Legislative Budget Committee

REVIEW"OFF BUDGET" EXPENDITURES AND STATE GENERAL FUND TRANSFERS

Conclusions and Recommendations

The Committee encourages ongoing monitoring of off budget items by the House Appropriations Committee and by the Senate Ways and Means Committee as a means to maintain transparency concerning the State's accounting practices and fiscal policies.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to review the "off budget" expenditures and State General Fund transfers. Legislative Research Department lead a discussion with committee members on budget items which contain reportable and non-reportable expenditures. Reportable expenditures are treated as expenditures in the budget process. Non-reportable expenditures are excluded from the budget and include such items as expenditures for services provided by the state printing plant, Department of Administration's maintenance of state-owned buildings, and state employee health care expenditures. Expenditures are originally included in an agency's operating budget that made the first expenditure but taken off budget for accounting purposes so as not to double count the second expenditure.

One of the examples provided was for a state agency's rent. The state agency will include in its budget the rent payment to the Department of Administration. The Department of Administration will provide the space, cleaning, maintenance, and utilities, among other services, for that rent. If the Department of Administration were to include these expenditures in the state budget, it would be spending the same dollar twice and inflate the state budget. One expenditure would occur when the state agency pays the rent, and the second expenditure would occur when the Department of Administration pays for the utilities and salaries for the maintenance and cleaning crews.

Another non-reportable expenditure would include the expenditure of bond proceeds. The expenditure of these funds would be included in the reportable budget when the bond payments are made. Other items are removed for policy reasons. The Kansas Public Employees Retirement System is the largest example of this type of non-reportable expenditure.

The conferee responded to the Committees question with the following information:

- The State Water Plan demand transfer of $6 million was intended to be a demand transfer from the State General Fund; it was changed to a revenue transfer (non-State General Fund expenditure). However, it has not been made for several years. In order to remove the item from the list of required transfers, a revision to statute is required.

- The Kansas Department of Transportation (KDOT) transfer to the Highway Patrol would show as a revenue transfer, a reduction in revenue to the State Highway Fund with expenditures showing in the Highway Patrol's budget.

- There are other smaller, similar transfers as the KDOT transfer to Highway Patrol that occur as transfers from universities to state agencies as well as Highway Patrol Homeland Security transfers to other agencies.

Conclusions and Recommendations

The Committee encourages ongoing monitoring of off budget items by the House Appropriations Committee and by the Senate Ways and Means Committee as a means to maintain transparency concerning the State's accounting practices and fiscal policies.

Legislative Budget Committee

State General Fund

Conclusions and Recommendations

- With regard to the Judicial Branch e-filing issue, the Committee recommends funding be appropriated for the e-filing system. The e-filing system could actually save a great deal of money in the future.
- Concerning the Affordable Airfares program, the Committee recommends continued air service project updates, particularly from Topeka's program, during the summer of 2013.

Proposed Legislation: None.

Background

KSA 46-128 (b) provides: "During and between sessions of the legislature the legislative budget committee shall compile fiscal information and shall make a continuous study of the state budget, revenues and expenditures. The legislative budget committee shall also ascertain facts and make recommendations to the legislature and to the houses thereof concerning the state budget, the revenues and expenditures of the state, and of the organization and functions of the state, its departments, subdivisions and agencies with a view of reducing the cost of state government and securing greater efficiency and economy." In addition, KSA 73-1236 requires the Legislative Budget Committee to review the Veterans Claim Assistance Program, and KSA 74-50,150 requires the Committee to review activities related to the Affordable Airfares Program.

Committee Activities

At its September 2012 meeting, the Committee conducted its usual monitoring of State General Fund finances.

At its October 2012 meeting, the Committee again conducted its usual monitoring of State General Fund finances. In addition, the Committee received information on recent changes in city, county, and school district tax mill levies; impacts of state tax reductions; an update on the Main Street Program; and an update on the Creative Arts Industries Council.

