

MINUTES

LEGISLATIVE BUDGET COMMITTEE

November 17, 2005
Room 519-S—Statehouse

Members Present

Representative Melvin Neufeld, Chairman
Senator Dwayne Umbarger, Vice-Chairman
Senator Jim Barone
Senator Steve Morris
Representative Bill Feuerborn
Representative Brenda Landwehr
Representative Ray Merrick

Staff Present

Alan Conroy, Legislative Research Department
J. G. Scott, Legislative Research Department
Amy Deckard, Legislative Research Department
Audrey Dunkel, Legislative Research Department
Susan Kannarr, Legislative Research Department
Deb Hollon, Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office
Nikki Feuerborn, Administrative Assistant
Shirley Jepson, Committee Secretary

Conferees

Jack Shandy, CPA and Financial Consultant, Financial Management, Inc.
Cindy Luxem, Vice President, Kansas Health Care Association
Debra Zehr, Executive Vice President, Kansas Association of Homes and Services for the Aging
Bill McDaniel, Director of Nursing Homes and CARE, Department on Aging
Janis DeBoer, Department on Aging
Dan Roehler, Chief of Operations, Department of Administration, Health Policy and Finance
Roger Van Etter, Department of Administration, Health Policy and Finance
Patricia Biggs, Executive Director, Kansas Sentencing Commission
Don Jordan, Acting Commissioner, Juvenile Justice Authority
John Armburst, Governor's Strategic Military Planning Commission
Jerry Carson, Kansas Army Ammunition Plant-Local Redevelopment Planning Authority
Bob Wood, Kansas Army Ammunition Plant-Local Redevelopment Planning Authority

Morning Session

Chairman Neufeld recognized Alan Conroy, Legislative Research Department, who presented an update on revised State General Fund (SGF) receipts for FY 2006 and FY 2007 as projected by the Consensus Estimating Group, as well as a report on the State General Fund (SGF) outyear demands ([Attachment 1](#)). Mr. Conroy stated that the estimate for FY 2006 was increased by \$221.0 million or 4.5 percent above previous estimates by the Consensus Estimating Group. This increase represents a 6.5 percent growth forecast above actual FY 2005 SGF receipts. Mr. Conroy noted that the Kansas economy is expected to continue to grow as the state continues to recover from the recession. The employment outlook for Kansas remains healthy with a continued growth in individual income taxes.

The SGF outyear demands report shows projected demands on the SGF in FY 2007 of \$226.4 million and in FY 2008 of \$286.9 million. Other potential demands on the state budget include funding for K-12 education, higher education, state employee health insurance, and state employee salary increases.

Responding to questions from the Committee, Mr. Conroy stated that increases for special education and for the local option budget (LOB) are factored into the FY 2007 and FY 2008 estimates. Mr. Conroy noted that the Department of Transportation (KDOT) has not issued any additional bonds at this time.

- The Committee requested a history of funding taken “off budget” as well as a ten-year history of bonded indebtedness, and information on how Kansas compares with other states in bonded indebtedness.
- With reference to corporate income tax, the Committee requested a summary of those entities paying zero corporate income tax.
- Additionally, as a result of increased funding for K-12 education and the potential increase in educator’s salaries, the Committee felt it would be important to monitor these increases with reference to their impact on the state’s contribution to the Kansas Public Employees Retirement System (KPERS).

Amy Deckard, Legislative Research Department, presented an overview of nursing facility reimbursement legislation pertaining to the reimbursement formula and provisos relevant to the nursing facilities' reimbursement rates included in recent appropriation bills ([Attachment 2](#)).

The Chairman recognized Jack Shandy, Certified Public Accountant and Financial Consultant, Financial Management Inc., who presented testimony on the nursing facility reimbursement formula ([Attachment 3](#)). Mr. Shandy noted that a correction should be made to his testimony on page 1 of section “D” under the Medicaid rate range, which should read \$90 - \$94.99 instead of \$90-\$89.99. Mr. Shandy’s testimony presented items of concern in Medicaid reimbursement including: cost report processing freezes which allow up to seven years to lapse before another cost report is required for rate setting purposes; excessive costs within the nursing facility field; problems existing between surveyors and the nursing facilities; physical plant compliance issues; use of artificial data to set specific components of reimbursement; the 85 percent occupancy rule; and the quarterly case mix index (CMI) Medicaid rate adjustments. Mr. Shandy felt that there are serious problems in the nursing home industry which need to be addressed.

Responding to a question from the Committee concerning the different effect of “profit” and “not-for-profit” nursing facilities on the Medicaid reimbursement rate, Mr. Shandy noted that some of the highest Medicaid reimbursement rates are paid to “not-for-profit” facilities possibly because they do not have the motivation to keep expenses low. Mr. Shandy voiced a concern that the use of year 2001 for cost report processing may be rewarding some nursing facilities for poor performance.

