

## MINUTES

### LEGISLATIVE BUDGET COMMITTEE

August 26-27, 2010  
Room 548-S—Statehouse

#### Members Present

Representative Ray Merrick, Vice-chairperson  
Senator Laura Kelly  
Senator John Vratil  
Representative Bill Feuerborn  
Representative Jeff Whitham  
Representative Kevin Yoder

#### Member Absent

Senator Jay Emler, Chairperson

#### Staff Present

Alan Conroy, Kansas Legislative Research Department  
J. G. Scott, Kansas Legislative Research Department  
Leah Robinson, Kansas Legislative Research Department  
Audrey Dunkel, Kansas Legislative Research Department  
Reagan Cussimano, Kansas Legislative Research Department  
Dylan Dear, Kansas Legislative Research Department  
Amy Deckard, Kansas Legislative Research Department  
Lauren Douglass, Kansas Legislative Research Department  
Cody Gorges, Kansas Legislative Research Department  
Aaron Klaassen, Kansas Legislative Research Department  
Estelle Montgomery, Kansas Legislative Research Department  
Michael Steiner, Kansas Legislative Research Department  
Jarod Waltner, Kansas Legislative Research Department  
Jim Wilson, Office of the Revisor of Statutes  
Jill Wolters, Office of the Revisor of Statutes  
Renaee Jefferies, Office of the Revisor of Statutes  
Daniel Yoza, Office of the Revisor of Statutes  
Melinda Gaul, Chief of Staff, Senate Ways and Means Committee  
Shirley Jepson, Committee Assistant

## Conferees

John Dieker, Vice-President, Bombardier Learjet  
Don Pufahl, Bombardier Learjet  
Alan Young, Bombardier Learjet  
Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services  
Roy Menninger, President, Kansas Mental Health Coalition  
Rick Cagan, Executive Director, National Alliance on Mental Illness–Kansas Disability Rights Center of Kansas  
Jason Hooper, President, KVC Hospitals, LLC  
Lois Clendening, Service Line Director, Behavioral Health, Via Christi Hospital, Wichita  
Mike Hammond, Executive Director, Association of Community Mental Health Centers of Kansas  
David Wiebe, Executive Director, Johnson County Community Mental Health Center  
Walt Hill, Executive Director, High Plains Mental Health Center  
Howard “Spenser” McCurry, consumer  
Barbara Langner, Medicaid Director, Kansas Health Policy Authority  
Major General Tod Bunting, Adjutant General  
Janice Harper, Adjutant General’s Department  
Scott Brunner, Chief Financial Officer, Kansas Health Policy Authority  
Dale Dennis, Deputy Commissioner, Department of Education, Topeka, USD 501  
Frank Harwood, Chief Operations Officer  
Shelia Smith, Assistant Director, Special Education, Lawrence School District  
Ray Dalton, Deputy Secretary, Disability and Behavioral Health Services, Kansas Department of Social and Rehabilitation Services  
Martin Kennedy, Secretary, Kansas Department on Aging  
Roger Werholtz, Secretary, Kansas Department of Corrections  
Bill Thornton, Secretary, Kansas Department of Commerce  
Jim Garner, Kansas Department of Labor  
Jeremy Hill, Director, W. Frank Barton School of Business, Center for Economic Development and Business Research  
Stan Ahlerich, President, Kansas, Inc.

### **Thursday, August 26 Morning Session**

The meeting was called to order at 10:00 a.m. by Representative Merrick, Vice-chairperson, in the absence of Chairperson Emler.

## **Year-End Expenditures and Current Year Receipts Update**

J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department (KLRD), presented a preliminary overview of Actual FY 2010 Resources, Demands, and Balances of the State General Fund (SGF) (*Attachment 1*). Mr. Scott noted that actual receipts for FY 2010 were \$5.192 billion, or 1.9 percent, below estimates. Actual expenditures for FY 2010 were \$142.0 million less than the total approved by the 2010 Legislature, but \$138.6 million budgeted for FY 2010 was shifted to FY 2011. This shifting related primarily to the decision to delay state aid payments to school districts in June 2010. The aid will be paid in July 2011.