During the November 2012 meeting, the Committee conducted its usual monitoring of State General Fund finances, including the November 2012 State General Fund estimates of the Consensus Revenue Estimating Group. That review also included information on the November 2012 estimates for school finance and for human services caseloads. Updates were also provided for special appropriated funds and for Kansas personal income. In addition, the Committee received further updates on the Main Street Program, and updates on: oil and gas severance tax; the Judicial Branch; the Affordable Airfares Program; and the Veterans Claims Assistance Program.

State General Fund Finances

At the September meeting, staff of the Legislative Research Department (KLRD) reported that State General Fund Receipts (July and August) were $13.7 million or 1.7 percent above the estimate. The component of total SGF receipts from taxes only was $10.5 million or 1.2 percent below the estimate. Staff noted that the new income tax legislation becomes effective

January 1, 2013; therefore, receipts discussed represent those receipts under current law. Staff indicated that a main concern was the shortfall of year-to-date individual income tax receipts, which was approximately $19 million below expectations. Staff also noted that receipts are adjusted for fund transfers (school districts, various agencies, Department of Administration, Children's Fund agencies). Expected transfers were $91 million, and actual transfers were $69 million due to the reduction in the Kansas Bioscience Authority transfer in August 2012. The consensus estimates projected the $35 million transfer to the Kansas Bioscience Authority to be fully paid in August. Historically, this payment has been made in August and November. A total of $12.3 million was transferred in August, with the remainder scheduled to be transferred in November 2012.

At the October meeting, KLRD staff reviewed total State General Fund receipts for the first quarter of FY 2013 (July through September), which were $41.2 million or 2.9 percent above the estimate. The portion from taxes only was $16.0 million or 1.1 percent above the estimate. Corporation income tax receipts reflected approximately $11.0 million transferred toward corporation income tax liability at the request of taxpayers who had mistakenly paid corporation franchise taxes without realizing the latter tax had been repealed.

KLRD staff also provided its yearly analysis of Kansas' personal and disposable income based on data for calendar year 2011. The review included historical looks at personal income and disposable personal income in Kansas, and comparisons with other states.

At the November meeting, staff of the Legislative Research Department, provided information on the FY 2013 revised and FY 2014 State General Fund receipt estimates established by the Consensus Revenue Estimating Group. The FY 2013 revised estimate is a decrease of $5.2 million from the April 2012 estimate. For FY 2014, the estimate reflects the full implementation of tax law passed by the 2012 Legislature. The FY 2014 estimate is $705 million below the newly revised FY 2013 estimate. The estimated impact of the income tax receipt reductions is an $847.8 million deficit in FY 2014, which points to growth elsewhere in receipts; the projected decline for FY 2013 is $249.2 million. Staff covered other aspects of the Consensus Revenue Estimate , including Personal Income; Employment; Agriculture; Oil and Gas; the Inflation Rate; and Interest Rates. Staff noted the growth of the base in individual income tax receipts of 5.5 percent and the impact on sales tax receipts, barring legislative action to keep the rate from lowering from 6.3 to 5.7 percent. The estimated sales tax is a loss of $262 million. A final component of the estimates is net transfers. The net transfers estimate contains a State General Fund transfer of $27 million to the Local Ad Valorem Tax Reduction Fund, which is scheduled to occur in FY 2014.

Staff presented a State General Fund Profile, which showed an estimated ending balance of $471.7 million for FY 2013. The profile is adjusted to reflect the $27.2 million in shifts, reductions in Human Services Caseloads, and the $21.3 million for the Base State Aid Per Pupil (BSAPP) Education Caseload. FY 2014 expenditures include $14.9 million for school finance and $50 million for KPERS increases. To bring an ending balance to zero would require $302.1 million in expenditure or revenue adjustments.

