

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:00 a.m. on April 20, 2011, in Room 548-S of the Capitol.

Committee staff present:

Jill Wolters, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
David Wiese, Office of the Revisor of Statutes
Alan Conroy, Director, Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Legislative Research Department
Aaron Klaassen, Senior Fiscal Analyst, Legislative Research Department
Dorothy Hughes, Fiscal Analyst, Legislative Research Department
Amy Deckard, Senior Fiscal Analyst, Legislative Research Department
Michael Wales, Legislative Fellow, Legislative Research Department
Christina Allen, Fiscal Analyst, Legislative Research Department
Reagan Cussimano, Senior Fiscal Analyst, Legislative Research Department
Dylan Dear, Fiscal Analyst, Legislative Research Department
Michael Steiner, Senior Fiscal Analyst, Legislative Research Department
Laura Younker, Legislative Fellow, Legislative Research Department
Estelle, Montgomery, Fiscal Analyst, Legislative Research Department
Audrey Dunkel, Principal Fiscal Analyst
Shirley Morrow, Fiscal Analyst, Legislative Research Department
Leah Robinson, Principal Fiscal Analyst
Jan Lunn, Committee Assistant
Josh Lewis, Chief of Staff

Others attending:

See attached list.

Morning Session

April 2011 Consensus Caseload Estimates

Senator McGinn recognized Amy Deckard, Legislative Research Department, to review the Consensus Caseload Estimates for FY 2011 and FY 2012. Ms. Deckard provided a summary of how the caseload estimates are generated and what expenditures are included (Attachment 1). Ms. Deckard noted that caseload estimates exclude Home and Community Based Services waivers. She reviewed estimates and a chart containing the Governor's recommended consensus caseload estimates for each fiscal year, the April 2011 revised estimates, and variances compared to the Governor's recommendation. Considerable discussion was heard regarding the Cost and Containment Recovery Contract through the Kansas Health Policy Authority. The estimated FY 2011 savings from this contractual agreement was \$17.3 million; the revised estimate is \$32,000. Additional information will be provided regarding the contract provider, terms of the agreement, etc., during the afternoon session.

April 2011 Consensus Revenue Estimates for Expanded Lottery Act Revenue Fund

Dylan Dear, Legislative Research Department, presented consensus revenue estimates for the Expanded Lottery Act Revenue Fund (ELARF) (Attachment 2). April 2011 revenue estimates increased \$15.9 million over the fall estimate.

State Water Plan

Christina Allen, Legislative Research Department, discussed the State Water Plan Fund (Attachment 3).

Children's Development Initiatives Fund

Amy Deckard, Legislative Research Department, distributed a handout (Attachment 4) and reviewed the Senate Committee of the Whole Adjustments for FY 2012 to the Children's Development Initiatives Fund (CDIF). Ms. Deckard reported that the April 2011 consensus revenue estimates from the tobacco master settlement agreement have been revised downward. The decrease in anticipated revenues is due to a large tobacco manufacturer

choosing to withhold a portion of the yearly payment. She explained that the ongoing litigation concerning the payments owed by the tobacco companies and the state's obligation under the agreement is at issue. Discussion followed in which Ms. Deckard outlined the current practice of transferring funding from the SGF to support CDIF appropriations ([Attachment 4\(a\)](#)).

Economic Development Initiatives Fund

Michael Steiner, Legislative Research Department, reviewed the Economic Development Initiatives Fund ([Attachment 5](#)).

State General Fund Consensus Revenue Estimates

Alan Conroy, Director of the Legislative Research Department, presented information related to the State General Fund Consensus Revenue Estimates for FY 2011 and FY 2012, and a comparison of the SGF receipts, expenditures and balances as recommended by the Governor, the Senate, and the House ([Attachment 6](#)). Mr. Conroy noted that the overall estimate for both fiscal years was decreased by a combined \$31.7 million. He further elaborated that significant adjustments for both years include the impact of the new federal tax legislation approved in December, which provided for expensing, bonus depreciation, removal of limitations on itemized deductions by high-income taxpayers, expansion of dependent care credits, and expansion of earned income tax credits. Several senators expressed concern relating to the new federal tax regulations and its impact on consensus estimates.

Senator McGinn requested that staff distribute a spreadsheet, "Budget Adjustments for Positions Agreed to as of April 19," which outlines the actions taken by the House Committee on Appropriations and the Senate Ways and Means Conference Committee ([Attachment 7](#)).

Items for Omnibus Consideration

J. G. Scott, Legislative Research Department, provided an explanation of the handout, "Items for Omnibus Consideration" ([Attachment 8](#)). Mr. Scott indicated that each fiscal analyst would review his/her specific assigned subject areas.