The Chairman recognized Cindy Luxem, Vice President, Kansas Health Care Association (KHCA), who presented testimony on the funding formula for the Medicaid Nursing Facility Reimbursement Program, including a state-by-state comparison on rates and costs ([Attachment 4](#)). Ms. Luxem noted that the American Health Care Association projects that Medicare rates for nursing home care will decrease by \$16 a day on January 1, 2006. Ms. Luxem noted that KHCA believes by partnering with the state’s Medicaid agency, additional federal dollars can be directed to Kansas. Ms. Luxem addressed changes to the current cost report procedure, change to a property fair value rental system, and implementation of a nursing facility reimbursement add-on to cover costs of care, enhance workforce, and increase targeted case manager fees.

The Committee noted that part of the problem associated with the provider assessment is disagreement within the nursing facility industry in the State of Kansas. Ms. Luxem noted that the Association is working on amendments to legislation to comply with new federal guidelines on provider assessments. The Committee requested additional information:

- Pertaining to the table of state-by-state comparison rates and costs provided by Ms. Luxem, a review and additional information on why some states, such as Arkansas, had such a small difference between the rate of Medicaid funding and costs.

Chairman Neufeld recognized Debra Zehr, Executive Vice President, Kansas Association of Homes and Services for the Aging (KAHSA), who presented testimony representing the “not-for-profit facilities” on nursing facility reimbursement ([Attachment 5](#)). With reference to increased surveys by the State Fire Marshal, Ms. Zehr noted that a new life-safety code has been adopted at the federal level resulting in increased surveillance at the state level. Ms. Zehr also stated that for rate setting, the Association feels it is important to rebase annually, to look at aging facilities in small rural communities, to provide flexibility in regulations, to encourage private rooms in nursing facilities, and to reward quality of care. Ms. Zehr noted that the Association is opposed to taxing private-pay nursing home residents or creating a lower standard of care for Medicaid clients. Ms. Zehr stated that some reasons for opposition to the provider tax include targeting people who need care, possible use of funds for other purposes, and the possibility of assets being spent down more quickly followed by the individual being qualified for Medicaid. Responding to a question from the Committee, Ms. Zehr felt that pay is not the main reason for the turnover rate among nursing home staff and that turnover more often is a result of working conditions and motivation. The Committee requested information on:

- The unfunded mandate of the Health Insurance Portability and Accountability Act (HIPAA);
- The variance between the Medicaid rate and private-pay rate;
- A list of states with provider tax and more detail on the negative effect of the provider tax in other states; and
- The number of private-pay individuals covered by long-term care insurance.

The Chairman recognized Bill McDaniel, Director of Nursing Homes and CARE, Kansas Department on Aging, who presented testimony on the nursing facility rate setting methodology ([Attachment 6](#)). The Committee voiced concern with the change in the safety code. In addition, the Committee voiced strong concern for the procedure used by surveyors in inspecting nursing facilities and the reported harassment being experienced by the facilities. The Committee directed the Department on Aging to address the situation and report to the Legislature in January on what corrective measures are being taken to improve the situation.

Chairman Neufeld recognized Janis DeBoer, Department on Aging, who answered questions from the Committee concerning the surveyors. The Committee requested additional information on training, education, and qualification requirements for surveyors.

The meeting was recessed at 12:10 p.m.

Afternoon Session

Additional information on the provider tax in other states was provided by Debra Zehr, Kansas Association of Homes and Services for the Aging (KAHSA), and distributed to the Committee ([Attachment 7](#)).

Chairman Neufeld recognized Dan Roehler, Chief of Operations, Department of Administration, Health Policy and Finance, who presented testimony on estate recovery ([Attachment 8](#)). Mr. Roehler indicated that the agency is reviewing ways to streamline the reporting and collection procedures and review joint-owner liability.

Roger Van Etter, Department of Administration, Health Policy and Finance, answered questions concerning the procedure used to determine assets and recovery when a nursing home resident applies for Medicaid.

With reference to staffing of the Estate Recovery Unit, Mr. Roehler stated that it is presently staffed by two attorneys and two support staff personnel. As the program moves forward, there may be a need for additional staff.

The Chairman recognized Patricia Biggs, Kansas Sentencing Commission, who presented an update on the status of the Juvenile Justice Authority (JJA) population projections for FY 2006 through FY 2015 ([Attachment 9](#)), noting that valid and accurate JJA projections for this time frame are not attainable. Ms. Biggs is hopeful that continued efforts will result in valid and reliable future projections. Responding to a question from the Committee, Ms. Biggs noted that Hispanics are included in the Caucasian category in the graphs presented. The Committee noted a 40 percent growth rate at the Larned facility.