Staff also provided the Committee with information, by agency, on expenditures shifted from FY 2012 to FY 2013 as a result of shifting or underspending. The total for shifts is $27.2 million, which is now authorized to be spent in FY 2013. In addition, $1.0 million was underspent, with a bulk of that ($858,297) in the Department of Corrections.

Staff also provided information on appropriated special revenue funds, including the Expanded Lottery Act Revenue Fund, the Children's Initiatives Fund, the State Water Plan Fund and the Economic Development Initiatives Fund.

Human Services Caseload Estimates

Staff provided information on human services caseload estimates for FY 2013 and FY 2014. Caseload estimates include expenditures for nursing facilities, regular medical assistance, Temporary Assistance to Families (TAF), the reintegration and foster care contracts, Psychiatric Residential Treatment Facilities (PRTFs) and out-of-home placements. The combined estimate for FY 2013 and 2014 is an all funds decrease of $46.4 million and a State General Fund decrease of $18.8 million. For FY 2013 the decrease is largely due to reduced estimates for regular medical expenditures and Nursing Facilities expenditures, as well as a decrease in TAF. A total of $45.9 million ($21.5 million from the State General Fund) is decreased as a result of anticipated savings from KanCare. The nursing facilities estimate declines by $9.2 million, due to the reduction in the number of people served and a slight cost reduction. For FY 2014 the decrease is primarily attributable to the TAF decrease. Recent changes in the state's policies have resulted in a decline in the TAF population. KanCare estimated savings would curb growth in Medicaid spending, with regular medical expenditures growing at $27.3 million, including $5.9 million from the State General Fund.

School Finance Estimates

Staff reviewed the changes in school finance estimates, based on the November 2012 estimates. A total of $21.3 million from the State General Fund is necessary to maintain Base State Aid Per Pupil (BSAPP) for FY 2013. Should funding not be appropriated, the BSAPP would drop to $3,807 for the 2012-13 school year. The additional funding is needed as a result of lower than anticipated property valuations, reduction in School District Finance Fund receipts, and an increase in weighted full-time equivalent (FTE) enrollment. The consensus group also reported that approximately $91.3 million from the State General Fund would be needed for FY 2013 Supplemental State Aid to stay at the flat appropriation generally appropriated each fiscal year since FY 2010. Without it, districts are estimated to receive a proration of 78.8 percent. Special Education's need for FY 2013 is estimated to increase by approximately $47.8 million, due to a base salary increase and additional teachers and paraprofessionals hired. If the Special Education amount is not funded, then the percentage of costs drops from 92 percent to 88 percent. The KPERS - School requirement is estimated to increase by $4.8 million for FY 2013 to cover higher than estimated pay increases; the group also estimated $40.5 million for FY 2014 KPERS – School.

Local Units of Government Mill Levy Changes

At the October meeting, staff of the Legislative Research presented information on changes in city, county, and school tax mill levies in recent years, which have increased as a result of reductions in state aid to local taxing subdivisions. The presentation included local tax structure, of which property and vehicle taxes account for 82 percent of revenue; local sales tax growth; and policy questions.

Impact of State Income Tax Reductions

Also at the October meeting, the Executive Director of the Kansas Economic Progress Council provided an overview of the organization's Kansas 2012 Income Tax Legislation report. He reviewed the tax reduction bill, the cost of the income tax reduction, public reactions to the legislation, technical problems which could require administrative rules and regulations clarification, and other states' income tax structure. He also presented information concerning government employment in Kansas and how those rates compare to other states.

The Executive Director said there is a strong argument that the state's economic problems are likely the result of two economic downturns rather than Kansas' income tax rate. He indicated there are three issues that require resolution before economic expansion can begin in Kansas: a technical issue involving the determination of tax basis; the uncertainty of the implementation of the federal Affordable Care Act (ACA) which hampers businesses' ability to plan; and the uncertainty of whether or not existing tax cuts will be preserved.

