

MINUTES

LEGISLATIVE BUDGET COMMITTEE

October 9-10, 2008
Room 545-N—Statehouse

Members Present

Senator Dwayne Umbarger, Chairperson
Representative Sharon Schwartz, Vice-Chairperson
Representative Bill Feuerborn
Representative Don Dahl
Representative Lee Tafanelli
Senator Laura Kelly
Senator Steve Morris

Staff Present

Alan Conroy, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Aaron Klaassen, Kansas Legislative Research Department
Michael Steiner, Kansas Legislative Research Department
Jim Wilson, Office of the Revisor of Statutes
Jill Wolters, Office of the Revisor of Statutes
Melinda Gaul, Chief of Staff, Senate Ways and Means
Nikki Feuerborn, Chief of Staff, House Appropriations
Shirley Jepson, Committee Assistant

Conferees

Scott Frank, Audit Manager, Legislative Post Audit
Dan McLaughlin, State Fire Marshal
Robert Waller, Chief Administrator, Kansas Board of Emergency Medical Services
Glenn Pribbenow, Director, KU Fire and Rescue Training Institute
Fred Pawlicki, Executive Director, KU Continuing Education
Gina Cregg, Director of Business and Personnel, KU Continuing Education
John Lloyd, Chairperson, Wellington Fire Chief & Fire Service Training Commission
David Brant, Vice-President of Engineering, Cessna Aircraft
Dan Dymarkowski, Director of Labor Relations, Hawker Beechcraft
Dr. John Tomlin, National Institute of Aviation Research (NIAR)
Richard Cram, Director, Office of Policy and Research, Department of Revenue
Major General Tod M. Bunting, Adjutant General
Jeff Morris, City Manager, Coffeyville
Marilyn Flores, Human Resources Director, Coffeyville
Jim Miller, Emergency Manager, Montgomery County
Larry Erie, Resident of Erie

Angie Morgan, Adjutant General's office
Kim Fowler, Assistant Fiscal Officer, Judicial Branch
Donna Oswald, Atchison County Clerk of the District Court
Jerry Sloan, Budget and Fiscal Officer, Judicial Branch
Kathy Porter, Judicial Branch
Wayne Sims, President and CEO, KVC Behavioral Health-Care

Others Attending

See attached list.

Thursday, October 9 Morning Session

Study the Distribution of Fire Insurance Premiums

Aaron Klaassen, Legislative Research Department, provided an overview of the charge referred to the Committee by the Legislative Coordinating Council (LCC) pertaining to the Distribution of Fire Insurance Premiums and legislative action taken during recent legislative sessions on the distribution of the state levy attached to the fire insurance premiums and distribution of the revenues (Attachment 1).

Scott Frank, Audit Manager, Legislative Post Audit, presented an overview of the Performance Audit Report on the Kansas Fire Marshal: Reviewing the Funding and Administration of the Agency (Attachment 2). The audit was completed in June 2004 and does not include any updated information. The audit in 2004 concluded that it was difficult to determine how much fire insurance premiums would grow in the future. In fiscal years 2003 and 2004 the fire insurance premiums were divided the Fire Marshal's Office and 2 additional programs. The Fire Marshal's Office now receives a smaller share of those revenues and the balance in its fee fund has significantly decreased causing the agency to be more vulnerable if levy revenues do not grow significantly. The Division of the Budget and the Legislature were advised to scrutinize the actual growth of the fire insurance premium fund to determine the fiscal position of the State Fire Marshal's Office.

Dan McLaughlin, State Fire Marshal, presented testimony on the effects of the Distribution of Fire Insurance Premiums (Attachment 3). Mr. McLaughlin noted that the distribution of these premiums has had a negative impact on the agency and the services provided. The levy on fire insurance premiums has been set by the Legislature at the maximum allowed and used for the support of other agencies and the State General Fund (SGF). Because of these actions taken by the Legislature, the balance in the Fire Marshal Fee Fund has gone negative on several occasions and required a loan from the Hazardous Materials Emergency Response Fund.

