

MINUTES

LEGISLATIVE BUDGET COMMITTEE

September 28, 2023
Room 548-S—Statehouse

Members Present

Representative Troy Waymaster, Chairperson
Senator Rick Billinger, Vice-chairperson
Senator J.R. Claeys
Senator Pat Pettey
Representative Will Carpenter
Representative Kyle Hoffman

Members Absent

Representative Henry Helgerson, Excused

Staff Present

Dylan Dear, Kansas Legislative Research Department
Megan Leopold, Kansas Legislative Research Department
Jennifer Light, Kansas Legislative Research Department
Edward Penner, Kansas Legislative Research Department
Amanda Prosser, Kansas Legislative Research Department
Murl Riedel, Kansas Legislative Research Department
J.G. Scott, Kansas Legislative Research Department
Arianna Waddell, Kansas Legislative Research Department
Steven Wu, Kansas Legislative Research Department
David Wiese, Office of Revisor of Statutes
Jill Wolters, Office of Revisor of Statutes
Susan McClacherty, Committee Assistant

Conferees

Calvin Reed, Secretary of Transportation, Kansas Department of Transportation
Captain Jason Vanderweide, Aircraft Commander, Kansas Highway Patrol
Rachel Willis, Director of Legislative Affairs, Department of Commerce
Alan Conroy, Executive Director, Kansas Public Employees Retirement System
Hunter Moore, Chief Executive Officer, Plasma Games
Blake Flanders, President, Kansas Board of Regents
Dr. Robert D. Simari, Executive Vice Chancellor, University of Kansas Medical Center
Zach Gaarhart, Chief of Staff, Office of the President, Wichita State University
Matt Schwartz, Director of Finance, Kansas Lottery

Thursday, September 28
All-Day Session

Call to Order

Chairperson Waymaster informed committee members that the items requested from the Legislative Budget Committee meeting on August 22, 2023, were distributed in the meeting packet. ([Attachment 1](#))

FYTD Revenues

Edward Penner, Principal Economist, Kansas Legislative Research Department (KLRD), provided an overview of the Fiscal Year to Date (FYTD) 2024 State General Fund (SGF) receipts through August 2023. Individual monthly estimates are not precise. He advised to not read too much into one month's estimates beating receipts. The substantial misses in August were individual income, retail sales, and net transfers. Those misses were partially offset by misses-to-the-good-of-the-SGF in corporation income tax, compensating use, and the insurance premiums for the month only. Mr. Penner emphasized that the line between net sales and compensating use tax laws is blurry, and he encouraged committee members to only look at the total of retail sales and compensating use; combined, they were \$6.7 million and slightly ahead of estimates.

Mr. Penner highlighted individual income tax where FYTD is down \$22.0 million through the month of August. He also highlighted that withholding receipts are still very strong. The first two months of the year combined are set to outpace the same two months in the previous year by about 8.5 percent.

SGF receipts are lower than estimated due to refunds attributable to the SALT Parity Act. Mr. Penner explained that every two to four days a week, \$1 million to \$2 million refunds are being sent out through that program. A slow outward trickle of these refunds now should result in less of an impact when taxpayer extensions end in mid-October and final tax bills are due. November's revised revenue estimates are anticipated to reflect a \$100 to \$150 million shift from individual to corporate income taxes.

Mr. Penner addressed follow-up questions from Representative Helgerson during the August 22 committee meeting regarding clean-up legislation. One piece of legislation relates to the apportionment of income across multiple states. The Department of Revenue's interpretation of that statute is that it is sufficiently ambiguous for taxpayers to avail themselves of either side of it. The legislation clean-up is not essential, although the Department of Revenue recommends that Kansas not have statutes that are intentionally ambiguous and to move forward with the clean-up. The other piece of legislation relates to the treatment of business tax credits for SALT Parity Act tax purposes. The language is not ambiguous and clean-up is still needed if legislators want to afford that benefit to taxpayers.

Mr. Penner highlighted that the net transfers line of the SGF receipts, which is about \$10 million down FYTD, relates to the torts claims fund and is a one time issue. In April, the revenue estimators were unaware that the settlement was coming.

Based on preliminary September receipts, Mr. Penner informed committee members that the estimate for September will likely be an excess and be enough to totally close the gap for the FYTD amount, close to zero in the aggregate.

