

**Report of the  
Joint Committee on  
Legislative Budget  
to the  
2012 Kansas Legislature**

**CHAIRPERSON:** Representative Marc Rhoades

**Vice-chairperson:** Senator Carolyn McGinn

**OTHER MEMBERS:** Senators Laura Kelly and John Vratil; and Representatives Jim Denning, Bill Feuerborn, and Kasha Kelley

**Statutory Duties**

The Committee shall compile fiscal information, study and make recommendations on the state budget, revenues and expenditures, the organization and functions of the state, its departments, subdivisions and agencies with a view of reducing the cost of state government and increasing efficiency and economy.

*December 12, 2011*

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# Legislative Budget Committee

## STATE GENERAL FUND

### CONCLUSIONS AND RECOMMENDATIONS

After conducting its usual review of State General Fund finances and the other issues noted, the Committee makes no specific recommendations on this topic.

Proposed Legislation: None

### BACKGROUND

At its September 2011 meeting, the Committee conducted its usual monitoring of State General Fund finances. In addition, the Committee received an update on federal funding for the Kansas Department of Transportation.

At its October 2011 meeting, the Committee again conducting its usual monitoring of State General Fund finances. In addition, the Committee received information on school funding for out of state students and reviewed the status of the Affordable Airfare program.

During the November 2011 meeting, the Committee conducting its usual monitoring of State General Fund finances, including the November 2011 State General Fund estimates of the Consensus Revenue Estimating Group. That review also included information on the November 2011 estimates for school finance, and for human services caseloads. Finally, the Committee received an update on the Veterans Claims Assistance Program.

### STATE GENERAL FUND UPDATES

At the September meeting, staff of the Kansas Legislative Research Department provided an update on State General Fund (SGF) receipts for

FY 2011. As of June 30, 2011 (end of the fiscal year), receipts were 1.9 percent above the final adjusted estimate based on the April consensus revenue estimate and adjusted for any legislation that was enacted by the 2011 Legislative Session. Tax only revenues in FY 2011 were 1.8 percent higher than the adjusted estimate. The strength in individual income tax receipts for the fiscal year should be noted; withholding receipts were up by 4.9 percent when comparing FY 2011 to FY 2010. Tax sources falling below the estimate were notably retail sales, corporation, severance, and motor carriers.

Staff also provided an update of total SGF receipts for the first two months of FY 2012, which show an increase of 3.2 percent; taxes only show an increase of about 5.0 percent. Because of the 30-day lag from when the sales tax increase was implemented to when it shows up in receipts, this report is the first to show the full 12-month, August FY 2010 to August FY 2011, comparison.

Staff indicated that the early FY 2012 bottom-line is skewed because of some transfers of funds, including a \$10 million transfer in July out of the State General Fund into the State Emergency Fund, and a \$5 million higher than expected transfer to the School District Capital Improvement Fund. These were believed to be timing issues and should right themselves in September or October.

At the October meeting, staff provided information on SGF receipts through September, which were 3.9 percent above the estimate, while total taxes were 5.0 percent above the estimate. This was attributed to an increase in individual income taxes and retail sales. Individual income tax withholding, which was the largest source of revenue for the SGF, was flat for the month. Staff indicated that, for FY 2013, there is an assumption of only 3.0 percent growth in receipts, instead of the usual 4.0 percent due to the sluggish economy, and noted that there will be a new set of revenue estimates available on November 4.

In November, staff presented an overview of the State General Fund Consensus Revenue Estimate for FY 2012 and FY 2013. The revised estimate for FY 2012 increased by \$199.1 million above April 2012 estimates, which was primarily due to increased retail sales and tax revenues. The FY 2013 estimate was revised 0.7 percent above FY 2012 estimates as a result of transfers from the SGF, the growth rate in the state's economy and increased tax revenues. A review of the November consensus estimates for school finance and human services caseloads followed.