Alan Conroy, Director, KLRD, presented an overview of SGF receipts for FY 2010 (Attachment 2). Mr. Conroy explained that total receipts to the SGF in FY 2010 were \$98.6 million, or 1.9 percent, below the final adjusted estimate, largely due to lower-than-estimated individual income taxes. Total SGF receipts in FY 2010 were below SGF receipts in FY 2009 by \$396.5 million, or 7.1 percent.

Mr. Conroy presented an update on SGF receipts for July, FY 2011 (Attachment 3) and noted that total receipts for July, the first month of FY 2011, were \$10.0 million, or 2.4 percent, below the April 16, 2010, consensus revenue estimate. Retail sales and individual income taxes fell below the estimate by more than \$1.0 million for this first month of FY 2011.

Mr. Scott presented an update on the congressionally approved extension of elements of the *American Recovery and Reinvestment Act (ARRA) of 2009* (Attachment 4). The extension will provide two funding sources to the states, an extension of the enhanced Federal Medicaid Assistance Percentage (FMAP) and additional funding for education jobs. The bill extends the FMAP enhancement from January 1, 2011, to June 30, 2011, at a reduced rate of 3.2 percent for January through March of 2011 and 1.2 percent from April through June of 2011. The current fiscal impact of the increased Medicaid funding is \$90.2 million to the state. The bill also includes an estimated \$92.7 million for Kansas education jobs funding; however, it would require a maintenance of effort on the part of the state.

## **Learjet Plant Expansion**

John Dieker, Vice-President, Bombardier Learjet, presented an overview of the Bombardier Learjet operations in Wichita (Attachment 5). Assisting Mr. Dieker in the presentation were Don Pufahl and Alan Young. Mr. Dieker reported on the expansion of the Wichita facility for the Learjet 85 aircraft program, which will begin in the 4th quarter of 2010. The Learjet 85 is an upper-mid-sized plane designed to meet the needs of a growing customer base. The various parts for the construction of the aircraft will be made at other Bombardier Learjet plants across the country and around the world, which would then be shipped to the Wichita plant for assembly. The employees at the Wichita facility will be highly skilled employees. Presently, Learjet has approximately 2,100 employees in Kansas and plans to increase that number to 4,000 full-time employees. Mr. Dieker acknowledged the approval by the State Finance Committee on August 6, 2010, allowing Learjet to issue bonds in the amount of \$27 million for the expansion project. Repayment of the bonds will be made over a seven-year period with funding provided through withholding taxes of new and current employees.

Some members of the Committee expressed concern that the state is assisting large companies through the issuance of bonds, and noted there might be a need to put more emphasis on assisting more small businesses throughout the state.

## **Review Policy of State Mental Health Hospitals to Cut Off Voluntary Admissions**

Estelle Montgomery, KLRD, presented background and current information on the State Mental Health Hospitals Voluntary Admissions Policy (Attachment 6). Ms. Montgomery explained that the Department of Social and Rehabilitation Services (SRS) temporarily suspended voluntary admissions to the three Kansas mental health hospitals: Osawatimie State Hospital, Rainbow Mental Health Facility, and Larned State Hospital—in May 2010 and July 2010. The agency reported that all three of these facilities were full beyond licensed capacities and the agency did not have additional resources to service persons seeking voluntary admission. Ms. Montgomery stated that

when the state hospitals are full, the community mental health centers are expected to find placement alternatives for people who otherwise would be admitted.

The Committee requested information on the amount spent per day on contracted services.

Don Jordan, Secretary, SRS, presented information on the "Brief Delays in Voluntary Admissions to State Mental Health Hospitals" ([Attachment 7](#)). The Secretary stated that on those occasions, there was a lack of facilities and lack of staff to accommodate the admissions. Other factors included safety of the patients and staff, fire rules, restrictions on size of patient rooms, number of patients in a room, and restrictions against beds in the hallways. The Secretary noted that SRS works with community mental health centers when overcrowding occurs to accommodate admissions and keep individuals safe. Other actions taken by SRS included initiation of an agreement with Via Christi Hospital in Wichita for the state to pay for uncompensated care by the hospital. There was also the opening of 11 beds at Larned State Hospital to assist with the overcrowding.

