

MINUTES

JOINT COMMITTEE ON STATE BUILDING CONSTRUCTION

January 30, 2008
Room 123-S—Statehouse

Members Present

Senator Dwayne Umbarger, Chairperson
Representative Joe Humerickhouse, Vice-Chairperson
Senator Pat Apple
Senator Greta Goodwin
Representative Steven Brunk
Representative Bill Feuerborn
Representative Bob Grant
Representative Jo Ann Pottorff

Members Absent

Senator Laura Kelly
Senator Stephen Morris

Staff Present

Audrey Dunkel, Kansas Legislative Research Department
Kimbra Caywood McCarthy, Kansas Legislative Research Department
Jarod Waltner, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Heather O'Hara, Kansas Legislative Research Department
Mike Corrigan, Office of the Revisor of Statutes
Helen Abramson, Committee Assistant

Conferees

Roger Werholtz, Department of Corrections
Michael Hayden, Department of Wildlife and Parks
Denny Stoecklein, Kansas State Fair

Others Present

See attached list.

Chairman Umbarger called the meeting to order at 12:20 p.m. and recognized staff who presented an overview of the Department of Corrections' capital improvements budget request for FY 2008 (Attachment 1).

The total request for capital improvements for the Department of Corrections (DOC) for FY 2008 totaled \$13,413,248. The Governor concurs with the agency's request.

Staff pointed out that the Lansing Correctional Facility Clinic Temp Fund was set up through previous authorized bonds in order to finance the temporary clinic at Lansing Correctional Facility while the old clinic is being demolished and rebuilt.

The rehabilitation and repair projects for most of the facility was pretty standard. A few estimates were higher than normal because of special projects. At Norton Correctional Facility, the DOC estimates funding of \$854,000, which is due in large part to a substantial re-roofing project that is presently going on at Norton. That project is approximately \$700,000 of the total estimate.

At the Topeka Correctional Facility, the DOC estimates \$464,000 for FY 2008, due in large part to the "D" dorm renovation. Approximately \$205,000 of the total renovation consists of reappropriated funds that were unused in FY 2007.

Of the total request for FY 2008, approximately \$5.5 million is for debt service principal payments, which leaves around \$7.9 million for rehabilitation and repair projects.

For FY 2009, the agency requests approximately \$10.4 million. Only Hutchinson Correctional Facility had a rehabilitation and repair request, which the Governor did not recommend.

The Governor recommends FY 2009 capital improvements of \$10.2 million, including \$1.3 million from the State General Fund, \$6.6 million from the Correctional Institutions Building Fund (CIBF), \$655,000 from the Children's Initiative Fund (CIF), and \$1.7 million from the Expanded Lottery Act Revenue Fund (ELARF). The recommendation included \$5.6 million for rehabilitation and repair projects and \$4.6 million for debt service principal.

Discussion followed concerning the availability of ELARF funds.

Staff clarified that in FY 2009, the Governor's recommendation for debt service principal is funded partially by the ELARF, and partially by the CIBF. The agency's request for FY 2009 debt service principal funding was all from the State General Fund.

Committee discussion followed concerning whether the \$1.7 million exists in the ELARF. Staff said it was understood that this amount is an estimate of money that will be there, but is not presently there. If the funding is never there, then the money would have to be made up from somewhere else.

Chairman Umbarger said the Committee has some options in this matter. The Committee could not take any action, or the Committee could make recommendations, but this matter will go to the Ways and Means and to the House Appropriations Committee's process for their review.

Senate Apple questioned if the Committee approves this budget, does it go into the projections as to where we are as a state. Chairman Umbarger responded that right now, the intent of today's meeting is to receive an overview and make recommendations. The Committee can ask for additional information in the future. There will be a determination sometime in February. The Ways and Means Committee is not including any new gaming receipts as a source of revenue.

Senate Apple said that his concern is if they go down this road and allow a little spending here and there on future gaming revenues, if money is not there, then problems will occur along the way.

Representative Brunk made an observation about the \$1.6 million one time money being spent from gaming revenue to pay off long term debt payments.

Staff distributed an Expanded Lottery Act Revenues Fund for FY 2008 and FY 2009 table that dealt with the authorization of a \$39.5 million bond issue for the DOC ([Attachment 2](#)). During the 2007 Legislative Session, HB 2367, the Appropriations Bill, was passed. In Section 185, subsections (e), (h), and (i) dealt with the bonding issue for the Department of Corrections. Subsection (e) dealt with FY 2007 and FY 2008, and authorized the full \$39 million contingent upon further authorization by the State Finance Council. The wording was the same for subsection (h), however, subsection (h) dealt with FY 2009, and subsection (i) dealt with FY 2010. During the Omnibus session, House Sub. for SB 357 was passed and within that bill was an amendment to subsections (h) and (i). Those subsections stipulated that the bond issue needed to be used for four projects: two cell-houses with a total of 256 beds in El Dorado Correctional Facility; 240 substance treatment beds in Yates Center; 100 minimum security beds in Ellsworth; and 72 beds at Stockton Correctional Facility. It also stipulated that the projects had to be completed in that order. The same amendment was listed in subsection (i) of the Appropriations Bill, however, there was no amendment to subsection (d).