Staff presented an overview of the FY 2012 and FY 2013 school finance estimates. As part of the estimate, the Base State Aid Per Pupil remained unchanged. General State Aid is projected to increase 1.3 percent due to the increase in special education students and students available for the free lunch program. Staff noted that there was an increase of 7,958 at risk students enrolled for the FY 2012 school year. There was an increase of 8,143 students receiving free lunch for the FY 2012 school year for a total participation of 187,397 students.

Staff then presented an overview of the FY 2012 and FY 2013 Fall human services consensus caseload estimates. The combined increase for FY 2012 and FY 2013 is \$173.6 million all funds and an increase of \$72.1 million in the State General Fund (SGF), due in part to increased caseloads and expenditures, and decreases in available special revenue funds.

## **Kansas Department of Transportation Federal Funding Update**

The Secretary of the Kansas Department of Transportation (KDOT) presented an update on federal funding for the agency. She stated that the latest extension to the Federal Surface Transportation Program extends the program through September 30, 2011, and is funded from the Highway Trust Fund (HTF). She noted that if an extension is not passed by September 30, 2011, all revenues to the HTF will sunset or be redirected. The disruption would be immediate. She stated the HTF dollars are not totally depleted; funds are, however, insufficient to continue spending at the current level. Federal dollars make up 31.2 percent of the agency's total revenue anticipated in FY 2012. These funds would represent 40 percent of the state highway construction funding (not for administrative, oversight, or management operations).

The Secretary indicated that the Kansas Department of Transportation (KDOT) has been planning ahead, so they would be able to continue for 16-24 weeks should the federal funding cease; if federal dollars are not in place by September 30, it will be necessary to begin suspending projects. KDOT would have to consider suspending for some period of time or stopping many projects and programs if the extension is not passed and funding stops.

Sooner or later, rather than to continue having the short-term extensions on the Act, it would be beneficial to have a new authorization act. The U.S. Senate and House each have proposed bills for a new authorization act.

## **School Funding for Out-of-State Children**

At the October meeting, the Deputy Commissioner of the State Department of Education provided information regarding numbers of students attending school in Kansas during the 2010-11 school year from bordering states, as well as where these students were attending school. He also discussed a bill from a previous session regarding phasing out the program, and also noted that other states do not collect the same information on Kansas students attending other states' schools. Approximately \$3.0

million is spent subsidizing these students. He indicated that some districts will not accept any out-of-state students. These students are counted for enrollment numbers for state general aid.

### **Affordable Airfares Program**

Also at the October meeting, staff of the Kansas Legislative Research Department reviewed the Affordable Airfares Grant Program (Fair Fares). The program was created by the 2006 Legislature to provide affordable air fares for south-central and western Kansas. The funds are made available through annual grants to the Regional Economic Area Partnership (REAP). Oversight of REAP is provided by reports on the effectiveness of the program to House Appropriations and Senate Ways and Means committees and a report to the Legislature on the expenditures of the grant and matching monies and the results obtained at the beginning of each regular session and during the interim. The Legislative Budget Committee is directed to study and review the activities of REAP. As a result of an audit conducted by the Kansas Legislative Division of Post Audit, REAP will submit an annual report on or before May 1, 2012, and appear in person to House Appropriations and Senate Ways and Means committees. Also, the Secretary of Commerce is required to conduct an independent audit review of the the financial reports, as well as analysis of the data used and submit a report and appear in person to House Appropriations and Senate Ways and Means committees.

A Special Assistant with the Department of Commerce, presented testimony on the Affordable Airfares program and the Department's role in administering the grant to REAP. The Department of Commerce is in the final stages of certification of the report submitted by REAP in July 2011, and is preparing to distribute a portion of the FY 2012 allocation. The Department is exploring an independent, third-party review process of evaluating the data and methodology contained in the report. He explained the process of review and certification of the report from the Department of Commerce. The Committee requested a copy of the REAP report which was provided by the next conferee, the Chief Counsel of the Department of Commerce.