Mr. McLaughlin stated that the agency has worked to increase efficiencies and reduce costs, without effecting services. At this time, the agency is not able to fulfill the new statutory mandates passed last legislative session, including the inspection of above ground storage tanks, without effecting existing mandates such as inspections of schools and health care facilities. A number of other services have been decreased as presented in the testimony. At this time, it is anticipated that the State Fire Marshal's fund will go negative by mid November, depending on when fee funds are

received. Without any change in funding for FY 2010, it is anticipated that additional cuts will need to be made by the agency.

Responding to questions from the Committee, Mr. McLaughlin stated one of the programs transferred to the State Fire Marshal's office as a result of Homeland Security grant funding is the Bomb Unit, costing approximately \$200,000 - \$250,000 annually. It is anticipated that federal funding for this program could be discontinued. Staffing for the Bomb Unit is provided by the State Fire Marshal Office and the Kansas Highway Patrol. With reference to the 2 percent reduction in the current budget as requested by the Governor, Mr. McLaughlin stated that the agency has produced a budget with the 2 percent reduction; however, the agency has needed to take a 6 percent reduction to stay within existing revenues. Mr. McLaughlin noted that a number of staffing positions have not been filled.

Responding to another question concerning legislative directives to perform certain inspections without any funding, Mr. McLaughlin stated that it becomes increasingly difficult to accomplish these directives within current funding although the agency works to accomplish as best they can.

With reference to the loan from the Hazardous Materials Emergency Fund, Mr. McLaughlin stated that the State Fire Marshal's Office has not been able to repay the loan. The agency feels that the Hazardous Materials Emergency Fund should maintain a balance of at least \$500,000 in case of an emergency.

Robert Waller, Chief Administrator, Kansas Board of Emergency Medical Services (EMS), presented testimony on the EMS Operating Fund ([Attachment 4](#)). Mr. Waller stated that the levy on the fire insurance premiums directed to EMS is used to finance the operations of the agency, including salary and wages, contractual services, commodities and capital outlay. Included in these expenses, is the cost of the Kansas Emergency Medical Information System (KEMIS) – a system that will create a statewide data system for Kansas EMS.

Mr. Waller noted that the 2008 Legislature awarded EMS the Educational Incentive Grant (EIG) Program in the amount of \$300,000 to aid rural ambulance services in recruiting, training and certifying ambulance attendants. The money is awarded in the form of grants to licensed ambulance services that utilize volunteer attendants in providing services to their community. In addition, EMS received the KBEMS Revolving and Assistance (KRAF) Grant Fund. This is a state-funded grant program for licensed Kansas EMS services to provide financial assistance based on demonstrated financial need to assist licensed EMS services to purchase EMS equipment, vehicles and assist in education and training of Kansas certified attendants. The agency also receives several federal grants. Mr. Waller indicated that the Kansas Board of EMS is a pass-thru agency for a number of funds.

Responding to questions from the Committee, Mr. Waller noted that there are 5 pilot locations chosen to implement the KEMIS project. After the glitches are worked out of the system, it will be expanded to approximately 64 other locations across the state.

Glenn Pribbenow, Director, KU Fire and Rescue Training Institute (KF&RTI), presented testimony on the duties and funding of the KU Fire and Rescue Training Institute ([Attachment 5](#)). Mr. Pribbenow stated that KF&RTI was created in 1949 by statute to train Kansas firefighters. The functions are not duplicated by any other state agency. The Fire Service Training Commission provides oversight and guidance. KF&RTI provides over 100 course titles related to the directive. The portion of the levy on fire insurance premiums received by KF&RTI is used to pay expenses related to performing the assigned mission, including instructor wages/expenses, materials and equipment

for training programs; staff salaries and institute operating costs; and the purchase of training equipment.

Mr. Pribbenow stated that the Fire Service Training Commission has worked to establish programs and purchase priorities and continues to work the plan with available funding. This plan established a conservative position on staff expansion and training equipment purchase. Some program expansion and valuable training infrastructure were delayed; however, the impact was minimized through planned growth and expansion of programs. Funding sources for the agency include insurance premium tax levy, University of Kansas general use funds, fees and services income, and either state or federal grants. Mr. Pribbenow noted that between the years FY 2003 – FY 2008, KF&RTI has provided instruction to 51,329 participants and 52,924 instructional hours. In addition, KF&RTI are extend services to an average number of 97 Kansas counties each year; serves an average of 497 Kansas communities each year; and provides services and training to an average of 40-60 percent of Kansas firefighters annually.