Following the legislative session, the DOC asked the Governor for a portion of \$39.5 million to begin the planning process. The Governor decided that rather than look at the bond issue separately, the Finance Council would look at the entire bond issue in one large chunk. On October 12, 2007, the State Finance Council authorized the entire \$39.5 million of the bond issue. Since it was authorized in FY 2008, it would fall under subsection (d) of the Appropriations Bill. Subsection (d) was never amended to require the four projects mentioned or the order; it simply specified that the bond money had to be used for bed-capacity expansion.

Senator Goodwin questioned whether there are projections that show that these beds will be needed in a very short period of time. Dennis Williams, Department of Corrections, stated that the Sentencing Commission has come out with projections that new beds will not be needed for up to ten years, assuming that the current laws stay as they are and nothing changes that would increase the population. Mr. Williams distributed a memorandum concerning this topic ([Attachment 3](#)).

Vice-Chairperson Humerickhouse ask for clarification from the DOC on what the \$39.5 million is intended to be used for and whether there was any need for additional beds at this time.

Secretary Roger Werholtz, Department of Corrections, stated that \$39.5 million is a rough estimate of the cost of the four construction projects that are mentioned in the bill. It is actually a little bit short of what the total cost would be, if all of the projects were constructed in FY 2007. If the current Sentencing Commission population projections are correct, and if there is no change of policy, the DOC could conceivably get along for ten years without having to add additional capacity to the prison system. The DOC has to house both males and females, and people of all different kinds of custody, and so if beds have to be built within that ten-year time frame, it would most likely be higher custody male beds. As the DOC stands right now, it is in good shape for all custodies.

Secretary Werholtz cautioned the Committee that there has been at least two times in the recent past where changes in policy actually forced the population higher. The DOC has no intention of building any beds that would need construction until the Sentencing Commission population projections indicate that it needs to expand the capacity for additional beds. The DOC has issued two RFPs to do the planning for the projects, and it understands these site and construction plans would still be good ten years from now. It is the DOC's intent to go ahead with the design phase for the projects.

Secretary Werholtz stated that if the bond authorization that took place in FY 2008 subsection (h) and (i), are no longer relevant, the DOC would still limit itself to those four projects.

Secretary Werholtz stated that the cellhouse at El Dorado would be designed to house medium or maximum male security inmates. That project entails two cellhouses, and each cellhouse could hold 256 medium security beds, or half that amount for maximum security beds. The substance abuse treatment patients are housed in minimum security beds.

Staff pointed out that subsection (d) does specify that the bond money needs to be spent for bed capacity expansion, but does not specify which project.

Chairman Umbarger noted that from today's conversation, Secretary Werholtz would have complete discretion as to where to spend the bonding authority as it relates to bed expansion capacity, but would not stipulate to which facility.

Chairman Umbarger remarked that the Committee should take this as an informational gathering hearing today and not make any recommendations or take any action at this time, in order to allow members additional time to study this issue.

Staff presented an overview of the Department of Wildlife and Parks (DWP) capital improvements request for FY 2008 and FY 2009 (Attachment 4).

For FY 2008, DWP requests \$18.9 million, including \$2.3 million from the State General Fund. The approved expenditures of \$7.6 million increased to \$18.9 million in the revised estimate, which is \$11.3 million above the amount originally approved by the 2007 Legislature. The reason for the increase is due to a number of previously approved projects for prior fiscal years that were not encumbered in FY 2007, which accounted for \$10.4 million that rolled over from one fiscal year to the next. In addition, the State Finance Council approved just under \$1.0 million for emergency repairs in conjunction with the 2007 flood that damaged the state parks. The Governor concurs with the revised estimate of \$18.9 million, including \$2.3 million from the State General Fund in FY 2008, and adds \$181,851 of federal funding for flood damage-related expenditures.

For FY 2009, the agency told the Committee in December it was reducing its base request by \$3.0 million. The agency requested \$6.8 million from all funding sources in FY 2009, including \$2.4 million for new construction and land acquisition, plus \$4.4 million for rehabilitation and repair of existing buildings and infrastructure. State General Fund financing of \$1.5 million is requested for projects in state parks, with special revenue funds requested for the other \$5.3 million in FY 2009 capital improvement projects.