The REAP Chairperson appeared before the Committee and detailed the actions taken by REAP over the past year and provided specific information on the performance and effectiveness of the program. She noted that REAP is responsible for administering the Kansas Affordable Airfares Program (KAAP). Their commitment is to provide more air flight options, more competition for air travel, and affordable air fares for Kansans, including a regional airport in Western Kansas, while providing transparency and financial integrity in program administration. In FY 2011, funds were awarded to Sedgwick County to provide a one-year revenue guarantee for AirTran Airlines to maintain affordable airfares to eastern destinations and a one-year revenue guarantee for Frontier Airlines to maintain affordable airfares to western U.S. destinations. A report by Kansas Legislative Post Audit was released February 8, 2011, stating, in part, the program appears to have had the desired effect.

The Committee expressed concerns regarding the investment by the state to impact the economic environment of Wichita, without a permanently identified funding source. The REAP Chairperson responded every audit has shown a positive return on investment to the state, as well as on a local level.

### **Update on Veterans Claims Assistance Program (VCAP)**

At the November meeting, staff of the Kansas Legislative Research Department presented an overview of the Kansas Commission Veterans' Claims Assistance Program. The program is intended to improve the coordination of veterans benefits counseling in Kansas to ensure that every veteran is served and receives claims counseling and assistance. The Executive Director of the Kansas Commission on Veterans' Affairs and noted that meetings are underway to address enhanced data collection and transparency issues for VCAP. Representatives of the Veterans of Foreign Wars and the American Legion also presented testimony expressing concern about budget reductions and the effect on match and grant funding for VCAP.

**CONCLUSIONS AND RECOMMENDATIONS**

the Committee makes no specific recommendations on this topic.

After conducting its usual review of State General Fund finances and the other issues noted,

# Legislative Budget Committee

## ADULT MEDICAID DENTAL BENEFITS

### CONCLUSIONS AND RECOMMENDATIONS

The Legislative Budget Committee recommends that consideration be given to additional hearings on providing dental benefits to adult Medicaid beneficiaries during the 2012 Session. The Committee further notes that additional cost benefit analysis needs to be completed on this topic.

The Committee noted the upcoming changes being proposed for the Kansas Medicaid program through both Medicaid reform (KanCare) and the implementation of the federal Affordable Care Act in January 2014 have the potential to impact benefits. Due to the uncertainty regarding details on the implementation, the Committee recommends that the appropriate House Budget Committee and the Senate Ways and Means Subcommittee review the possibility of funding the adult dental benefit.

Proposed Legislation: None.

### BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to study the potential cost effectiveness and potential health benefits of providing adult Medicaid recipients with dental benefits. Currently, the federal Patient Protection and Affordable Care Act and the Children's Health Insurance Program provide children with guaranteed access to dental services, while no such mandatory services are provided for adults under either Medicaid or Medicare.

Starting in April 2007, benefits were provided for individuals age 21 or older receiving services from Home and Community Based Services waivers for individuals with developmental disabilities, traumatic brain injury, and physical disabilities. Benefits were added for individuals receiving services from the Home and Community Based Services Waiver for the Frail Elderly in October 2007. The benefits provided under the Frail Elderly waiver included the provision of dentures to those who needed them, however, the other waiver beneficiaries were not eligible to receive this benefit. Dental benefits were subsequently eliminated for waiver recipients on

January 1, 2010 due to budgetary issues.

### COMMITTEE ACTIVITIES

Staff of the Legislative Research Department reviewed the potential cost effectiveness and potential health benefits of providing adult Medicaid recipients with dental benefits. The Committee was informed that coverage of certain benefits is considered optional under the Medicaid program, including most dental procedures for adults. Currently, Kansas only provides emergency dental services for adults enrolled in the Medicaid program. 2011 SB 132 created the Kansas Comprehensive Oral Health Initiative Act, which would have required the Kansas Medicaid program to provide dental coverage for all persons enrolled in the program. The estimated cost of the expansion of dental benefits to adult Medicaid beneficiaries for FY 2013 is \$11,066,728 from all funding sources including \$4,591,586 from the State General Fund. The restoration of dental benefits to Medicaid waiver recipients would increase the estimate by another \$1,549,342 from all funding sources including \$642,822 from the State General Fund.

