

MINUTES

LEGISLATIVE BUDGET COMMITTEE

September 1-2, 2005
Room 514-S—Statehouse

Members Present

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

Members Absent

Senator Dwayne Umbarger, Vice Chairman

Staff

Alan Conroy, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Audrey Dunkel, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Deb Hollon, Kansas Legislative Research Department
Carolyn Rampey, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes
Bruce Kinzie, Office of the Revisor of Statutes
Jill Wolters, Office of the Revisor of Statutes
Shirley Jepson, Committee Secretary

Conferees

Reginald Robinson, President and CEO, Kansas Board of Regents
Camille Kluge, Wichita Area Technical College

Rich Hoffman, Kansas Association of Technical Schools and Colleges
Wayne Maichel, Director of Employment Security, Department of Labor

Sabrina Wells, Director of Financial Services, Kansas Insurance Department
Joan Wagon, Secretary, Department of Revenue
Trevor Wohlford, Executive Director, Board of Tax Appeals
Bryan Brown, Deputy Attorney General, Consumer Protection Division
Jerry Howland, Special Agent, Consumer Protection Division, Attorney General's Office
James McCabria, Assistant Attorney General, Consumer Protection Division
Joe Molina, Assistant Attorney General, Consumer Protection Division
Karl Hansen, Assistant Attorney General
Mike Hayden, Secretary, Department of Wildlife and Parks
Pat Lehman, representing the Kansas Recreation and Parks Association
Doug Vance, Executive Director of Kansas Recreation and Parks Association
Terry Heidner, Director of Planning and Development, Department of Transportation
Candy Shively, Social and Rehabilitation Services
Pamela Betts, Secretary, Department on Aging
Debbie Hatfield, Children Foster Care Program, Department of Health and Environment
Ed Van Petten, Executive Director, Kansas Lottery
Steve Martino, Executive Director of Racing Operations, Kansas Racing and Gaming
Commission
Keith Meyers, Director for Division of Facilities, Department of Administration
Scott Brunner, Medicaid Director, Department of Administration

Thursday, September 1 Morning Session

Chairman Neufeld called the meeting to order at 10:10 a.m. and informed the Committee that he had received information that the state's foster care system will receive 20 Level 4 foster-care children on September 1. Additionally, they will receive 10 developmentally-disabled adults from the hurricane devastated area in Mississippi, as well as some staff members who will be accompanying these individuals. Chairman Neufeld requested that staff contact the Department of Social and Rehabilitation Services (SRS) and Department of Health and Environment (KDHE) with regard to any necessary emergency licensing that might be required for the movement of residents from the Gulf Coast states as a result of Hurricane Katrina devastation. He asked for an update at tomorrow's Committee meeting from the various agencies impacted by this emergency.

Chairman Neufeld recognized Reginald Robinson, President and Chief Executive Officer of the Kansas Board of Regents (KBOR), who presented an overview of funding for technical colleges and schools ([Attachment 1](#)). Mr. Robinson introduced Mel Klinker, Vice President of Finances for the Kansas Board of Regents. Mr. Robinson noted that he is in the process of contacting the state's universities and colleges to find out what outreach measures are being taken to assist students from the Gulf Coast states who have been affected by the hurricane and will report back to the Committee at tomorrow's meeting.

Mr. Robinson testified that the current funding formula for technical colleges and schools is complicated and the current structure is convoluted. Responding to questions from the Committee, Mr. Robinson indicated that the Board of Regents is planning to aggressively work to find solutions

to the difficult funding formula, along with ways to address problems in the structure and organizational issues of the current technical school system. He indicated that they will look at other states' programs to find out what is successful in those states, the makeup of those technical schools, and will move to a consistent program throughout the Kansas system. The Committee noted that it

is important for the technical schools to address the needs of Kansans and provide training in career fields where there are urgent and future employment needs, such as the nursing field. The Committee also noted that the annual reports submitted by the technical schools could be expanded to include more information on goals, outcomes, and new ways of effectiveness within the school.

The Committee requested that Mr. Robinson report back to the Committee at the October meeting, providing information on what changes and improvements will be made, and a time frame as to when the Board of Regents will implement these changes to the current technical school system.

The Chairman recognized Camille Kluge, President of the Wichita Area Technical College, who presented testimony regarding the funding challenges facing the Wichita school since their separation from USD 259 (Attachment 2). Responding to a question from the Committee, Ms. Kluge stated that Wichita Area Technical College leases two parcels of land from the Wichita Public Schools. The other four parcels are owned by the Technical School, ownership having been transferred from the Wichita Public Schools to the Technical School. Any capital improvements to the technical school are funded through post-secondary aid and tuition funds.

