

Approved:

May 9, 2012

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(Date)

### **MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE**

The meeting was called to order by Chairperson Carolyn McGinn at 10:30 AM on Wednesday, February 15, 2012 in 548-S of the Capitol.

All members were present.

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:

Secretary Shawn Sullivan, Department on Aging  
Acting Secretary Phyllis Gilmore, Department of Social and Rehabilitation Services  
Mike Oxford, Executive Director, Topeka Independent Living  
Mitzi E. McFatrach, Director, Kansas Advocates for Better Care  
Carla Adams, Administrator at Riverview Estates, Marquette, Kansas  
Heather Cave, RN, Riverview Estates, Marquette, Kansas

Others in attendance:

See attached list.

Bill introductions:

*Senator Vratil moved introduction of 12rs2223 concerning the disposal of yard waste; Senator Teichman seconded the motion, which passed on a voice vote.*

*Senator Vratil moved introduction of 12rs2258 concerning credit unions, financial advisors and their salaries; Senator Kelly seconded the motion, which carried on a voice vote.*

Subcommittee reports on Public Safety (EMS, Sentencing, Fire Marshal, Highway Patrol, Adjutant General, Kansas Bureau of Investigation) (Attachment 1):

Adjutant General's Department:

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Senator Masterson reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Adjutant General's Department with a notation:

- The Subcommittee notes its support for disaster relief and encourages the legislature to establish and provide a dedicated fund for disaster relief.

Senator Masterson indicated the Subcommittee did not endorse specific legislation. The recommendation supports the need for a dedicated fund; the Subcommittee did not consider any rationale for creating an off-budget dedicated fund.

Emergency Medical Services Board:

The Subcommittee concurred with the Governor's FY 2013 recommendation for the Emergency Medical Services Board.

Kansas Bureau of Investigation:

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

1. The Kansas Bureau of Investigation be granted flexibility in:
  - a.) KBI lab expenditures FY 2012: The agency noted it has recently lost three lab toxicologists and has experienced salary and supplies savings. The agency desires the flexibility to reallocate these funds to other lab projects as well as outsourcing of case work to prevent further backlog while these positions are filled.
  - b.) The Governor recommended the addition of \$1 million, all from the State General Fund (SGF), to provide for two new initiatives for FY 2013: The agency requested that with the significant reduction (\$606,027 SGF) from the original amount requested for these initiatives, the agency be authorized to exhibit flexibility in how these new funds are spent during implementation.
    - 1] Hire five digital forensic examiner positions. The agency requested \$646,027, SGF, and 5.0 FTE positions to hire five new digital forensic examiner positions for FY 2013. The Governor recommended \$400,536, SGF, including 3.0 FTE positions for Digital Forensic Examiners.
    - 2] Creation of the Crimes against Children Unit. The agency requested \$960,000, SGF, and 9.0 positions for the creation of this Unit in FY 2013. The Governor recommended \$599,464, from SGF, including 6.0 FTE positions for a Crimes against Children Unit.

Kansas Highway Patrol:

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---

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

- The Subcommittee notes support of the Governor's recommendation to shift all funding for the Highway Patrol to the Highway Patrol Operations Fund and the use of special revenue funds.
- The Subcommittee notes the agency's request for the construction of a new Troop F headquarters in Sedgwick County. The Subcommittee notes that the agency testified that it has sought new facilities for Troop F headquarters since 1993. The Subcommittee encouraged the support and facilitation of these efforts.

Kansas Sentencing Commission:

The Subcommittee concurred with the Governor's FY 2013 Kansas Sentencing Commission recommendation with one adjustment:

- Add 1.0 FTE position, which was deleted as part of the Voluntary Retirement Incentive Program (VRIP) contingent upon the position not being restored by a Governor's Budget Amendment (GBA). The Subcommittee heard testimony that the deleted position was the agency's budget officer, which is critical for agency operations and that the position may be included in a GBA.

State Fire Marshal:

The Subcommittee concurred with the Governor's FY 2013 State Fire Marshal recommendation with one adjustment:

- Add \$188,802, all funds, and 3.0 FTEs and grant authority to the agency to fill the 3.0 FTE positions that were eliminated due to the VRIP.

Senator Masterson indicated that the final report for the State Fire Marshal Office (adjustment listed above) is incorrect. He indicated that the adjustment recommended by the Subcommittee should have been:

- Add \$122,000 for vehicle replacements, all from special revenue funds.
- Note that a GBA is anticipated that would restore \$188,802 and 3.0 FTEs for positions that were eliminated due to the VRIP.

