

Approved: June 30, 2012

(Date)

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:00 AM on Tuesday, April 17, 2012. The second meeting was held on April 18, 2012. Senator McGinn announced the purpose of the meetings on April 17 and 18 is to consider Omnibus appropriations.

All members were present except Senator Masterson who was excused on April 17 and 18; Senator Taddiken was excused on April 18.

Others attending:

See attached list.

Committee staff present:

Jan Lunn, Committee Assistant
Melinda Gaul, Chief of Staff, Senator McGinn's Office
Eli Johns, Intern, Senator McGinn's Office
J. G. Scott, Chief Fiscal Analyst, Legislative Research Department
Michael Steiner, Senior Analyst, Legislative Research Department
Bobbi Mariani, Fiscal Analyst, Legislative Research Department
Jill Wolters, Office of the Revisor of Statutes
David Wiese, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes

Senator McGinn called the meeting called the meeting to order at 10:00 a.m. and indicated the purpose of the meetings on April 17 and 18 were to consider Omnibus appropriations.

Morning Session, April 17, 2012:

Omnibus Appropriations

J. G. Scott, Chief Fiscal Analyst, Legislative Research Department, reviewed the consensus revenue estimates which were generated on April 13, 2012. (Attachment 1) At this time, the State General Fund (SGF) overall estimate for both fiscal years (2012 and 2013) was increased by a combined \$252.2 million. For FY 2012, the estimate was increased by \$129.4 million above the November 2011 estimate; for FY 2013 the estimate was increased by \$22.8 million above the November 2011 estimate.

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In response to a question concerning the increase in net transfers in and out of the SGF, Mr. Scott distributed a document outlining those transfers (Attachment 2). There has been no transfer to the Kansas Bioscience Authority since August 2011 at which time approximately \$11.3 million was transferred out of the SGF. According to Mr. Scott, statute does not provide a specific date for transfers, only that they be made within a fiscal year.

Since there was a multi-million lottery winner in the state of Kansas, Mr. Scott indicated approximately \$7.9 million was included in the income tax revenue estimates, which will be received in the upcoming months. Mr. Scott reviewed the consensus revenue estimate adjustments made for FY 2012 and FY 2013 including FY 2011 actual receipts as well as the FY 2012 revised State General Fund Receipts compared to the November 2011 estimate. Mr. Scott indicated that:

- There was no significant reduction in unemployment;
- There is an increase in individual income taxes from previous estimates;
- There is significant increase in estimated corporate income tax payments;
- There is growth in retail sales tax anticipated in FY 2012 and in FY 2013, increases are expected to moderate;
- A \$15 million increase in compensating use taxes is estimated in FY 2012 and FY 2013;
- Severance tax estimates for oil and gas show a decline in FY 2012; however, discussion occurred concerning the Mississippian oil play and increased revenue estimates are projected for FY 2014 rather than FY 2013.

Mr. Scott indicated that in the Kansas, the economy seems to be steadily increasing, and the consensus estimating group remains positive in their projections.

Amy Deckard, Senior Fiscal Analyst, Legislative Research Department, reviewed April 2012 consensus caseload estimates for FY 2012 and FY 2013 (Attachment 3). Ms. Deckard indicated that representatives from the Department of Social and Revenue Services, Department on Aging, Division of the Budget, Kansas Department of Health and Environment, Juvenile Justice Authority and Legislative Research Department meet two time yearly to revise estimates on caseload expenditures for Nursing Facilities, Regular Medical Assistance, Temporary Assistance to Needy Families (TANF), Reintegration/Foster Care Contracts, Psychiatric Residential Treatment Facilities (PRTF) and Out of Home Placements. In FY 2012, the estimate is an all funds increase of \$552,642, and a SGF decrease of \$4.9 million as compared to the Governor's recommended budget. In FY 2013, the estimate is an increase of \$100 million from all funding sources, including \$43.8 million from the SGF. In response to questions, Ms. Deckard indicated:

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- Concerning the \$3.8 million increase from SGF for Nursing Facilities and Targeted Case Management, Ms. Deckard indicated the increase is due to a combination numbers served and increased cost for those receiving benefits. There was no increase in the provider assessment, but there was a utilization increase for that population. Reimbursement rates for nursing facilities are based on cost reports from these individual facilities; therefore, as a client's overall severity increases, the overall cost reports from individual facilities would increase thereby increasing the average costs.
- When asked what other program expenditures offset the maintenance of effort (MOE) requirement for TANF, Ms. Deckard replied there are a variety of expenditures included in foster care contracts, family preservation, expenditures in staffing, and earned income tax credit refunds are counted in the state's maintenance of effort to meet the block grant requirement.
- A committee member expressed concern regarding the transfer of population from PRTFs to out-of-home placements and asked for the rationale why it was wiser to spend SGF funding than spending federal funds. Ryan Weir, Legislative Research Department, explained that staff noted a significant decrease in PRTF resident population, which was primarily offset by an increase in the daily rate. That PRTF decrease correlated to an increase in out-of-home placements to youth residential treatment centers. Youth residential treatment centers run approximately \$110-\$125 per day while PRTFs run approximately \$270-\$310 per day. Evaluating the trend and balancing the two treatment options represent the basis for the caseload estimate. The task of the consensus caseload estimate group is not to determine the value of source funding, the goal is to estimate trends and based on those trends, project costs.
- With regard to a question regarding PRTF screenings and placement, Ms. Deckard confirmed that screenings represented a downward trend for PRTF placement, which led to a decrease in consensus estimates. Currently, there is a uniform screening tool used by Community Mental Health Centers (CMHC), and the level of decrease previously seen has rebounded.
- When asked whether the growth in caseload estimates is due to medical assistance, Ms. Deckard reported the consensus estimate group evaluates both populations and costs; some are evaluated monthly, others annually. The group reviews both funding costs and contracts, depending on the program. Regular medical assistance represents the largest portion of expenditures.
- KanCare's impact was estimated based on the Governor's recommendation for savings in FY 2013 at \$32.1 million all funds and \$12.5 million from SGF. Ms. Deckard could not respond to how the Governor's savings were calculated. The November 2012 estimate could show significant changes depending on the contracts signed for KanCare

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implementation. Contracts are expected to be signed in July 2012, according to Julie Thomas, Division of the Budget. Chairperson McGinn requested that the exact date of the contract signing be furnished to the Committee during the afternoon session.

- With regard to estimates for TANF, Foster Care, Mental Health, Community Supports and Services, and Addiction and Prevention Services, which were decreased by \$6.9 million from the SGF, a committee member asked what percentage of fewer participants were considered in the estimate, whether the reductions were across the state or in certain areas, and whether the reduced participation was due to access or eligibility issues. Ms. Deckard responded the estimate was based on number of individuals receiving benefits; she could not respond to whether certain geographic areas, access, or eligibility were contributing factors.
- A question was posed as to when the KanCare Medicaid waiver would be approved. Julie Thomas, Division of the Budget, responded that to her knowledge, the state had applied for the waiver; it is unknown at this time the date the waiver could be approved. She confirmed the contracts are scheduled for signing in July 2012, the Center for Medicare and Medicaid Services (CMS) could request additional negotiation occur related to the waiver.
- Mark Dugan, Office of the Lieutenant Governor, reported that the state is in the process of applying for a CMS 1115 waiver; a concept paper had been submitted, and a final application is yet to be submitted. He indicated there had not been approval at this time for a January 1, 2013 implementation date; he indicated there were other waivers for which the state could apply. When asked what alternative plans exist in case the waiver is not approved and what process is in place for other waiver applications, he indicated there are other waivers for which application would be made are available. Examples such as waiver 1915(b) Managed Care Waiver or 1915(c) Home and Community Based Services Waiver were suggested. When further questioned, Mr. Dugan expressed confidence that the state will be awarded the waiver; a committee member requested that all 165 legislators be advised when the 1115 waiver is submitted. A request was made for a copy of the CMS concept paper.
- For the FY 2013 consensus caseload estimates, a committee member asked the basis for determining increases in all funds (\$100 million) and SGF funds (\$43.8 million), Ms. Deckard indicated estimates are based on population and costs trends and described the estimating process. A detailed report was requested by program. Ms. Deckard indicated data is available; however, it would be time consuming to collect and report for each particular program. A committee member requested a report for the HealthWave program containing the numbers of enrollees, the trend identified, the costs identified, and the subsequent estimate.