Mr. Penner informed committee members that substantial revisions have been made to the quarterly economic indicators report, such as what information is being provided and the layout and format of that information. Much of the report is still the same, such as the Gross Domestic Product (GDP), Consumer Price Index (CPI), jobs, and hourly earnings data. Added is a quarterly focus box that will contain an indicator of note at the time of the report. The indicator in the focus box is subject to change on a quarterly basis.

For the first quarterly report of this fiscal year, the focus box included graphs regarding economic output and inflation, the labor economy, and the monetary policy relating to the interest rates of Federal Open Market Committee of the Federal Reserve System. Rates are about as high as they were in early- to mid-1990s. Mr. Penner highlighted the impact Kansas would receive on some data reporting if the federal government shuts down. ([Attachment 2](#))

Mr. Penner answered questions from committee members on the following topics:

- The impacts of a federal shut down to the state;
- The seasonality effect of agriculture impacts on GDP;
- The transfer impact of gas severance tax;
- The workforce;
- The impact of tax credits to offset insurance premiums tax liability;
- The impact of automaker strikes; and
- The timing of CPI calculation for school districts.

Kansas Infrastructure Hub

Calvin Reed, Secretary of Transportation, Kansas Department of Transportation (KDOT), provided an overview of the Bipartisan Infrastructure Law (BIL) and how the Build Kansas Fund and its process fits in with the BIL. The goal is to leverage resources to multiply investment in Kansas communities using the Build Kansas Fund to provide matching funds on infrastructure projects. There are other federal programs that deal with infrastructure including the Inflation Reduction Act or the Creating Helpful Incentives to Produce Semiconductors Act of 2022. KDOT is the lead Kansas Infrastructure Hub agency with additional groups supporting it. The Build Kansas Fund made a commitment to distribute \$10.0 million for each of the eight economic districts across the state to ensure the funds are not concentrated in one or two locations. The Build Kansas Fund application process was put online, and the first application was received within the first week; five more applications are working through the process. The means test was a requirement of the legislature to make sure funds go to communities in the most need of the funding. Secretary Reed highlighted the next steps. ([Attachment 3](#))

Secretary Reed answered questions from the committee members on the following topics:

- How the term 'resiliency' is being defined by each federal agency funding infrastructure projects;

- How Build Kansas provides guidance to smaller communities through the application process;
- How a federal shutdown might impact program administration;
- How the mechanism for choosing between for-profit charging station competitors works;
- How formula funds can require a match of funding that varies by program and the intent is not to use Build Kansas Funds; and
- How most programs appropriate on an annual basis.

Kansas Highway Patrol

Captain Jason Vanderweide, Aircraft Commander, Kansas Highway Patrol (KHP), provided an update on the appropriations received the last two sessions for aircraft repairs and purchases, equipment upgrades, and the establishment of two aircraft operating funds. Aircraft trade-ins were highlighted. Delivery of aircraft are scheduled to occur in September 2023, December 2023, and August 2024. Each aircraft is outfitted with law enforcement equipment at a secondary facility and is operational approximately three to four months later. The law enforcement and executive operating funds are being used to address the overspending on upgrades and aircraft purchases impacted by inflation, and two aircraft are being sold to complete the transactions. Aircraft paint schemes were provided. ([Attachment 4](#))

Captain Vanderweide answered questions from the committee members about the process used to establish an official trade-in value for the King Air being traded in to and later sold by Cessna, the needs of the aircraft program over the next five years, and the trends of the aircraft resale market.

A request was made for more information regarding the capability of the executive aircraft program to satisfy the requests for executive travel prior to the implementation of the Cessna Citation CJ3+ and a comparison moving forward in their ability to answer those requests after the delivery of these aircraft to see if that investment increases their ability to accommodate all executive travel requests.

A request was made to track the need for law enforcement to use aircraft for law enforcement purposes and provide the pre- and post-data to better understand if the investment is worth the expenditure.

Captain Vanderweide provided general information about the bases in Topeka, Wichita, and Hays. The agency budgeted to rent a larger hanger in the future; however, aviation demand is high and there is nothing to rent. The City of Hays offered to build a hanger and then have KHP purchase it. The hanger would meet KHP's needs, could be purchased in two payments or across two fiscal years, and then the agency would only have to pay a land lease. The new hanger would be an upgrade from the current hanger facility in Hays. It could be used as a secondary storage facility for the executive aircraft should there be an issue with the Topeka hanger. The Joint Committee on State Building Construction was given a presentation the week of September 18 on the new hanger, and they recommended it.