Main Street Program

The Committee heard information on the Main Street Program at the Department of Commerce at the October and November meetings. The Secretary of the Kansas Department of Commerce testified in October that, due to recent restructuring in September 2012, 18 Department of Commerce positions were eliminated. Some programs and divisions were moved or downsized, and the Kansas Main Street Program's funding was eliminated. The Secretary explained the rationale for the decisions and emphasized that the Department of Commerce is not abandoning its commitment to Kansas rural communities. He encouraged the 25 currently operating Main Street programs to continue and noted that 90 percent of their funding comes through local revenue sources; the Department of Commerce agreed to honor the anticipated funding through 2012. The State has also decided to allow revolving loan funds, through the "Incentives without Walls" program, to continue to be used by the Main Street cities.

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

Creative Arts Industries Commission

The Director of the Kansas Creative Arts Industries Commission (KCAIC) testified concerning the goal to further economic development through promotion and expansion of creative industries in Kansas. He discussed the Commission's work, which included: integrating and merging the Kansas Arts Commission and Kansas Film Commission assets; consulting with local, regional, and national partners including the National Endowment for the Arts (NEA); coordinating the former Arts Commission's efforts to sell arts license plates with the Department of Revenue; merging communication avenues which serve creative businesses and organizations across all disciplines; continuing Kansas Film Commission logistical support services; and submitting an initial application for the NEA partnership grant.

It is anticipated the Strategic Plan will be finalized in January 2013; at which time grant applications for funding to local arts agencies and groups would be considered by the Commission. The Commission's appropriation for FY 2013 is $699,467, with administrative costs estimated at $150,000. The Committee discussed the fact that none of the budgeted appropriation has been distributed to local arts agencies or groups. In addition, no distributions are planned until the Strategic Plan is finalized. Committee members inquired about the Commission's refusal to release already appropriated funding. The Director indicated that the Creative Arts Industries Commission's new focus is job creation and economic development and that the Strategic Plan is an integral component to determine grant funding eligibility that meets the Commission's new mission.

Oil and Gas Severance Tax

At the November meeting, a representative of the Kansas Department of Revenue presented information concerning the decline in severance tax collections, which is a result of a softening in prices. He reviewed mineral tax distributions by fund, as well as mineral tax collections by product. The severance tax receipts are anticipated to grow for FY 2014 (up to $137.4 million total, with gas increasing from $21.2 million to $33.4 million and oil increasing from $78.9 million to $104.0 million). He noted an increase in speculative activity, which will show in revenues as taxes are receipted. When asked whether drilling permits are tracked and whether the oil production increase is a result of the number of barrels produced or the price per barrel, he stated the Kansas Corporation Commission website shows intent-to-drill permits by county location.

Judicial Branch Update

The Budget and Fiscal Officer of the Office of Judicial Administration presented testimony concerning three topics: the e-filing project; clerks' fees revenue; and the FY 2014 base budget and enhancement requests.

Information technology staff within the Judicial Branch have been working with vendors to create the links between the various systems required to develop a functional e-filing system. Training of the initial system users is underway; the system is scheduled for installation in selected "pilot" courts in December 2012. The FY 2014 budget request includes $1.1 million for e-filing installations in 14 of the remaining 28 judicial districts. The maintenance costs for e-filing is $306,000 yearly. Considerable discussion was held regarding the "home-grown" e-filing system created and utilized by Johnson County. The representative of the Judicial Branch stated that to expand the Johnson County system, the Judicial Branch would have had to employ additional information technology analysts to provide technical support. She assured committee members that once the State's e-filing system is operational, the Johnson County e-filing system would seamlessly interface with the State's e-filing system.

Clerks' fees have steadily declined more than 5.0 percent from FY 2010 to FY 2011 and more than 6 percent from FY 2011 to FY 2012. Typically 35.0 percent of clerks' fees revenue is received in the first four month of the year. Applying that percentage, the annualized revenue in FY 2013 is anticipated to be 9.0 percent lower than FY 2012. The reduction in revenue affects several funds and programs, including: Access to Justice Fund, Alternative Dispute Resolution Fund, the Education Fund, the Technology Fund, the Permanent Families Account in the Family, and Children Investment Fund. The FY 2014 budget excluded surcharge revenue because statutory authority for the surcharge sunsets at the end of FY 2013.

