

MINUTES

LEGISLATIVE BUDGET COMMITTEE

December 11-12, 2006
Room 123-S—Statehouse

Members Present

Senator Dwayne Umbarger, Chairman
Senator Jim Barone
Senator Steve Morris
Representative Bill Feuerborn
Representative Brenda Landwehr

Members Absent

Representative Ray Merrick
Representative Melvin Neufeld, Vice-Chairman

Staff

Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department
Norm Furse, Revisor Emeritus
Bruce Kinzie, Revisor of Statutes Office
Jill Wolters, Revisor of Statutes Office
Susan Kannarr, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Aaron Klaassen, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Audrey Dunkel, Kansas Legislative Research Department
Becky Krahl, Kansas Legislative Research Department
Daniel Nibarger, Kansas Legislative Research Department
Judy Bromich, Chief of Staff, Senate Ways and Means Committee
Melinda Gaul, Administrative Analyst, Senate Ways and Means Committee
Mary Shaw, Committee Secretary

Conferees

Senator Derek Schmidt
Chad Austin, Vice President, Government Relations, Kansas Hospital Association
Dan Morin, Kansas Medical Society
Kevin Graham, Office of the Attorney General

Robert Hemenway, Chancellor, University of Kansas
Dave Kerr, University of Kansas Hospital Authority Board of Directors
Kraig Knowlton, Manager of Policy and Pay Administration Section, Division of Personnel Services, Kansas Department of Administration
Theresa Gordzica, Chief Financial Officer, University of Kansas
Reggie Robinson, President, Chief Executive Officer, Kansas Board of Regents
John Waltner, Chairperson, REAP Legislative Committee and Mayor of Hesston, Kansas
Wayne Bollig, Director, Veterans' Claims Assistance Program, Kansas Commission on Veterans' Affairs
Steve Stotts, Director, Division of Taxation, Kansas Department of Revenue

**Monday, December 11
Morning Session**

Chairman Umbarger opened the meeting at 10:10 a.m. The Chairman welcomed Senator Derek Schmidt who presented an update on the discussions regarding legislation to establish an Office of Inspector General for the State's Medicaid Program ([Attachment 1](#)). Senator Schmidt explained a balloon amendment for 2006 SB 327 that resulted from discussions with the Attorney General's Office, Kansas Medical Society, Kansas Hospital Association, Electronic Data System and the Kansas Health Policy Authority. He noted that the Legislature has appropriated funds to hire a medicaid inspector general, but has not enacted substantive law to define the purpose, authority and scope of an inspector general's work.

The Chairman recognized Norm Furse, Revisor Emeritus, who provided a review and summary of the consensus document developed to date. Copies of the summary and the balloon for 2006 SB 327 were provided ([Attachment 2](#)) and ([Attachment 3](#)). Mr. Furse explained the balloon amendment that detailed the discussion group's recommendations regarding the definition of the purpose, authority and scope of the proposed Inspector General's Office. The inspector general would be a classified employee in the Attorney General's Office.

The Chairman welcomed Chad Austin, Vice President, Government Relations, Kansas Hospital Association (KHA), who presented information on the establishment of the Office of Inspector General ([Attachment 4](#)). Mr. Austin mentioned that a lot of progress has been made on the 2006 SB 327 legislation. He felt that there are a couple of minor issues that are being taken care of at this time. In closing, Mr. Austin noted that KHA looks forward to resolving any remaining issues with Senator Derek Schmidt and the other stakeholders prior to the beginning of the 2007 Legislative Session.

The Chairman acknowledged Dan Morin, Kansas Medical Society, who explained that they did have some questions about details of the original 2006 SB 327 and thanked Senator Schmidt for bringing the stakeholders to the table during the Interim. They feel that things are going in the right direction, but still have some concerns that they feel confident they will be addressed. (No written testimony was submitted.)

Chairman Umbarger acknowledged Kevin Graham, Office of the Attorney General, who provided information and a letter from the Attorney General's Office in support of the re-drafted language to the original 2006 SB 327 ([Attachment 5](#)). Mr. Graham explained that the Attorney General's Office has been involved in the discussions on the bill and feels that things are heading in the right direction. He noted that there are minor changes that need to be made regarding language, but it gives them a plan to move forward with the inspector general position.