Responding to questions from the Committee, Mr. Pribbenow stated that the majority of the increase in expenses over the past several years has been in training expense. Mr. Pribbenow noted that the majority of the trainees are volunteer firefighters. Any textbooks or supplies are required to be purchased by the individual or fire department for which KF&RTI is providing training.

Fred Pawlicki, Executive Director, KU Continuing Education, provided testimony in support of providing funding for the State Fire Marshal and training programs. Mr. Pawlicki noted that lack of funding may undo some of the benefits of excellent programs which have been put forth.

John Lloyd, Wellington Fire Chief & Fire Service Training Commission Chairman, provided testimony in support of adequate funding for the State Fire Marshal. Mr. Lloyd stated that small communities across the State rely greatly on the inspections and training provided by the State Fire Marshal. Mr. Lloyd noted that the small communities work together to combine training sessions to be more cost effective.

Responding to questions from the Committee, Mr. Pribbenow stated that no funding has been received from the propane industry with regard to safety training. Mr. Lloyd noted that no Homeland Security federal funding has been received by the City of Wellington.

Afternoon Session

Update on the Aviation Industry in Kansas

John Moore, former Lieutenant Governor of the State of Kansas, provided a few comments with regard to the importance of the aircraft industry to the State of Kansas. Mr. Moore stated that there are two elements necessary for the aircraft industry to succeed: (1) research and development because new technology drives aircraft sales; and (2) ability to obtain skilled qualified employees.

David Bryant, Senior Vice-President of Product Engineering, Cessna Aircraft, presented an update on the aviation economic impact in Kansas ([Attachment 6](#)). Mr. Bryant stated that the aviation industry provides 36,500 direct jobs with a payroll of approximately \$2.4 billion. Each aviation job generates an additional 2.9 jobs. Mr. Bryant noted that it is anticipated that Cessna will break ground for the Columbus facility within the next few weeks. Approximately 300 engineers are expected to work on the Columbus program.

Mr. Bryant indicated that in order for Kansas to maintain a leadership position and grow the global market, the industry and the State of Kansas must invest in research and technology. In addition, the state's investment allows the aviation industry to obtain significant federal and industry funding. The National Institute for Aviation Research (NIAR), located at Wichita State University is ranked third among the nation's technology universities. Mr. Bryant stated that it is important to maintain present and future aviation research at NIAR. For this reason, a request for an additional \$5 million will be made to the 2009 Legislature.

Responding to questions from the Committee, Mr. Bryant indicated that NIAR research continues on composite materials to use in place of metal on aircraft. Mr. Bryant stated that it is essential to continue research funding at the federal level. With regard to recruiting qualified engineers, Mr. Bryant indicated that Cessna mainly recruits within the middle section of the United States because it is very difficult to get qualified engineers from either coast to move to the middle section of the country. Mr. Bryant felt that it is important to look for ways to keep students attracted to science and math as well as teach students that they can be successful.

Dr. John Tomlin, NIAR, noted that federal funds have decreased with the aircraft industry picking up more of the cost. Dr. Tomlin indicated that it is not anticipated that federal funding will decrease if the research is defense related.

Dan Dymarkowski, Director, Labor Relations, Hawker Beechcraft Company, presented an update on Aviation Manufacturing and Continuing the Momentum to Keep Kansas Strong (Attachment 7). Mr. Dymarkowski stated that there is increased global competition in the aviation industry. With regard to the aviation workforce situation, Mr. Dymarkowski noted that 25,000 skilled workers will be needed within the next 10 years. As technology changes, extensive re-training of employees will be necessary.

The National Center for Aviation Training is in the building stage to assist the Kansas aviation industry and provide qualified engineers. A request will be made to the 2009 Legislature for funding of \$5 million for aviation training in each of the next four years for the purposes of building and construction; equipment and machinery; infrastructure, programs and curriculum; and high tech classrooms. Mr. Dymarkowski stated that the National Center for Aviation Training is critical to the aviation industry in Kansas.