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

Affordable Airfares Program

A representative of the Kansas Department of Commerce updated the Committee on the Affordable Airfares Program and Air Service Support Funding for Manhattan and Topeka. The Commerce Department and the Regional Economic Area Partnership (REAP) have come to agreement on the terms for an independent, third party review of the Fair Fares Program in July 2012. The cost of the study will be borne by REAP; a preliminary report will be submitted no later than January 15, 2013.

The Chair of the REAP Legislative Committee provided testimony concerning REAP's actions, as administrator of the Kansas Affordable Airfares Program, and information on the performance and effectiveness of the program. He noted that the $5.0 million appropriation in 2012 will be split between Sedgwick County ($4.75 million) and Garden City ($250,000). The Sedgwick County allotment is to: address all statutory criteria for the allocation of funding including the priorities of maintaining affordable airfares to eastern and Western destinations; renew a contract with AirTran for 12 months beginning July 1, 2012; provide for the Frontier revenue guarantee agreement to continue through June 2013; and provide for the local match of 25 percent.

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

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

Veterans Claim Assistance Program

The Director of Veterans Services of the Kansas Commission on Veterans Affairs presented the statutorily required annual report on the Veterans' Claims Assistance Program (VCAP) and the Service Grant Program. VCAP has completed its sixth successful year of operation and provided the program's legislative background and progress during FY 2012. He discussed the Veterans Claims Assistance Advisory Board, its purpose and structure, and participating veterans service organizations. Statistical Information was presented relating to service organizations claims by location and their claims production; expenditures were also reviewed.

When asked if the Veterans' Services Office participates with the Department of Commerce to identify potential employment opportunities for veterans, he indicated that the Veterans' Services Office does perform job fairs and other employment-focused activities with the Department of Commerce; however, those activities are not included in VCAP.

Representatives of the Veterans of Foreign Wars and the American Legion were also present to discuss the success of VCAP .

Conclusions and Recommendations

With regard to the Judicial Branch e-filing issue, the Committee recommends funding be appropriated for the e-filing system. The e-filing system could actually save a great deal of money in the future.

Concerning the Affordable Airfares program, the Committee recommends continued air service project updates, particularly from Topeka's program, during the summer of 2013.

Legislative Budget Committee

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

Conclusions and Recommendations

- The Committee recommends that the standing Transportation Committees, the House Appropriations Committee, and the Senate Ways and Means Committee continue to monitor rail issues.
- The Committee recommends that these same committees continue to monitor the Kansas Department of Transportation's financial policies, including auctions of district equipment.
- The Committee recommends a study on the issuance of KDOT bonds for potential savings by utilizing the Kansas Development Finance Authority, and that the findings from the study be presented to the House Appropriations Committee and the Senate Ways and Means Committee.

Proposed Legislation: None.

Background

The Legislative Coordinating Council directed the Legislative Budget Committee to receive an update on federal funding issues of the Department of Transportation.

Committee Activities

The Secretary of the Department of Transportation (KDOT) testified at the October meeting regarding evaluation of efficiencies within the department consisting of: assets, budget savings, and operations management. The Department recently eliminated 40 positions without affecting engineering or operations within the T-Works project, a budget savings of approximately $2.0 million. In addition, operations management evaluations have occurred both to maximize the department's workforce without duplication of efforts and to consider the possibility of consolidating functions and property within the Department's divisions. Agency partnerships also were reviewed.

T-Works, the Department's $7.8 billion transportation program, was discussed. The Secretary reviewed the program's progress by county and its funding breakdown; he discussed the T-Works promise to invest at least $8.0 million in each Kansas county over the project's 10-year span. The program's revenue sources and expenditures were reviewed. The Secretary informed the Committee that when funding is shifted from KDOT to other statewide programs or services, the impact is felt on T-Works maintenance, operations, and finally various projects.