*Senator Masterson moved to amend the FY 2013 State Fire Marshal report to include the appropriate dollar figure for vehicle replacements, all from special revenue funds, and that a Governor's Budget Amendment include the cost of filling 3.0 FTEs due to the VRIP; Senator Schmidt seconded the motion, which passed on a voice vote.*

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---

Senator Masterson moved adoption of the Subcommittee reports for Emergency Medical Services Board, Sentencing, Highway Patrol, Adjutant General, Kansas Bureau of Investigation and the amended State Fire Marshal Report; Senator Schmidt seconded the motion, which carried on a voice vote.

Kansas Department of Health and Environment (health only) (Attachment 2):

Senator Schmidt reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Kansas Department of Health and Environment (KDHE) – Health and Health Care Finance with notations and adjustments:

- Delete \$500,000, from SGF, for the Medicaid Reform Health Savings Account (HSA) Program and delete \$134,584, from SGF, for agency operating expenditures. The Subcommittee directs KDHE report the number of participants and the total year-to-date expenditures for the HSA Program in FY 2013 to the Subcommittee during the 2013 Legislative Session.
- Add \$634,584, from SGF, to the Primary Care – Safety Net Clinics Program for a total program expenditure of \$7,877,649. Of the \$634,585 additional funds for the Safety Net Clinics, up to \$200,000 can be used for the Capitol Improvements Grant Program.
- The Subcommittee recommends the proposed transfer of the Health Occupations Credentialing function and the Health Facilities Survey Program and the related reorganization be reviewed at Omnibus to determine if the positions and funding shifts are needed after review of **Executive Reorganization Order (ERO) No. 41**. The ERO transfers part of the Health Occupation Credentialing Program and does not transfer the Health Facilities Surveyor Program. The Subcommittee also wants to review the outcome of **HB 2659**, which proposes to transfer the Health Occupation Credentialing for Speech/Language Pathologists and Audiologists to the Board of Healing Arts.
- The Subcommittee notes the need to review the Spring Human Services Consensus Caseload Estimates at Omnibus for potential funding adjustment for regular medical caseloads.
- The Subcommittee notes its recommendation that the FY 2013 \$100,000 funding for Pure and Simple Health Education Inc. for Abstinence Education within the Teen Pregnancy Prevention Program in FY 2013 not be expended and the funds instead be used for teen pregnancy case management in the Teen Pregnancy Prevention Program.

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---

Senator Kultala noticed an error in bullet point two and suggested to correct it as follows: Add \$634,584, from SGF, to the Primary Care – Safety Net Clinics Program for a total program expenditure of \$7,877,649. Of the ~~\$634,585~~ \$634,584 additional funds for the Safety Net Clinics, up to \$200,000, can be used for the Capitol Improvements Grant Program.

*Senator Kultala moved to amend the KDHE report to correct the error described; Senator Schmidt seconded the motion, which passed on a voice vote.*

*Senator Schmidt moved to adopt the KDHE Subcommittee report as amended; Senator Kelly seconded the motion, which passed on a voice vote.*

### Acknowledgement of receipt of revised Governor's Budget Amendment:

Chairperson McGinn called attention to the receipt of the revised GBA from the Governor's Office. During the meeting on February 14, the error was discovered and a revised document was requested (Attachment 3)

### Hearing on **ERO 41 -- Consolidating the financing arm of Medicaid in the Kansas Department of Health and Environment Division of Health Care Finance; renaming the former Department on Aging as the Department for Aging and Disability Services and consolidating all disability waiver and mental health services from the Department of Social and Rehabilitation Services into the new agency; and renaming the Department of Social and Rehabilitation Services as the Department for Children and Families:**

#### Briefing by:

Jill Wolters, Office of the Revisor of Statutes, briefed committee on ERO 41 and noted the ERO was referred to Senate Ways and Means Committee on February 7, 2012. Under Senate rules, the Committee has until March 8, 2012, to report its recommendations. The Senate has until Friday April 6, 2012, to take up the matter. It will become effective on July 1, 2012, unless disapproved by either the House of Representatives or the Senate. (Attachment 4)

Amy Deckard, Legislative Research Department, discussed the fiscal impact of ERO 41 (Attachment 5). The spreadsheet prepared, "Status of Governor's Budget Recommendation as of February 15, 2012 related to Reorganization," was distributed. The spreadsheet details the programmatic outcomes proposed in **ERO No. 41**, and

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includes the all funds impact, the SGF impact, as well as the FTE impact within the departments affected in the ERO.

### Introduction:

Chairperson McGinn introduced Acting Secretary of the Department of Social and Rehabilitation Services, Phyllis Gilmore.