Chairman Neufeld recognized Rich Hoffman, Kansas Association of Technical Schools and Colleges, who spoke regarding the problems concerning the current funding of technical schools (Attachment 3). Mr. Hoffman indicated that the Association is starting the process of communication with the Board of Regents to develop suggestions to address the current structure. In response to a question from the Committee, Mr. Hoffman stated that some employers are willing to pay for their employees to attend technical school classes; however, some businesses are not committed to this procedure or the process of training individuals who might seek employment to fill the company's needs.

The Chairman recognized Wayne Maichel, Director of Employment Security, Department of Labor, who presented an update on Department of Labor unemployment overpayments in calendar year 2005 (Attachment 4). Mr. Maichel stated that a program has been established which allows applicants to submit applications over the internet and through call centers. This program does not allow applicants to also register for work with the public employment service. Therefore, the result has been a disconnect in the services. New computer software will allow for a more user-friendly application and allow for the applicant to automatically be registered with job service when they apply for unemployment benefits. The computer program to correct this disconnect is in the first phase of implementation. Mr. Maichel noted that no penalties for technical errors caused by the current system have been assessed by the federal government.

Alan Conroy, Legislative Research Department, presented a comparison of tax receipts for Fiscal Year 2005 and 2006 with year-to-date receipts and for the month of August, FY 2006 (Attachment 5), noting that the state is ahead of the estimate for the first two months of FY 2006 by \$19 million.

The meeting was recessed at 12:00 Noon.

Afternoon Session

The meeting reconvened at 1:30 p.m.

Sabrina Wells, Director of Financial Services, Kansas Insurance Department, presented a review of historical trends from state tax revenue streams as it relates to the Insurance Department ([Attachment 6](#)). In response to Committee questions, Ms. Wells indicated that the Insurance Department is imposing penalties and fines of approximately \$250,000 to \$400,000 per year, down significantly from ten years ago. Generally, the payment of fines and penalties is not a problem, because companies could lose their certificate to do business if taxes are not paid. At this time, there is not a penalty to an insurance company for making an underpayment of pre-payments of premium taxes or for not making that payment on a timely basis. The Committee noted that premium tax receipts for FY 2005 show little growth from the prior year after a growth in the prior three years. Ms. Wells stated that two factors contribute to the slow growth between FY 2004 and FY 2005:

- (1) previous credits available to the insurance companies have been exhausted; and
- (2) stabilization in the appraised value of property and premiums.

Joan Wagon, Secretary of the Department of Revenue, presented historical data on the various taxes collected by the Department of Revenue. Ms. Wagon introduced two members of her staff, Steve Scott, Director of Taxation, and Steven Brunken, Policy and Research, who were present to provide information and answer questions. Ms. Wagon provided information on the following:

- Overview of State General Fund Receipts for the period of FY 2001 - FY 2005, plus an estimate of receipts for FY 2006 ([Attachment 7](#));
- Individual Income Tax ([Attachment 8](#));
- Corporate Income Tax and Analysis of Corporate Income Tax 2000-2002 ([Attachment 9](#));
- Sales and Use Taxes ([Attachment 10](#));
- Cigarettes and Tobacco ([Attachment 11](#));
- Financial Institutions Tax Receipts by Fiscal Year ([Attachment 12](#));
- Mineral Tax by Fiscal Year ([Attachment 13](#)); and
- Liquor Taxes ([Attachment 14](#)).

Secretary Wagon noted that individual income and sales taxes make up approximately 80 percent of all tax receipts. Responding to questions from the Committee, Ms. Wagon stated that the amnesty program was successful, resulting in approximately \$56 million from all sources, almost twice what the state had expected to receive. Corporate income taxes owed to Kansas by large corporations who do business in multiple states is calculated on their property, payroll, and sales. There is discussion at the national level to study whether this three-factor formula is a good measure for future calculations. There is also debate on foreign source dividends, income sheltering, and how to fairly and best calculate corporate income tax.

Because of a drop in taxes from financial institutions, Secretary Wagon noted that the department is in the process of reviewing these tax returns to determine what factors are contributing to this drop. The Committee noted that it might be advisable to track federal refundable tax credits, as well as the state refundable tax credits. Responding to a question concerning the streamlined sales tax, Secretary Wagon noted that the organizational phase is going very well and will be in place by October 1, 2005.

