

Approved: May 9, 2011

(Date)

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 11:10 a.m. on March 12, 2012 in 548-S of the Capitol.

Senator Emler was absent

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:

Chris Harris, Department of Commerce
Scott Frank, Director, Legislative Division of Post Audit

Others attending:

See attached list

Bill introductions:

Senator Schmidt introduced 12rs2295, which establishes a KanCare Oversight Committee; Senator Kelly seconded the motion, which carried on a voice vote.

Senator Huntington introduced 12rs2395 concerning the extension of the STAR bonds sunset date; Senator Schodorf seconded the motion, which carried on a voice vote.

Senator Huntington introduced 12rs2390 concerning DD waivers; Senator Kelly seconded the motion, which carried on a voice vote.

Senator Huntington introduced 12rs2376 concerning voter education for poll workers, Senator Schodorf seconded the motion, which carried on a voice vote.

Senator Huntington introduced 12rs2382 concerning voter education for Kansas residents, Senator Umbarger seconded the motion, which carried on a voice vote.

Subcommittee Report on Lottery, Racing and Gaming (Attachment 1):

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the SENATE WAYS AND MEANS Committee at 10:30 AM on March 12, 2012 in 548-S of the Capitol.

Senator Teichman reported the Subcommittee concurred with the Governor's FY 2013 Kansas Lottery recommendation with a notation:

1. In FY 2011, the Legislature transferred \$900,000 in revenue from the Problem Gambling and Addictions Grant Fund (PGAGF) to the State General Fund (SGF). The Subcommittee further noted that in FY 2013, the Governor's recommendation appropriates only \$740,000 of the \$7.3 million in projected PGAGF revenue to Problem Gambling Services, and the remainder is appropriated to the Pre-paid Inpatient Health Plans (PIHP) in Medicaid related to addiction services. It is the opinion of the Subcommittee that these funds were collected for ameliorating the possible negative effects of gambling on Kansas communities and their expenditure should more closely align with that purpose.

Senator Teichman commented that additional information was received following Subcommittee deliberations (Attachment 2). A subcommittee member reported that for FY 2013, approximately \$6.5 million is projected to be spent for Medicaid expenditures, which are not only for gambling addictions but also alcohol and drug addictions. A subsequent request for an additional expenditure breakdown of the Problem Gambling Services line item yielded information that 80 percent of the expenditures were designated for public awareness marketing, workforce development, statewide administration and logistical support, salary and operational expenses, mini-grants for outreach, problem gambling administration and other miscellaneous expenses.

Senator Teichman discussed the possibility of requesting an audit to determine whether or not the funds were being spent appropriately. A committee member requested clarification concerning Problem Gambling Services Revenue and expenditures which appear in both the Kansas Department of Social and Rehabilitation Services (SRS) and the Kansas Lottery budgets and specifically, how these budgets intersect and relate. Dylan Dear, Legislative Research Department, responded that revenue funds as required by statute (2 percent of gross revenue plus \$80,000 from the Lottery and \$20,000 from bingo sales) are transferred from the Lottery budget to SRS; SRS is accountable for determining how PIHP funds are expended.

Committee members discussed the concept of additional evaluation of SRS's budget to determine appropriateness of expenditures. A committee member offered further information concerning the original intent of the problem gambling legislation, which was to include drug and alcohol addictions that could precipitate or result in gambling addictions.

Chairperson McGinn suggested that the issue discussed be assigned by the Legislative Coordinating Council during the interim to scrutinize expenditures and to ensure (particularly for PIHP funds) that revenue is transferred to the SGF for the purpose of drawing matching funding.

CONTINUATION SHEET

Minutes of the SENATE WAYS AND MEANS Committee at 10:30 AM on March 12, 2012 in 548-S of the Capitol.

Additional discussion was heard concerning the transfer of Problem Gambling Services funding and the possibility of amending the percentage of dollars from the Expanded Lottery Act Revenue Fund (ELARF) designated for problem gambling and addictions. It was noted by a committee member that the ending balance for FY 2013 in the Problem Gambling and Addictions Grant Fund as of March 7, is a negative balance (\$403,491). It was noted that various transfers have occurred from the PGAGF for FY 2013 to fund domestic violence and children's advocacy centers in the Attorney General's budget and the Governor's Office budget and to the Sentencing Commission, which are expended by the Juvenile Justice Authority. Since some of these Subcommittee Reports have been submitted and approved, Chairperson McGinn indicated that the committee may choose to reconsider its previous action during consideration of the Mega Bill.

