

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:30 AM on Wednesday, March 7, in 548-S of the Capitol.

All members were present except Senator Emler.

Committee staff present:

Jan Lunn, Committee Assistant
Melinda Gaul, Chief of Staff, Senator McGinn's Office
Eli Johns, Intern, Senator McGinn's Office
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:

Chris Harris, Department of Commerce

Bill introductions:

Senator Kelly moved introduction of 12rs1970 concerning a municipality structure improvement program; the motion was seconded by Senator Kultala, which carried on a voice vote.

Subcommittee Report on Kansas Public Employees Retirement System (KPERS) Budget/Issues (Attachment 1):

Senator Vratil reported the Subcommittee concurred with the Governor's FY 2013 recommendation with adjustments as follows:

1. Add \$517,005, all from the KPERS Trust Fund, for the agency's three enhancements requests which include the following:
 - \$273,063 for the administration and operational costs associated with implementation of **Senate Substitute for HB 2194**. **Senate Substitute for HB 2194** will modify either the benefits or contribution rates for all active KPERS members, assuming the 2012 Legislature completes the actions required by the bill to "trigger" the substantive provisions. The changes required include changes to KPERS information technology, communications, and member services staffing;

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- \$105,000 for implementation of the Governmental Accounting Standards Board (GASB) exposure drafts 25 and 27. GASB 25 and 27 change pension accounting and financial reporting for state and local governments. The cost of implementation is attributable to actuarial services;
 - \$138,942 for restoration of positions vacated under the Voluntary Retirement Incentive Program (VRIP), which included 3.0 FTE positions.
2. The Subcommittee notes the expenses for professional services related to the work of the KPERS Study Commission are approximately \$309,000. The agency has estimated that the actuarial services provided by Cavanaugh MacDonald are \$172,000 and the legal services provided by Ice Miller are \$77,000. The 2011 Legislature increased the expenditure limitation for KPERS by \$60,000 for FY 2012 to cover costs associated with the KPERS Study Commission; however, the \$60,000 was expended before the KPERS Study Commission work was completed.

The Subcommittee recommends that the expenses related to the work of the KPERS Study Commission should be paid by the Kansas Legislature. The Subcommittee recommends that the funding for the expenses incurred by the Commission come from the State General Fund (SGF) reappropriation in the budget of the Kansas Legislature. Specifically, the first \$309,000 reappropriated from FY 2012 to FY 2013 in the Legislature's budget should be used to pay for the expenses associated with the KPERS Study Commission.

3. The Subcommittee recommends the Senate Committee on Ways and Means request a Legislative Post Audit study on the expense overrun and who authorized the additional expenses for the KPERS Study Commission.

Senator Vratil elaborated that should **Sen. Sub for HB 2194** not be enacted, bullet point #1 containing the addition of \$517,005 from KPERS trust Fund for three enhancement requests would not become effective.

Considerable discussion was heard and concerns were voiced regarding the expense overrun. Senator Vratil explained the Legislature authorized \$60,000 for actuarial and attorney's fees.

Senator Vratil moved to adopt the KPERS Subcommittee report; Senator Teichman seconded the motion, which carried on a voice vote.

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Senator Vratil moved that the committee authorize and direct the Chairperson of the Senate Ways and Means Committee to request a Legislative Post Audit of the KPERS Study Commission expenses and specifically, the overrun above the appropriated expenditure amount. Senator Umbarger seconded the motion, which carried on a voice vote.

Subcommittee report on KPERS Issues:

Senator Vratil reported the Subcommittee also submitted a report on KPERS Issues, and specifically, **HB 2461-- Raising the amount of annual alternative investments within the total amount of assets of the KPERS fund.** The Subcommittee heard this bill, which was introduced by the KPERS Board of Trustees and involves changes to the authority to invest in alternative investments. **HB 2461**, as amended, would allow a net annual commitment of up to 5.0 percent of the total market value of the Kansas Public Employees Retirement System (KPERS) portfolio investments to be made in assets identified as "alternative investments," which are non-traditional in nature. The 5.0 percent annual limit on net investment commitments would be measured from the end of the preceding calendar year. In addition, the bill would allow 15.0 percent of the total KPERS investment portfolio to be invested in alternative investments and a new definition for such alternative investments would replace the current definition.