The Committee requested that Secretary Wagnon provide the following information:

- Accounts Receivable and unpaid taxes pertaining to individual income taxes; and
- Number of used car dealers who lost licenses as a result of being three months late on unpaid taxes.

Matt Spurgin, Legislative Research Department, provided information on the number of members on the Board of Tax Appeals (Attachment 15). As requested by a Committee member, information was also provided on caseloads of the Board of Tax Appeals (Attachment 16).

Trevor Wohlford, Executive Director, Board of Tax Appeals, presented a review of the structure of the Board of Tax Appeals (BOTA) (Attachment 17). The Committee noted the increase in the number of cases outstanding and number of average days to close a case. Mr. Wohlford stated that he felt the backlog is not due to the reduction of members on the Board from five members to three members, but is attributable to litigants on the commercial side, reduction of staff, number of cases filed, and the vacancy of one position on the Board. The Committee voiced concern with the backlog and deadlock of cases.

The Committee requested that Mr. Wohlford provide information at the Committee's October meeting on BOTA's recommendation for addressing the overload problem, and a list of qualified pro tem (temporary) members and procedures for pro tem members. In addition, information was requested on BOTA's travel in the state within the last 18 months, how travel decisions are determined, and the procedure in place for future travel.

Bryan J. Brown, Deputy Attorney General, Consumer Protection Division, appeared on behalf of Attorney General Phill Kline, to present an review of funding and activities of the Consumer Protection Division (Attachment 18). A packet of information, services, and available resources for consumers was also distributed to the Committee (copy available from Attorney General's Office). Mr. Brown introduced Assistant Attorney General Jim McCabria, Assistant Attorney General Joe Molina, and Special Agent Jerry Howland, who will assist in the presentation.

Carolyn Rampey, Legislative Research Department, stated that the Consumer Protection Division is funded half from recoup fees and half from the State General Fund (SGF). Because of the instability of the recoup fees, during the 2005 Legislative Session, the Legislature began to shift some of the division's salaries from the recoup fees to the SGF.

Jerry W. Howland, Special Agent for the Attorney General, provided testimony on the philosophy and mission statement of the Consumer Protection/Antitrust Division (Attachment 19).

James R. McCabria, Assistant Attorney General, provided testimony on changes that have been implemented in the Attorney General's office in resolving individual consumer complaints (Attachment 20).

Joe N. Molina, Assistant Attorney General, presented an overview of the Kansas No-Call Act (Attachment 21). With reference to unsolicited cell phone calls, Mr. Molina stated that there is no specific clause in the Kansas law pertaining to cell phones, however, federal law does allow for protection from unsolicited cell phone calls. Mr. Brown indicated that the Attorney General's office would support a change in the Kansas law to include protection of consumer's cell phone numbers.

Relating to gasoline prices and responding to a Committee question, Mr. Brown stated that the Consumer Protection Division can protect the individual consumer from "price gouging," but

cannot protect the wholesaler because, under the law, the definition of consumer does not include an incorporated entity. The Attorney General's office or any private attorney in Kansas is unable to protect the incorporated entity. Mr. Brown indicated that if the Governor declares a "state of emergency" with the issue of gasoline, and identifies the issue as "hoarding" by the refineries or wholesaler, as opposed to "price gouging," the state could move forward with action.

Jill Wolters, Office of the Revisor of Statutes, presented an overview of 2005 SB 151 relating to the tobacco Master Settlement Agreement (MSA) (Attachment 22).

Karl Hansen, Assistant Attorney General, presented testimony on issues impacting the continued receipt of tobacco MSA revenue (Attachment 23). Mr. Hansen stated that the state of Kansas is now subject to two lawsuits as a result of legislation passed during the 2005 Session, and threats to the MSA are continuing to grow. There is the possibility that the State may be forced to refund approximately \$9 million. These actions have resulted in downgrading by Moody of the state's bonds. Mr. Hansen noted that there is a need for the Legislature to address the issue of protecting the MSA revenue stream.

The meeting was recessed at 5:00 p.m. and will reconvene on September 2, 2005, at 9:00 a.m.

Friday, September 2 Morning Session

Staff of the Legislative Research Department distributed copies of the *Kansas Fiscal Facts, Twelfth Edition, August, 2005*, to the Committee (copy on file in the Kansas Legislative Research Department).