Secretary Jordan noted that the agency will be requesting additional appropriations from the 2011 Legislature to assist with renovations for additional beds at Larned State Hospital. The Committee discussed possible solutions, including expansion of state hospitals or agreements with private facilities. The Secretary indicated that some patients, particularly involuntary admissions, are not suitable for placement in a private facility because of safety concerns.

The Committee requested additional information on patient length of stay at the mental health facilities.

The meeting was recessed at 11:30 a.m.

### **Afternoon Session**

The meeting reconvened at 1:30 p.m.

Roy Menninger, President, Kansas Mental Health Coalition, presented testimony on Admissions to State Mental Health Hospitals ([Attachment 8](#)). Dr. Menninger noted that the issue of overcrowding at the state's mental health hospitals is not a new issue, but has become more critical with budget cuts, staffing cuts, and increased admissions because of increased population. Dr. Menninger made the following recommendations:

- No further budget cuts be made to mental health services;
- State hospitals should be expanded and the state should assist community services with adequate staffing;
- Establish funding for local private mental health inpatient beds throughout the state, to encourage development of public-private partnerships for mental health inpatient beds for youth and adults.

Additional testimony concerning the issue of overcrowding at the state's mental health hospitals was received from:

- Rick Cagan, Executive Director, National Alliance on Mental Illness-Kansas (Attachment 9);
- Nick Woods, System Change Coordinator, Disability Rights Center of Kansas (Attachment 10); and
- Jason Hooper, President, KVC Hospitals, Inc. (Attachment 11).

Lois Clendening, Service Line Director, Behavioral Health, Via Christi Hospitals Wichita, Inc., also testified (Attachment 12). Ms. Clendening stated that Via Christi Hospital takes both voluntary and involuntary patients, noting that the hospital has the capacity to admit additional patients from around the state. Ms. Clendening noted the importance of providing care in the local community in order for family members to be involved in the patients' care and reduce the cost. While state mental health hospitals cannot take patients with acute physical medical conditions, Via Christi is able to take patients with both physical and mental health concerns. Ms. Clendening stated that Via Christi is willing to take mental health patients from the state on a routine basis; however, the facility would not be able to take an extremely violent patient because of safety concerns. Responding to a question from the Committee, Ms. Clendening noted the hospital currently has 11 patients that have been referred from the state.

SRS provided a report on Community Hospital Licensed Inpatient Psychiatric Beds (Attachment 13). Because the Committee questioned some of the numbers on the report, SRS noted that they would double check the numbers for accuracy with the Department of Health and Environment (KDHE), the agency which supplied the numbers.

Mike Hammond, Executive Director, Association of Community Mental Health Centers of Kansas, also appeared before the Committee (Attachment 14). Mr. Hammond felt that it is important to address the issue and provide for a solution to alleviate future problems.

Other testimony was received from:

- David Wiebe, Executive Director, Johnson County Community Mental Health Center (Attachment 15);
- Walter Hill, Executive Director, High Plains Mental Health Center (Attachment 16);  
and
- Howard "Spence" McCurry, Consumer (Attachment 17).

Ray Dalton, Deputy Secretary, SRS, responded to Committee questions concerning health insurance payments, noting that a patient's health insurance is the first payee for services, with the state being the last payee. Secretary Jordan stated that it is important to address the overcrowding with a long-term strategy for the mental health care population, as well as address provisions of the new federal health care act.