Items reviewed and discussed by committee members included:

- Department of Agriculture
- Kansas Corporation Commission
- Citizens' Utility Ratepayer Board
- Kansas Guardianship Program
- Children's Development Initiative Fund/Tobacco Revenue – Amy Deckard, Legislative Research Department, previously discussed this item (see "Children's Initiatives Fund" discussion above). Based on a Senator Kelly's request early in the 2011 Session to track caseload estimates for accuracy and comparison of variances (estimated to actual), Ms. Deckard distributed a spreadsheet, "Summary of Consensus Caseload Expenditures" ([Attachment 9](#)) and explained the information contained in the spreadsheet.
- Department of Social and Rehabilitation Services
- Department of Health and Environment – Health Care Finance/Kansas Health Policy Authority
- Department of Health and Environment – Health
- Department of Health and Environment – Environment

Chairperson McGinn indicated the committee would recess and reconvene at 1:45 p.m.

Afternoon Session

Items for Omnibus Consideration (continued)

- Office of the Governor
- Secretary of State
- Department on Aging - Estelle Montgomery, Legislative Research Department, reviewed information contained in [Attachment 8](#). Senator Kelly requested that when the Secretary of the Department on Aging presents to the House Appropriations Committee on the proposed reorganization and downsizing of agency operations, the same report is furnished to the Senate Ways and Means Committee.
- Governmental Ethics Commission

CONTINUATION SHEET

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- Rainbow Mental Health Facility
- Department of Commerce
- Kansas Public Employees Retirement System
- Kansas Technology Enterprise Corporation
- Board of Healing Arts
- Commission on Veterans Affairs
- Insurance Department
- Board of Regents
- Department of Education
- Department of Corrections
- Sentencing Commission
- Juvenile Justice Authority
- State Bank Commissioner
- Board of Indigents' Defense Services
- Judicial Branch
- Department of Labor
- Real Estate Commission
- State Historical Society
- Kansas Bureau of Investigation
- Kansas Commission on Peace Officers' Standards and Training
- Kansas Department of Transportation
- Special Revenue Fund Transfers to State General Fund

Kansas Health Policy Authority – Cost Containment and Recovery Contract

Amy Deckard, Legislative Research Department, distributed the following:

1. Cost Containment and Recovery Contract Estimates in Human Services Consensus Caseload (Attachment 10).
2. Contract between the Kansas Health Policy Authority and Health Data Insights, Inc. (HDI) for Recovery Audit Contractor Services, which is an abbreviated version of the contract (Attachment 11).
3. Contract between the Kansas Health Policy Authority and Health Data Insights, Inc. for Recovery Audit Contractor Services, which is the contractual agreement in full (Attachment 12).

Numerous questions, concerns and issues were heard concerning the agreement. Scott Brunner, Chief Financial Officer of the Kansas Health Policy Authority, was in the audience and distributed a handout entitled "Recovery Audit Contract for Health Care Payment in Kansas" (Attachment 13), which explained the contractor is compensated at the rate of 17 percent of all overpayments recovered and 18 percent of all underpayments made to contracted providers of Kansas Medicaid services by KHPA, provided that overpayments equal or exceed underpayments. Senators Schmidt, Kelly, and Vratil expressed concern relative to many issues within the agreement such as: initial estimates of recovering millions of dollars only to learn of an estimated recovery of \$32,000 in FY 2011, liquidated damages represented as guarantees, the overpayment appeal process for providers and the possibility of losing Medicaid providers due to the time a provider expends to defend an overpayment, and whether the contract benefits the State. Senator Vratil moved to include a provision in the budget to prohibit the expenditure of any money for the administration of the contract between Kansas Health Policy Authority and Health Data Insights, Inc. Discussion followed in which Senator Masterson pointed out that the contract centers on an improvement process dedicated to accurate filing of Medicaid claims in which the vendor is paid on a contingency basis for under- and overpayments identified. Senator Vratil withdrew his motion and commented that a thorough investigation of the issues and evaluation of potential actions is warranted for the 2012 Session.

Action Items for Omnibus Consideration

Legislative Research Department staff distributed a worksheet (Attachment 14) for committee members to use as action is taken on each item.