Senator Vratil moved to adopt the Subcommittee report on KPERS Issues and recommended favorable passage of **HB 2461**; Senator Teichman seconded the motion, which carried on a voice vote.

Subcommittee report on Legislative and Elected Officials (Attachment 2):

Legislature:

Senator Huntington reported that the Subcommittee concurred with the Governor's FY 2013 recommendation for the "Legislature" with the following notations and adjustments:

1. The Subcommittee concurs with Governor's Budget Amendment (GBA) No. 2 Item No. 1 to add \$1,070,318, all from SGF, for FY 2013, which fully funds the agency's salary request.
2. Add \$397,297, from SGF, and 9.0 FTE positions to fund the Legislative computer system needs. The Subcommittee heard testimony from the Legislative Chief Information Technology Officer on his assessment of the Legislative Information Technology environment and recommendations regarding applications, infrastructure, and organization. The applications are workable but will need significant work to stabilize,

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tune, and improve. The infrastructure is well architected and planned, but out of date. As for the existing staff, it lacks the depth and skills required to support and evolve Legislative systems. His recommendation included a request for \$905,000 and 9.0 FTE positions in FY 2013 to fill targeted critical gaps and extend Propylon support agreement through December 2013. This would leverage all Propylon services to continue project work, ramp up new staff, and provide a knowledge transfer to the Legislative staff. This would provide Legislative staff the depth and ability to maintain the ongoing system without any major ongoing consultant help. This does include a reduction of \$507,703 in the operating budget of the Legislature and adds it to the budget of Legislative computer services.

3. The Subcommittee notes concerns have been raised in previous years, and continue to occur, that this agency be fully staffed and funded for a 90-day session. The Subcommittee strongly encourages the Governor to submit a budget to the Legislature that continues to fully fund a 90-day session and the staffing needs of the agency in the future.

In response to a question, Senator Huntington clarified the addition of 9 FTE positions will replace the 24 Propylon consultants, who will be on site through December 2013. In addition, the GBA No. 2 replaces funds that were originally cut.

Legislative Coordinating Council:

The Subcommittee concurred with the Governor's FY 2013 recommendation with the following notation:

1. The Subcommittee notes concerns have been raised in previous years, and continue to occur, that this agency be fully staffed. This budget does fully fund staff for the agency for FY 2013. The Subcommittee strongly encourages the Governor to submit a budget to the Legislature that continues to fully fund the staffing needs of the agency in the future.

Legislative Research Department:

The Subcommittee concurred with the Governor's FY 2013 recommendation with the following notations and adjustments:

1. The Subcommittee concurs with GBA No. 2 Item No. 1 to add \$282,909, from SGF, for FY 2013 which fully funds the agency's salary request.

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2. Delete \$134,197, from SGF, to pay a proportionate amount of the additional funding the Legislative computer system enhancement for FY 2013. The amount adjusted is the agency's proportionate amount needed to fund a \$905,000 enhancement based on the amount added in the GBA.
3. The Subcommittee notes concerns have been raised in previous years, and continue to occur, that this agency be fully staffed. The Subcommittee strongly encourages the Governor to submit a budget to the Legislature that continues to fully fund the staffing needs of the agency in the future.
4. The Subcommittee notes that the agency provides services needed to complete the redistricting activities in redrawing legislative, State Board of Education, and congressional districts as required by the *Kansas Constitution*. The Subcommittee also notes that the agency does not have the authority to charge non-legislators for the cost of the district maps.
5. The Subcommittee heard testimony that funding was included in the budget for 3.0 non-FTE positions to finalize redistricting activities for FY 2013. The Subcommittee requested a report of all the activities that need to be completed in the finalization process prior to Omnibus.

Discussion was heard concerning bullet point #4, and a statement concerning not charging "non-legislators" for the cost of the district maps. A committee member clarified that "non-legislators" really refers to municipalities; currently the Kansas Legislative Research Department (KLRD) does not hold statutory authority to charge for district maps. J. G. Scott, Chief Fiscal Analyst KLRD, indicated that while district maps are available on the Kansas Legislative web site, they do not provide the detail required for a precinct-level map. Mr. Scott indicated further investigation would occur on other available electronic options for producing these maps.