## **Update of Medicaid and State Children's Health Insurance Program Eligibility Processing Delays and Funding**

Barbara Langner, Medicaid Director, Kansas Health Policy Authority (KHPA), presented an "Update on the Medicaid State Children's Health Insurance Program (SCHIP) Eligibility Processing Delays and Funding" ([Attachment 18](#)). Ms. Langner stated that the backlog in processing applications for the Medicaid and SCHIP programs has been caused by an increase in the length of time needed to process the applications because of additional requirements. The current budget does not allow for additional staff. Currently, the Clearinghouse staff is only able to process current applications and does not have the time to address the backlog. KHPA has received a letter from the Centers for Medicare and Medicaid Services (CMS) indicating that the agency needs to take corrective action to address the processing time. Ms. Langner noted there is a concern that the backlog could result in a violation of federal processing time requirements and a loss of federal funds.

KHPA has responded with a three-pronged approach to resolve the application backlog:

- Implementation of system modifications to hasten the application processing over the next six months;
- Adoption of CMS-approved eligibility policy options to simplify the eligibility determination process; and
- Continuation of attempts to seek financial resources from multiple sources to increase application processing capacity, including private funding from philanthropic foundations, requesting budget enhancement, and seeking a favorable Children's Health Insurance Program Preauthorization Act (CHIPRA) bonus payment decision.

Ms. Langner stated that KHPA has received notice of an approved CHIPRA payment of \$1.2 million. The KHPA Board has endorsed the application of those funds to eliminate the backlog at the Clearinghouse; however, funding for the Clearinghouse in FY 2012 is not expected to be sufficient to keep up with the high volume of applications. KHPA will include a request in its FY 2012 budget for additional resources for the Clearinghouse.

The meeting was recessed at 3:30 p.m.

### **Friday, August 27 Morning Session**

The meeting reconvened at 9:00 a.m.

## **Disaster Relief**

Major General Tod Bunting, Adjutant General, provided an update on disaster relief, including information on how a disaster is handled by state agencies, issues arising if current funding falls short, current status of outstanding disasters, and estimated total state disaster match requirements ([Attachment 19](#)). Major General Bunting stated that the agency anticipates it will need an additional

\$27.4 million to address current state disasters for the remainder of FY 2011, mainly for utility infrastructure and for flooding in southeast Kansas.

Responding to a question from the Committee, Janice Harper, Adjutant General's Office, explained that small projects are paid for directly up front. Bills on larger projects are paid for as they are presented by the contractors. The agency pays both the state and federal share in one payment.

## **Medicaid Funding for Schools**

Amy Deckard, KLRD, presented background information and an update on Medicaid Reimbursement of Attendant Care Services ([Attachment 20](#)). Ms. Deckard stated that effective July 1, 2010, KHPA discontinued reimbursement for attendant care services to schools under the Medicaid School Based Services program. This change was made as a result of an interpretation made by CMS, indicating that payment could not be made to school districts, unless the Kansas Medicaid program also covered these services in non-school settings.

A report prepared by KLRD on "Total Medicaid Expenditures for Special Education and Attendant Care by School District for FY 2008, FY 2009 and FY 2010" was distributed to the Committee ([Attachment 21](#)).

Scott Brunner, Chief Financial Officer, KHPA, presented additional comments on Medicaid funding for schools. Mr. Brunner noted that the state plan was presented to CMS in early 2009. Since that time, KHPA has been working with CMS to negotiate the final outcome. KHPA received word from CMS in March or April 2010 that there was a problem with the payments to school districts for attendant care services, with a final notification from CMS at the end of May, that these payments would not be allowed. KHPA then alerted school districts to this decision from CMS in the middle of June 2010. Responding to a question from the Committee, Mr. Brunner indicated that the effect of the action, based on estimates, would be an underpayment of approximately \$5 million-\$10 million to school districts. KHPA continues to work with CMS to find a solution to the problem.

Frank Harwood, Chief Operations Office, Lawrence Public Schools, and Shelia Smith, Assistant Director of Special Education, Lawrence Public Schools, presented testimony ([Attachment 22](#)). Mr. Harwood noted the difficulty in receiving the notice so late (June 17, 2010), is that the reimbursement for attendant care services will be discontinued at such a late date in the school budgeting process for FY 2011. Mr. Harwood stated that the Lawrence Public Schools will continue to provide the attendant care services as needed by their students; however, the district will need to shift funding from other educational programs.