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- When asked what type of services and to whom services are provided through the Addiction and Prevention Services Program, Ms. Deckard indicated individuals eligible for Medicaid could receive both in- and out-patient services for alcohol, drug abuse, other addictions, and problem gambling. A portion of that program is funded by \$6.45 million from the Problem Gambling and Addiction Grant Fund; the statute allows expenditure from that fund for any addiction services included but not limited to problem gambling. A committee member requested a copy of the statute.
- A committee member requested explanation concerning the decrease in reintegration of foster care contracts, Ms. Deckard explained the consensus group used the Governor's recommendation for reimbursement rates, which holds the payment rate at the same level as was paid in FY 2012. There was an additional \$500,000 reduction in the overall contracts for FY 2013 compared to FY 2012. Ms. Deckard indicated she was unaware if contracts had been renegotiated; however, the Governor's assumption is that renegotiation would be required. In addition, the number of children expected to be served is not as high as was originally anticipated.

JG Scott, Chief Fiscal Analyst, Kansas Legislative Research Department, distributed information concerning the State General Fund Profile (FY 2010-FY 2014), which is based on the Governor's recommended expenditures, updated for consensus revenue estimates, and excludes any tax adjustments. Mr. Scott explained the historical profile; he indicated the estimates in FY 2013 include adjustments for the Kansas Public Employees Retirement System (KPERs) unfunded liability. ([Attachment 4](#))

Two additional SGF Profile sheets were distributed. ([Attachment 4a and 4b](#)) These portray various scenarios that reflect positions upon which the House and Senate conference committee has agreed. Where there is no agreement, the Senate position is reflected for revenue and expenditures. [Attachment 4a](#) includes the Senate tax proposal ([HB 2117](#)), reduction of \$45.0 million ([HB 2241](#)) for local ad valorem tax relief fund (LAVTRF), includes the Senate position on revenue, revised consensus estimates, and SGF reduction in sales tax. Expenditures contain the same assumptions as earlier explained, the Senate education plan ([SB 350](#)), the local option budget (estimated at the maximum levels), and the KPERs adjustment of \$36 million. This analysis reflects a negative balance of \$60.3 million in FY 2014. Mr. Scott elaborated on the assumptions listed within the document, particularly State Highway Fund transfers.

[Attachment 4b](#) contains the same information included in [Attachment 4a](#) but excludes the adjustments made by the Senate tax proposal ([HB 2117](#)). This analysis results in a positive ending balance in FY 2014 of \$614.9 million. This includes education funding, KPERs, LAVTRF, Kansas Bioscience Authority (KBA) transfer, and consensus estimates.

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Revenue Fund Balances

Ms. Deckard reviewed the Children's Initiatives Fund FY 2011-FY 2013 (Attachment 5), which includes conference committee adjustments.

Michael Steiner, Kansas Legislative Research Department, reviewed the Economic Development Initiatives Fund for FY 2012-2013, which includes the conference committee adjustments (Attachment 6). A request was made to add the phrase "100th Anniversary" under the agency of Kansas State Fair, Enhanced Fair Marketing, which will designate this is unique funding added only for FY 2013.

Jarod Waltner, Kansas Legislative Research Department, reviewed the State Water Plan Fund (Attachment 7), which includes the conference committee adjustments for FY 2013. He noted the adjustments made increased expenditures, which left a negative balance. Chairperson McGinn noted the negative balance was a result of negotiations concerning the Children's Initiative Funds. She indicated further action would be required to correct the negative balance.

Dylan Dear, Kansas Legislative Research Department reviewed the Expanded Lottery Act Revenue Fund (ELARF) and associated expenditures, which includes conference committee adjustments (Attachment 18).

Chairperson McGinn recessed the committee for lunch and recommended that committee members review the handout "Items for Omnibus Consideration." The meeting was recessed at 11:45 a.m.

Afternoon Session, April 17, 2012:

The meeting was reconvened at 1:22 p.m.

In response to a question concerning a reduction in state aid to schools for FY 2013, Mr. Scott clarified that in FY 2013, the state was obligated to pay \$22 million, which had been shifted for special education. The Governor recommended making all of those special education payments in FY 2012. There was a \$10 million increase in local valuations resulting in fewer funds from SGF required. This totals approximately \$40 million which is the reduction shown in FY 2013.

Committee members began the process of evaluating items contained in "Items for Omnibus Consideration" (Attachment 8); it was agreed that consensus on issues would suffice for formal

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motions. If expenditures are to be added, committee members were encouraged to seek funding sources. Some items listed as “law” will require committee members’ decision regarding funding and sources of funding.

Redistricting Process:

Mr. Scott reviewed the necessary steps to finalize the redistricting process for FY 2013, which was requested by the Senate. The Kansas Legislative Research Department is accountable for the provision of the following services and tasks:

- Production of a district atlas and maps;
- Working with legislators regarding production of custom maps such as precinct maps;
- Working with the Secretary of State’s Office and local election officials to support understanding of new district boundaries;
- Working with the public to assist in education concerning new district boundaries;
- Assist in the drawing of local districts (school boards, city council, county commission);
- Archive plans and other redistricting materials;
- Information Technology (IT) support for caucus offices; and
- Staffing and IT support for potential redistricting litigation or a prolonged session.

Discussion followed on the redistricting process and concerns were expressed regarding the services that the Kansas Legislative Research Department (KLRD) provides; it was suggested that additional consideration be extended to the above list with the goal of reducing the KLRD’s involvement and expenses incurred by discovering other resources for providing assistance.

Agency Review:

Committee members reviewed the following agencies, programs, revenue funds, human services consensus caseloads, and various positions contained in the “Items for Omnibus Consideration” report:

- Legislative Division of Post Audit
- State Employee Pay
- Attorney General
- Secretary of State
- Kansas Insurance Department
- Kansas Department of Transportation
- Board of Regents

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- Children's Initiatives Fund
- Department of Social and Rehabilitation Services
- Executive Reorganization Order (ERO) Number 41
- Spring Human Services Consensus Caseloads
- Kansas Department of Health and Environment – Health
- Governor's Budget Amendment Number 3, Item 2
- Governor's Budget Amendment Number 3, Item 3
- Early Detection Works Program
- Newborn Screening Program
- Division of Health Care Finance of Department of Health and Environment
- Board of Nursing
- Board of Examiners in Optometry
- Kansas Department on Aging
- Larned State Hospital
- Osawatomie State Hospital
- Rainbow Mental Health Facility
- Kansas Neurological Institute
- Parsons State Hospital and Training Center
- Juvenile Justice Authority
- Kansas Commission on Veterans' Affairs
- Office of the Securities Commissioner
- Board of Pharmacy
- Kansas Arts Commission
- State Library
- Department of Corrections
- Department of Education
- Kansas State School for the Blind
- Kansas State School for the Deaf
- Kansas Corporation Commission
- Kansas Human Rights Commission
- Kansas Highway Patrol
- Kansas Department of Commerce
- Kansas Public Employees Retirement System
- Kansas Department of Revenue
- Kansas Commission on Peace Officers' Standards and Training

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- Kansas Department of Health and Environment – Environment
- Kansas Water Office
- Kansas State Fair
- State Water Plan Fund
- Department of Administration
- Judicial Branch
- Board of Indigents' Defense Services
- Kansas Lottery

No Action Items:

Committee members reached consensus agreement to take no action on the following:

- Board of Regents – related to funding for technical education tuition waivers and technical education incentives;
- Children's Initiatives Fund – related to review of expenditures;
- Department of Social and Rehabilitation Services – related to Centers for Independent Living Audits;
- Department of Social and Rehabilitation Services – related to Supplemental Nutrition Assistance Program Policy changes;
- Department of Social and Rehabilitation Services – related to ERO Number 41;
- Kansas Department of Health and Environment – Health
 1. Related to restoration of \$689,695 for Smoking Prevention Grants;
 2. ERO Number 41; and
 3. GBA No. 3, Item 3 for Updates to the Medicaid Management Information System for KanCare for FY 2013.
- Board of Nursing – related to ERO Number 41;
- Kansas Department on Aging
 1. Related to ERO Number 41;
 2. Provide the amount of savings that have accrued with the Electronic Visit Verification System (EVVS) and FMS and where the savings are being applied;
 3. Funding of the Family Centered System of Care;
 4. Provide information on other states' Financial Management System Payment rates;
 5. Describe how autism services are currently provided and the capacity or the ability of the agency to eliminate the current waiting list;
 6. Add \$1.5 million, from SGF, to restore grant funding for Area Agencies on Aging; and