Staff provided an overview of the on-going discussions of the Joint Life Sciences Programs at the Kansas University Medical Center and historical information regarding University of Kansas Medical Center and the University of Kansas Hospital Authority (Attachment 6).

Chairman Umbarger welcomed Robert Hemenway, Chancellor, University of Kansas, who shared his perspective on the efforts of the University School of Medicine and the University of Kansas Hospital Authority to work together to supply quality medical care and education to the citizens of Kansas (Attachment 7). Chancellor Hemenway noted that approximately 50 percent of the physicians practicing in Kansas are graduates of the University of Kansas Medical School, or trained there as residents.

Chancellor Hemenway explained that the strength of the University of Kansas Hospital and the strength of the University of Kansas School of Medicine has reached new and unprecedented levels of success—but the leaders of both institutions are not satisfied with the status quo. He noted that the leadership of both institutions is committed to continue to build for the future. Chancellor Hemenway mentioned that they share a vision for that future which includes positioning the University of Kansas School of Medicine as a top tier research institution, and positioning the University of Kansas Hospital as a competitively strong, clinically excellent and accessible institution; a vision that contributes to a regional and national reputation, and to a partnership which will enable their cancer center to achieve National Cancer Institute designation. The joint success of the hospital and the School of Medicine will, they hope, earn additional investment from private donors, corporations and foundations, perhaps as much as 200 to 300 million dollars. He also provided a list of items in his testimony that is non-negotiable.

In closing, Chancellor Hemenway mentioned that these are exciting times to be a leader in higher education. He noted that if they are to thrive, they must think regionally and must look to aggressively exploit their expertise in the life sciences. He is hopeful that what will emerge is a new family of collaborators and partners committed to a powerful, shared vision.

Chairman Umbarger recognized former Senator Dave Kerr, University of Kansas Hospital Authority Board of Directors, who explained that the current controversy and the need for quality decision-making can only be appreciated when one realizes the extent of the remarkable enterprise that has developed on Rainbow Boulevard in Kansas City, Kansas, since the 1998 spin-out of the University of Kansas Hospital to the University of Kansas Hospital Authority (Attachment 8). He provided various information in charts and graphs to the Committee (Attachment 9).

In closing, former Senator Kerr noted that the key is working together to develop proposals that ensure benefits to all Kansas participants and, most especially, the people of Kansas. He mentioned that an opportunity should be embraced to make Missouri hospitals better, as long as Kansas institutions are made better, too. Former Senator Kerr suggested including in the final Committee report the recommendation that proposals from the Kansas side be developed jointly by the University of Kansas Medical Center and the University of Kansas Hospital.

Senator Barone moved, with a second by Representative Feuerborn, to approve the minutes of the September 11-12 and October 4-5, 2006 meetings. Motion carried.

The Committee recessed at 11:45 a.m. for lunch.

Afternoon Session

The Committee reconvened at 1:40 p.m.

Chairman Umbarger welcomed Kraig Knowlton, Manager of the Policy and Pay Administration Services Section, Division of Personnel Services, Kansas Department of Administration ([Attachment 10](#)). Mr. Knowlton provided follow-up information in his testimony to the presentation on the State's compensation system presented to the Committee during the August meeting. Mr. Knowlton explained that part of their presentation in August involved the difference between the Consumer Price Index (CPI) and the Employee Cost Index (ECI) and how the CPI was increasingly falling out of favor as an indicator of competitive wage rates. In his written testimony, Mr. Knowlton provided the information on what other states use. Mr. Knowlton also addressed comparison of the number of position re-allocations and professional development policies of various state agencies.

The Chairman recognized Theresa Gordzica, Chief Financial Officer, University of Kansas, who provided the Committee information about the success the University of Kansas has had with the transition of its employees from the Civil Service System to the University Support Staff System ([Attachment 11](#)). Ms. Gordzica mentioned that in July of 2005, with the approval of the Kansas Board of Regents, the University of Kansas moved over 1,400 classified positions to the new University Support Staff System. She noted that they felt it has been a good move and has provided the benefit of helping them and their employees at no new cost to the State. They have adopted a personnel system that meets the dynamic needs of a major research university.