The Committee received an overview of dental benefits in Kansas by the Medicaid Director, Kansas Department of Health and Environment, Division of Health Care Finance. The State Children's Health Insurance Program (SCHIP) provides a comprehensive dental benefit package for children and youth under age 21 in Medicaid and under 19 in SCHIP. Adult Medicaid beneficiaries are eligible for emergency dental benefits only. During the past five years, expansion was made to the dental benefits but only lasted for a limited time. Budget cuts eliminated funding for the expansion. Testimony indicated that the dental workforce of Kansas is below the national average and shrinking. The Medicaid agency indicates that improving access for Medicaid beneficiaries is dependent on addressing multiple barriers to care.

The Executive Director of Oral Health Kansas presented an overview of the program and the need for oral care and health in Kansas. Lack of dental care is a mark of poverty. In both FY 2009 and FY 2010, more than 17,500 people visited Kansas emergency rooms with dental pain, which often does not address the overall problem and ends up costing more for treatment. Many delayed dental care because of cost or availability of services. The Executive Director testified about the cost to Kansas through personal accounts of persons receiving dental services. Adults with dental disease face challenges that impair their productivity and well-being. Providing access to dental care is critical in improving health, especially for people with diabetes, heart disease, and pregnant women.

The Committee received testimony from the Executive Director of the Michigan Oral Health Coalition who testified about the Michigan program. Over the past three years, Michigan experienced the worst economic downturn since the Great Depression; the state's unemployment rate was 14.1 percent with Detroit, the state's largest city, experiencing a jobless rate of nearly 30.0 percent. The state also suffered a dramatic workforce exodus as taxpayers and homeowners left the state in search of work. Michigan has approximately 1.9 million residents enrolled in the state Medicaid program; this is a 73.0 percent increase since 2001. Currently, Michigan provides a comprehensive adult dental benefit; it serves as a commitment to the Medicaid adult population that

oral health is integral to their overall health. In the FY 2011- FY 2012 budget, a new 1.0 percent tax on most health insurance claims in Michigan will generate \$390 million to be used to match \$800.0 million in federal aid for the state's Medicaid program.

The Committee also received testimony from a representative of GraceMed Health Clinic, who spoke about the impact on the under-insured or uninsured in Wichita. The representative asserted that separating coverage for medical care from dental care is not logical. Health care is enhanced by better coverage for dental care.

The Committee received testimony from a nursing home dental hygienist who testified about the Oral Health Training Program. The Kansas Health Care Association received a grant that helped to fund a project to improve the overall health of residents in nursing homes by providing oral care and assessments. The program trained staff to implement the care and monitor the program.

A representative of the Kansas Hospital Association testified that during FY 2009 and FY 2010, Kansas community hospitals treated approximately 17,500 people with dental related conditions. The representative stated it is important to ensure emergency room resources are reserved for true non-dental, medical emergencies. The Association is applying for a grant for small community hospitals to have dental clinics. The Committee also received written testimony from representatives of the following entities:

- Community Health Center of Southeast Kansas;
- Kansas Health Consumer Coalition;
- Kansas Health Care Association;
- Kansas Dental Hygienists' Association;
- Kansas Dental Association;
- The REACH Healthcare Foundation; and
- Health Care Foundation of Greater Kansas City.

## COMMITTEE RECOMMENDATIONS

The Committee notes that Oral Health Kansas requested additional hearings be held during the 2012 Session to consider the possibility of providing adult dental benefits for Medicaid beneficiaries. The Committee also noted the need to continue to study the cost benefits of providing these benefits to the overall health of beneficiaries and the potential decrease in other health expenditures.

