Approved: April 26, 2012
(Date)

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:30 AM on Monday, January 23, 2012 in 548-S of the Capitol.

All members were present.

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

Conferees appearing before the Committee:
Steve Warren, Vice Chancellor for Research and Graduate Studies, Kansas University
Norm Wilks, Director Business and Financial Planning, USD 490 - El Dorado
Glen Suppes, Superintendent, USD 400 - Smoky Valley, Lindsborg
Dr. Michelle Sedler, Superintendent, USD 202 - Turner, Kansas City
Terry Collins, Director of Special Education, USD 616 - Doniphan County
Tom Krebs, Governmental Relations Specialist, Kansas Association of School Boards
Sara Arif, Director of Public Affairs, Kansas Department on Aging

Others in attendance:
See attached list.

There were no bill introductions.

Follow-Up Information:

Follow-up information from Scott Frank, Director, Legislative Division of Post Audit (LPA), was distributed (Attachment 1) concerning information related to Affordable Airfares in an annual LPA report

Hearing on <u>SB 258 -- Governmental ethics law; permitting certain communications related to contract negotiations involving state university employees</u>

Jill Wolters, Senior Assistant Revisor from the Office of the Revisor of Statutes, briefed committee members on this bill, which would allow a state university employee to provide factual information, advice, or recommendations related to the negotiated terms of a technology licensing agreement or other research or development agreement between the university and a company in which the employee has substantial interest, provided that the employee does not have the authority to negotiate the terms of such agreement or to approve such an agreement on behalf of the university. (Attachment 2)

Proponents:
Steve Warren, Vice Chancellor for Research and Graduate Studies, the University of Kansas, spoke in support of SB 258. (Attachment 3) He indicated that the current statute is vague with regard to university researchers who become inventors of new technology or products with commercial applications. **SB 258** amends the language to clarify the intent and scope of the statute, while applying it to a limited group of people in a limited setting under limited circumstances. Most universities have strict conflict of interest policies with strict disclosure requirements; he indicated the passage of **SB 258** would remove an obstacle to the commercialization of university technology.

In response to a committee member's question concerning the conflict of interest policies, Vice Chancellor Warren indicated disclosure is required of the researcher; the policy is monitored through the Vice Chancellor's office and through the Office of the General Counsel.

In addition, Vice Chancellor Warren, clarified **SB 258** is directed to university employees, not contractors; the bill applies to all types of entrepreneurial opportunities that would go outside of the university environment.

A committee member expressed concern the bill involves a university employee, with a fiduciary duty to promote the welfare of the university, who is engaging in furthering his product/knowledge for possible monetary gain, thereby creating an irreconcilable conflict of interest.

Vice Chancellor Warren commented that once a discovery is thought to have value and commercialization of the technology/product is considered, negotiation begins with the company and his office. A formula exists at KU (and most other universities), which provides for profit sharing: one-third to the university, one-third to the faculty member, and one-third to the company; patents, if granted, are owned by the university.

Mary Jane Stankiewicz, Director of Government Relations and Communications for the Kansas Board of Regents, provided written testimony in support of **SB 258**. (Attachment 4)

Chairperson McGinn announced the committee would consider **SB 258** at a later time.

There were no opponents.

Hearing on SB 259 -- KPERS; employment after retirement for certain school employees

David Wiese, Office of the Revisor of Statutes, indicated SB 259 removes a June 30, 2012, sunset date and extends an exemption for certain retirees from the statutory $20,000 earnings limitation from July 1, 2012, to July 1, 2015. The exemption applies to teachers and other licensed school professionals who retire with KPERS benefits and choose to return to work without an earnings cap. The bill also would extend the special employer contribution rate that applies to compensation earned by retirees. The fiscal note provides there would be no direct effect on state expenditures; any additional KPERS contributions required by the hiring of retired licensed school professionals would be paid by local school districts.

