1 million and authorize staff to include parameters of the program (as included in the LEPP proviso contained in previous appropriation bills) in the bill. Senator McGinn seconded the motion, which passed on a voice vote.

  Recommendation: The Committee requested that its report reflect that LEPP was not set up as a study program; it was created as a state-funded program. The Committee expressed concern about the state's water quality without LEPP in place. The Committee requested that the Appropriations and Ways and Means Committees and Agriculture/Natural Resources Committees evaluate the importance of the program. In addition, the Committee voted to introduce legislation to fund the program at $1 million. The bill will include parameters of the program, as previously contained in the LEPP proviso in appropriation bills.

- Review the Department of Revenue's transition of the old motor vehicles registration system to the new information technology system. Also review the impact of the transition on the counties.

  The Committee reviewed the topic as assigned and heard a presentation from Kayla Keith, Valley Center high school student.

  Recommendation: The Committee commended Ms. Keith for her work and presenting her ideas to the Committee. The Committee requested that Ms. Keith and Donna Shellite, Director of the Division of Vehicles, Kansas Department of Revenue, work together to create a presentation to the Transportation Committees and budget subcommittees. The Committee directed the report reflect that the training conducted with the DMV technology transition was executed improperly; that an upcoming Legislative Post Audit on the transition to the new system is scheduled; and that the transition has shifted additional work from the State to local counties, which represents an unfunded mandate. The Committee requested that the system's ongoing maintenance be further examined, particularly, the roles of the state Chief Information Technology Officer and the vendor concerning sources of programming to mitigate technological issues and to provide a clear understanding of maintenance responsibility/accountability.

- Update on the Juvenile Justice Authority, including changes to the Kansas Juvenile Correctional Facility.

  The Committee reviewed the topic as assigned.

  Recommendation: The Committee commended the agency on steps taken to improve and implement recommendations from the Legislative Post Audit Report involving the Kansas Juvenile Correctional Facility. With regard to educational services provided at the Judge Riddel Boys Ranch, the Committee recommended that the Legislative Educational Planning Committee or the appropriate Education Committees review the issues: a unique funding formula at the Judge Riddel Boys Ranch and educational services provided by Wichita USD 259 rather than Goddard, where the Ranch is located.

- Update on federal funding issues of the Department of Transportation, previously discussed by the Legislative Budget Committee during the last interim.

  The Committee reviewed the topic as assigned.

  Recommendation: The Committee requested that the standing Transportation Committees and the House Appropriations Committee as well as the Senate Ways and Means Committee continue to monitor rail issues; in addition, these committees continue to monitor Kansas Department of Transportation's financial policies, including auctions of district equipment.

  Recommendation: The Committee recommended a study on the issuance of KDOT bonds for potential savings by utilizing the Kansas Development Finance Authority; the findings from the study would be presented to the House Appropriations Committee and the Senate Ways and Means Committee.

- An update on KanCare, including information on transition to the new program and impact on Home and Community Based Services waivers.

  The Committee reviewed the topic as assigned. A Committee member reported, at a recent HCBS Oversight Committee meeting, the recommendation was made to utilize a drafted bill (reviewed by HCBS Oversight Committee members) as a template for a KanCare Oversight Committee, which would merge the Health Care Policy Oversight Committee and the Home and Community Based Services Committee into a newly formed KanCare Oversight Committee.

Recommendation: The Committee noted the recommendation of the interim HCBS Oversight Committee and concurred with the need for legislative oversight of the KanCare model and its programs.

- An overview of state contracts and the state contract process. State contracts reviewed included domestic violence contracts and foster care contracts.

  The Committee reviewed the topic as assigned.

  Recommendation: None

Additional Discussion and Recommendations

The Committee authorized the following statement for inclusion in its report:

> In addition, the Committee has additional statutory responsibilities included in KSA 46-128 (b), which states: "During and between sessions of the legislature the legislative budget committee shall compile fiscal information and shall make a continuous study of the state budget, revenues and expenditures. The legislative budget committee shall also ascertain facts and make recommendations to the legislature and to the houses thereof concerning the state budget, the revenues and expenditures of the state, and of the organization and functions of the state, its departments, subdivisions and agencies with a view of reducing the cost of state government and securing greater efficiency and economy."

The Committee heard reports and information on these topics:

- The Judicial Branch updated the Committee on e-filing, clerks' fees, and the 2014 budget.

  Recommendation: The Committee recommended funding e-filing.

- Individuals representing the aviation industry presented information related to air service in various regions such as Wichita, Manhattan, and Topeka. In addition, information was presented related to REAP administration activities.

- Recommendation: The Committee encouraged air service project updates, particularly from Topeka's MTAA, during the summer of 2013.

- An update on the Kansas Main Street Program and Creative Arts Industries Commission was presented. Committee members heard considerable discussion concerning the Creative Arts Industries Commission Strategic Plan and the fact that once the Plan is finalized, there is a possibility appropriated funds may not be awarded by fiscal-year end.

  Recommendation: None

- The Committee heard several presentations involving individual income tax legislation becoming effective in January 2013: "Overview of County and Income Tax" and "Kansas 2012 Income Tax Legislation."

Recommendation: None

- An update on Veterans' Claim Assistance Program was provided by conferees from the Kansas Commission on Veterans Affairs, Veterans of Foreign Wars, and the American Legion. The Committee received the statutorily required Veterans' Claim Assistance Annual Report.

  Recommendation: None

Chairperson McGinn thanked all those attending including conferees, staff, and Committee members; she adjourned the meeting at 11:50 a.m.

Prepared by Jan Lunn
Edited by Leah Robinson

Approved by the Committee on:

January 9, 2013
(Date)