The Committee also notes the testimony received from the representative of the Michigan Oral Health Coalition. The representative was able to highlight the experiences from another state which has taken the steps to provide dental benefits to adult receiving Medicaid benefits. The Committee also notes the testimony regarding the pilot project operated with funding from a grant

from the Kansas Health Care Association to provide residents of nursing facilities with oral health care and evaluating the overall health of those nursing facilities residents.

The Committee notes the need for further information and documentation on the connection between providing dental benefits and the overall health outcomes of benefits of participants.

The Committee further noted the upcoming changes being proposed for the Kansas Medicaid program through both Medicaid reform (KanCare) and the implementation of the federal Affordable Care Act in January 2014 have the potential to impact benefits. Due to the uncertainty, the Committee recommends that the House Committee on Appropriations and the Senate Committee on Ways and Means review the possibility of funding the benefit.

# Legislative Budget Committee

## OFFICE OF THE STATE FIRE MARSHAL

### CONCLUSIONS AND RECOMMENDATIONS

The State Fire Marshal should be kept as a stand-alone agency.

The Committee recommends instituting a type of minimum job description, requirements, and qualifications for the State Fire Marshal's position as provided by the fire associations through the Fire Chief, Emporia Fire Department.

The Committee recommends that, as per statute (K.S.A 31-135), the service advisory committee be setup to review these items. The committee also recommends the inclusion of performance metrics.

Proposed Legislation: None.

### BACKGROUND

The Legislative Budget Committee was directed to review the Office of the State Fire Marshal and how its functions, duties, and responsibilities might best fit into other agencies if the agency were to be abolished. The Committee review included 2011 Senate Bill 220 and 2011 House Bill 2370. These identical bills would eliminate the State Fire Marshal and transfer statutory duties, responsibilities, and associated funding to other state agencies. As introduced, the legislation noted would transfer functions and associated funding as follows: investigative duties to the Kansas Bureau of Investigation; inspection duties to the Division of Facilities Management within the Department of Administration; and hazardous material duties to the Division of Emergency Management within the Adjutant General's Department.

### COMMITTEE ACTIVITIES

This topic was discussed, in part, at of each of the Committee hearing dates, including: September 14, 2011; October 10, 2011, and November 14, 2011.

At the September 14, 2011 meeting, the committee heard from the following conferees: the Acting State Fire Marshal; former Interim State Fire Marshal; Fiscal Officer, Office of the State Fire Marshal; Fire Prevention Division Chief, Office of the State Fire Marshal; Director, Kansas Bureau of Investigation; Deputy Director, Office of Facilities and Property Management, Department of Administration; Staff Attorney, Kansas Department of Agriculture; Weights and Measures Program, Kansas Department of Agriculture; Deputy Director, Kansas Division of Emergency Management; Fire Chief of the Emporia Fire Department, Lyon County EMS, and President of the Kansas Professional Fire Chiefs Association; and from the Petroleum Marketers and Convenience Stores Association.

The Acting State Fire Marshal informed the committee of the agencies history, function, statutory responsibilities, organizational chart, budget, and funding. He discussed the agency's divisions and the 48.0 associated FTEs. The Divisions include: Administration Division (6.8 FTEs), Hazardous Materials Division (2.2 FTEs), Investigation Division (14.0 FTEs), and the Prevention and Inspection Division (25.0 FTEs).

The former Interim State Fire Marshal, from

January 2011 to July 2011, related that the majority of complaints about the agency were in relation to inspections. He noted that the agency reviewed inspections and citations in an effort to make them appropriate to the year the buildings were built.

The Fiscal Officer, Office of the State Fire Marshal, discussed difficulties experienced with the agency's funding stream, the Fire Insurance Premium. She stated that the agency has been very controlled in its spending since 2009, and is still working to see if there are areas where the agency can save, but are also making sure all agency functions are adequately maintained. She did note concern as to the availability of funds within the Department of Administration in order to maintain and support the functions that would be transferred under the noted legislation.