Senator Teichman moved adoption of the Kansas Lottery Subcommittee report and to include the recommendation that the Legislative Budget Committee further scrutinize and review the Kansas Lottery budget during the 2012 interim, which contains the Problem Gambling and Addictions Grant Fund; Senator Schmidt seconded the motion, which carried on a voice vote.

Senator Teichman reported the Subcommittee concurred with the Governor's recommendation FY 2013 Kansas Racing and Gaming Commission Subcommittee Report with one notation:

1. The Tribal Gaming Fund has received an annual transfer of \$450,000 from the SGF since the State Gaming Agency was established in FY 1996 to support agency operations. The transfer is returned to the SGF from assessment against the program. The Subcommittee encourages the State Gaming Agency and the Tribes to examine their cash flows and to find a method to eliminate the need for an advance from state funds.

Senator Teichman moved adoption of the Kansas Racing and Gaming Commission Subcommittee report; the motion was seconded by Senator Vratil and passed on a voice vote.

State Court of Tax Appeals; Kansas Department of Commerce and Kansas Department of Revenue Subcommittee reports (Attachment 3):

Senator Schodorf reported the Subcommittee for the State Court of Tax Appeals concurred with the Governor's FY 2013 recommendation with the following notations:

1. Note the Court of Tax Appeals has some of the highest filing fees of any similar court in the country. The Kansas Court of Tax Appeals provided information to Legislative Research, which compared filing fees with the United States Tax Court and the Tax Court of New Jersey.
2. Note that due to reductions in the agency's SGF appropriation, the Court has had to raise filing fees to ensure the core Court functions are fulfilled.

CONTINUATION SHEET

Minutes of the SENATE WAYS AND MEANS Committee at 10:30 AM on March 12, 2012 in 548-S of the Capitol.

3. Note and bring attention to the inability of Court personnel to travel. Due to budget reductions, the Court has eliminated travel, which means that some taxpayers may not have access to the Court and hardships on these taxpayers are imposed.

A committee member requested clarification on the Subcommittee report which included the elimination of 1.0 FTE as recommended by the Governor. Michael Steiner, Legislative Research Department, clarified the FTE positions listed on page 2 of the report should be 19.0 instead of 20.0. The report will be revised.

Senator Francisco advised committee members that she did not sign the report; however, she agreed with the report for the Court of Tax Appeals and the Department of Revenue. Senator Masterson indicated the absence of his signature did not represent disagreement with any of the Subcommittee reports, only that he was absent Friday, March 9.

Kansas Department of Commerce Subcommittee Report:

Senator Schodorf reported the Subcommittee concurred with the Governor's FY 2013 with the following adjustments and notations:

1. Delete \$500,000, all from the Economic Development Initiatives Fund (EDIF), including \$250,000 from the Department of Commerce Operating Grant and \$250,000 from the Innovation Growth Fund for FY 2013.
2. Add \$500,000, all from the Economic Development Initiatives Fund, to the Creative Arts Industries Commission Fund for FY 2013. This would add funding of \$500,000 for the arts.
3. Add language to **SB 433**, the Mega Appropriations Bill, to allow the Secretary of Commerce to transfer funds up to \$250,000 between the Department of Commerce Operating Grant fund and the innovation Growth Fund for FY 2013. This would allow the Secretary of Commerce the flexibility to move funding in order to accommodate the reductions taken in order to restore funding for the arts.
4. Adopt the proviso language provided by the Department of Commerce to allow the Secretary of Commerce to develop, implement and administer a pilot program to increase employment opportunities among Kansans with disabilities. The proviso would also establish the Employment Incentive for persons with a Disability Gifts, Grants and Donations Fund as a no-limit fund for FY 2013.
5. Note that Project 17 is collaboration among 17 counties in southeast Kansas designed to improve health and economic development. It also attempts to foster leadership among community leaders in the respective 17 counties. The Governor recommended \$500,000, all from SGF, for FY 2013 to support Project 17. The Subcommittee notes that similar initiatives have proven successful.
6. Note two new programs in the Department of Commerce. First the University Engineering Initiative Act, which was approved by the 2011 Legislature. The Act provides additional funding for engineering programs at the University of Kansas, Kansas

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the SENATE WAYS AND MEANS Committee at 10:30 AM on March 12, 2012 in 548-S of the Capitol.