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7. Participate in the Federal Community First Choice Option.
- Larned State Hospital – related to review of the bed expansion configuration at the Isaac Ray Building to include forensic beds.
 - Osawatomie State Hospital – related to:
 1. Staff classifications and positions experiencing significant retention and recruitment issues; and
 2. Comparison between state hospital treatment and private facilities.
 - Rainbow Mental Health Facility – related to:
 1. Reopen 14 closed beds at Rainbow Mental Health Facility and staff classifications and positions experiencing significant retention and recruitment issues; and
 2. Staff classifications and positions experiencing significant retention and recruitment issues.
 - Kansas Neurological Institute – related to:
 1. Staff classifications and positions experiencing significant retention and recruitment issues;
 2. Review restructuring KNI to a Home and Community-Based environment; and
 3. Report on the continued progress of the agency on implementing the Legislative Post Audit recommendations.
 - Parsons State Hospital and Training Center – related to staff classifications and positions experiencing significant retention and recruitment issues.
 - Kansas Commission on Veterans' Affairs – related to Veterans' Claims Assistance Program Enhancement.
 - Office of the State Bank Commissioner – related to **House Substitute for SB 315** (which was vetoed by the Governor).
 - Office of the Securities Commissioner – related to Investor Education Program performance measures.
 - Board of Pharmacy – related to Board of Pharmacy Fee Reduction.
 - Department of Corrections – related to Inmate Vocational and Treatment Program funding.
 - Department of Education – related to **SB 257 – Amendments to Calculation of Local Option Budget Using State Aid for Special Education and Related Services and Funding Formula**, which is currently in an education conference committee.
 - Kansas Corporation Commission – related to:
 1. Vehicle purchases; and
 2. Funding for **Senate Substitute for HB 2597**; this is currently in conference committee.
 - Kansas Department of Commerce – related to:

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1. Southeast Kansas Economic Improvement Initiative;
 2. Kansas Disability Pilot Program;
 3. Economic Development Programs;
 4. Foreign and Domestic Contract
 5. Statistics and Goals of the Investments and Major Projects and Comprehensive Training (IMPACT) program; and
 6. Broadband Data Collection.
- Kansas Public Employees Retirement System – related to the operating budget.
 - Kansas Department of Revenue – related to vehicle replacement.
 - Kansas Commission on Peace Officers’ Standards and Training – related to official hospitality.
 - Kansas Department of Health and Environment – related to:
 1. Review of proviso language included in **House Substitute for SB 294**; and
 2. Review funding for the Local Environmental Protection Program (LEPP).
 - Kansas Water Office – related to water resource education.
 - Kansas State Fair – related to:
 1. Review status of the State Fair Capital Improvements Fund; and
 2. Review funding the enhanced marketing and promotion for the Centennial celebration in FY 2013.
 - State Water Plan Fund – related to the Kansas Forest Service.
 - Department of Administration – related to:
 1. Docking Building status report; and
 2. Vehicle approval reduction.
 - Judicial Branch – related to:
 1. E-filing Program;
 2. **SB 322**, which extends for one fiscal year the judicial surcharge;
 3. **House Substitute for SB 425**, which delays by five years the statutory requirement that the Judicial Branch add the 14th Court of Appeals judge; and
 - Kansas Lottery – related to replacement vehicles.

Reaffirm Senate Position Items:

Committee members reached consensus agreement to reaffirm the Senate position on the following items, which are currently in conference committee negotiations:

- State Employee Pay – Undermarket Pay for FY 2013 and Longevity Pay for FY 2013;

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- Kansas Insurance Department – related to the addition of language in FY 2012 and FY 2013 and the deletion of funding in FY 2013, related to funding received pursuant to the federal Affordable Care Act;
- Board of Regents – related to **HB 2390**, funding for KAN-ED;
- Children’s Initiatives Fund – related to tobacco settlement revenue estimates; notation that revenue received.
- Department of Social and Rehabilitation Services – related to:
 1. Deletion of differential response funding;
 2. Fraud, waste, and abuse funding;
 3. Early Head Start program;
 4. Centers for Independent Living funding; and
 5. Administration funding.
- Kansas Department of Health and Environment – Health
 1. Review the deletion of \$134,584, all from SGF, for FY 2013;
 2. Review the deletion of \$500,000, all from SGF, for FY 2013; and
 3. Review funding for the Newborn Screening Program including the status of **SB 436**
- Kansas Department on Aging
 1. Consider adding \$1.8 million, all from SGF, for reimbursement of non-Medicaid psychiatric inpatient screening for FY 2013;
 2. Consider adding \$5.0 million for mental health grants financed by a transfer from the Oil and Gas Depletion Trust Fund for FY 2013.
- Osawatomie Hospital – related to cost to operate 30-bed unit as Osawatomie State Hospital.
- Juvenile Justice Authority – related to Prevention Block Grant Program funding.
- Kansas Arts Commission – related to funding for the Kansas Arts Commission.
- Department of Corrections – related to Progress of Ellsworth Correctional Facility Expansion.
- Department of Education – related to:
 1. Supplemental appropriation from Highway Fund;
 2. Common Core Standards, which prohibited expenditures;
 3. Special education maintenance of effort;
 4. Career and Technical education funding;
 5. Professional development; and
 6. Operating expenditures—salaries and wages shrinkage.
- Kansas Human Rights Commission – related to:
 1. Funding for part-time temporary employment services; and

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2. Addition of 2.0 FTE positions.
 - Kansas Highway Patrol – related to Civil Assessment Program fines transfer.
 - Kansas Department of Commerce – related to Creative Industries Commission.
 - Kansas Department of Revenue – related to the Kansas Bioscience Authority transfers.
 - Kansas Department of Administration – related to:
 1. Reduction of vacant positions;
 2. Public broadcasting funding related to funding for literacy and educational development in FY 2013; and
 3. Public broadcasting funding related to funding for rural and economic development in FY 2013.

Action Items:

Committee members reached consensus agreement to take action on the following issues:

- Kansas Legislative Research Department related to the redistricting process, it was suggested that additional consideration be extended to the support provided concerning the production of redistricting maps with the goal of reducing the involvement of KLRD or discovering other resources for providing assistance.
- Legislative Division of Post Audit (LPA) – delete \$288,000, all from the SGF, for **HB 2414**, which allows Post Audit to charge agencies for the Statewide Single Audit. This funding will be added to the Department of Administration (\$243,000) and the Board of Regents (\$45,000) to pay for the audit for FY 2013;
- Secretary of State – add \$77,000, all from SGF, for FY 2013 for publication costs related to **HCR 5017**, which concerns taxation of watercrafts;
- Secretary of State – related to addition of language requiring the Secretary of State to report cost information for proposed Constitutional amendments. Recommend to delete any proposed language;
- Secretary of State – related to fiscal notes for Constitutional amendments. Recommend the Revisor of Statutes draft a bill that would require the Division of Budget to prepare fiscal notes for Constitutional amendments;
- Department of Transportation – related to **HB 2757**, concerning legislation designating memorial highways, interchanges, and bridges. **HB 2757** is currently in conference committee and consideration of the expenditure limitation increase of \$3,840 is contingent upon the bill passing. In addition, it was recommended to fund designated memorial highways, interchanges and bridges through legislation passed by **HB 2273**, **HB 2441**, **HB 2509**, **HB 2612**, and **HB 2614**.