The Director, Kansas Bureau of Investigation (KBI), testified that the agency is neither for nor against abolishing the State Fire Marshal's Office, but that the KBI is capable of supporting the investigation functions that would be transferred under the noted legislation. He did note concern that funds proposed to be transferred to the KBI of \$913,920 are approximately \$205,000 short of what is estimated to be needed.

The Deputy Director, Office of Facilities and Property Management, Department of Administration, reviewed the two statutes that guide the agency's inspection function, objective, and focus. He explained that the Office of Facilities and Property Management inspects new construction, remodels, and equipment replacement on state property. The focus is to attend required testing of sprinkler and fire alarm testing, inspect items prior to being covered up, and ensure construction is following current codes, including international building, mechanical, electrical, and plumbing codes, as well as handicapped accessibility. Their office review is broad and includes fire/life safety, ADA, and electrical, among other things, on new state construction, not subsequent yearly inspections. The State Fire Marshal is involved in the code footprint plan.

A Staff Attorney, Kansas Department of Agriculture, and a representative from the Weights

and Measures Program, Kansas Department of Agriculture, discussed that the mission of Weights and Measures is to protect consumers, making sure they are getting the product they paid for, *i.e.*, scanners at retail stores, scales at delis or produce departments, as well as gasoline pump gauges, and water in fuel pumps. These inspectors could absorb above-ground fuel tank inspections and propane inspections. The program has the capacity and is already on the location. Propane is not currently inspected. They need only one FTE to add propane inspections; training would be done in-house; they would not need to spend money on outside training. The Department of Agriculture inspects gas stations, but not propane stations nor propane truck stations. It was presented that Department of Agriculture could take over the propane duties for the Office of the State Fire Marshal, if necessary.

The Fire Prevention Division Chief, Office of the State Fire Marshal, stated they currently inspect licensing procedures, bulk fuel facilities, gauges, and big tanks at propane facilities. The State Fire Marshal's Office does not do the weights and measures features, only the safety features of valves and tanks. The Department of Agriculture is looking at trying to consolidate yearly inspections, to avoid duplication by KDHE, State Fire Marshal, Department of Agriculture, or others.

The Deputy Director, Kansas Division of Emergency Management (KDEM); discussed an error in SB 220 and HB 2370 and presented a proposed amendment correcting the bills to show the 22 percent of the *Fire Prevention Fee Fund* will be transferred to the *Hazardous Materials Program Fund*. She continued to discuss Division of Emergency Management perspective of the assumptions of duties, training, requirements, and functions, as well as revisions of contracts with other agencies, office space, and staff. Immediate action would be needed with individual fire departments to revise procedures accordingly. There would need to be a realigning of regional hazmat teams and secure any additional necessary staff. She noted that improvement has been observed within the last few months at the State Fire Marshal's Office, and KDEM Division of Emergency Management has worked very closely with the State Fire Marshal's office and local fire departments. The Division of Emergency Management uses the State Fire Marshal's Office

as the primary agency in the Kansas Response Plan for fire management and search and rescue. The State Fire Marshal's Office would be relied upon heavily during chemical, biological, nuclear, or radiological emergencies.

The Fire Chief of the Emporia Fire Department, Lyon County EMS, and President of the Kansas Professional Fire Chiefs Association, noted that the Association is in support of maintaining the Office of the State Fire Marshal, though it has been dysfunctional until the previous individual's term as Interim Fire Marshal. Of the previous recommendations from the Association, such as putting the State Fire Marshal's Office under the Insurance Commissioner's oversight, none of them have been seriously considered or passed. At this time, the experienced fire fighters would recommend, rather than dissolving the State Fire Marshal's Office, forming a commission made up of no former Fire Marshals or employees of the Office other than Mr. Jorgensen, Mr. Maple, or any candidates for State Fire Marshal; fire chiefs from the seven homeland security regions; and members of the Kansas House and Senate come up with a bill proposal for the upcoming Legislative Session to make improvements.