State University, and Wichita State University. The three universities will receive funding of \$3.5 million in an effort to increase the number of engineers in Kansas. The initiative will be funded through the first \$10.25 million credited to ELARF and requires a \$1 to \$1 match by each university. The Job Creation Program Fund (JCPF), created by the 2011 Legislature in SB 196 created a new expensing tax deduction to encourage capital investment. The JCPF was created as a deal closing fund and will replace the Investments in Major Projects and Comprehensive Training Program and the Kansas Economic Opportunities Initiatives Fund Program.

7. Note that Sales Tax Revenue Bonds, or STAR Bonds, need to be reauthorized by the 2012 Legislature. **HB 2561**, which is currently in House commerce and Economic Development, would extend the sunset on STAR Bonds from FY 2012 to FY 2017. If the legislation were not enacted, then no additional STAR Bond districts would be created.

A committee member suggested that additional FTEs may be required by the Creative Arts Industries Commission in order to fulfill grant writing requirements and other functions. The total in the Commission's budget at this point is \$590,000 designated for the arts and \$110,000 designated for film industries.

A committee member inquired whether or not the proviso language as suggested by the Department of Commerce is considered substantive law; the Office of the Revisor of Statutes will provide an opinion prior to adopting the Subcommittee report.

A committee member recommended that the Subcommittee report should include additional comments concerning funding of the arts, particularly since the outcome of **SB 440** is unknown at the current time. In addition, in order to qualify for matching funding grants, FTEs are mandatory for certain required functions; the bill, in its current form does not provide for FTEs specific to the arts.

Department of Revenue:

Senator Schodorf reported the Subcommittee concurred with the Governor's FY 2013 recommendation with notations as follows:

1. Note that the \$4 surcharge on vehicle registration, which has been used to fund the Division of Vehicles Modernization Project, will continue to be collected after the project has ended and beginning on January 1, 2013, the \$4 surcharge will be deposited in the State Highway Fund in the Department of Transportation. The 2010 Legislature continued the \$4 surcharge as part of the 2010 Comprehensive Transportation Plan (T-Works).
2. Note that the Department of Revenue lost 69.0 FTEs as a result of the Voluntary Retirement Incentive Program (VRIP). Additionally, the Governor also deleted 31.0

CONTINUATION SHEET

Minutes of the SENATE WAYS AND MEANS Committee at 10:30 AM on March 12, 2012 in 548-S of the Capitol.

FTEs. The Department indicated that future budget submissions may contain requests for additional FTE positions.

3. Note that 80.0 percent of tax filers are using e-filing. As a result of so many using e-filing, the Department has not needed to hire as many temporary employees to open tax returns. The Subcommittee notes the efficiency associated with e-file and the mandate to e-file has proven successful.
4. Note the requirement to have state-issued identification for voting will not impact the Department of Revenue budget.
5. Note that the agency requested \$450,000, from the Division of Vehicles Operating Fund, to replace 25 agency vehicles. The Governor concurred with the agency's request.
6. Note that all counties will use the Computer Assisted Mass Appraisal (CAMA) system to produce 2012 values.

Senator Taddiken moved to amend bullet point #3 to require the Department of Revenue evaluate the user-friendliness of the e-filing system; Senator Teichman seconded the motion, which carried on a voice vote.

Senator Schodorf moved to amend the Department of Revenue Subcommittee Report to reflect the Subcommittee's concern with the implementation of the computer system enhancement, Division of Vehicles Modernization Project, which may be delayed past its original anticipated "go live" date; Senator Kultala seconded the motion, which carried on a voice vote.

Chairperson McGinn discussed the State Fair 100th anniversary celebration and the agency's desire to raise \$100,000 for their 100th anniversary; she noted a line-item in the Department of Commerce budget that reflected \$25,000, from the Economic development Initiatives Fund (EDIF) that was designated for a Kansas State Fair Study. Since the State Fair did not request a study, Senator McGinn moved to transfer \$25,000, from the Department of Commerce line item "Kansas State Fair Study," EDIF funds, to the Kansas State Fair for the planned celebration in FY 2012 with a requirement of a one-to-one local match; Senator Teichman seconded the motion, which carried on a voice vote.