Additional testimony was received from:

- Jennifer Barnhart, Director of Special Education, Topeka Unified School District 501 ([Attachment 23](#));
- Dr. Rod Allen, Paola School District ([Attachment 24](#)). Dr. Allen suggested that the implementation of the changes be delayed until the FY 2012 budget year in order for school districts to have time to adjust to the new data collection and realign their budgets; and
- Dr. Bill Craig, Chief Executive Officer, Lakemary Center ([Attachment 25](#)). Dr. Craig stated that the Lakemary Center provides a statewide resource for children with the challenging combination of developmental disability and significant psychiatric and behavioral disorders. A central component of the successful

treatment is the specialized aides in the school who work is funded through the Medicaid service called Attendant Care. The services provided to children with an Individualized Educational Plan (IEP) are required by law. Dr. Craig noted that one-fifth of their total school budget comes from funds for attendant care with the removal of these services creating a budget crisis.

The Committee requested a listing of all school districts with the impact of the new ruling by district. The Committee also requested that KHPA research the possibility of holding school districts harmless for the 2010-2011 school year.

## **Update on Home and Community-Based Waivers**

Amy Deckard presented an "Update on the Actions by the 2010 Legislature regarding Home and Community-Based Waivers" ([Attachment 26](#)).

Ray Dalton, Deputy Secretary, SRS, provided information on Home and Community-Based Services Waivers ([Attachment 27](#)), including the following:

- **Developmental Disability (DD) Waiver.** An additional \$3.3 million from the State General Fund was allocated to the DD waiver for FY 2011. At this time, there are 2,444 people on the waiting list receiving no waiver services and another 1,047 people receiving some services, but who are waiting for additional services. To avoid further overspending, SRS eliminated oral health services on January 1, 2010, and temporary respite care services on February 1, 2010.
- **Physical Disability (PD) Waiver.** As of August 1, 2010, there were 2,286 individuals on the PD Waiver waiting list. Steps have been taken to avoid overspending by eliminating oral health services, limiting service, and changing the crisis criteria.
- **Traumatic Brain Injury (TBI) Waiver.** This program is considered a rehabilitation program and consumers are expected to transition off the program or to another program. Changes in the program to avoid overspending include elimination of oral health services; limiting personal services to ten hours per day unless there is a determination of a crisis situation; limiting assistive services to crisis situations only, with approval by the program manager; and moving third year continuation of service review to a program manager, as opposed to a committee. There is no waiting list for this program.
- **Technology Assisted (TA) Waiver.** Designed to serve children ages 0-22 years who are medically fragile and technology dependent, requiring intense medical care. There is no waiting list for this program.
- **Serious Emotional Disturbance (SED) Waiver.** During FY 2010, \$48,448,927 was paid through the SED waiver to service a total of 6,021 children.
- **Autism Waiver.** The target population for the autism waiver is children with autism spectrum disorders (ASD), including autism, Aspergers' Syndrome, and other pervasive development disorders. This waiver was implemented on January 1, 2008. There is a waiting list of 247 children at this time. The total expenditure for the waiver in FY 2010 was \$743,673.



Mr. Dalton noted that the SRS Fee Fund balance was used to fill the gap between available SGF and waiver spending, and allocated to HCBS waivers. The fund is now depleted and SRS will be \$11 million short for FY 2012.

Mr. Dalton provided an update on the Money Follows the Person (MFP) Grant, a federally funded grant for Kansas with targeted population including persons currently residing in nursing facilities and intermediate care facilities for people with mental retardation (ICFs/MR). He also discussed Executive Order 10-01, regarding the Kansas Neurological Institute and Parsons State Hospital. He indicated that SRS has been working with the Executive Order Advisory Group to make recommendations on the downsizing of the facilities.

The Committee expressed concern that the cost of services in the private sector are not included. The Committee also felt that there should be more involvement on the part of KHPA with regard to the waivers.