The KDOT Deputy Secretary noted that should significant funding be shifted from the State Highway Fund to the State General Fund for other state services or programs, KDOT would attempt to absorb that funding loss through operations, savings, or maintenance; ultimately preservation programs, local programs, modernization, or expansion programs would be affected.

With regard to a question concerning KDOT's recent refinancing of 2004 series callable bonds, the Secretary stated there are nine years remaining on the bonds, which were not extended past the original issue. Interest savings of $33.0 million will be targeted for remaining KDOT projects.

The Secretary stated that eight "local consult" meetings are scheduled biennially; these meetings update Kansans on T-Works projects in their area and gather input from the public on how state transportation dollars are invested. Participants have an opportunity to prioritize area projects, should funding become available.

Federal Funding Update

The Secretary reported that the federal government appropriated $366.0 million to Kansas in 2012 under the Moving Ahead for Progress in the 21st Century Act (MAP-21).The allocation was $26.0 million less than was appropriated in 2011.

A representative of KDOT added that HB 2455, passed by the 2012 Legislature, required KDOT to meet with the public about the long-term feasibility of relying on the motor fuel tax as the primary method of funding the state's highway maintenance and construction program. Therefore, during Local Consult meetings, participants were surveyed and asked to rank five alternative revenue sources. The results of the surveys would be available by the start of the 2013 Session.

Rail Passenger Service

The Committee heard comments concerning passenger rail service, Amtrak's Southwest Chief, and Amtrak's concerns regarding deterioration of the tracks. The Secretary informed the Committee that Burlington Northern Santa Fe (BNSF) does not require the same rail quality for freight traffic; there is no interest in rail maintenance or capital improvements on BNSF's behalf. Therefore, the future of the service through western Kansas is questionable. According to projections, $100.0 million for the route's capital improvements (Newton to Albuquerque) is necessary, as well as funding for annual maintenance requirements. Secretary King reported he had personally communicated with the New Mexico Secretary of Transportation, and KDOT staff representatives have discussed the issue with the Colorado Secretary of Transportation; neither states' secretaries expressed interest in investing funds for this project. The City Manager of Garden City, Kansas, submitted written testimony to the Committee, supporting the preservation of the Southwest Chief rail service through western Kansas

Committee members suggested that the prohibitive cost of rail travel could result in declining rail travelers and, therefore, could outweigh any benefit to Kansas for participating in this capital improvement. The Secretary indicated that BNSF's current transcontinental route could be used as an alternative.

The Heartland Flyer passenger train service between Fort Worth, Texas, and Oklahoma City, Oklahoma was discussed. A proposed extension would link the current route through Wichita to Kansas City. It was noted that the Secretary of the Oklahoma Department of Transportation has expressed no interest in participating in a partnership to bring that service from Oklahoma City to Kansas; however, Oklahoma is evaluating the feasibility of a study in extending the service from Oklahoma City to Tulsa. Texas and Oklahoma have agreed to perform a service development plan which does not include the route extension through Kansas. The consultant involved in the Texas-Oklahoma plan proposed a $4.0 million contract extension to include the proposed Kansas route. Since Kansas had already completed its service development plan, the State chose not to pursue that proposal. In order to perform the service level and project level environmental assessments as well as preliminary engineering, a cost of $7.0 million would be anticipated. In response to a question concerning the proposed construction expenditure for the Heartland Flyer Kansas route from Newton to Oklahoma City, the cost was estimated at $132.0 million in capital costs, including a 30.0 percent contingency. The new service route from Fort Worth to Kansas City is projected at $425.0 million in capital costs.

A Wichita City Council Member discussed his community's support of continued dialogue to pursue the Heartland Flyer proposed route through Wichita to Kansas City. He acknowledged the challenges previously discussed and indicated

Wichita's readiness to capture opportunities the Heartland Flyer would bring to the city and region.