Responding to questions from the Committee, Mr. Dymarkowski noted that Sedgwick County has floated a \$54 million bond for investment in the National Center with the County providing \$1 million funding for curriculum. The City of Wichita has provided the land on a 20-year lease – land owned by the Airport Authority. Mr. Dymarkowski noted that high schools are not always enthusiastic about the project because of the relationship between high schools and technical schools.

At this time, high school students, by statute, are not allowed to attend technical colleges. It was also noted that high schools receive state funding for vocational and technical classes. That funding would cease if the students were moved to a technical school or college. It was also noted that when legislation moved technical schools under the auspice of the Kansas Board of Regents, the state funding did not follow.

Update on the Disaster Relief Effort of the 2007 Floods

Chairman Umbarger stated that the reason for this hearing is to review actions and problems that have arisen after the disasters in southeast Kansas and Greensburg, primarily with the FEMA application process and communications between officials and residents.

Richard Cram, Director of the Office of Policy and Research, Department of Revenue, provided an update on state business incentive programs for disaster areas and the Kiowa County Business Restoration Assistance Program and other disaster assistance programs (Attachment 8).

Major General Tod Bunting, Adjutant General, provided a Summary of Public Disaster Assistance (Attachment 9). General Bunting noted the Adjutant General's Office is currently working with nine open presidentially declared disasters in Kansas. With the magnitude of several of these disasters, the resources of the office have been stretched thin.

Responding to a question from the Committee concerning the difficulties that have arisen from public utilities that were damaged during the ice storms, General Bunting noted that discussions and communication with the utility companies and his office are continuing and he will keep the Committee informed of the situation. It was noted that the estimate in Disaster #1741 Ice Storm for public utilities should read \$38,500,000.

Angie Morgan, Adjutant General's Office, responding to a question from the Committee, noting that the remaining state's obligation on the 9 disasters is just under \$50 million, without the funding for the most recent flooding disaster.

Jeff Morris, City Manager, Coffeyville, presented an overview of the 2007 flood damage in Coffeyville (Attachment 10). Mr. Morris's testimony includes strengths and weaknesses of the federal and state's response to the disaster. Mr. Morris stated that they have worked with the Adjutant General's Office to communicate what could have been done to better assist Coffeyville after the disaster. Mr. Morris noted that disasters do not happen to a whole community on a regular basis and therefore many procedures are not put in place or information readily available concerning the federal and state resources and how to secure the resources and services. One of the recommendations pertained to having a website where a community official could go to determine the status of requests. Disaster training for city officials would also be helpful.

Marilyn Flores, Human Resources Director, Coffeyville, presented testimony on the difficulty experienced by the City of Coffeyville in processing worksheets, filling out forms, knowing who to contact for assistance and general communication with state officials and FEMA representatives.

Responding to a question from the Committee concern FEMA responses, Mr. Morris indicated that one of the biggest problems was the turnover of FEMA staff. There was no continuum of contact or response. Mr. Morris stated that members of the Kansas U.S. delegation were in contact with Coffeyville concerning the disaster; however, additional intervention would have been helpful in understanding FEMA delays.

Chairman Umbarger noted that representatives from Representative Boyda's office, Senator Brownback's office, and Senator Robert's office were in attendance at the Committee meeting today.

Jim Miller, Emergency Manager, Montgomery County, presented testimony on the flood of 2007 in southeast Kansas (Attachment 11). Mr. Miller noted that most of the problems in Montgomery County concern the Mitigation Buyout Program application which is still awaiting approval from FEMA Region VII. County families and county parcels are still in a state of limbo not knowing what recovery direction to pursue or the status of their future after 15 months. There were approximately 22 FEMA-provided trailers temporarily set up within the county. Because the 18-month temporary housing time frame will run out in January 2009, FEMA is meeting with those residents of the housing to work out arrangements. Mr. Miller complemented the Adjutant General's Office on their assistance during the flood disaster.

Ms. Morgan noted that once the 18-month, by-law program ends, residents who live in FEMA housing, must begin paying fair-market rent to FEMA, based on the occupant's income. Ms. Morgan indicated that FEMA will not evict anyone and many of the problems have been a result of lack of communication.