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- Board of Regents – related to Emporia State University. Recommendation to add \$5.3 million, all from special revenue funds, for renovations to Trusler and Singular Hall for FY 2013 contingent upon approval by the Board of Regents and the Joint Committee on State Building Construction (Attachment 9).
- Board of Regents – related to the Statewide Single Audit Charge. Recommend addition of \$45,000, all from SGF, to fund the Statewide Single Audit charge by the Division of Post Audit for FY 2013.
- Department of Social and Rehabilitation Services – related to the spring Human Services Consensus Caseloads. Recommend deletion of \$9,087,351, including \$6,673,712, from SGF, for human service consensus caseload estimates in FY 2012.
- Department of Social and Rehabilitation Services – Recommend addition of \$1,563,191, including \$680,444, all from SGF, to increase the FMS reimbursement rate for service costs to payroll agents from \$115 to \$140 from November through June in FY 2012.
- Department of Social and Rehabilitation Services – Recommend deletion of \$7,328,611, including \$1,860,405 from SGF, for spring human service consensus caseload estimates for FY 2013.
- Department of Social and Rehabilitation Services – Recommend the current foster care rates be paid to contracted providers instead of the reduction proposed by the Governor.
- Department of Health and Environment – Health – related to funding for the Early Detection Works Program. Recommend addition of \$407,000, all from SGF, for the Early Detection Works Program for breast and cervical cancer screening in FY 2012, and add language to reappropriate any unspent funds for the program in FY 2013.
- Department of Health and Environment – Health. Recommend addition of \$6,750,000, all from special revenue funds, and delete \$3,030,000, all from SGF, for spring human service consensus caseload estimates in FY 2012.
- Department of Health and Environment -- Division of Health Care Finance – Recommend the Health Care Access Improvement Fund be a “no limit” fund as a result of **HB 2416**, which updates the transfer of powers and duties of Kansas Health Policy Authority; change regarding calculation of annual hospital provider assessment.
- Department of Health and Environment – Health - Recognize **HB 2659 – Licensing and Regulation of Speech-Language Pathologists and Audiologists** has become law; there is no appropriation required for this legislation.
- Department of Health and Environment – Division of Health Care Finance – Concur in part with GBA No. 3, Item 2, and add \$1,000,000 including \$400,000 from SGF, to obtain and monitor outcome-based data for the managed care contractors implementing KanCare for FY 2013 and add language prohibiting funds from be expended for this

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purpose until the Kansas application for KanCare managed care is approved by the federal Centers for Medicaid and Medicare Services.

- Concur in part with GBA No. 3, Item 3 and add \$2,427,116, including \$776,677 from SGF, to update the Medicaid Management Information System for KanCare for FY 2013 and add language prohibiting funds to be expended for this purpose until the Kansas application for KanCare managed care is approved by the federal Centers for Medicaid and Medicare Services.
- Department of Health and Environment – Division of Health Care Finance – Add \$91,626,174, including \$36,370,000, from SGF for spring human services consensus caseload estimates for FY 2013.
- Board of Optometry – related to **HB 2525**. Recommend appropriation of a new “no limit” Criminal History and Fingerprinting Fund for FY 2013, as a result of the passage of **HB 2525**, which requires applicants for licensure to submit fingerprints to the Board of Optometry. Recommend appropriation of a new Optometry Litigation Reserve Fund with a limit of \$400,000 for FY 2013, as a result of the passage of **HB 2525**, which establishes the new fund. The new fund will receive revenues from a transfer from the Optometry Board Fee Fund balances.
- Department on Aging – Recommend addition of \$6,297,812, including \$3,780,349, all from SGF, to fund the spring consensus caseload estimates for nursing facilities in FY 2012.
- Department on Aging – Recommend addition of \$10,139,291, including \$5,099,437, from the SGF, to fund the spring consensus caseload estimates for nursing facilities for FY 2013.
- Department on Aging – Recommend addition of \$6,263,777, including \$3,269,236, from SGF, to fund the spring consensus caseload estimates for mental health programs for FY 2013.
- Department on Aging – Recommend addition of \$585,257, including \$249,085, all from SGF, to increase the Financial Management System reimbursement for service costs to payroll agents from \$115 to \$140 from November through June in FY 2012.
- Department on Aging – Recommend addition of \$3,292,000, including \$1,428,399, from SGF, to increase FMS reimbursement for service costs to payroll agents from \$115 to \$140 for FY 2013.
- Department on Aging – Recommend addition of \$6.45 million, all from SGF, and delete \$6.45 million, all from the Problem Gambling and Addictions Grant Fund, for the state share of the Medicaid Prepaid Inpatient Health Plan for addiction and prevention services for FY 2013.

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- Department on Aging – Add a proviso that states that the additional funds for the FMS can only be used for reimbursement for service costs to payroll agents.
- Department on Aging – Plan for Larned State Hospital staffing to address accreditation findings.
- Department on Aging – Recommend addition of \$881,920, all from SGF, to fully fund the Senior Care Act Program for FY 2013, thereby eliminating the waiting list of 340 Kansas seniors. (Attachment 11)
- Juvenile Justice Authority – Recommend addition of \$998,167, all from SGF, and delete \$1,375,986, all from special revenue funds, for spring human services consensus caseload estimates in FY 2012.
- Juvenile Justice Authority – Recommend addition of \$919,514, all from SGF, and delete \$1,733,424, all from special revenue funds, for spring human services consensus caseload estimates for FY 2013.
- State Library – Recommend addition of \$361,395, all from SGF, for enhancement funding of Interlibrary loan development program and talking books for FY 2013.
- Department of Corrections – Recommend addition of \$500,000, all from the Problem Gambling and Addictions Grant Fund, to the Community Corrections program to restore the drug treatment sub-program to the FY 2011 level of \$2 million.
- Kansas Bioscience Authority – Recommend addition of language for FY 2013 requiring the State Treasurer to transfer funds allocated to the Kansas Bioscience Authority by date certain.
- Board of Indigents' Defense Services – Recommend addition of \$54,532, SGF, and 1.0 FTE position to fund the Indigency Screener position in order to implement provisions of **HB 2413**.
- Board of Indigents' Defense Services – Recommend to not fund provisions contained in **HB 2468**.
- Judicial Branch – Recommend to not fund **SB 320**, which incorporates a probable cause determination in juvenile offender proceedings.
- Department of Administration – Recommend addition of \$243,000, all from SGF, to implement the provisions of **HB 2414**, which provides Post Audit the authority to charge state agencies for annual compliance audits for FY 2013.
- Department of Agriculture – Recommend deletion of \$625,000, all from the State Water Plan Fund, for FY 2013 for Watershed Dam Construction.
- Department of Agriculture – Recommend addition of \$625,000, all from the Expanded Lottery Act Revenue Fund, for FY 2013 for Watershed Dam Construction.

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- Department of Agriculture – Recommend deletion of \$251,733, all from the State Water Plan Fund, for FY 2013 for the Water Transition Assistance Program and Conservation Reserve Enhancement Program.
- Kansas Water Office – Recommend addition of \$500,000, all from the Expanded Lottery Act Revenues Fund, for FY 2013 for Wichita Aquifer Storage and Recovery.
- Committee members reached consensus agreement to request an interim study on fee funds and the use of fee funds by agencies to purchase vehicles. It was suggested that it was time evaluate fee funds policy, how funds are expended, and under whose authority funds could be spent.
- A committee member recommended that the proviso containing a 70 percent cap of each entity's appropriation from CIF be eliminated and revert back to the language currently contained in the budget bill which provides a 65 percent cap of the aggregate appropriation. Committee members expressed no objections to the recommendation.

Information Requests:

Committee members reached consensus agreement to request additional information on the following:

- Kansas Legislative Research Department was requested to further research FMS rates from other states to compare services provided to those provided by Kansas contractors, to compare other states' rates to the Kansas rate, and to include the size of the contractors/agencies providing services, if possible.
- Provide information on a contractual agreement with Community Mental Health Centers regarding an appropriated \$1.8 million for reimbursement for non-Medicaid inpatient screens. It appears as though the appropriation was eliminated by the Secretary of Social and Rehabilitation Services; Legislative Research Department was asked to investigate any details that would indicate the contract was breached or renegotiated.
- A committee member requested a representative from the First Choice Option provide clarifying information on the program and the costs of the program.
- Recommendation to request the Department of Transportation to provide an update to the Senate Committee on Ways and Means on rail service (Amtrak) in Kansas.
- A committee member inquired whether the Senior Care Act funding was reduced which resulted in a reduction in services; Ms. Duffy will research that item and report at a later time.