The Committee, by consensus, directed staff to amend the Subcommittee report to reflect: *The agency will evaluate options and methods for the electronic transmission of digitally-produced district maps to municipalities.*

Office of the Revisor of Statutes:

The Subcommittee concurred with the Governor's FY 2013 recommendation with notations:

1. The Subcommittee concurs with GBA No. 2 Item No. 1 to add \$154,821, from SGF, for FY 2013, which fully funds the agency's salary request.

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2. The Subcommittee notes concerns have been raised in previous years, and continue to occur, that this agency be fully staffed. The Subcommittee strongly encourages the Governor to submit a budget to the Legislature that continues to fully fund the staffing needs of the agency in the future.
3. The Subcommittee commends the agency and its staff on the work done to complete the *2011 K.S.A. Supplements and Index*. The agency and staff continued to work through the process using a new computer system that was continually evolving at the same time the work on the supplement was under way. This made for a difficult situation, but the Subcommittee appreciates the diligence and hard work that was needed to complete this task.

Legislative Division of Post Audit:

The Subcommittee concurred with the Governor's recommendation with notations and adjustments:

1. The Subcommittee concurs with GBA No. 2 Item No. 1 to add \$399,834, all from the SGF, for FY 2013, which fully funds the agency's salary request.
2. Delete \$189,661, from SGF, to pay a proportionate amount of the additional funding for the Legislative computer system enhancement for FY 2013. The amount adjusted is the agency's proportionate amount needed to fund a \$905,000 enhancement based on the amount added in the GBA.
3. The Subcommittee notes concerns have been raised in previous years, and continue to occur, that this agency be fully staffed. The Subcommittee strongly encourages the Governor to submit a budget to the Legislature that continues to fully fund the staffing needs of the agency in the future.
4. The Subcommittee notes that **HB 2414 Allowing legislative post audit to charge state agencies for their portion of the state wide financial audit**, would allow Legislative Post Audit to charge state agencies for their portion of the statewide financial audit. The Subcommittee heard testimony from the Legislative Post Auditor that this is the only audit where agencies are not charged for the cost of the audit. The Post Auditor also indicated that if the bill is enacted, this budget could be reduced by \$288,000 and that amount split between the budgets of the Department of Administration and the Board of Regents for their share of the cost of the audit.

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A committee member expressed concern regarding bullet point #2; clarification was requested due to the understanding that the \$905,000 was to be proportionately shared among all legislative agencies based on the agencies' original requests. The \$189,661 deduction represents a 7.8 percent cut to the Legislative Post Audit budget. The cuts to other Legislative budgets are:

- Legislative Research Department budget is reduced 3.5 percent;
- Legislature budget is reduced 2.9 percent;
- Office of the Revisor of Statutes budget is reduced 2.3 percent; and the
- Legislative Coordinating Council is not reduced at all.

The committee member indicated the intent was to proportionately share among all legislative agencies.

Senator Kelly moved to amend the Subcommittee reports for the Legislative Research Department, Legislature, Office of the Revisor of Statutes, Legislative Coordinating Council, and the Division of Legislative Post Audit to reflect a 3.3 percent reduction based on the agencies' original budget requests, all from SGF, to fund a \$905,000 enhancement for the Legislative computer system for FY 2013. Senator Vratil seconded the motion, which passed on a voice vote.

Office of the Governor:

The Subcommittee concurred with the Governor's FY 2013 recommendation, with adjustments:

1. Add \$200,000, SGF, for FY 2013 for domestic violence and child advocacy center grant funding. The Subcommittee recommends that the same amount of funding be deleted from the budget of the Office of the Attorney General. Currently, funding for these programs is split between the two agencies, and the Subcommittee believes it would provide for easier administration and tracking of the funding to have it located in one agency. Because of the long established grant program in the Office of the Governor, the Subcommittee recommends the funding be located in that budget. The full amount of this funding would be designated for grants to domestic violence programs.
2. Add \$450,000, all from special revenue funds, for FY 2013 for domestic violence and child advocacy center grant funding. The funding would come from a newly created special revenue fund, which would be funded through a transfer from the Problem Gambling and Addictions Grant Fund of the Department of Social and Rehabilitation Services. Of this funding, \$300,000 would be designated for grants to domestic violence programs and \$150,000 would be designated for grants to child advocacy centers. This

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funding is intended to offset the loss of one-time funding included in the FY 2012 budget of the Office of the Attorney General for the programs, which is not available in FY 2013. It will also restore funding for the programs to more historical levels.