Chairman Umbarger welcomed Reggie Robinson, President, Chief Executive Officer, Kansas Board of Regents, who addressed the deferred maintenance the state universities face in the amount of \$727 million, which is a figure that continues to grow ([Attachment 12](#)). This number is an increase from the \$584 million estimated in a study done in 2004. Mr. Robinson noted that the six state universities are in a serious state of disrepair because important maintenance needs have simply been deferred due to a lack of state funding. He also mentioned that to prevent the \$727 million maintenance backlog from growing, \$84 million per year is required to adequately maintain the state university campuses. He noted that the State of Kansas only provided \$15 million this year.

Mr. Robinson explained that the Board of Regents has asked Governor Kathleen Sebelius for a 25 percent down payment of \$175 - \$200 million, State General Fund, on the growing problem of deferred maintenance on the state university campuses. He noted that this situation is not a situation unique to Kansas, but is a nationwide issue. Mr. Robinson also mentioned that 18 of the State's 19 community colleges and Washburn University have hired a private facilities consultant to provide facility condition assessments for the buildings on those campuses.

Senator Morris requested additional information regarding quantifying what has been taken care of on the State's university campuses during the past four years when some problems were identified, and if the safety problems have been resolved. In response to a question by Representative Feuerborn, Mr. Robinson responded that the need for repair has to be the driving factor where in the past maintenance funding has been square footage-based. In putting forward last year's proposal, Mr. Robinson explained that a part of the building accountability approach the Regents articulated was that money needs to be deployed based on need and that the most serious in need of maintenance are the projects that need to be funded. They want to make sure that the most needy projects on every campus get some resources. Senator Barone requested and Mr. Robinson agreed to provide details that prioritize the needs on each university campus by building. Senator Morris mentioned that safety issues are a major concern.

Chairman Umbarger welcomed John Waltner, Chairperson, REAP Legislative Committee, who spoke regarding the actions taken by REAP in administration of the Kansas Affordable Airfares Program ([Attachment 13](#)). Copies of House Substitute for SB 475 were passed out to the Committee ([Attachment 14](#)). Mr. Waltner explained that the statutory purpose of the program is to provide “more air flight options, more competition for air travel and affordable air fares for Kansas.” Information was provided in Mr. Waltner’s written testimony in regard to the jurisdictions that have pledged monies to the program and a copy of the REAP - Kansas Affordable Airfares Program Report.

The Chairman recognized Ms. Patty Clark, Deputy Secretary for Operations, Kansas Department of Commerce, who expressed the following concerns regarding REAP:

- Enhance the transparency of the call for proposals by other airports - selection process.
- Transfers of funds in statutory language changes to include more detail and clarity.
- More publicity of funding available to more airports.

The Chairman welcomed Wayne F. Bollig, Director, Veterans’ Claims Assistance Program, Kansas Commission on Veterans’ Affairs, who provided the Committee an outline of the status of the program and its operations to date ([Attachment 15](#)). Mr. Bollig noted that the Veterans’ Claims Assistance Advisory Board has been working with the United States Department of Veterans’ Affairs to develop office accommodations that would allow for the one-stop concept as called for in 2006 SB 396. He noted that they are working with the Topeka and Wichita hospitals to develop an office arrangement that will enhance services to veterans. Though this concept is working in Leavenworth, they are having difficulties in both Wichita and Topeka. He mentioned that they have a ways to go yet for the program to be fully operational and running smoothly.

The Committee recessed at 4:00 p.m.

Tuesday, December 12 Morning Session

The Committee reconvened at 9:20 a.m.

Chairman Umbarger welcomed Steve Stotts, Director, Division of Taxation, Kansas Department of Revenue, who provided an update on sales tax compliance ([Attachment 16](#)). Mr. Stotts explained a proposed amendment attached to his testimony that would change the current sales tax statutes to require a registration certificate for any person to engage in the sale of tangible personal property or furnishing of taxable services in Kansas. He noted that any taxpayer, officer, agent or employee continuing to operate the business after the registration certificate has been suspended shall be guilty of a Class A misdemeanor.