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- A request was made for the conceptual paper submitted to the Centers for Medicaid and Medicare Services related to the application for a waiver to operate a managed care system in Kansas.
- A request was made for a copy of proviso language being considered in conference committee related to the Children's Initiative Fund.
- A request was made for additional information related to **HB 2318**, which relates to amendments to the recodified criminal controlled substances provisions; new drug sentencing grid; and supervision of drug offenders.
- A request was made to furnish the state up-to-market pay plan to compare vacant positions and salaries of personnel at Larned State Hospital to similar positions and pay rates in the region as well as other state hospital facilities.
- A request was made that SRS provide the funding source and expenditures for increasing staffing at Larned State Hospital prior to the regulatory agency accreditation survey in March 2012.
- A committee member requested a report that exhibits VRIP positions lost at each hospital (by skill level) and the number of positions (by skill level) that require filling.
- A committee member requested a fiscal note for the creation of pay parity for the all the state hospitals, excluding the \$2.1 designated for Larned State Hospital.
- A committee member asked whether the Senate bill addressing Prescription Monitoring is contained in **HB 2318**; Mr. Wales indicated he would respond at a later time pending further investigation.
- Secretary Sullivan was asked to provide the committee with a copy of the notification letter sent to FMS providers regarding the reduction from the negotiated \$140 rate to \$115.
- A committee member requested information concerning the costs to local government for the 40 individuals being housed in county jails awaiting forensic evaluation at Larned State Hospital.

Various Discussion Items:

Discussion on the Department of Social and Rehabilitation Services:

Considerable discussion was heard concerning Foster Care rate adjustments and the fact that the contractors agreed to a lower rate for FY 2012; the Governor, in his budget recommendation, extended the lower rate payment through FY 2013 even though the executed contract specifies a higher rate. It is assumed that renegotiation with contractors would be required to eliminate breaching the contractual agreement. In concert with this dialogue, committee members

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discussed the Financial Management System (FMS) provider rate. Early in negotiations, a rate of \$140 per day per beneficiary was discussed; that rate ultimately changed to significantly less than was discussed earlier in the process. Continued discussion was heard concerning similar issues with PRTF placements and screenings, Ms. Deckard clarified that the screening for Medicaid-eligible individuals is covered in a separate contract with Community Mental Health Centers and suggested the committee member was referring to different screenings which may have been modified and renegotiated with the vendor by the State for its Pre-paid Ambulatory Health Plan (PAHP), which is for persons with Medicaid needing mental health services. When asked whether the changes to the contract for the HealthWave program were made by the State or by actuarial adjustment, Ms. Deckard indicated it was her understanding actuarial adjustments occurred on the number of children enrolled; she could not respond whether there were other contractual changes outside of the actuarial adjustment. Committee members indicated a pattern exists wherein the State appears to modify or change negotiated agreements, and they encouraged abiding by executed contracts. It was suggested to revise the statement under item "E. Foster Care Rate Adjustments (Conference Committee). The Senate Committee added \$2.6 million, including \$2.3 million from the SGF, for FY 2013 to *pay current increase* foster care rates." (Page 13 of Attachment 8) The Conference Committee agreed to consider the addition at Omnibus." A committee member suggested that KanCare bidders should be concerned about the outcome of their contractual agreements. Concern was expressed regarding the lack of oversight, which allows an agency or the executive branch to mandate revising legal contracts and thereby changing legislative appropriations; the state should ensure that vendors, businesses, and others participating in business with the State of Kansas are treated fairly.

Since Mr. Dugan had joined the meeting, a committee member inquired whether a GBA would be forthcoming. Mr. Dugan confirmed there would be several issues addressed in the forthcoming GBA.

During discussion on the Kansas Department on Aging:

A committee member commented that the legislature had appropriated \$1.8 million for reimbursement for non-Medicaid inpatient screens. Community Mental Health Centers are required by law to conduct screenings to determine the need for psychiatric inpatient services. At the conclusion of the 2011 session, it appears the Secretary of Social and Rehabilitation Services eliminated the legislative appropriation for screenings reimburse. A committee member suggested this is no different than issues previously discussed; an appropriation was made, and the appropriation was eliminated without any renegotiation. Susan Duffy, Legislative Research Department, was asked to investigate the details of the contractual agreement and whether or not the contract was breached or renegotiated.

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A committee member requested that Kansas Legislative Research Department further research FMS rates from other states to compare services provided to those provided by Kansas contractors, to compare other states' rates to the Kansas rate, and to include the size of the contractors/agencies providing services, if possible. A committee member commented the same issue continues to arise: agencies appear to breach the contractual agreement. In this case, when the 2011 Legislative session ended, the negotiated FMS provider rate appeared to be \$140, when the system was implemented, the rate was reduced to \$115 per month per person without legislative involvement until the 2012 Legislative session began. Ms. Duffy clarified that it was her understanding that the \$140 represented a negotiated rate but no signed contractual agreement existed at that time. The Secretary on Aging, in testimony before the Senate Ways and Means Committee, expressed his intention to reimburse contractors for a 3-month period at the \$140 rate as mitigation for the initial implementation problems, if he could discover approximately \$850,000, including \$361,760 from the SGF, to cover that additional expenditure.

Sara Arif, Department on Aging, indicated any savings from the FMS were directed to reducing the waiting list for individuals waiting for Home and Community Based Services. Considerable discussion ensued concerning the payment rates, the FMS work group created, the implementation of the Electronic Visit Verification System (EVVS) and FMS simultaneously and the problems experienced, the value of payroll agents services, and the possibility that since two systems were implemented at the same time no tracking mechanism exists to track what expenditures were paid or accrued for which system, FMS or EVVS. A committee member suggested that, in the future, more clear and understandable information be furnished by the agency's representatives.

A committee member requested a representative from the Community First Choice Option provide clarifying information on the program and the costs of the program. (Attachment 10)

A committee member inquired whether Senior Care Act funding was reduced which resulted in a reduction in services; Ms. Duffy will research that item and report at a later time.

Discussion on Children's Initiative Fund:

A request was made for a copy of proviso language being considered in conference committee related to the Children's Initiative Fund.

Discussion on Governor's Budget Amendment:

Chairperson McGinn inquired whether the Governor had released a budget amendment (GBA); a representative from the Division of Budget confirmed a GBA was in process; however, it was

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not ready for release at this time. Senator McGinn stressed the importance of receiving an amendment in order for the committee to appropriately consider all issues during the Omnibus meetings. An attempt will be made to determine when the GBA would be released.

Discussion on Larned State Hospital:

Considerable discussion was heard on the accreditation findings by the regulatory agency and the corrective action plan that was submitted for registered nurses, licenses practical nurses, and licensed mental health technicians, as well as compensation for these FTEs. Chairperson McGinn asked if this expenditure could be included in a GBA; Mark Dugan, Office of the Lieutenant Governor, responded in the affirmative. He will submit the GBA request to the Governor's office. A committee member requested the up-to-market pay plan to compare these positions with information contained in the plan. Michelle Schroeder, SRS, commented the agency knew of the impending survey by the regulatory agency and attempted to increase the staffing prior to the survey. It was noted by committee members that various issues have been identified several years prior to the current accreditation problem; examples of various problems and concerns were heard, and questions were heard concerning from what source the funding was found to increase staffing before the survey. Ms. Schroeder indicated she would have to provide that information at a later date.

Discussion on Osawatomie State Hospital, Rainbow Mental Health Facility, Kansas Neurological Institute, and Parsons State Hospital and Training Facility:

Discussion was heard on the hospitals' plans to re-start a School for Licensed Mental Health Technicians. The plan will be offered at all state hospitals. Concerns were expressed relative to costs for the school, how the school would be funded, length of classes, teaching staff, tuition costs, etc.; it was suggested a partnership with local post-secondary institutions should be evaluated rather than a free-standing school at a state hospital facility. A question was asked as to why the item was in an appropriation committee, when the agencies have not requested funding; Ms. Schroeder, SRS, commented the school would be conducted by staff and is a method to retain current staff in the Licensed Mental Health Technician position.

A committee member commented on the mandatory overtime at Rainbow Mental Health Facility and the staffing structure related to hourly requirements and suggested oversight continues on this issue.