Mike Hayden, Secretary of the Department of Wildlife and Parks, presented a review of funding and expenditures for Wildlife and Parks (Attachment 24). Secretary Hayden stated that there is a critical problem with funding for the State's parks system, noting that SGF support has declined from 60 percent to 16 percent of its budget as a result of the imposition of user fees; however, the user fees are not sufficient to substantiate the budget of the park system. As user fees have increased, records indicate that visitors decline. An additional problem results when user fees are diverted to the SGF for funding for other purposes. Secretary Hayden estimated that the Department will be short \$400,000 in the parks fund by the end of FY 2006. Secretary Hayden stated that the Department supports SB 87 as a solution to the funding problem, and will support other avenues as proposed by the Legislature. SB 87 would assess a \$5 outdoor recreation registration fee to the motor vehicle registration fee, of which \$4 would fund state parks with \$1 of this fee to fund the local government outdoor recreation grant program. All user fees for state residents would be eliminated by this legislation. This funding would establish a stable funding source for the state parks. Secretary Hayden noted the need to focus on a long-term solution. Studies show that attendance at state parks is weather related, indicating that the level of water in reservoirs is a factor in attendance. Secretary Hayden stated that the last option to solving the problem would be the closing of some parks.

The Committee requested information on the overall number of permits issued and revenue received, for both daily and annual permits, for camping and vehicles. In addition, it requested the Department provide the information by individual parks.

Secretary Hayden noted that the department is now housed on North Wanamaker Road in an office with a two-year lease. At this time, the State does not have title to the State Park 24 property, and no improvements are being made to the property. Some problems contributing to this failure include naming of the park, boundaries of the park, and changes in the financial plan. Secretary Hayden stated that he knew of no progress on a proposed Menninger museum at the State Park 24 property.

Secretary Hayden stated that the Wildlife and Fisheries fund is financially strong, mainly because of federal support. Proposed land purchases would be funded from Wildlife and Fisheries funds. There is very little federal financial support for the parks. Because of federal constraints on wildlife fee funds, time sheets are audited to determine the amount of administrative costs charged to each department, with Wildlife and Fisheries funds paying approximately two-thirds of administrative costs for the Department.

Pat Lehman, representing the Kansas Recreation and Parks Association, in conjunction with Doug Vance, Executive Director of Kansas Recreation and Parks Association, spoke in support of SB 87.

Michele Alishahi, Legislative Research Department, presented an overview of the current Comprehensive Transportation Plan (CTP) funding structure ([Attachment 25](#)).

Terry Heidner, Director of Division of Planning and Development, Department of Transportation (KDOT), presented a briefing on the SAFETEA-LU project ([Attachment 26](#)). Mr. Heidner stated that savings of \$800 million in FY 2004 within KDOT made the CTP financially sound, as long as federal funding was approved at the estimated amount. In order to accomplish this savings, bonds were refinanced for a better return, reduction in some small programs were applied to major programs, and a proposed ending balance was applied to projects. Mr. Heidner stated that it does not now appear that federal funding in the new program will be as much as anticipated.

Candy Shively, Deputy Secretary, Social and Rehabilitation Services (SRS), presented an update on services being offered by SRS to victims of the hurricane in the Gulf Coast states. Ms. Shively stated that they are working to coordinate services through the Red Cross, assisting with housing, emergency food, clothing, and other needs. Victims of the hurricane will be treated as Kansans with regard to availability of food stamps, medical, and cash assistance. The Department has organized a human response team, and will work with the Federal Emergency Management Agency (FEMA) to develop a list of available housing.

Pamela Betts, Secretary, Department on Aging, presented a review of services being put in place to assist with any senior citizens arriving in Kansas from displacement by the hurricane in the Gulf Coast states. Secretary Betts presented a list of contacts at the county level and various communities throughout Kansas who are available to assist those individuals ([Attachment 27](#)).

Debbie Hatfield, Foster Care Program, Department of Health and Environment, informed the Committee that seven staff members are accompanying the group of foster children being transported to the Kansas area from the hurricane area in Mississippi. Ms. Hatfield advised that they are working with other agencies to amend the staff members' licenses to allow them to work within the State of Kansas. Ms. Hatfield stated that the Department is working to provide services to school-age children and waiving immunization requirements for the first 60 days. The Committee noted that it is important to have a designated point of contact for available services.

Afternoon Session

Followup information from Trevor Wohlford, Executive Director, Board of Tax Appeals, as requested by the Committee, was distributed ([Attachment 28](#)).