### Proponents:

Secretary Shawn Sullivan from the Kansas Department on Aging (KDOA) spoke in support of **ERO 41**. He discussed the need for realignment, the proposed implementation of KanCare, how various programs will be realigned in newly renamed departments, and the proposed staff movement. (Attachment 6) He submitted a KDOA Organizational Chart (February 2012) as well as a proposed Organizational Chart. He discussed the proposed realignment that combines KDOA with the Division of Disabilities and Behavioral Health Services (from SRS), which includes Home and Community Based Services (HCBS) waivers. KDOA will also administer the mental health programs and the five state hospitals. KDOA will become the Department for Aging and Disability Services (KDADS); SRS will focus on children and family services and will become the Department for Children and Family Services (KDCFS). Secretary Sullivan discussed proposed budget recommendations and interagency monetary transfers that would occur as a result of **ERO 41**. In addition staffing transfers were discussed.

A committee member noted a discrepancy in the FTE positions contained on Secretary Sullivan's spreadsheet. The FTE numbers from KDADS and KDCFS FY 2012 compared to FY 2013 reflect an increase of 3.25 FTEs. Secretary Sullivan indicated his staff would study this closer; a typographical error could have been made. A revised document will be furnished at a later time.

Acting Secretary Phyllis Gilmore, Kansas Department of Social and Rehabilitation Services (SRS), spoke in support of **ERO 41**. She discussed the opportunity **ERO 41** provides to focus on the support of children and families in Kansas. (Attachment 7) Acting Secretary Gilmore indicated the ERO is directed at improving services for consumers of both social services and medical care.

A committee member inquired what services will remain available to those Kansas citizens who are not children or members of families. Acting Secretary Gilmore

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---

indicated “wrap around” services would be offered, which consist of community resources and educational programs. In addition, vocational rehabilitation services are included in the reorganization plan.

A committee member asked how Acting Secretary Gilmore can achieve the goals she outlined in her testimony without additional human resources and funding. Acting Secretary Gilmore indicated there are many benefits that can be realized when social workers are trained to work more efficiently, are using appropriate technology to create efficiencies, and other techniques that create efficiencies, which would facilitate the movement of children in foster care to an environment of permanency.

### Opponents:

Carla Adams, Administrator at Riverview Estates in Marquette, Kansas, spoke about concerns related to the proposed system realignment, which (under KanCare) may require long-term care Medicaid residents to be reassessed under a managed care organization (MCO) and forced to relocate if they are deemed ineligible for long-term services. (Attachment 8) She described the challenges small, rural communities face in caring for seniors in communities with few facilities; she supported postponing KanCare until further study is completed.

Heather Cave, RN and Director of Nursing at Riverview Estates, also spoke about the fear residents at the Riverview Estates feel at the current time with the upcoming KanCare implementation and the potential for changes that would affect their lives. (No Written Testimony) She expressed her concern about the potential ramifications to the nursing home, the community, and the residents at this facility.

Mitzi E. McFatrach, Director, Kansas Advocates for Better Care, spoke in opposition to **ERO 41**, particularly since the reorganization moves programs from SRS (not specific to seniors and persons with disabilities) under an agency primarily responsible for Kansas senior citizens. (Attachment 9) She indicated there had been no call from the public for such reorganization and no savings projections accompanied the reorganization plan. Ms. McFatrach indicated the proposed reorganization is too quick especially with the implementation of a managed care model.

### Neutral:

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---

Mike Oxford, Topeka Independent Living Resource Center, spoke from a neutral position on **ERO 41**. He encouraged that as committee members consider the administrative realignment of disability services, they also consider the broader implications such moves might have on the liberties, rights, and freedoms of people with disabilities. (Attachment 10) As the new agency (KDADS) assumes responsibility for institutional and community-based services, the state should consider a renewed commitment to the support of community integration, particularly since Kansas does not have an *Olmstead* plan. Mr. Oxford indicated that while the ERO focuses on HCBS waivers and the disability population, it appears a large segment is missing: Vocational Rehabilitation and Centers for Independent Living. He emphasized that coordination of all public services is critical to the success of the proposed reorganization.

Chairperson McGinn noted written testimony had been received from:

Kerrie Bacon, Interim Executive Director, Kansas Council on Developmental Disabilities, in support of **ERO 41** (Attachment 11)

Ernest Kutzley, AARP of Kansas, in opposition to **ERO 41** (Attachment 12)

A committee member requested clarification from Secretary Sullivan concerning how waiver services will integrate within the managed care model. Secretary Sullivan provided that the program staff and leadership for the waiver services will transfer over to the new agency, KDADS, which will have primary contact with providers and associations. KDHE is the primary contact with the three managed care entities.

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