Local Safe Streets and Bike Lanes

With regard to a question concerning funding for local safe streets and bike lanes, the KDOT Deputy Secretary informed the Committee that as collaboration occurs with local partners, KDOT continues to integrate safe street components into project development. A current project in Lawrence is underway; as communities evaluate matching funding requirements and additional costs, they could choose to abandon integration of those capital improvement projects.

Equipment Sales

The KDOT Deputy Secretary reported that as part of KDOT's asset evaluation, a package of equipment (purchased with state funds) was identified, to be sold at auction in November 2012. Funds generated from the sale of the equipment will be returned to the State Highway Fund. At the November meeting, additional information was provided on the equipment sales. A representative of KDOT provided a list of all surplus property that was sold at auction in October 2012, which yielded $854,563 in sales. A second auction in November has resulted in sales of $1,301,660 as of November 13, 2012; the auction closes on November 20, 2012.He noted these are on-line auctions conducted by Purple Wave Auction, Inc., and that KDOT is not required to go through the State Surplus Property Program. KDOT retains all proceeds, receipted into the State Highway Fund, with the exception of 10 percent of the total, which is paid to Purple Wave Auction, Inc.

Revenue Sources

With regard to information on revenue sources included in the KDOT presentation, sales tax accounted for 28.0 percent of the total revenue; a 3.5 percent growth-inflation rate was used for those calculations with FY 2014 used as the base. The federal funds portion of the 10-Year revenue sources projections, at a projected 22.0 percent rate, is valid until FY 2014. There is no guarantee that rate will be maintained after FY 2014. However, the Deputy Secretary indicated 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 Department's 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.

Conclusions and Recommendations

The Committee recommends that the standing Transportation Committees, the House Appropriations Committee, and the Senate Ways and Means Committee continue to monitor rail issues.

The Committee recommends that these same committees continue to monitor the Kansas Department of Transportation's financial policies, including auctions of district equipment.

The Committee recommends a study on the issuance of KDOT bonds for potential savings by utilizing the Kansas Development Finance Authority, and that the findings from the study be presented to the House Appropriations Committee and the Senate Ways and Means Committee.

Legislative Budget Committee

Financial Management System in Kansas Department for Aging and Disability Services

Conclusions and Recommendations

The Legislative Budget Committee had no recommendations because of the actions taken to address the issues by the Administration.

Proposed Legislation: None.

Background

The Legislative Coordinating Council requested the Committee review the implementation of the Financial Management System (FMS) in the Kansas Department for Aging and Disability Services (KDADS) and monitor the effectiveness of the new system.

Committee Activities

Representatives of KDADS provided an overview of the evolution of the financial management system (FMS). A representative of the agency reported a FMS workgroup was created to review rates, practices and improvement opportunities. At the current time, the workgroup had recommended an evaluation of limiting FMS providers but indicated the project should be delayed until KanCare is implemented.

A representative of the Topeka Independent Living Resource Center spoke concerning the rapid changes since implementing the FMS. Consequences resulting from the implementation were noted by the conferee as follows:

- Provider agencies have been downsized and satellite offices closed;
- Flexibility providers were able to provide to beneficiaries has been restricted;
- Fewer providers result in fewer consumer choices; the greatest concern is that consumers are losing critical support systems.

The representative also stated the gap in providing support to consumers could be filled by case managers assisting consumers in self-directing care or other providers who could pick up those needing support services.

The Committee noted the importance of understanding the impact of these consequences.

Concerns with the Financial Management System implementation continue to surround provider agencies being downsized and satellite offices closed as well as restricting flexibility providers previously were able to provide to beneficiaries. The agency reported little change in this area over the Interim.

An agency representative reported the FMS Workgroup met with the contracted Managed Care Organizations to review and to discuss how the FMS works under KanCare. There are 64 Financial Management System providers and interest from other providers. The Committee was informed the FMS Workgroup will continue to work on addressing the issues.