Captain Vanderweide answered questions from the committee members on the following topics:

- Whether the hanger needed to be in Hays;

- The location of the new hanger in relation to the hanger currently being used; and
- The cost and financing of the hanger project.

Department of Commerce

Rachel Willis, Director of Legislative Affairs, Department of Commerce, provided an update on the successful 2023 Sunflower Summer Program including the transition of the program from the Department of Education to the Department of Commerce; analyzing vendor contractors from the summer; and plans to expand the vendors list, particularly small rural attractions, for summer 2024.

Ms. Willis answered questions from the committee members regarding the Sunflower Summer Program funding for 2023 and 2024.

Ms. Willis also provided an update on the Attracting Powerful Economic Expansion Act (APEX) projects, specifically the Panasonic Energy Co. Ltd.'s largest electric battery facilities in DeSoto. Production is estimated to begin at the end of 2024. The company plans to file its first claims for APEX benefits after the first full year, which will most likely be after the employee tax files are submitted for 2023. Ms. Willis provided an update on the Integra Technologies expansion to increase its capacity as the nation's largest outsourced semiconductor assembly and test (OSAT) company. The only APEX incentive benefit received to date is the sales tax exemption benefit utilized by Panasonic. ([Attachment 5](#))

Ms. Willis answered questions from the committee members on the following topics:

- If the potential of a federal shutdown is impacting the decisions on Integra Technologies project;
- Whether or not legislation is needed after the APEX bill sunsets at the end of 2023;
- Why the supplier chose to go with traditional incentives as opposed to what is in the APEX bill;
- How housing needs of APEX project workers are being met;
- expectations of other contenders looking to move to Kansas;
- How the sales tax exemption benefit works;
- How construction jobs are counted;
- How the negotiation on electric rates is proceeding with Evergy and whether or not the energy need was anticipated and part of the APEX negotiation;
- What impact other development in the DeSoto area is having, such as in support for the five qualified suppliers;
- How the timeline and impact of planned credits and tax incentives compares to actual credits and tax incentives;
- If there has been interest in STAR bonds for amusement parks and related projects; and
- How Panasonic's efforts to address education pipeline needs are proceeding.

Due to being ahead of schedule, Chairperson Waymaster recessed the meeting at 11:02 a.m.

Chairperson Waymaster reconvened the meeting at 11:18 a.m.

Kansas Public Employee Retirement System

Alan Conroy, Executive Director, Kansas Public Employees Retirement System (KPERS), provided information about the new Board of Trustees member and the following three topics: the actuarial valuation; 2023 HB 2100 which was the environmental, social, and governance legislation passed last session; and a KPERS 3 update.

Mr. Conroy provided a basic overview of KPERS consisting of the active and retirement membership, revenue sources of the trust fund, a chart of the 20-year historical fiscal-year returns, and an update on the actuarial valuation.

Mr. Conroy provided an overview of the implementation of 2023 HB 2100, which applies to KPERS investment manager contracts with the exception of private equity investments. The Board adopted new policies, then engaged a proxy voting firm to vote the proxies on behalf of KPERS and remove fund managers out of the process. The legislation also requires some annual proxy voting reports and KPERS is structuring those to ensure reports are provided at the appropriate time. KPERS added requirements to the due diligence process for current fund managers.

An overview of the KPERS 3 was also provided by Mr. Conroy. Any new member joining KPERS since January 1, 2015, is automatically enrolled in KPERS 3 and can never lose the value contributed by the member with a 4 percent interest guarantee. Newly hired Correctional Officers are the exception and they are enrolled in KPERS 2. KPERS 3 is technically a defined benefit plan with characteristics of a defined contribution plan. It is more of a career-average benefit rather than a benefit based on the highest year's salary like traditional defined benefit plans. There is risk-sharing as opposed to the employer having all the risk. Last session, legislators discussed converting KPERS 3 to KPERS 2, and an update on the cost estimate for the conversion was provided. ([Attachment 6](#))

Mr. Conroy provided the following information in response to questions from the committee members:

- KPERS 3 is working as it was structured. There would be a significant cost to convert members from KPERS 3 to KPERS 2;
- An increase in people receiving benefits is in part due to the survivor benefit option and the number of individuals in the baby boomer generation retiring;
- The trend in numbers of individuals retiring will increase from year to year until we are past the retirement of the baby boomers in particular, and then there may be some flattening out;
- Approximately, 90 to 95 percent of KPERS investments are covered by 2023 HB 2100;
- KPERS can generate a report reflecting just the number of state group employees enrolled in KPERS 3, without the school employees from the state/school group;
- The total contribution rate of 11.56 percent that the State is paying for state/school has an amortization period for six years, and the calculation of the contribution rate reflects consideration of multiple factors. KPERS can provide the unfunded liability dollar amount when the six year period was added;