The Governor concurs with \$6.8 million in expenditures, all from special revenue funds, for all of the requested FY 2009 projects, and adds \$3.0 million for additional project expenditures in state parks and other areas affected by natural disaster. The Governor does not recommend any financing from the State General Fund in FY 2009. The Governor recommends new financing from the Expanded Lottery Act Revenues Fund (ELARF) in FY 2009. First, the Governor recommends \$3.0 million from the ELARF for ongoing state parks repair and rehabilitation projects, which is \$1.5 million more than the State General Fund amount requested by the agency. Second, the Governor recommends \$1.5 million from the ELARF for repair of flood damage at state parks and for development of green space in communities that suffered natural disasters. This \$1.5 million enhancement is in addition to the agency's other project requests. Much of the ELARF is for debt service for existing principal and interests on bonds.

Staff called attention to the Expanded Lottery Act Revenues Fund table for FY 2008 and FY 2009 total transfers and expenditures. The Governor replaces about \$40.0 million of debt service

that had been paid out of the State General Fund with ELARF money. The other projects are generally enhancement projects such as with Wildlife and Parks, but part of what the Governor is doing is transferring money to "Crumbling Classrooms" (\$15 million) and to the Department of Corrections for some of its debt service payments.

Staff remarked that based on a consensus revenue estimate done in November, the Governor has adopted that estimate and spent the money in FY 2009. The Governor has proposed spending the majority of the estimated revenues from ELARF.

Committee discussion followed concerning the use of ELARF instead of the State General Fund for some of the various agency's requests.

Representative Brunk said that he needed explanations concerning the reduction of the state debt, making debt payments, and also the definition of green space earmarked for FY 2009.

Secretary Michael Hayden, Kansas Department of Wildlife and Parks, said that the agency has a grant program for green space in local parks. The agency has not been able to fund that because there has not been any appropriation for it for seven or eight years. But, the agency used to fund it and the program is still there. It is how grants are made to local units of government to their parks. The reason the request is called green space, is because of the disasters in Greensburg and Coffeyville. Disasters also occurred in Independence and Osawatomie where residential neighborhoods were destroyed. In some cases, such as in Coffeyville, some areas should never be re-built, because they are in the flood plains, downstream from the refinery, and this area could flood again. Therefore, a grant to Coffeyville is requested to essentially turn that revitalized area into a park or a green way (linear park) along the stream. If it would flood again, the only thing being flooded would be the grass, trees, and open space, but not homes and infrastructure. Regarding Greensburg, the DWP wants to set up rules so that the disaster cities, Osawatomie, Greensburg, Coffeyville, and Independence, would have priority. If money is still available after these applications, then the DWP could distribute it to local government units that applied, but had been waiting five or six years for this program to be funded again.

Vice-President Humerickhouse remarked that he would like more details about the additional \$1.5 million for parks improvements.

Staff explained that there are unmet needs in state parks that would be addressed but are not defined. The agency had originally requested \$1.5 million for parks rehabilitation. After the flood it indicated that it would need an additional \$2.0 - \$3.0 million for park damages. The Governor has covered it in two different packages. One is the \$3.0 million package dedicated to the parks, and another is the \$1.5 million package for park damages and green space.

Secretary Hayden stated that the DWP has an updated list for the following: Clinton State Park, \$500,000; Pomona State Park, \$65,000; Cheney, \$400,000; Milford, \$24,000; El Dorado, \$630,000; Hillsdale, \$25,000; Prairie Spirit Trail (where the bridge was lost), \$714,000; Woodson County, \$21,000; and Crawford County, \$560,000. The DWP will give the Committee the whole list and the corresponding amounts.

Senator Apple noted that what startles him about ELARF is that the agency has encumbered debt of \$4.5 million for essential items. The question arises as to what happens in case the court opinion puts us in jeopardy.

Chairman Umbarger said his suggestion would be the Committee's recommendation to consider replacing the ELARF with State General Funds, and by the time of the Omnibus process,

there would be better clarity as to what the courts will do. The Committee could then re-integrate that money at that time to a more secure form of budget. Chairman Umbarger suggested that the Committee approve the funding for the DWP projects, but to fund them from the State General Fund.

Senator Goodwin concurred with the remarks of Senators Apple and Umbarger.