During the discussion on Parsons State Hospital, it was noted overtime has increased 114.0 percent following the Voluntary Retirement Incentive Program (VRIP); these issues were reported during Senate Ways and Means Subcommittee meetings. A committee member

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expressed concern that there was little request for pay enhancement or staffing requests during Subcommittee meetings; Susan Duffy, Legislative Research Department, indicated the agency's representative would be evaluating recruitment, retention, and salary concerns during the interim. A report will be furnished during the 2013 Legislative session. A committee member requested a report that exhibits VRIP positions lost at each hospital (by skill level) and the number of positions (by skill level) that require filling.

The meeting was adjourned at 5:06 p.m.

Meeting on April 18, 2012

Morning Session:

Chairperson McGinn called the meeting to order at 8:57 a.m.

Committee members continued review of the handout "Items for Omnibus Consideration" on page 34 concerning the Juvenile Justice Authority

Discussion on Office of the State Bank Commissioner:

A committee member noted that when the Governor vetoes **H Sub for SB 315**, two other bills were included in that legislation; an effort will be made to resurrect the other issues contained in the bill.

Discussion on Department of Corrections:

A committee member commented that with the addition of \$500,000, SGF, would restore funding for the drug treatment sub-program to the FY 2011 level of \$2.0 million. It was noted that legislation passed in FY 2011 caused municipalities and local governments to fund the reduction. A committee member suggested a more appropriate funding source would be the Problem Gambling and Addictions Grant Fund rather than SGF; staff will provide additional information.

Related to **HB 2318**, Michael Wales, Kansas Legislative Research Department, added that dependent on the conference committee action, a fiscal impact of in FY 2013 could result. A committee member asked whether the Senate bill addressing Prescription Monitoring is contained in **HB 2318**; Mr. Wales indicated he would respond at a later time pending further investigation.

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Discussion on Department of Education:

A committee member commented the provisions of **SB 257** giving districts the option to use special education state aid for the 2008-09 school year or for the current school year has been in law for several years; **SB 257** proposes to increase the sunset to July 1, 2014.

Discussion on Schools for the Blind and Deaf:

A committee member noted a hearing on **HB 2777** is scheduled for the Senate Committee on Ways and Means, which provides for the home district to charge school districts for costs associated with paraprofessionals.

Discussion on Department of Commerce:

Discussion was heard on the differences in language relating to the Creative Arts Commission and the Creative Industries Commission. Mr. Steiner, Legislative Research Department, clarified the Creative Arts Commission refers to the “fund” and the Creative Arts Industries Commission actually refers to the sub-agency within the Department of Commerce, should **Senate Substitute for HB 2454** pass both chambers.

Discussion on Department of Revenue:

A committee member expressed concern that even though law requires \$35 million be transferred yearly; the statute has been violated because the transfer has not occurred. Mr. Steiner indicated the statute provides the transfer should occur monthly or quarterly. It was suggested that language be added to the appropriations bill to reflect that transfers be made to the Kansas Bioscience Authority (KBA) on January 15, April 15, July 15, and October 15 yearly. A committee member commented that in conversation with the President of the KBA, there are projects waiting award and implementation; however because funding has not been transferred, projects are delayed. Jill Wolters, Revisor of Statutes, indicated the statute 74-99(b) 34 would be amended in the bill.

Discussion on the State Water Plan Fund:

A committee member inquired why the Forest Service was recommended for review and for what purpose the \$80,000 was requested. Jarod Waltner, Kansas Legislative Research Department indicated the agency requested the funding from the Chair of the House Appropriations Committee.

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Discussion on Department of Administration:

A committee member commented concerning the reduction of vacant positions and the proposed addition of language directing that 90 percent of vacant FTE positions in state agencies, which have been unfilled for greater than 120 days, be abolished. The Senate position disagrees with the addition of language.

Considerable discussion was heard on the Docking Building (Attachment 13). There was no inclusion in the Governor's Budget Recommendation for rehabilitation or demolition of the building, although Secretary of Administration, Dennis Taylor, will prepare additional comments and recommendations by June 3, 2012. A question was asked as to the expense for imploding the building as well as the cost for the study Secretary Taylor plans. Committee members recalled a figure of \$70-75 million to implode the building. Dylan Dear, Kansas Legislative Research Department, indicated that since the chillers were located in the basement; therefore, dismantling would have to occur, not implosion.

Discussion on Judicial Branch:

SB 320, which is now law, incorporates a probable cause determination in juvenile offender proceedings. It is anticipated that there would be some fiscal impact to the SGF for FY 2013; however, at this time impact is uncertain. Mr. Scott suggested that if the bill passes, a floor amendment could be offered or discussions and agreement could be reached in the conference committee report.

Discussion on Board of Indigents Services:

With regard to the Indigency Screener position, a committee member reviewed the Subcommittee discussion and recommendation; currently, the situation has changed and the possibility exists to save long-term state funds by eliminating individuals who are not indigent. It was recommended to include the expenditure of \$54,532. Concerning **HB 2468**, it was recommended to not fund this item.

Update on Community First Choice Option:

Ami Hyten, Assistant Executive Director, Topeka Independent Living Resource Center, provided an update on the Community First Choice Option (no written testimony), which is a program created by the federal government that provides an incentive for states to review community-based supports in a different way. The program is designed to promote self-direction and active participation by eligible beneficiaries in the coordination and direction of long-term

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supports in their home. Rather than being a program with large costs, it targets eligible populations with a higher level of interest and ability to control personal budgets and allocations so that they can purchase their own supports. She emphasized this is not a program to reduce the waiting lists; it is a program targeted to for a specific population who is able to manage their own purchase for needed support. She indicated that the federal match is higher: 6 percent. It could be an opportunity for eligible individuals in rural areas (who live distances from provider agencies) to hire their own staff outside the boundaries of a specific agency.

Considerable discussion was heard relative to a potential CMS waiver application submission, the program, its cost, and potential implementation in future years. The intent of the presentation was to provide accurate information, ongoing discussion are occurring concerning the program, and to provide factual information relative to program costs, since the original costs contained in the handout provided by SRS was incorrect. It was recommended that the agency continue to work and monitor this new program and that the Legislature review this alternative option during the 2013 Legislative session. (see Attachment 10)

Continued discussion on the Problem Gambling Addictions Grant Fund (PGAGF):

A committee member reviewed the statute, which allows monies from this grant fund to be spent for additions other than problem gambling; a copy of the statute was furnished to the committee member. However, the statute is only for the awarding of grants, which indicates monies are to be used for the awarding of grants only. The State has utilized \$6.5 million for each of the last two years to fund Medicaid recipients who need addiction counseling. This practice is not a grant and equates to a sweep of the PGAGF and a transfer to the SGF in order to fund Medicaid expenditures, which is contrary to statutory regulation. SRS is the agency accountable for management of this fund.

Discussion with Shawn Sullivan, Secretary, Department on Aging:

Financial Management System:

Secretary Sullivan provided background information on the FMS system, which included a mandate from CMS to separate the direct care service provider payment from the payroll agent payment. Initial discussions with providers resulted in a proposed reimbursement of \$140 per month per member (PMPM). Through the Myers and Stauffer study, the national average payroll agent rate was reported at \$98.10. With budget challenges, the \$140 PMPM was reduced to \$115 PMPM. Implementation was originally scheduled for September 2011 and delayed until November 1, 2011. There were recognized implementation issues as well as contractual issues identified in the next several months. In addition, the Electronic Visit Verification System was

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scheduled for implementation on January 1, 2012; full implementation of the EVVS was achieved during March 2012. Many concerns were expressed by providers related to the rate reductions. Since January 2012, the Secretary has set up a workgroup to evaluate the system and best practices; the National Resource Center for Participant-Directed Services was asked to assess the Kansas FMS. The representative found no issues when comparing Kansas' rates to other states. Because of the issues identified with the "go-live," the Secretary recommended to restore \$140 PMPM to providers for the first three months of implementation to mitigate differences and identified issues. In the long term, the Secretary determined there was no need to extend the \$140 PMPM to providers past the 3-month recommendation. The second recommendation from the workgroup was to evaluate whether the current system is the best system. Other states use a competitive request for proposal (RFP) to contract with payroll agents. The rationale is to limit the number of providers, develop criteria, and set the rate. The desire of the Department on Aging is to ensure Kansas has quality providers in a system for self-directed care. Four Centers for Independent Living have agreed to serve on an expanded FMS work group with physical disability (PD) and frail elderly (FE) providers to look at what other states have done; the expanded workgroup will also evaluate whether \$115 is a viable option.