Chairman Neufeld recognized Don Jordan, Acting Commissioner, Juvenile Justice Authority, who presented testimony on the JJA population projections ([Attachment 10](#)). Mr. Jordan noted that the drop in population in 2005 is a result of both fewer admissions and more releases. The agency is working to operate the behavior management treatment program consistently throughout each facility to insure that the juveniles gain the maximum benefit from the program and will not be a safety threat to the community when released. Mr. Jordan indicated that the agency is working to rewrite

the policy on good time to make it more understandable, and working with the courts to clarify good time procedures.

Mr. Jordan stated that he felt that the juvenile system needs to be more focused on rehabilitation than the adult system. Recently, a contract was signed for a pilot project in the western part of the state to develop foster homes for troubled juveniles as opposed to confining the juvenile in a detention facility. He felt that the Atchison Juvenile Correctional Facility population will continue to decline with the development of community programs. There also is the possibility of placing some older juveniles at Atchison to maintain the current work programs. Mr. Jordan noted that JJA is working to make a substance abuse program available at each juvenile facility. The Committee requested information on the Hispanic population at the juvenile facilities.

The Chairman recognized John Armburst, Governor's Strategic Military Planning Commission, who presented testimony on the impact of the Base Realignment and Closure (BRAC) 2005 proposal to close the Kansas Army Ammunition Plant in Parsons ([Attachment 11](#)). Mr. Armburst stated that the State did not consider the closure of the Parsons Plant until notified by BRAC on May 13, 2005. He noted that BRAC only looked at the eight federal employees at the Parsons plant and did not consider the additional 300-plus employees at the plant. A decision was made to not fight the closure and look for ways to make the closure ultimately have a positive affect on southeast Kansas.

Chairman Neufeld recognized Jerry Carson, Kansas Army Ammunition Plant, Local Redevelopment Planning Authority, who presented testimony on the impact of BRAC 2005 recommendation for closure of the Kansas Army Ammunition Plant in Parsons ([Attachment 12](#)). Mr. Carson indicated that a plan is being developed to retain Day and Zimmerman as a private munitions manufacturer at the facility.

The Chair recognized Bob Wood, Kansas Army Ammunition Plant, Local Redevelopment Planning Authority, who presented testimony on the closure of the Ammunition Plant, including a map of the projected use of the property and facility ([Attachment 13](#)).

Responding to questions from the Committee, Mr. Armburst indicated that the property and equipment owned by Day and Zimmerman on the site is all tax-exempt. On another issue, Mr. Wood indicated that the extent of possible environmental contamination at the facility is unknown at this time, but the environmental issues associated with the property are enormous. With regard to the power plant located on the property, discussions are taking place with Weststar Energy on use of the power plant with possible assistance from the port authority. With regard to the time frame of closure, Day and Zimmerman has a contract through 2007. If the BRAC recommendation is implemented, the closure and disposal of property should take place by 2011; however, the rules are changing weekly. The Committee felt it is important to keep abreast of the situation at the Ammunition Plant to achieve the best results possible for southeast Kansas.

Chairman Neufeld turned the Committee's attention to a draft copy of the report on the Legislative Budget Committee's conclusions and recommendations from the items addressed by the Committee during the previous interim meetings ([Attachment 14](#)) and asked for comments on the report. Additional items of concern to be included:

- Briefing on Medicaid nursing facilities addressing the movement of Medicaid eligible individuals to a new facility with increased cost to the State and a review of long-term Medicaid rules on the upper limit of per-day costs;
- Benefits to disabled veterans for hunting and fishing licenses;

- Possible legislation allowing for stipends to be paid to veterans for work through veterans' organizations;
- Department of Corrections' mental health issues including the stacking effect, development of community programs, daily costs of operation, and development of cost effective programs;
- The sex predator program – making programs available while incarcerated, impact of continuing program;
- State parks – problem with tourism, historical sites, underfunded state parks;
- Juvenile Justice Authority – a requested assessment of JJA property in Topeka which should be done by February 1, 2006, and an update on JJA's pilot program with regard to foster homes.
- Follow-up on surveyors and Fire Marshal's office, relating to nursing facilities, concerning change in rules, estate recovery, and possible legislation.

The Chairman recognized Deb Hollon, Legislative Research Department, who presented an update on the proposed plan for state university deferred maintenance as approved by the Kansas Board of Regents earlier today (Attachment 15).

- The Committee requested a review of historical data pertaining to how the "crumbling classrooms" funding was spent.
- In addition, the Committee requested a review of all deferred maintenance at all state facilities.

Senator Barone moved to approve the minutes, as written, of the October 10, 2005, Committee meeting. The motion was seconded by Representative Feuerborn. Motion carried.

The meeting was adjourned at 4:20 p.m. The next meeting of the Committee will be held on December 12, 2005.

Prepared by Shirley Jepson
Edited by Leah Robinson

Approved by the Committee on:

December 12, 2005
(date)