Office of the Lieutenant Governor:

The Subcommittee concurred with the Governor's FY 2013 recommendation.

Office of the Attorney General:

The Subcommittee concurred with the Governor's FY 2013 recommendation with adjustments:

1. Delete \$200,000, SGF, for FY 2013 for domestic violence and child advocacy center grant funding. The Subcommittee recommends that the same amount of funding be deleted from the budget of the Office of the Attorney General. Currently, funding for these programs is split between the two agencies, and the Subcommittee believes it would provide for easier administration and tracking of the funding to have it located in one agency. Because of the long established grant program in the Office of the Governor, the Subcommittee recommends the funding be located in that budget. The full amount of this funding would be designated for grants to domestic violence programs.
2. The Subcommittee notes that the Governor's recommendation adds \$455,000, including \$175,000 from the SGF, and 2.0 FTE positions for FY 2013 to transfer responsibility for the Kansas Commission on Peace Officers' Standards and Training (CPOST) from a stand-alone agency to the Attorney General. The Subcommittee heard testimony from CPOST and the Attorney General and believes it would be appropriate to maintain CPOST as a stand-alone agency. The Subcommittee requests that the Governor consider preparing a GBA to address this issue.
3. The Attorney General presented testimony on the program for permitting private investigators. By statute, the program is assigned to the Office of the Attorney General, but the practice for many years has been for the Kansas Bureau of Investigation (KBI) to manage that program on behalf of the Attorney General. The Attorney General indicated that because the Office of the Attorney General now administers the separate program which licenses individuals to carry concealed weapons, both he and the Director of KBI have agreed it would be appropriate to transfer the program back to the Office of the Attorney General. To accomplish that, it would be necessary to transfer the special revenue fund associated with the program, the Private Investigator Fee Fund, from the

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budget of the KBI to the budget of the Office of the Attorney General. The Subcommittee recommends that the full Committee consider making that transfer.

Secretary of State:

The Subcommittee concurred with the Governor's FY 2013 recommendation.

Kansas Insurance Department:

The Subcommittee concurred with the Governor's FY 2013 recommendation.

Office of the State Treasurer:

The Subcommittee concurred with the Governor's FY 2013 recommendation with observation:

1. The Subcommittee is concerned with one aspect of the Kansas Investment in Developing Scholars (KIDS program), a component of the Learning Quest postsecondary education program. The KIDS program is designed to encourage low income families to establish postsecondary savings accounts by providing a state match (up to \$600 per participant) for contributions to such accounts. By statute, qualified individual or family is defined as "an individual or family who resides within the state of Kansas and whose household income is not more than 200 percent of the federal poverty level for the tax year prior to the year in which the application is submitted." Since the program was begun in FY 2006, there have been occasions when otherwise ineligible individuals or families, through tax planning strategies, have presented a negative adjusted gross income, and have received the matching funds. To avoid this issue in the future, the State Treasurer, at the request of the Subcommittee, suggested a change to the language in statute to modify the definition of qualified individual or family to "an individual or family who resides within the state of Kansas and whose *positive* household income is not more than 200 percent of the federal poverty level for the tax year prior to the year in which the application is submitted." The Subcommittee is supportive of the proposed change and recommends the full Committee further discuss the issue.

Health Care Stabilization Fund Board of Governors:

The Subcommittee concurred with the Governor's FY 2013 recommendation.