Chairman Umbarger acknowledged Alan Conroy, Director, Kansas Legislative Research Department, who provided an overview of the State General Fund ([Attachment 17](#)). Mr. Conroy provided information on the Actual FY 2006 State General Fund receipts and expenditures. He noted that the Consensus Revenue Estimating Group met on November 3, 2006, and revised the FY 2007

State General Fund estimate of receipts and made the first official estimate for FY 2008. Mr. Conroy also provided the following information:

- A memorandum from the Kansas Division of the Budget and the Kansas Legislative Research Department addressed to Governor Kathleen Sebelius and the Legislative Budget Committee regarding State General Fund Receipts for FY 2007 (Revised) and FY 2008 (Attachment 18).
- State General Fund (SGF) Receipts, July through November, FY 2007 (Attachment 19).
- State General Fund Receipts, Expenditures and Balances Profile as Projected FY 2006 - FY 2010 (Attachment 20).

Mr. Conroy explained that the total receipts through November were \$1.0 million, or 0.0 percent, below the estimate. The component of SGF receipts from taxes only were \$3.6 million, or 0.2 percent, below the estimate. Total SGF receipts through November of FY 2007 were \$100.8 million, or 5.1 percent, above FY 2006 for the same period. Tax receipts only for the same period exceeded FY 2006 by \$145.4 million, or 7.5 percent.

Chairman Umbarger called the Committee's attention to discussion of the topics that were referred to the Legislative Budget Committee by the Legislative Coordinating Council in addition to other topics the Committee reviewed.

Sales Tax Compliance: *Senator Barone moved, with a second by Representative Feuerborn, to introduce a Senate bill that would amend the current sales tax law which would allow the Department of Revenue to revoke or suspend a retailer's registration certificate if the retailer has not paid the tax due or filed a return for a period of 60 days. Any individual who continues to operate a business after the registration certificate has been suspended or revoked would be guilty of a Class A misdemeanor.*

Public Mental Health System: Staff provided and explained a draft summary of Committee activity for review (Attachment 21). Senator Morris requested information regarding any capacity to reopen beds at Larned State Hospital and Osawatimie State Hospital and the marginal costs that would be involved. Senator Barone and Representative Landwehr expressed concern and requested information regarding adequacy of the DRG (Diagnostically Related Groups) methodology for reimbursing hospitals for the treatment of mentally ill patients and provider concerns with not getting reimbursed for treatment. Information was requested on provider assessment regarding the State not making payments.

Public Developmental Disabilities System: Staff provided and explained a draft summary of Committee activity for review (Attachment 22). Representative Landwehr requested information regarding what providers have done with the money provided to them by the State and the amount of wages being paid to direct care staff keeping in mind the difficulty in hiring, training and retaining qualified staff and the amount of work to provide around-the-clock services. Representative Landwehr also requested information regarding clarity of services that an individual actually uses or needs. Senator Morris requested details of what the current make up of the waiting list is for the developmentally disabled. Representative Feuerborn requested information concerning a report on the usage of a 4.5 percent increase appropriated for the waiver. The report is expected to be available in January of 2007.

Chairman Umbarger provided some suggestions in a memorandum regarding the Public Mental Health System and the Public Developmental Disabilities System for Committee consideration (Attachment 23). On Page 2 of the memorandum, Item 1, Part B, (see Attachment 23) the supplemental funding suggested for the Kansas Department of Social and Rehabilitation Services should read for FY 2007. Committee discussion followed.

Representative Feuerborn moved, with a second by Senator Barone, that the Legislative Budget Committee recommends the language in the memorandum that the Legislature establish a phased-in effort to accomplish the programmatically linked goals of community capacity expansion and the elimination of the Developmental Disability waiting list:

- *To expand community capacity through rate adjustments to achieve rates which would more closely reflect a parity between community wages and state institutional wages by adding \$15 million SGF in FY 2008 and \$10 million SGF in FY 2009 and FY 2010; and*
- *To eliminate the waiting lists for developmental disability services, with \$10 million each in the years FY 2008 and FY 2009, and \$15 million in FY 2010.*

Motion carried.