Conclusions and Recommendations

The Legislative Budget Committee had no recommendations because of the actions the Administration has taken to address the issues.

- The current federal administration has indicated enforcing *Olmstead* is a top priority. The decision was rendered in 1999; staff could not conclusively respond whether there have been modifications to the interpretation since the original ruling.

A representative of Kansas Department for Aging and Disabilities updated committee members on the Physical Disabilities waiting list. The agency described the telephone call survey conducted in the spring in which certification by Centers for Independent Living revealed 1,226 individuals should be removed from the waiting list. As of November 2012, the waiting list was 2,197 (a removal of 1,226 individuals and addition of 250 new individuals since the waiting list verification project began).

Any individual removed from the waiting list due to the verification process that contacted the Kansas Department for Aging and Disability Services, a Center for Independent Living or other service provider and indicated services were still needed, would retain their priority placement following an eligibility determination. Further, the Department representative indicated that the State would now manage the waiting list for the Physical Disability waiver. KanCare Managed Care Organizations will manage the care of those that are Medicaid eligible; the State will follow-up with all non-KanCare waiting list, eligible individuals on a quarterly basis.

Conclusions and Recommendations

The Legislative Budget Committee recommends the Legislature continue to monitor the Home and Community Based Services Waiver Waiting Lists. The Legislature should also be kept informed of any information from the federal Department of Justice or the federal Centers for Medicare and Medicaid Services regarding actions related to the *Olmstead* Case.

Legislative Budget Committee

Home and Community Based Services Waiting Lists

Conclusions and Recommendations

The Legislative Budget Committee recommends the Legislature continue to monitor the Home and Community Based Services Waivers Waiting Lists. The Legislature should also be kept informed of any information from the federal Department of Justice or the Centers for Medicare and Medicaid Services regarding actions related to the *Olmstead* Case.

Proposed Legislation: None.

Background

The Committee was provided an overview of the Home and Community Based Services Waiver Program which provides the State with flexibility to develop and implement alternatives to placing Medicaid-eligible individuals in hospitals, nursing facilities, or intermediate care facilities. The Waiver Program recognizes that many individuals at risk of being placed in these facilities can be cared for in their homes and communities, preserving their independence and ties to family and friends at a cost no higher than that of institutional care. States may also target 1915(c) waivers by specific illness or condition.

Waiver services are not required to be made available to all Medicaid recipients and can be limited to that specific population for whom the waiver is provided.

Currently available Home and Community Based Services waivers in Kansas are: Autism, Developmental Disability (DD), Physical Disability (PD), Technology Assisted (TA), Traumatic Brain Injury (TBI), Frail Elderly (FE), Seriously Emotionally Disturbed (SED), and Community Based Alternatives to institutional care.

In addition, information was provided listing the number of individuals on each waiver's waiting list, as well as Home and Community Based Services waiver expenditures from all funding sources (historical comparison FY 2000 to FY 2013 Approved) and Home and Community Based Services waiver expenditures from the State General Fund (historical comparison FY 2007 to FY 2013 Approved).

Staff from the Office of the Revisor of Statutes discussed recent developments related to the *Olmstead* decision. Staff reported on the court's decision, and the requirement to provide community services is based on three conditions being met. A handout from the U.S. Department of Justice was distributed for committee members reference. This resource references questions related to budget cuts and violation of *Olmstead* and the Americans with Disabilities Act. Staff also clarified that the 18-month time frame refers to a "reasonable promptness" by moving individuals from a waiting list into needed services. Staff also noted:

- Budget cuts can violate the Americans with Disabilities Act and *Olmstead* when significant funding cuts are made to community services, creating a risk of institutionalization or segregation for those on waiting lists as well as those receiving services.

- A "fundamental alteration" requires the public entity to establish that the modification would fundamentally alter its service system.