- Not all the 152,000 active KPERS members are vested;
- Most KPERS employees get back what they put in after about three to four years of retirement benefits, and in the grand scheme, it's the employer contributions and investments that are paying benefits for the rest of their lives;
- KPERS 3 is like a defined benefit plan so retirees are guaranteed the benefit for the rest of their life;
- KPERS sees about 6,000 new enrollments every year;
- About 50 percent of the legislators who participate in KPERS are invested in KPERS 2 and the other 50 percent are in KPERS 3; and
- The pay commission is exploring the impact that an increase in legislative compensation would have on KPERS benefits.

Lunch

Chairperson Waymaster recessed the meeting at 12:15 p.m.

Chairperson Waymaster reconvened the meeting at 1:46 p.m.

Plasma Games

Hunter Moore, Chief Executive Officer, Plasma Games, provided his technology background and raised concerns about science, technology, engineering and mathematics (STEM) corporations having difficulty finding qualified Americans for open jobs. Mr. Moore realized that was not sustainable for our economy, our national security, or our children's futures, and he wanted to make the biggest possible impact.

Mr. Moore shared that he initially focused on the sector generating the biggest economic impact and creating the most high-paying, high-quality jobs. Chemistry-related jobs rose to the top of the list and are integral to several sectors such as agriculture, aerospace, energy, pharmaceuticals, semiconductors, manufacturing, and cosmetics. Mr. Moore described that chemistry-based jobs are hard to automate, offshore, and outsource, thus they promote long-term economic growth. He further described that roles such as chemical engineers, mechanical engineers, electrical engineers, and chemists, as well as other skilled labor professions such as welders, plumbers, HVAC technicians, and electricians create a regional effect of economic prosperity.

Mr. Moore noted that chemical corporations are especially impactful for rural economic development as they are often built outside of a medium-sized cities and employ people from surrounding counties. He described that the founders of Plasma Games interviewed thousands of teachers and found that student engagement was their biggest challenge. He also shared that teachers report wanting to connect learning standards to the real world to provide purpose and meaning. Plasma Games took all of the charts, the graphs, the equations, the learning standards, and transformed them into the first 3-D game-based learning platform.

Mr. Moore described that Plasma Games customizes their programs for each state so students in Kansas will see Kansas community colleges, universities, corporations, and jobs and be able to envision themselves studying and working in Kansas, building the workforce pipeline.

Mr. Moore provided a demonstration of Plasma Games and reported that Plasma Games had previously presented this tool to the Wichita State University Chief of Staff and Head of Research and Development. Plasma Games plans to expand to physics, biology, and other disciplines targeted to middle school and high school students in the future. ([Attachment 7](#))

Mr. Moore answered questions from committee members on the following topics:

- How the teachers can incorporate Plasma Games into their curriculum;
- Which states have implemented these games or are planning to in the future; and
- How their model is implemented into the education system.

Board of Regents and Regents Institutions

Blake Flanders, President, Kansas Board of Regents (KBOR), provided an update on the state universities' projects financed with American Rescue Plan Act (ARPA) funding. This is part of a broader scale facility renewal project. Mr. Flanders explained historical practices for maintaining buildings. Two years ago, a policy was created that required a plan for maintenance of newly built facilities and facilities built after 2007. Now space utilization and deferred maintenance are tracked across all buildings. The new cancer center proposal contains details about the center's maintenance plan. KBOR has incentives for universities to right-size their spaces, including demolition and re-use of space, which has been effective in reducing deferred maintenance. Mr. Flanders provided information on demolition projects and each university's ARPA-funded capital projects that must be expended by December 31, 2026. ([Attachment 8](#))

Mr. Flanders answered questions from the committee members on the following topics:

- The deferred maintenance activities at Fort Hays State University;
- The status of funds for university projects requiring a match; and
- The status of Kansas State University's dairy farm.

The committee requested that KBOR provide a list of potential future demolition projects and a prioritized list of facilities, non-facilities, one-time, and continuing funding requests that KBOR plans to request from the legislature this upcoming session.