Considerable discussion and questions were posed; Secretary Sullivan responded as follows:

- The \$140 FMS rate was a negotiated rate but was not a contractual rate, last spring (March/April) representatives at the Department on Aging looked at the system and barriers as well as the rate and data. When the majority of states are at an average of \$98.20, the agency recognized approximately one-half million dollars could be saved; the rate was adjusted to \$115. Secretary Sullivan could not respond whether public notification was made that the FMS rate would be decreased. A committee member pointed out that the legislature appropriated \$140 PMPM; when constituents communicated with legislators, it was recognized that while the appropriation was \$140 PMPM only \$115 PMPM was the rate included in the contractual agreement. There was little to no communication with providers or legislators. Secretary Sullivan indicated that prior to the \$140 PMPM negotiated rate, the average rate was \$260-\$280 PMPM; he alluded that some providers were using the rate for other services instead of paying direct care providers and covering administration costs. Therefore, CMS mandated the payroll agent and the direct care functions are separate. When asked how many providers applied as FMS payroll agents, he indicated there were 61 providers who executed a contract with the State of Kansas.
- A committee member commented that the negotiated agreement for the provider rate was at \$140 PMPM; the State without opportunity for discussion and without justification reduced the rate to \$115. Secretary Sullivan indicated there was a grant from the federal

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government to pay for the Myers and Stauffer study, which recommended a rate of \$140 PMPM; sometime in March/April the Department on Aging and the Department of Social and Rehabilitation Services reduced the rate to \$115. Notification was provided to providers in May 2011; the justification for the rate reduction was to reduce the waiting list. Secretary Sullivan indicated he had talked to Department on Aging providers and described the rationale for the decision, but he could not respond as to what actions were taken by representatives from SRS. Secretary Sullivan was asked to provide the committee with a copy of the notification letter.

- When the decision was made to reduce the rate, Secretary Sullivan could not recall whether there was an opportunity for input for providers other than conversations he had with two to three providers.
- If the primary factor for reducing the rate was due to the national average of \$98.10 PMPM, a committee member asked why the decision was made to reduce the rate to \$115. Secretary Sullivan indicated Kansas is fairly similar to other states, and there was not enough variance to extend the rate beyond \$115. In response to why a figure of \$110 or \$120 was not considered, Secretary Sullivan responded that the Myers and Stauffer study reported that \$100 was the breakeven point for providers, and the desire was to include some cushion for provider payments and to set a rate where providers would enter the system.
- A committee member commented that FMS providers had distributed a summary to the Secretary indicating that \$200 PMPM was required to breakeven, Secretary Sullivan indicated they asked for greater than \$140; the majority of providers have not indicated the need was \$200 PMPM. He indicated he could not justify higher than \$115 PMPM.
- Secretary Sullivan indicated he could not recall which number was the mean or median average; however, he did recall the numbers, one was \$98.10, the other was \$99.00 PMPM. A committee member offered that the payment rate depends on not only on the services provided but the number of clients a particular agency might have. The FMS workgroup (including a representative from the National Resource Center for Participant-Directed Services) drilled down further to review other states' information; Secretary Sullivan indicated that the workgroup validated \$115 was not out of line.
- With regard to a RFP, Secretary Sullivan indicated the RFP would be for FMS services only. He intends to use the work group to thoroughly vet whether an RFP is a viable option, to make recommendations on criteria, etc. A committee member expressed concern that the possibility exists to lose services.
- Concerning a question regarding the percent of providers satisfied with the \$115 rate, Secretary Sullivan it could be 45 to 50 percent, although he clarified that no formal study or survey concerning that satisfaction rate had been performed. Secretary Sullivan

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indicated his observation is that tighter control is needed to maintain quality of the program. The workgroup is scheduled to be meeting in late April or early May. He indicated that if an RFP is the decision, the intent would be to have enough providers so every consumer would have a choice; it is possible this could be completed prior to the 2012 Legislative session. One of the reasons for an RFP is to reduce the number of providers. Secretary Sullivan shared his intent would be limit the bids to in-state providers.

- A committee member indicated several individuals during the interim Joint Committee on Home and Community Based Services testified concerning the potential for assisted living residents to move to a nursing facility; Secretary Sullivan clarified that was testimony concerning a separate issue from FMS.
- Secretary Sullivan indicated that according to his knowledge, everyone in the FMS system was able to choose a provider.
- Concern was expressed regarding provider rates for rural areas; Secretary Sullivan indicated he could provide additional information to the committee member.
- A committee member requested explanation of the variances of provider rates between Texas and Iowa; Secretary Sullivan could not respond since he did not make the telephone calls.

Continued discussion on Kansas Department of Health:

Additional discussion was heard on the Governor's Budget Amendment Number 3, Item 3, for Updates to the Medicaid Management Information System (MMIS) for KanCare FY 2013. Committee members discussed the importance to providers to update the MMIS system for efficient, accurate billing purposes. However, it was also noted that it would be prudent to restrict any expenditure prior to the global waiver application being approved by CMS. Committee members agreed to adopt the addition of language.

- Concur in part GBA No. 3, Item 3 and add \$2,427,116, including \$776,677 from the SGF, to update the Medicaid Management Information System for KanCare for FY 2013;
- Addition of language to indicate that no expenditure of funds occur pending receipt of CMS waivers for KanCare, and
- Addition of language to reduce the anticipated savings of KanCare by the same amount as the expenditure of funds.

The proposed language was distributed and is contained in Attachment 14.

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The chairperson recessed the meeting at 12:04 p.m. and noted the meeting would reconvene at 1:30 p.m.

Chairperson McGinn reconvened the meeting at 1:41 p.m.

Bill Introduction:

Senator Schmidt moved introduction of 12rs2531, which is a technical amendment to health information technology and health information exchange legislation passed in 2011; Senator Francisco seconded the motion, which carried on a voice vote.

Continued discussion on Kansas Department of Health and Environment - Governor's Budget Amendment Number 3, Items 2:

Additional discussion was heard on the Governor's Budget Amendment Number 3, Item 2 for Statewide Education for Members and Providers for KanCare for FY 2013 concerning an alternative proposal. A committee member noted the importance of moving to an outcomes-based approach to treatment of Medicaid patients. This is becoming a standard of care in the private sector insurance industry; therefore the proposal is to utilize technological companies with analytics software to measure outcomes from all of the managed care organizations and assist in the transition to an outcomes-based standard of care for eligible Medicaid beneficiaries. The proposal is to release an RFP, to expend \$400,000 (SGF) in the FY 2013 budget, to leverage the \$400,000 with a 60-40 federal match, which would provide \$1 million to begin the process. In addition, once results are seen, further decisions can be made regarding KanCare. The proposal is contingent upon receipt of the CMS waiver. Committee members agreed to adopt the proposal.

Continued discussion on Department of Health and Environment - Health

A committee member distributed information concerning the Early Detection Works (EDW) Program (Attachment 15) and requested \$407,000 be added, from SGF, to fund the program for the waiting list through June 30, 2012. This would be an additional appropriation in addition to the Governor's budget recommendation. A representative, Julie Sargent, from KDHE, indicated that had these funds been received prior to the grant application, a federal match would have been received; however, since the funding would be received late in the process, there is no federal match. For FY 2013, a committee member asked how much funding is needed for FY 2013; Ms. Sargent noted the grant application had been submitted for FY 2013. A committee member inquired whether the grant application could be amended to provide an opportunity for SGF funding in FY 2013, which would leverage additional federal matching funds. Ms. Sargent

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indicated she would attempt to amend the application. Committee members reached agreement to add \$407,000, from SGF, for FY 2012 Early Detection Works Program, with language added that would allow any unspent funds be expended in FY 2013.

Continued discussion on Department on Aging:

A committee member commented that a great deal of discussion had been heard concerning the FMS rate and the shift from \$140 PMPM to \$115 PMPM; a proposal was offered to increase the FMS rate to \$140 PMPM effective with payments beginning in November 2011 and to carry that rate through FY 2013. It was suggested to appropriate the necessary funds for that rate (which is the difference between \$115 and \$140) and to include a provision that those appropriated monies can be spent only for the purpose of the enhancing the current \$115 rate to \$140 PMPM, and if funds are spent for any other purpose, the marginal appropriation would automatically lapse.