The committee members reached consensus to take no action on the following items:

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- Kansas Corporation Commission – related to **H Sub for SB 50**
- Attorney General - related to **HB 2010**
- Department of Health and Environment – Health Care Finance related to **SB 36**
- Secretary of State – related to funding for the 2012 presidential preference primary
- Department of Commerce – related to **HB 2125**
- Kansas Public Employees Retirement Fund – related to **S Sub for HB 2194**
- Kansas Technology Enterprise Corporation – related to funding for FY 2012
- Kansas Technology Enterprise Corporation – related to **HB 2054**
- Commission on Veterans Affairs – related to prioritization of capital improvement items
- Insurance Department – related to **HB 2076**
- Insurance Department – related to **HB 2075**
- State Universities – related to **HB 2020**
- Department of Education – related to **SB 11**
- Sentencing Commission – related to **HB 2023**
- Sentencing Commission – related to **HB 2049**
- Juvenile Justice Authority – related to Prevention Block Grant Program Funding
- Board of Indigents' Defense Services – related to Assigned Counsel Caseload Services
- Department of Labor – related to **Sub HB 2134**
- Department of Labor – related to **SB 77**
- Kansas Bureau of Investigation – related to **SB 37**
- Special Revenue Transfers to the State General Fund – related to **SB 229**

The committee reached consensus to take action on the following items:

- Kansas Guardianship Program – Action: restore funding to the FY 2011 appropriation in the amount of \$44,418.
- Department of Social and Rehabilitation Services – related to **SB 210—Developmental Disabilities Provider Assessment.** Action: appropriate the new Quality Based Community Fee Fund as a no limit fund.
- Department of Social and Rehabilitation Services – related to Human Services Consensus Caseloads. Action: fund Human Services Caseloads for FY 2011 and FY 2012.
- Attorney General – related to **HB 2035—Concerning late-term abortions.** Action: use existing resources.
- Attorney General – related to **SB 93—Concerning racial or other biased-based policing.** Note: Enactment of this bill would require funds for investigation and training. Action: use existing resources.
- Department of Health and Environment – Health Care Finance – related to **HB 2035—Concerning late term abortions.** Action: use existing resources.
- Secretary of State – related to **HB 2240 – Concerning a cemetery Maintenance and Merchandise Fee Fund.** Action: appropriate the new fee funds as no limit funds.
- Governmental Ethics Commission Fee Funds – related to the Governor's FY 2012 and FY 2013 recommendation. Note: Without the passage of **S Sub for HB 2080** the agency will be unable to fund the Governor's FY 2011 and FY 2012 recommendations. Action: add \$230,000, all from the SGF, to fund the Governmental Ethics Commission Fee Fund for FY 2012, if action is not taken on **S Sub for HB 2080** and, add \$220,000, all from the SGF, to fund the Governmental Ethics Commission Fee Fund for FY 2013, if action is not taken on **S Sub for HB 2080**.
- Board of Regents – related to **SB 143—Concerning technical education funding.** Action: create the Postsecondary Tiered Technical Education State Aid fund and the Washburn Institute of Technology Operating Fund for FY 2012.
- State Historical Society – related to repair and replacement of lighting fixtures. Action: fund \$50,000, all from SGF, for repair and replacement of lighting fixtures.
- Kansas Bureau of Investigation – related to an additional funding request to retain a trained part-time DNA scientist. Action: fund \$41,640, all from the SGF, for a part-time DNA scientist for FY 2012.
- Kansas Commission on Peace Officers' Standards and Training – related to the Local Law Enforcement Training Reimbursement Fund. Action: appropriate the Local Law Enforcement training Reimbursement Fund as a no limit fund.
- Kansas Department of Transportation – related to **HB 2003—Concerning K-18 Highway.** Action: add an operating expenditure increase of \$1,440, all from the State

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections. 4

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- Highway Fund, for FY 2012.
- Kansas Department of Transportation – related to **HB 2192—Making seat belt regulations part of uniform act regulating traffic on highways.** Action: add the
- expenditures limitation increase of \$24,750, all from the State Highway Fund, for signage changes for FY 2012.
- Kansas Department of Transportation – related to **HB 2172 - Registration of vehicles; renewal; certification of financial security.** Action: add the expenditure limitation increase of \$14,120, all from the State Highway Fund, for FY 2012 to expend donations received for these designations.

Senator Vratil reported to committee members that with respect to the Kansas Department of Transportation and the Kansas Highway Patrol project that will allow for the completion of interoperable communications system in Kansas, additional spending authority must be authorized for the Kansas Department of Transportation. Senator Emler moved to authorize a spending limitation increase of \$1.75 million to the Kansas Department of Transportation for the Communications System Interoperability project for FY 2012. Senator Umbarger seconded the motion, which carried on a voice vote.

Senator Vratil moved introduction of the conflicts resolution bill (no rls number). Senator Emler seconded the motion, which carried on a voice vote.

Chairperson McGinn briefly reviewed the information contained in the worksheet entitled “Budget Adjustments for Positions Agreed to as of April 19th” (see Attachment 7).

The meeting was adjourned at 4:46 p.m.