Proponents:

Norm Wilks, Director of Fiscal and Support Services, USD 490, El Dorado Public Schools, spoke in support of **SB 259** and indicated that if the sunset date is not extended, employees who have retired and rehired will be faced with the decision to become employed within another school district or work with an earnings cap of $20,000 yearly. (Attachment 5)

Glen Suppes, Superintendent of Schools of USD #400, Smoky Valley in Lindsborg spoke as a proponent of **SB 259**. The bill allows school districts the opportunity to retain the highest quality professionals within the local school system. Passage of the bill provides a broader range of flexibility for school districts while maintaining consistency within a district's school system. (Attachment 6)

Dr. Michelle Stedler, Superintendent of Turner USD 202, spoke in support of **SB 259**. She indicated this bill will allow greater flexibility for hiring qualified, retired professionals in hard-to-fill areas, especially special education, mathematics, and science. (Attachment 7)

Terry Collins, Director of the Doniphan County Education Cooperative #616, spoke about the difficulty in recruiting special education teachers. **SB 259** would allow licensed professional retirees to return to work without an earnings cap. She encouraged passage of **SB 259**. (Attachment 8)

Written testimony in support of **SB 259** from Alan R. Cunningham, Superintendent of Schools, USD 443, Dodge City, was reviewed. (Attachment 9)

Neutral:
Tom Krebs, Government Relations Specialist, Kansas Association of School Boards, spoke from a neutral position. He indicated that members of his organization have experienced positive impact from the ability to hire retired professionals, particularly in sparsely-populated areas. (Attachment 10) The fact that there is no fiscal effect on the state's retirement system is an important consideration.

Elizabeth Miller, Acting Executive Director of the Kansas Public Employees Retirement System, provided written testimony concerning the special exemption from KPERS' restrictions on working after retirement and related employer contributions rates that are the subject of the bill. (Attachment 11)

Chairperson McGinn closed the hearing on **SB 259**.

Continued discussion on Managed Care:

Sara Arif, Director of Public Affairs at the Department on Aging (DOA), provided two reports concerning the reorganization plan (Attachments 12 and 13), Ms. Arif referred and provided one copy of the Myers and Stauffer study, which is available on their web site: http://www.agingkansas.org/Advocacy_Legislation/Legislative/KSTransformation.pdf. She elaborated that using the methodology in the study, it was concluded payroll agents under the Financial Management System (FMS) required $115 per month per person (PMPP) for expenses. Ms. Arif distributed Attachment 14, which responds to information requested at the January 19 meeting and includes the Flanagan Study "Self Direction and MFP: Key Components and Issues."

Iraida Orr, Legislative Research Analyst, provided "Financial Management Services for Self-Directed Waiver Participants," which included information concerning individuals transferred from state or private institutions to home and community based services from SFY 2009-2011 (Attachment 15).

Discussion and comments follow:

Ms. Arif confirmed some direct care providers did receive a pay decrease with implementation of the FMS.

It was unknown how many caregivers were affected with pay reductions; the answer to that question lies between the provider and the payroll agent.

Both the DOA and the Department of Social and Rehabilitation (SRS) operate the Financial Management System (FMS) and waivers.

Ms. Arif indicated she was representing SRS and DOA at the meeting; a committee member requested that when both agencies are involved in discussion, representatives from both agencies are required to be present at Senate Ways and Means Committee meetings.

Ms. Arif indicated both agencies, SRS and DOA, were jointly responsible for the FMS system at the current time.

Ms. Arif commented that the FMS system was tested prior to implementation. However, there was no organized, "piloted" testing (with specific agents and waivers) prior to a general roll-out of the system. There have been some delays in processing physical disability (PD) and traumatic brain injury (TI) waivers. A "soft go live" was initiated in December 2011; full implementation occurred in January 2012.

A committee member questioned whether there were enough qualified caregivers to provide services at the rate of $8.98/hour. Ms. Arif responded the wages were a result of the federal mandate to separate the payroll agent rate from the direct care provider rate; she could not answer concerning the number of qualified caregivers.

A committee member inquired about the FMS rates evaluated and whether rates were based on the number of clients within each FMS compared to the number of FMS organizations providing services. Ms. Arif could not respond.

A committee member asked to receive information relating to HCBS waivers in 2010, 2011, and 2012 and the funding during those years to compare whether funding is the same, increasing, or decreasing. Ms. Arif will furnish information at a later time.

Ms. Arif confirmed that in addition to compensating direct caregivers through a payroll system, payroll agents provide background checks for employees, orientation, payroll garnishments, age verification, quality assurance, and other tasks/duties.

According to Ms. Arif, stakeholders were informed the rate was decreased from $140 to $115 through phone calls to Centers for Independent Living, a letter, and verbal communication during a stakeholders' conference in October.

A committee member commented that with the implementation issues resulting from the Financial Management System, it might be prudent to consider additional evaluation and testing prior to implementing a Medicaid managed care system.

The meeting was adjourned at 11:45 a.m.