Kansas Commission on Peace Officers' Standards and Training:

The Subcommittee concurred with the Governor's FY 2013 recommendation with observations:

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1. The Subcommittee does not agree with the Governor's recommendation to abolish the CPOST and transfer the duties to the Attorney General. The Subcommittee is favorably disposed to keeping CPOST as a stand-alone agency and recommends:
 - In an effort to restore CPOST as a stand-alone agency for FY 2013, the Subcommittee strongly recommends that the Governor issue a budget amendment for FY 2013 to restore funding for CPOST.
 - The Subcommittee notes that the restoration of CPOST as a stand-alone agency requires adjustments to the budget of the Attorney General. Under the Governor's FY 2013 recommendation, the Attorney General would receive an additional appropriation of \$455,000, including \$173,000, from SGF, and 2.0 FTE to perform the functions of CPOST. The Attorney General would also receive \$280,000 for the Law Enforcement Training Reimbursement Fund, which is used to reimburse local municipalities for law enforcement training.
 - The Subcommittee recommends that the budget amendment include \$560,000, SGF, to be restored to the budget of the Kansas Judicial Branch. The SGF budget for the Judicial Branch was reduced by \$560,000 as a result of the Governor's recommendation to transfer \$560,000 in municipal docket fees from CPOST to the Judicial Branch.

Senator Huntington moved adoption of the *Legislature and Elected Officials Subcommittee reports, as amended*; Senator Kelly seconded the motion, which carried on a voice vote.

Presentation by Chris Harris, Department of Commerce, on Rural Opportunity Zones program:

Chris Harris, from the Department of Commerce, presented information on the Rural Opportunity Zones program (Attachment 3). He described the how the program was developed, how field staff collaborated counties and their governing entities to implement the program, and reported statistics on the program's usage. Mr. Harris explained there are 50 Kansas counties that have been identified as Rural Opportunity Zones (ROZ); these counties have been authorized to offer incentives to young professionals to relocate to one of these counties in exchange for one or both of financial incentives: Kansas income tax waivers for up to five years and student loan repayments up to \$15,000. The state and the individual county share equally in the payments to a successful applicant. Mr. Harris outlined eligibility requirements for both the income tax incentive and the student loan repayment.

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In response to questions, Mr. Harrison indicated:

- Housing in rural areas continues to be an obstacle; the Community Development Block Grant program is available for housing in rural areas. The Department of Commerce has worked with the United States Department of Agriculture and the Kansas Housing Resource Commission to evaluate effective ways to use those available funds.
- The obligation for approved individuals, to date, is \$130,000; there is \$97,000 identified for pending applications. Approximately \$1 million has been set aside within the Department of Commerce budget for payment incentives.
- The applicant pool is young adults in professions such as education, health care, and finance. Most applicants have family ties to Kansas.
- A proposal (in **HB 2747**) has been introduced to increase the program by 21 new counties. The Commerce Department has not developed a position on the addition of counties to its program.
- With respect to physicians, another program exists which forgives his/her medical education tuition, Mr. Harrison affirmed it is possible that with approval through the ROZ program, the physician could also take advantage of the income tax credit and the student loan repayment program should the individual meet the eligibility criteria.
- Regarding ROZ program oversight, Mr. Harrison elaborated that concerning the student loan repayment incentive; the applicant must provide specific documents such as a mortgage, voter registration, driver's license, licensure for specific professions, college degree transcript, etc. Kathleen Smith, Department of Revenue (in the audience) outlined the verification process for individuals applying for income tax credits.
- Kathleen Smith, Department of Revenue, indicated that tax incentives cannot be claimed until 2012; therefore, results will not be seen until after April 2013. Ms. Smith indicated she could not respond at this time concerning the anticipated fiscal impact.
- Mr. Harrison indicated that of the 235 applicants contained in his report, not every occupation was included. The annual report referenced in the legislation cannot be produced until late 2013 or early 2014, which would include both the student loan repayment incentive and the income tax credit incentive. However, the student loan repayment component in the program is tracked daily and information can be provided as necessary. Jason Glasrud, office of the Secretary of the Department of Commerce,

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commented reports routinely are provided to the Secretary of Commerce and to the Governor; Mr. Glasrud could not respond as to whether an annual report had been submitted on January 1, 2012, to the Senate Committee on Assessment and Taxation, as is required by statute.

Chairperson McGinn requested additional information on the ROZ program that includes a total accounting on what is spent on the program by county.

A committee member inquired whether the ROZ legislation required amendment to provide for dual reporting (Department of Commerce and Department of Revenue) concerning the two components: student loan repayment and income tax credits. Particularly, since there has been no information furnished as to the total funds set aside for tax credits from the funds already encumbered.

The meeting adjourned at 12:11 p.m.

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