Dr. Robert D. Simari, Executive Vice Chancellor, University of Kansas Medical Center, provided an overview of the Wichita Biomedical Campus including its purpose, partners, location, and structure, and the timeline for construction to begin and end. History highlights of the University of Kansas School of Medicine, University of Kansas School of Pharmacy, and the Wichita State University were also provided.

Zach Gaarhart, Chief of Staff, Office of the President, Wichita State University (WSU), informed the committee of WSU's component which is the nursing, physician assistant, physical therapy, and medical laboratory science programs. Not included in the slides, but important, is WSU's affiliation with a technical college for entry-level nursing programs and surgical tech programs that will also be located in the new facility.

Mr. Gaarhart provided an overview of how the funding came together and highlighted that \$142.0 million ARPA funding was appropriated from the health and education category.

WSU received communication from the Secretary of Administration that there was a triggering mechanism in another part of the appropriations bill that would essentially create a \$41.0 million deficit for the project. Mr. Gaarhart requested that the legislature keep the intent of the initial \$142.0 million of the ARPA allocation. ([Attachment 9](#))

Dr. Simari and Mr. Gaarhart answered questions by the committee members regarding available parking and potential to acquire the adjacent vacant building located on the same block.

A request was made for a copy of the Department of Administration communication regarding the \$41.0 million deficit for the Wichita Biomedical Campus.

Chairperson Waymaster informed committee members that while working the appropriations bill in conference, it was anticipated that ARPA funds had been overspent and that's why some funds were to be backfilled with SGF. The legislature will have to go back to the Department of Administration and see if there has been any recouped or unspent ARPA funds and analyze options in January.

Kansas Lottery & Kansas Racing Gaming Commission

Matt Schwartz, Director of Finance, Kansas Lottery, provided an update of the consensus revenue estimate (CRE) projections for traditional lottery and casino gaming as being on track with the Spring 2023 discussions. In terms of performance, three of the four casino revenues are at or above pre-COVID levels. The total aggregate revenues totaled \$411.0 million in FY 2019. Kansas Star is a little behind, largely due to the facility built in Park City which is a direct competitor. The State share of sports wagering revenues for the first fiscal year, which was 10 months of operation, was about \$5.8 million. Those funds were transferred to the various recipients in July 2023. No change in sports wagering revenues is expected from the Spring 2023 discussions. After three months of operation, the FY 2024 State share revenue projections are about \$10.0 million. ([Attachment 10](#))

Brandi White, Director of Administration, Finance, and Audit, Kansas Racing and Gaming Commission, informed the committee she had no prepared remarks, but was present to answer any questions.

Keith Kocher, Director of Gaming Facilities, Kansas Lottery, answered questions from the committee members about the sports betting provision of restaurants or other entities partnering with casinos, the poor response rate of those partnerships developing, what those agreements may look like, and any plans Mulvane may have for drawing potential customers.

Ms. White answered questions from committee members about providing an update on the historical horse racing facility and addressed concerns of potential impact to the Kansas Star Casino. Golden Circle was the selected Wichita facility, and it anticipates opening January 2025. They anticipate 1,000 historical horse racing machines as well as food and beverage amenities.

A request was made for information on the revenues generated by each casino historically and current year.

Mr. Schwartz provided committee members with a general update of each casino's revenues. Mr. Schwartz answered questions from the committee members about the split between State Gaming Revenue Fund (SGRF) and State General Fund (SGF) on sports wagering.

Adjourn

Chairperson Waymaster informed committee members that the Legislative Budget Committee meeting scheduled for October 18, 2023, will be postponed to either November 8 or 9, 2023, and requested committee members provide particular topics they would like to have addressed in November.

Senator Pettey requested that the committee look at recommendations from the 2023 Special Committee on Child Care Centers and Child Care Homes, as well as the Governor's Early Childhood Transition Task Force.

Chairperson Waymaster informed committee members that there will be recommendations from the Governor's Wildfire Task Force to review and he will check if there are recommendations from other task forces.

Representative Carpenter requested the committee review the results of the interim studies done by the 2023 Special Committee on Nursing Facility Reimbursement Rate Methodology and the 2023 Special Committee on Mental Health.

Chairperson Waymaster informed committee members that other agenda items will be determined from either those stated in statute or discussed in conference.

Chairperson Waymaster adjourned the meeting at 2:57 p.m.

Prepared by Susan McClacherty
Edited by Megan Leopold and Jennifer Light

Approved by the Committee on:

November 7, 2023

(Date)