Larry Ewing, resident of the City of Erie, presented testimony on the problems he has experienced when his home was flooded during the 2007 disaster. Mr. Ewing did not have flood insurance, lived a block away from the drawn 500-year flood plain and has not been able to obtain any a buy-out from FEMA for his property. Mr. Ewing noted that he did receive a \$28,000 grant from FEMA.

Ms. Morgan clarified that Mr. Ewing did receive money from FEMA; however, is now requesting that his property be bought out through the Mitigation Program. Ms. Morgan stated that because of the regulations, this cannot be addressed. The Adjutant General's Office is continuing to work with Mr. Ewing and FEMA to determine if any assistance or what assistance is available for Mr. Ewing. It was noted that Mr. Ewing's property is now in the newly-drawn 100-year flood plain. Ms. Morgan advised Mr. Ewing to contact his congressmen at the federal level.

Angie Morgan, member of the Adjutant General's Disaster Team, stated that FEMA assistance is available for citizens and communities by calling 1-800-621-FEMA. This number is activated when the President declares the area to be a disaster. Ms. Morgan noted that only one phone call is necessary for citizens to make contact with FEMA with applications filled out during the phone call.

The meeting was recessed at 5:00 p.m.

Friday, October 10 Morning Session

Study the Existing Non-Judicial Employee Pay Plan of the Judicial Branch

Kim Fowler, Assistant Judicial Branch Budget and Fiscal Officer, Office of Judicial Administration, presented testimony on the existing Judicial Branch Non-Judicial Pay Plan ([Attachment 12](#)). Ms. Fowler stated that the current pay plan makes it very difficult to fill vacancies with qualified individuals, as well as maintain qualified employees over a period of time. Ms. Fowler noted that the work performed in the court system is often highly technical and errors can seriously impact liberty and property rights, making it important to have qualified and experienced employees working in the system.

In June 1999, the Supreme Court appointed a committee, the Nonjudicial Salary Initiative (NJSI) Committee, to study the high turnover rate and the difficulty in recruiting and retaining qualified employees. This committee made six recommendations:

1. Salary plan should be regularly reviewed and adjustments should be made based on economic indicators, resulting in the use of the Employment Cost Index (ECI).
2. Include a pay for performance component and include a separate pay plan for supervisors.
3. Extend the probationary term for new employees from six months to one year.

4. Allow hiring an employee above entry level when a judicial district demonstrates that an employee cannot be hired at the entry level of compensation.
5. Support the elimination of longevity bonuses provided that the pay plan is adequately maintained.
6. Provide a periodic review of the Judicial Branch Pay Plan.

Ms. Fowler indicated that the new pay plan was approved and implemented on July 23, 2000. The changes had a very positive effect on turnover and the ability to hire and retain qualified employees. Since the implementation of the NJSI Salary Plan, the Judicial Branch budget submissions have included a request for a salary plan adjustment based on the ECI for the preceding fiscal year; however, that increase was never achieved. Instead, a general Cost of Living Adjustment (COLA) was approved for all state employees, resulting in the pay plan falling further behind the goal with each passing year. At this time, they are experiencing the same hiring and retention problems that were faced before the NJSI changes.

Donna Oswald, President of the Kansas Association of District Court Clerks and Administrators (KADCCA), presented testimony on the Nonjudicial Employee Pay Plan (Attachment 13). Ms. Oswald stated that it is becoming increasingly difficult to hire qualified employees. Many job openings have only one or two applicants for the position. Funding for the base salary adjustment is very much needed in order to keep the present employees and remain competitive with other employers across the state.

Jerry Sloan, Judicial Branch Budget and Fiscal Officer, Office of Judicial Administration, presented testimony on the Nonjudicial Employee Pay Plan (Attachment 14). Mr. Sloan stated that the reports prepared by the Hay Group, following a market survey in 2006, indicated that the level of competitiveness of the pay ranges and actual pay lagged behind the market. A key component of the adopted pay plan is to make yearly adjustments to the funding of the pay plan, based on the ECI. Because this has not been done, the pay plan has sufficiently fallen behind the market, making it difficult to maintain employees and recruit additional qualified employees. During the 2008 legislative session, the Legislature chose to fund a nonjudicial salary increase with a \$9 increase in docket fees, resulting in a 5.25 percent increase.