A representative of the Petroleum Marketers and Convenience Stores Association testified that the Department of Agriculture does the quality and quantity testing; this is paid for from the merchants' small percentage per gallon sold to the Petroleum Inspection Fee Fund (PIFF). Weights and Measures inspect signage, scanners, and quality and quantity of fuel. KDHE inspects all the underground storage tanks. The State Fire Marshal

inspects all above ground storage tanks: bulk fuel farms, fuel tank farms, as well as anything at the facility, such as propane tanks. This is only referencing the inspections. The conferee noted that licenses is another area where consolidation would be very beneficial. He stated that the range of licenses a convenience store is required to have is from 18 to 21 licenses.

At the October 10, 2011 meeting, the committee received a copy of a letter from the Fire Chief, Emporia Fire Department, with the requested example of a State Fire Marshal job description, requirements, and qualifications for the position.

### **CONCLUSIONS AND RECOMMENDATIONS**

At the November 14, 2011 meeting, the committee discussed conclusions and recommendations as follows:

The State Fire Marshal should be kept as a stand-alone agency.

The Committee recommends instituting a type of minimum job description, requirements, and qualifications for the State Fire Marshal's position as provided by the fire associations through the Fire Chief, Emporia Fire Department.

The Committee recommends that, as per statute (K.S.A 31-135), the service advisory committee be setup to review these items. The committee also recommends the inclusion of performance metrics.

# Legislative Budget Committee

## PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES

### CONCLUSIONS AND RECOMMENDATIONS

The Committee notes that placements in Psychiatric Residential Treatment Facilities needs further review during the 2012 Session by the appropriate House Budget Committee and the Senate Ways and Means Subcommittee. The Committee notes that additional information from the Department of Social and Rehabilitation Services on the outcomes of the individual cases of those children screened for potential placement into Psychiatric Residential Treatment Facilities should be available during the 2012 Session.

The Committee recommends that the proposal to base rate determination on the assumption of 90.0 percent occupancy not be implemented due to the potential for significant negative impact on the providers.

The Committee further notes that the Department of Social and Rehabilitation Services needs to work to standardize the intake forms utilized by Community Mental Health Centers when evaluating needs of troubled children.

The Committee recommends consideration be given to allowing qualified entities other than the Community Mental Health Centers to screen children for placement in psychiatric residential treatment facilities. The Committee also notes its concern that the implementation of managed care with impact consistency in the screening process if multiple vendors begin providing the service that was previously centralized with one entity.

Proposed Legislation: None

### BACKGROUND

The Legislative Coordinating Council directed the Legislative Budget Committee to study the status of the current placement policy for youth in psychiatric residential treatment facilities; review if the psychological and physical needs of youth are being adequately met in psychiatric residential treatment facilities and alternative settings; and review the current and proposed funding streams for psychiatric residential treatment facilities.

Psychiatric Residential Treatment Facilities (PRTFs) provide comprehensive mental health treatment to children and adolescents (youth) who, due to mental illness, substance abuse, or severe emotional disturbance, are in need of treatment

that can most effectively be provided in a residential treatment setting. PRTF programs are designed to offer a short term, intense, focused mental health treatment program to promote a successful return of the youth to the community. Successful outcomes of the mental health services include the youth returning to his or her family or to another less restrictive community living situation as soon as clinically possible and when treatment in a PRTF is no longer medically necessary. The residential treatment facility is expected to work actively with the family, other agencies, and the community to offer strengths-based, culturally competent, medically appropriate treatment designed to meet the individual needs of the youth including those identified with emotional and behavioral issues.

A PRTF is a facility with a provider agreement with a state Medicaid agency to provide inpatient services benefits to Medicaid-eligible individuals between the ages of 6 and 21. The Department of Social and Rehabilitation Services (SRS) administers PRTF agreements in Kansas. PRTF's must be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or any other accrediting organization with comparable standards recognized by the State.

Payment rates for PRTFs are determined after each facility submits a cost report detailing fixed and variable costs associated operations. Each facility is then reimbursed for services at that specific rate until the next rate redetermination or rate adjustment.