Staff suggested the following verbiage concerning debt payment principal and capital improvement projects funded by ELARF: "The Joint Committee on State Building Construction expresses concern over the use of Expanded Lottery Act Revenue Fund (ELARF) dollars for debt service principal payments and capital improvement projects in the state. The ELARF is a new fund, and as such, revenue estimates for the fund are little more than speculative. In addition, pending legal action regarding the Expanded Lottery Act cast further doubt on the revenue to the ELARF. Given these concerns, the Joint Committee on State Building Construction recommends the shift of expenditures from the ELARF to the State General Fund for the (agency name) in FY 2009 and recommends review of this shift at Omnibus."

Senator Apple remarked that he encourages both chambers during the appropriations process to not use ELARF money to finance any programs for FY 2008 and FY 2009.

Senator Apple remarked that he has strong concerns about taking debt payment obligations out of the ELARF and not the State General Fund; first, because they would not show up in the State General Fund, and second, because the State is awaiting legal action as to whether or not there will be money in the ELARF.

Vice-Chairperson Humerickhouse moved that the Committee concur with the Governor's recommendation for FY 2008 and FY 2009 with the exception that the Joint Committee on State Building Construction recommends the shift of expenditures from the ELARF to the State General Fund for the Department of Wildlife and Parks in FY 2009 and recommends review of the shift at Omnibus. Representative Brunk seconded. Motion carried.

Staff presented an overview of the Kansas State Fair (KSF) capital improvement projects for FY 2008 and FY 2009 (Attachment 5).

For FY 2008, KSF estimates revised capital improvement expenditures of \$1.3 million, including \$740,000 from the State General Fund and \$514,867 from special revenue funds. The estimate includes \$25,000, all from the State General Fund, for electrical sub-metering equipment to monitor electrical usage at individual buildings on the State Fairgrounds, which was approved by the 2007 Legislature for FY 2008. Also included in the agency's revised estimate is \$109,867, all from special revenue funds, for general rehabilitation and repair, and \$1.1 million, including \$715,000 from the State General Fund. The Governor concurred with the agency's estimate.

For FY 2009, the agency requests capital improvement expenditures of \$1.3 million, including \$765,000 from the State General Fund and \$522,064 from special revenue funds. The request includes an enhancement request of \$20,000, all from the State General Fund, for a meteorological tower. The agency continues to explore alternative energy options and states that a meteorological tower will provide valuable information regarding the feasibility of a wind turbine project. Also included in the agency's request is \$112,064, all from special revenue funds, for rehabilitation and repair, and \$1.2 million, including \$765,000 from the State General Fund, for debt service principal payments.

The Governor recommends FY 2009 capital improvement expenditures of \$1.3 million, including \$1.0 million from the Expanded Lottery Act Revenue Fund. The recommendation is \$20,000, or 1.6 percent, less than the agency's FY 2009 request, and an increase of \$12,197, or 1.0

percent, above the Governor's FY 2008 recommendation. The Governor does not recommend the enhancement request of \$20,000 for the meteorological tower. The Governor concurs with the agency's request for rehabilitation and repair and for debt service principal; however, the Governor recommends replacing the State General Fund financing and a portion of the special revenue funds financing with funding from the ELARF.

Committee members had the same concerns they had with Wildlife and Parks regarding funding from the ELARF rather than from the State General Fund.

Chairperson Umbarger said there seems to be three categories that fall under the \$1.0 million funded by ELARF: debt repayment, infrastructure and enhancements, and Local Ad Valorem taxes.

Denny Stoecklein, Director, KSF, informed the Committee that last year the KSF submitted a funding request for two smaller wind turbines and some other alternative energy enhancements that ultimately was not funded. One of the questions that arose last session was about the collection of data that would substantiate the use of wind turbines from the dollar and cents standpoint. He thinks that there is an educational opportunity for having something like that on the fairgrounds, but that is not recommended by the Governor in her budget.

The agency has a couple of other enhancements that the Governor recommended but are not capital improvement related, but are just as important or more important than the meteorological tower. In addition, the agency is working with a local wind energy group that recently has been established in Reno County. They are doing some data collections for the agency. Also, the KSF may be able to put some anemonitors on the grandstand without having to go through the steps of constructing a tower, which will collect data for a year. So the question remains what to do afterward with the tower.

Representative Grant moved that the Committee concur with the Governor's recommendation for FY 2008 and FY 2009, with the exception that the Joint Committee on State Building Construction recommends the shift of expenditures from the ELARF to the State General Fund for the Kansas State Fair in FY 2009 and recommends review of the shift at Omnibus. Vice-Chairperson Humerickhouse seconded. Motion carried.

Chairperson Umbarger adjourned the meeting at 12:30 p.m.

Prepared by Helen Abramson
Edited by Kimbra Caywood McCarthy

Approved by Committee on:

July 10, 2008
(Date)