Senator Barone moved, with a second by Representative Feuerborn, that the Committee recommend that the Senate Ways and Means and House Appropriations Committees request information during the 2007 Legislative Session including, but not limited to, the following:

- *To assure that all programs are designed to meet the intent of the DD Reform Act for greater emphasis on independence, inclusion, integration and productivity;*
- *To examine, and replicate, if appropriate, models in other states which are better designed to assist families of dependent children, rather than relying solely on the current Home and Community Based Services DD waiver;*
- *To establish minimum standards for all persons and entities who provide services to persons with DD;*
- *To assess current Departmental capacity planning to upgrade the State's ability to provide monitoring and oversight for the expanded numbers of community service providers; and*
- *To propose ways by which to upgrade employment related services for persons with DD, including providing the Legislature with a fiscal estimate on unbundling supported employment services so as to allow providers of such services to build employment service capacity in the community, and therefore be able to reduce reliance on facility-based employment services.*

Motion carried.

Senator Barone moved, with a second by Senator Morris, that the Committee recommend that the Senate Ways and Means and House Appropriations Committees have additional hearings on issues identified relating to persons with a dual diagnosis of DD and mental health concerns who

demonstrate challenging behaviors in community settings of a nature that puts them and others at risk of harm. To that end, the Committee requests:

- That the State be prepared to provide testimony on the nature of the challenging behavior issues presented to the Committee and the following options be considered:
 - Supplemental funding be added to the SRS budget for FY 2007 (amount to be identified by SRS and KLRD) to support the opening of one 30-bed inpatient unit at Osawatomie State Hospital within the existing and available physical plant with funding added to continue this unit in FY 2008.
 - Supplemental funding be added to the SRS budget for FY 2007 (amount would need to be identified by SRS and KLRD) to allow SRS to enter into contractual arrangements with local hospitals who have the capacity to provide acute care, inpatient services with funding added to continue these contracts in FY 2008.
 - SRS and mental health stakeholders shall work together to define what the future role of the State Mental Health Hospitals(SMHH) is going to be; what the appropriate number of inpatient beds that is necessary to meet the needs of the citizens of Kansas based on the current population and respective population growth projections (either SMHH beds or a combination of SMHH beds and local acute care inpatient resources); and to propose a plan as part of the agency's budget hearings in 2007 to the Ways and Means and Appropriations Committees that would support the needs identified in the plan.

Motion carried.

The Committee discussed Item 2, Page 2, of the memorandum (Attachment 23) and came to a consensus to eliminate the first four words of the paragraph "That the State propose" and eliminate the last sentence, "These providers would be subject to disclosure of financial records."

Senator Barone moved, with a second by Representative Feuerborn, that the Legislative Budget Committee recommend legislative hearings be held in the appropriate Committees during the 2007 Legislative Session to discuss ways to protect the liability insurability of community service providers serving persons who have demonstrated behaviors which pose a risk to the safety of those who serve them, those who are served in the same setting, the community at large, and that such remedies and protections include an examination of state/community shared liability, including tort claims protections for community service providers. Motion carried.

The Chairman directed staff to condense the information in the draft summary of Committee activity to reflect the Legislative Budget concerns regarding the on-going dialogue and studies in the future.

Monitor Colorado Water Litigation: Staff provided and explained a draft summary of Committee activity for review (Attachment 24). Staff also distributed a letter addressed to the Legislative Budget Committee from Attorney General Phill Kline regarding the status of the litigation with the States of Colorado and Nebraska in the Arkansas and Republican River Basins (Attachment 25). Senator Barone moved, with a second by Senator Morris, that the new Attorney General come before the Senate Ways and Means and House Appropriations Committees to give a status report

on the Colorado Water Litigation by February 1, 2006. Motion carried. Consideration was given that there will be a transition process between Attorneys General.