In FY 2011, approximately 1,585 children receiving services in a PRTF were paid out of state funds. In FY 2010, this number was approximately 1,583, and in FY 2009 was 1,402.

Prior to January 2007, inpatient services for these individuals were provided in Level V and VI residential facilities. In the spring of 2004, the federal Centers for Medicare and Medicaid Services notified the Department of Social and Rehabilitation Services that homes with 17 beds or larger with congregate settings, including Level V and VIs, were considered Institutes for Mental Disease (IMDs). Without adjustment, this federal determination would have had significant negative funding implications. The Department of Social and Rehabilitation Services implemented changes to the state Medicaid plan which included discontinuing reimbursement for treatment for Level V and VI homes and adding reimbursement for PRTFs. It was during this change that the Community Mental Health Centers were requested to add screening for this treatment option to the services they provide.

Community Mental Health Centers assess the mental health of individuals and determine the appropriate treatment for that individual. Treatment may entail community based treatment options or referral to a residential setting, including PRTFs. If a Community Mental Health Center determines that the individual's immediate needs cannot be appropriately and safely meet in a

community setting, the individual may be referred to a PRTF.

## COMMITTEE ACTIVITIES

The Committee received an overview of the topic by staff of the Legislative Research Department. The Secretary of Social and Rehabilitation Services provided an overview of the issues and concerns surrounding the PRTF directives issued in January and June of 2011. The Secretary indicated that emphasis was placed on the need to put the child's best interest first and to ensure that appropriate community services are available for individuals diverted from PRTF. The Secretary further noted after the June directive, PRTF occupancy increased. The Secretary also responded to questions from committee members regarding over utilization and under utilization of PRTFs.

A representative of United Methodist Youthville presented an overview of the facility and reviewed PRTF concerns and recommendations for consideration for the FY 2012 Legislature. The representative indicated that due to a reduction of statewide referrals the agency will be closing PRTF and YRC II services on the United Methodist Youthville Newton Campus. The Secure Care facility will remain open with efforts underway to develop new programs and services on the Newton Campus.

Testimony was also received by a representative of Saint Francis Community Services, who indicated that Saint Francis had closed it's Ellsworth location to preserve the Salina campus.

Representatives of the Children's Alliance of Kansas, Florence Crittenton, InterHab, Disability Rights Center, Keys for Networking, Inc., the Association of Community Mental Health Centers, and several community mental health centers also provided testimony to the Committee.

Senator Dick Kelsey provided testimony regarding concerns and recommendations for consideration for the FY 2012 Legislature. Senator Kelsey responded to questions from committee members regarding referrals, screening

and evaluation process, and the impact of budget reductions.

### **COMMITTEE RECOMMENDATIONS**

The Committee notes that this topic needs further review during the 2012 Session by the appropriate House Budget Committee and the Senate Ways and Means Committee Subcommittee. The Committee notes by that time additional information from the Department of Social and Rehabilitation Services on the outcomes of the individual cases of those children screened for potential placement into Psychiatric Residential Treatment Facilities should be available.

The Committee recommends that the proposal to base rate determination on the assumption of 90.0 percent occupancy not be implemented due to the potential for significant negative impact on the providers.

The Committee further notes that the Department of Social and Rehabilitation Services

needs to work to standardize the intake forms utilized by Community Mental Health Centers when evaluating needs of troubled children. In addition, the Department should continue to track the children involved to ensure the best possible long term outcomes. The Department should also enter into a dialog with the Juvenile Justice Authority to discuss tracking and outcomes of the children with the needs which can best be addressed through utilizing the services provided by psychiatric residential treatment facilities.

The Committee notes that consideration should be given to allowing qualified entities other than the Community Mental Health Centers to screen children for placement in psychiatric residential treatment facilities. The Committee emphasizes that the entity would need to be as qualified as the current providers. The Committee also notes its concern that the implementation of managed care with impact consistency in the screening process if multiple vendors begin providing the service that was previously centralized with one entity. The Committee stresses the need to ensure all children receive the appropriate placement.