With regard to the Senior Care Act, a committee recommended appropriation of \$881,920 to fully fund the program. A question was asked concerning the reduction in services for seniors. Sara Arif, Department on Aging, noted the Senior Care program was reduced by \$1.3 million through the Governor's Budget Report; the Secretary on Aging was able to transfer funds realized through administrative savings, loan and grant funds, to maintain services in FY 2012. Ms. Arif noted that a policy effective September 1 standardized the assessment of seniors on the waiver. If a senior requires additional services, they can justify needs to the assigned case manager and reapply. Ms. Arif confirmed there has been no reduction in services due to funding.

Concerning the Larned State Hospital, a handout, "Market Adjustments," was distributed which lists the job classifications and compensation market adjustments made since FY 2008 (Attachment 17). Mr. Scott, Legislative Research Department, indicated all job classifications are still below the current market rate. Ms. Michelle Schroeder, SRS, indicated she could not respond as to whether the Hay Study was considered in the market adjustment plan. A committee member asked for additional information to ensure the recommended adjustments are close to those contained in Hay Study. In addition, an additional question was asked whether this plan could negatively impact employees at other state facilities, who are not scheduled for a market adjustment. Ms. Schroeder indicated this plan does nothing to create pay parity among state facilities for the same job classifications. A question was posed as to the pay rates for registered nurses (RN) according to the Hay Study compared to what is currently being paid at Larned State Hospital; Mr. Scott responded reported that according to the Department of Administration: licensed mental health technicians (LMHT) are 11 percent under market, licensed practical nurses (LPN) are 9 percent under market, and RNs are 12 percent under

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market. Considerable discussion was heard; committee members expressed concern with the pay disparity among state facilities. Susan Duffy, Kansas Legislative Research Department, reported the written plan and temporary correction must be in place for Larned State Hospital by May 4, 2012 for identified issues concerning patient care; the due date for non-patient care issues is May 14, 2012. Chairperson McGinn recommended that a request for a Governor's Budget Amendment be made to correct the staffing and pay issues at Larned State Hospital. In addition, a committee member recommended the chair of the Senate Committee on Ways and Means write a letter to the Governor suggesting that if market adjustments are to be made at Larned State Hospital to close the gap of under market compensation, the same methodology should be applied for compensation adjustments across all the same job classifications for all state hospital facilities. Senator McGinn announced a GBA should be received next week and additional deliberation could occur at that time; she also suggested that a request be forwarded to the Legislative Coordinating Council for an interim study to monitor the status of pay parity for all state hospitals. A committee member requested a fiscal note for the creation of pay parity for the all the state hospitals, excluding the \$2.1 million designated for Larned State Hospital.

Concerning the bed expansion configuration at the Isaac Ray Building at Larned State Hospital, a committee member commented there is interest in renovation to include 30 forensic beds in addition to the Governor's recommendation to add 30 beds to eliminate overcrowding in the Sexual Predator Treatment Program. A committee member commented that the local government (city and county) had expressed concerns regarding the project and wanted to ensure all concerns were addressed prior to any expansion. A committee member requested information concerning the costs to local government for the 40 individuals being housed in county jails awaiting forensic evaluation at Larned State Hospital. Committee members expressed interest in hearing from local officials regarding their concerns surrounding Larned State Hospital should they desire to address the Senate Ways and Means Committee.

Continued discussion on the School for the Deaf and School for the Blind:

Ms. Cusimano clarified that the Subcommittee requested to review this FY 2013 issue at Omnibus; **HB 2777** was referred to Senate Ways and Means (which will be heard next week), which authorizes the charging of fees to home districts for fees incurred.

Continued discussion on the Judicial Branch:

It was suggested by a committee member that since there is no basis for determining the number of probable cause determinations and since the assumption is that retired judges would provide the service, the estimated cost of \$13,546 could be incorrect; in addition, it may not be in the best

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interest to set a precedent that the Judicial Branch cost out every piece of legislation. Therefore, the recommendation was to take no action.

Other Issues Discussed:

State Water Plan:

Senator McGinn discussed further action required for the State Water Plan and outlined her proposal to:

- From the Department of Agriculture, delete \$625,000, all from the State Water Plan, for FY 2013 for Watershed Dam Construction.
- From the Department of Agriculture, add \$625,000, all from the Expanded Lottery Act Revenues Fund (ELARF), for FY 2013 for Watershed Dam Construction.
- From the Department of Agriculture, delete \$251,733, all from the State Water Plan Fund for the Water Transition Assistance Program and Conservation Reserve Enhancement Program.

Committee members approved the agreement as described.

Fee Funds Interim Study:

Committee members reached consensus agreement to request an interim study from the Legislative Coordinating Council on fee funds and the use of fee funds by agencies to purchase vehicles. It was suggested that it was time to evaluate fee funds policy, how funds are expended, and under whose authority funds could be spent.

Wichita Aquifer Storage and Recovery Project:

Committee members discussed this project noting that ELARF according to the April 2012 consensus revenue estimate has additional unexpected revenue (\$7.3 million). The Wichita Aquifer project requires \$1.1 million to fully fund the project in FY 2013; the Governor's Budget Recommendation added \$500,000 from the State Water Plan. At the time the budget was created, ELARF funds were exhausted, therefore the project was short \$600,000. A committee member suggested that with the unexpected revenue, the \$600,000 shortfall could be restored. Another suggestion was offered since the Wichita project is an infrastructure issue: to fund the Wichita Aquifer Project entirely from ELARF funds, thereby restoring funding for the Conservation Reserve Enhancement Program and the Water Transition Assistant Program. Earl Lewis, Assistant Director of the Kansas Water Office, was in attendance (no written testimony);

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he confirmed the original intent was for \$1 million and that the project is infrastructure improvement. The committee reached consensus agreement to add \$500,000, from ELARF, to restore funding to the \$1 million requested for the Wichita Aquifer Storage and Recovery Project.

Children's Initiative Fund (CIF):

A committee member offered explanation on language included in House and Senate conference committee agreement concerning the CIF, which provides a restriction for entities, who receive CIF, that no more than 70 percent of their appropriation could be spent by April 20, 2013. This intent was to ensure that if CIF receipts are lower than projections, overspending does not occur. It was noted that proviso language existed in the budget bill (page 65) under which CIF has operated for many years. The language indicates that no more than 65 percent of aggregate appropriation could be spent before April 20, 2013. This language is different from the proviso recommended by the conference committee in that the language in the bill references "aggregate appropriation," which means the total \$55.8 million. The proposed proviso references "each entity could spend no more than 70 percent of their appropriation by April 20, 2013." The difference is significant in that there are some entities whose fiscal year starts July 1 could meet the threshold cap while other entities whose fiscal year starts January 1 would not meet any capitation limits. A committee member recommended that the proviso containing a 70 percent cap of each entity's appropriation from CIF be eliminated and revert back to the language in the budget bill which provides a 65 percent cap of the aggregate appropriation. Committee members expressed no objections to the recommendation.

Problem Gambling and Addictions Grant Fund (PGAGF):

A committee member summarized earlier discussion surrounding the PGAGF. A recommendation was heard to substitute the funding source from the PGAGF to the SGF for the state's share of the Medicaid Prepaid In-patient Health Plan for addiction and prevention services for FY 2013 and to substitute the funding source in the Department of Corrections for the Community Correction program from ELARF rather than SGF. There was no objection to the recommendation.

Governor's Budget Amendment No. 3, Item 3 for Updates to the Medicaid Management Information System (MMIS) for KanCare for FY 2013:

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Senator Vratil moved to strike the contents of **SB 449** and to insert the currents of **SB 294** and all negotiated agreements resulting from the House and Senate conference committee to date, and to insert all the recommendations from the Senate Omnibus meetings held April 17 and 18, 2012, as adjusted for conference committee action; Senator Schodorf seconded the motion, which carried on a roll call vote.

Chairperson McGinn announced that possible final action on **SB 449** would occur sometime after the Senate reconvenes on April 25, 2012.

Additional Information Received:

The Office of the Lieutenant Governor submitted the information requested concerning the KanCare concept paper (Attachment 16).

The meeting was adjourned at 5:07 p.m.

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