Impaired Provider Services Offered by Regulatory Boards: Staff provided and explained a draft summary of Committee activity for review (Attachment 26). Staff provided copies of information that was requested by the Committee regarding Impaired Provider Program costs, FY 2006 (Attachment 27). ***The Committee reviewed this topic, but there was no recommendation.***

Regional Economic Area Partnership (REAP): Staff provided and explained a draft summary of Committee activity for review (Attachment 28). The Committee agreed to add the concerns presented by Ms. Patty Clark, Deputy Secretary for Operations, Kansas Department of Commerce, as follows regarding REAP:

- Enhance the transparency of the call for proposals by other airports - the selection process.
- Transfers of funds in statutory language become more detailed with more clarity.
- More publicity for funding to more airports.
- The Committee also agreed to add comments mentioned by Representative Feuerborn that reflect the Committee's concerns about allowing airports the appropriate amount of time to sign up for the REAP program.

Veterans' Funding Issues: Staff provided and explained a draft summary of Committee activity for review (Attachment 29). The Committee agreed to make the suggestion that the Kansas Commission on Veterans' Affairs expedite the rules and regulations on the Veterans Assistance Program.

Regents Deferred Maintenance: *Senator Morris moved, with a second by Representative Feuerborn, that the Committee recommend that a very high priority be placed on the passage of a 5-year comprehensive program to address the deferred maintenance issues at the State's universities. Motion carried.* Senator Barone requested to add information about the discussion with Reggie Robinson, President and CEO, Kansas Board of Regents, regarding the need of the deferred maintenance by building and by need, in detail, and purge the issues that have been resolved from the list. *Senator Barone moved, with a second by Senator Umbarger, that the Kansas Board of Regents provide a report as soon as possible that shows the priority deferred maintenance of the buildings, by university, and by need, and to purge the issues that have already been resolved from the list. Motion carried.* The Committee discussed requesting information from the Kansas Department of Administration to provide an update on what its current plans are regarding the disposition of Landon and Docking State Office Buildings. The Committee will plan to ask for this request at the Joint Committee on State Building Construction meeting planned for December 13 and 14, 2006.

Kansas University Medical Center, Kansas University Hospital and Missouri-Based Hospitals: The Committee discussed former Senator Kerr's suggestions in his written testimony. *Senator Barone moved, with a second by Representative Feuerborn, that the Committee recommend and encourage the ongoing dialogue and that proposals from the Kansas side be developed jointly by the University of Kansas Medical Center and the University of Kansas Hospital. Motion carried.*

Homeland Security Funding: Staff provided and explained a draft summary of Committee activity for review (Attachment 30). The Committee reviewed this item.

State Inspector General: The Committee agreed to recommend that the process be continued to define the role of the State Inspector General with the stakeholders and the Committee recognizes that progress has been made and encourages further work on the issue.

The Committee also had an overview of the State Employee Pay Plan and how the University of Kansas implemented their portion of it, presentations on KPERS Exemptions for Nurses at State Hospitals, Vehicle Usage Reports, Level 5-6 Group Homes, Federal Deferrals and Kansas Department of Social and Rehabilitation Services Audits, Home and Community Based Services and Physical Disabilities and how funding is used to reduce the waiting lists, and an update on the Kansas Aviation Research in Wichita.

KPERS Exemption for Nurses at State Hospitals: *Representative Feuerborn moved, with a second by Senator Barone, that this issue be addressed in the 2007 Legislative Session in the appropriate standing Committees (Senate Ways and Means and House Appropriations) for nurses that retire and work at state hospitals that they could work and make up to \$20,000.00, which would be same as the teachers, and would not go away in 2008. Motion carried.*

Kansas Aviation Research in Wichita: *Senator Morris moved, with a second by Senator Barone, that the Legislature supports the aviation research that has been done in Wichita and renewal of the on-going support from the Legislature for the aviation industry research. Motion carried.*

The Chairman expressed his thanks to the Committee. Chairman Umbarger and Senator Morris expressed their thanks and appreciation to Judy Bromich, Chief of Staff, Senate Ways and Means Committee, for her valuable service with the Committee and she was given good wishes in her retirement.

The meeting adjourned at 12:00 p.m.

Prepared by Mary Shaw
Edited by J.G. Scott

Approved by Committee on:

December 28, 2006

(date)