In the current budget request for FY 2010, the Supreme Court is requesting a 5.25 percent salary increase, to be funded from the State General Fund (SGF). Mr. Sloan noted that their philosophy is that salaries of court employees should be funded from general fund revenues, as opposed to an increase in docket fees. Any additional increase of docket fees should be applied to traffic and limited action cases.

Responding to questions from the Committee, Mr. Sloan indicated that most other states fund non-judicial salaries through their state general funds. Mr. Sloan felt that docket fees in Kansas are in line with surrounding states. Docket fees are diverted to a great number of funds, usually based on a percentage basis.

Kathy Porter, Judicial Branch, responded to a question from the Committee, pertaining to a non-statutory surcharge that was assessed a few years, noting that Kansas no longer has the surcharge.

Items Which May be Included in Appropriation Bills

Jim Wilson, First Assistant, Office of the Revisor of Statutes, provided an overview of items which may and may not be included in an appropriation bill (Attachment 15). Mr. Wilson noted, in general, appropriation bill provisions must relate to the allocation and expenditure of moneys from the state treasury. Under the Kansas Constitution, as interpreted by the Supreme Court, the Legislature may not include in appropriation bills, subjects that are wholly foreign and unrelated to the appropriation of money.

State General Fund (SGF) Receipts for the period July through September, FY 2009

Alan Conroy, Legislative Research Department, provided a review of State General Fund (SGF) receipts for the period July through September, FY 2009 (Attachment 16). Mr. Conroy noted that total receipts for July through September, the first three months of FY 2009, were \$18.9 million, or 1.4 percent, below the estimate based upon the consensus estimates of April 16, 2008. The component of total SGF receipts from taxes only was \$5.6 million, or 0.4 percent, below the estimate

Mr. Conroy noted that the Consensus Revenue Estimating Group will meet on November 4, 2008, to project estimates for the balance of FY 2009 and FY 2010.

Tour of KVC Behavioral Health Care

The Committee departed Topeka at 10:30 a.m. for a tour of the KVC Behavioral Healthcare facility located in Wyandotte County. Wayne Sims, President and CEO of KVC Behavioral Health-Care, provided an overview of the health care provided at the facility. KVC offers a healing, therapeutic environment to meet the psychiatric and behavioral healthcare issues of children and adolescents up to age 18. Each year more than 1,000 children are seen at this Kansas City facility. The hospital is equipped to handle a complexity of cases, including major depressive disorder, bipolar mood disorder, post-traumatic stress disorder, ADHD and psychotic disorders. Within the first 24 hours, patients receive a thorough psychiatric exam, complete health assessment and physical exam, laboratory and dietetic consultation, and an individualized treatment plan that combines active treatment, physician and nursing services, educational services, and individual/group/family therapy.

KVC's philosophy is to provide professional and timely care by assessing a child's needs and developing a specialized treatment plan. KVC collaborates with the patient, family and community to provide care in a safe and secure environment. Services are offered in-house or at an outpatient clinic. KVC works with community services and others to assure a continuum of care to the children when they leave KVC services.

KVC provides services for children in foster care for the state of Kansas. Data is maintained on potential foster homes to insure a good match when a foster child comes into the system. In addition, KVC operates the STAR, a specialized treatment program, for the state. Star serves children from the eastern half of the state who are in need hospitalization for serious mental health conditions. KVC also provides adoption services. In addition to services provided to the state of Kansas, KVC provides services to a number of other states. KVC is primarily funded through donations from industry and individual donors.

The Committee toured the KVC headquarters facility in Olathe, a state-of-the-art facility that provides seminars, training sessions and contains KVC offices. A complex data system is maintained that allows KVC to assess treatment needs, compare data and maintain complete records.

Adjournment

The Committee returned to the Statehouse and adjourned the meeting at 5:00 p.m.

Prepared by Shirley Jepson
Edited by J.G. Scott

Approved by Committee on:

November 21, 2008
(Date)