Reginald Robinson, President & CEO, Board of Regents, presented information, as requested by the Committee, concerning specific Hurricane Katrina relief efforts taking place at Kansas institutions of higher education ([Attachment 29](#)). The Committee felt it would be important to work to accommodate medical students and professors from the hurricane area. With reference to waiving out-of-state fees for students from the hurricane area, the Committee requested information as to what would be necessary to waive these fees. Norman Furse, Revisor of Statutes, advised that current statutes do not provide for waiving these fees at state universities without an emergency being declared by the Governor; however, he would continue to review the issue.

Julian Efird, Legislative Research Department, presented information on the background of the lottery and parimutuel activities with a five-year review ([Attachment 30](#)).

Ed Van Petten, Executive Director, Kansas Lottery, presented comments concerning transfers from the Lottery to the SGF. Mr. Van Petten noted the Lottery operates as a business and has experienced increases in sales in all games in the last five years. The transfer to the SGF in FY 2005 was 31 percent. Improvements are continuing to be made in each lottery game. Responding to questions from the Committee, Mr. Van Petten advised that all tickets are delivered to vendors by common carrier. With regard to sales, Mr. Van Petten projected between \$191 and \$192 million in sales for the months of July and August, with expectations to surpass last year's sales. Advertising is primarily focused on Kansas and Kansas products, with 80 percent of the advertising budget spent on radio advertising. With regard to bordering states, it is anticipated that on-line ticket sales will be available in Oklahoma in October, resulting in a possible loss of sales of \$12 to \$15 million. Mr. Van Petten noted that he is not aware of any other new programs being proposed in bordering states.

Steve Martino, Executive Director of Racing Operations, Kansas Racing and Gaming Commission, presented a review of historical trends on expenditures and revenue for racing and gaming. Mr. Martino indicated that there has been a decline of 32 percent in parimutuels in the state over the last five fiscal years. In order to maintain a fiscal year ending balance of \$200,000, it is projected that the racing budget will need to be supplemented by approximately \$710,000 from the SGF before the end of the fiscal year. As a cost cutting measure, two full-time equivalent positions are vacant at this time. Responding to a question from the Committee, Mr. Martino indicated that some of the reasons for the decline include fewer horses running at the tracks, fewer race dates, smaller purse sizes with larger purses in other states, limited advertising, river boat casinos in Kansas City, and the opening of Indian casinos in northeast Kansas.

Audrey Dunkel, Legislative Research Department, presented a review of historical trends on expenditures for the Economic Development Initiatives Fund ([Attachment 31](#)).

Keith Meyers, Director, Division of Facilities Management, presented a review of space needs for the Capitol Area Complex ([Attachment 32](#)). Copies of the Capital Improvements Five-Year Plan, Fiscal Year 2007 and FY 2008, 2009, 2010, and 2011 were distributed to the Committee (copy on file in Legislative Research Department). Because of the estimated 77,000 square feet of vacant space in the Docking Building at the present time, agencies will be approached as leases expire to move to the available space in Docking. Mr. Meyers noted that with the move of some members of the Legislature to the seventh floor, the vacant space will be reduced to 58,000 square feet. It is projected that there will be an adjustment in rent rates in FY 2007, because of utility rate increases.

A survey of agency rental space and needs is being reviewed at this time to determine how to proceed on remodeling of the Docking Building and possible abandonment of the Landon Building. The cost of renovation of the Dillon House is projected at \$2.7 million.

Scott Brunner, Medicaid Director, Department of Administration, presented an update on Medicaid Provider Assessments, Medicaid Deferrals, and Medicare Part D Clawback (Attachment 33). At this time, Kansas Medicaid is continuing to work with the Centers for Medicare and Medicaid Services (CMS) to get approval of the hospital provider assessment with a retroactive date of July 1, 2004. The variables associated with the "clawback" effect of the new Medicare Part D program make it difficult to project clawback payments. The Committee noted that there may be those individuals who are eligible for Medicaid, but have never applied, and will now apply for drug benefits under the Medicare Part D program, causing a "woodwork" effect or increase in the state's Medicaid responsibility with potential problems. CMS has developed a program that will automatically enroll dual-eligibles. Mr. Brunner is hopeful that there will be more information available in January after the November enrollment period.

The Committee requested to be updated, as information becomes available, on Medicaid Part D, deferrals, and other pertinent data.

After review of specific statutes, Norman Furse, Revisor of Statutes, informed the Committee that there is no flexibility in statute allowing the state to alter out-of-state tuition charges in case of an emergency, such as Hurricane Katrina.

The meeting was adjourned at 3:30 p.m. The next meeting of the Committee will be held on October 10-11, 2005.

Prepared by Shirley Jepson
Edited by Leah Robinson

Approved by the Committee on:

October 10, 2005
(date)