Martin Kennedy, Secretary, Department on Aging, presented an update on Home and Community-Based Waivers for the Frail Elderly (HCBS-FE) ([Attachment 28](#)). Secretary Kennedy noted that oral health services, sleep cycle services, comprehensive support, assisted technology, and telehealth services have been discontinued in order to control expenses. The agency anticipates a \$7.0 million shortfall during the current fiscal year. The Committee suggested that options be explored for underwriting the funding of the oral health program.

Additional testimony on the effects of the budget cuts to the Home and Community-Based Waivers was received from:

- Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association ([Attachment 29](#));
- Tom Laing, Executive Director, InterHab ([Attachment 30](#)); and
- Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas (SILCK) (written only) ([Attachment 31](#)).

The meeting was recessed at 11:55 a.m.

## **Afternoon Session**

### **Update on Corrections - Stockton Facility**

Roger Werholtz, Secretary, Kansas Department of Corrections (KDOC), presented an update on the Stockton facility ([Attachment 32](#)). Secretary Werholtz informed the Committee that the Stockton facility will reopen on September 1, 2010, and will be filled to capacity with 128 inmates. The Secretary noted that the prison population will still be 237 over capacity after the opening of Stockton. At present, there are no inmates housed outside the state.

Responding to questions from the Committee, Secretary Werholtz stated that there is no mechanism in place at this time, which gives KDOC the authority to release inmates early. At this

time, KDOC is in the process of developing recommendations to present to the Governor and the Legislature concerning prison capacity.

## **Kansas Economy**

Bill Thornton, Secretary, Department of Commerce, presented an update on the state of the Kansas Economy (Attachment 33). Mr. Thornton stated that the goal of the Department is to encourage job creation and capital investment in Kansas through the recruitment of out-of-state firms, the expansion of existing Kansas companies, and the creation of new companies. Responding to a question from the Committee concerning FY 2010 recruitment results, Secretary Thornton stated that the jobs created and payroll figures are projected numbers associated with the expectation that the jobs will materialize.

Jim Garner, Secretary, Department of Labor, presented an Update on Kansas Economic Data (Attachment 34). Mr. Garner reported that the state, at 6.9 percent unemployment, is sufficiently below the national unemployment rate of 9.7 percent. Secretary Garner stated that there are some positive signs of growth in the construction industry; professional and business services; trade, transportation and utilities; mining and logging; manufacturing; and financial activities. Currently, the state is paying approximately \$10.0 million in unemployment benefits per week. To date, the Secretary reported that it has been necessary to borrow \$88.2 million from the U.S. Treasury to pay unemployment benefits. As a part of ARRA, no interest will accrue on the loan until January 2011. Responding to a question from the Committee, Secretary Garner stated that unemployment taxes are collected on the first \$8,000 of salary; consequently, the state has already received the bulk of unemployment taxes at this time. It is anticipated that the state may need to borrow additional funds from the federal government during the fourth quarter of 2010. Mr. Garner stated that interest will begin accruing on the federal loan on January 1, 2011, with the first payment due September 1, 2011.

Jeremy Hill, Director, W. Frank Barton School of Business, Center for Economic Development and Business Research, presented testimony on the Kansas Economy. Mr. Hill projected that unemployment will remain relatively high, with a forecast of slow recovery from the recession.

Stan Ahlerich, President, Kansas, Inc., presented testimony on Indicators of the Kansas Economy (Attachment 35). Mr. Ahlerich stated that the recession is worldwide and projects that it will last for a considerable period of time with a slow recovery. Mr. Ahlerich stated that the recession was caused by consumer debt, commercial debt, and national debt. He indicated that the world economy is very unstable at this time and said that the state needs to position itself to welcome industry and business to the state, with a mix of large and small businesses, and needs to create an environment to attract opportunities and jobs.

The meeting was adjourned at 3:45 p.m. The next meeting of the Committee will be October 14-15, 2010.

Prepared by Shirley Jepson  
Edited by Leah Robinson

Approved by the Committee on:

October 14, 2010

(Date)