Senator Schodorf moved approval of the State Court of Tax Appeals, the Kansas Department of Commerce, and the Kansas Department of Revenue amended Subcommittee reports, recognizing two items are outstanding: proviso language in the Department of Commerce's report and the Kansas Creative Industries Commission funding, which will be finalized during review of the Mega Bill; Senator Kelly seconded the motion, which carried on a voice vote.

Follow-up Report on the Kansas Rural Opportunity Zones Program (Attachment 4):

Chris Harris, Department of Commerce distributed a county-by-county breakdown of the applicant pool for student loan reimbursement. The spreadsheet included the number of applicants by county, the status of his/her application, budgeted funding by county, approved

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the SENATE WAYS AND MEANS Committee at 10:30 AM on March 12, 2012 in 548-S of the Capitol.

annual payments, and remaining budgeted monies (which include applicants on a waitlist). Additional information included county and state annual combined payments, the applicant's higher education, occupation, and state of origin. Trend information concerning projected annual payments and applications was also reviewed. Information concerning the Rural Opportunity Zones (ROZ) tax credits was provided by Richard Cram, Department of Revenue.

In response to questions, Mr. Harris (or Department of Commerce staff) indicated:

- For income tax incentives, the approved applicant must have resided outside the state of Kansas for five years; for the student loan payment incentive, eligibility requires the applicant to have resided outside the county (to which he/she has applied).
- Following approval for the student loan repayment incentive, the Kansas Department of Commerce verifies residency prior to payments being made.
- There have been 101 approved applicants, 26 are from out of state.
- With regard to a question concerning how projected annual payments compare to the Governor's Budget Report for FY 2012 and FY 2013, Traci Herrick, Chief Financial Officer, Department of Commerce, indicated the Governor's budget matches ROZ expectations with a five-year obligation for annual payments. Ms. Herrick confirmed that the Department of Commerce is setting aside as much money as possible in the first and second years of the program to fund it for the entire five-year period. A detailed breakdown of what is included in the ROZ line items was requested.
- There is nothing included in the requirements, which mandate applicants cannot reside with parents.
- Clarification was requested related to ROZ appropriations and payment projections: in FY 2012 \$937,000 was appropriated for student loan repayments while the projected payments are \$400,000; in FY 2013, appropriations are \$936,500, projected payments are \$800,000. Ms. Herrick clarified the consistent practice is to obligate funds for the entire five years once an applicant has been approved. A further question was asked why the Department obligates projected payments for the program's five-year period instead of requesting a yearly appropriation based on realistic requirements. Ms. Herrick affirmed the practice is to obligate funds for the term of program, which is how contracts are processed within the Department of Commerce.

Hearing on ~~HB 2414~~—Allowing legislative post audit to charge state agencies for their portion of the state wide financial audit

Jill Wolters, Office of the Revisor of Statutes, briefed committee members on **HB 2414**, which under current law requires the Legislative Division of Post Audit (LPA) to pay for the audit work to satisfy federal government requirements. While LPA pays, through state general fund appropriations, for the state audit work, the bill would allow LPA to be reimbursed for conducting the state audit work. (Attachment 5)

CONTINUATION SHEET

Minutes of the SENATE WAYS AND MEANS Committee at 10:30 AM on March 12, 2012 in 548-S of the Capitol.

Scott Frank, Director, LPA, spoke in support of **HB 2414** (Attachment 6). Mr. Frank provided background information on the statewide audit and rationale for **HB 2414**. A summary of audit contracts was distributed as well as a summary of issues demonstrating the instability of the LPA's share of these costs.

In response to committee members' questions, Mr. Frank responded:

- These audits are required by federal audit requirements.
- LPA's share of audit costs have fluctuated significantly in recent years due to more programs are required to be audited, the methodology for allocating audit costs has changed, and the new audit firm anticipates spending more audit hours on the state requirements.

*Senator Umbarger recommended favorable passage of **HB 2414** and, due to its noncontroversial nature, be placed on the consent calendar; Senator Kelly seconded the motion, which carried on a voice vote.*

The meeting was adjourned at 11:52 a.m.