

Approved:

May 9, 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, February 20, 2012 in 548-S of the Capitol.

All members were present except Senator McGinn, who was excused.

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:

Bob Zook, Administrator, Kansas Board of Barbering

Others in attendance:

See attached list.

Bill introductions

Senator Teichman moved introduction of 12rs2269 concerning certificates of title for certain motor vehicles; Senator Huntington seconded the motion, which passed on a voice vote.

Senator Teichman moved introduction of 12rs2262 concerning individuals with disabilities and competitive bids for state contracts; Senator Schodorf seconded the motion, which passed on a voice vote.

Subcommittee report on Department of Corrections and Facilities:

Senator Schmidt reviewed the Department of Corrections Subcommittee Report for FY 2012. (Attachment 1) She reported that the Subcommittee concurred with the Governor's FY 2012 recommendations with the following notations:

- The Subcommittee commended the Department for its ongoing cooperation with health care providers to efficiently and effectively meet the health care needs of inmates. The Subcommittee expressed concern that savings related to 2011 **HB 2359**,

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which would have allowed the agency to reimburse hospitals and physicians at the Medicaid rate would not add up to the amount as was estimated to be included in the budget approved by the 2011 Legislature.

- The Subcommittee noted and supported the Governor's recommendation of \$1.7 million, all from the Expanded Lottery Act Revenue Fund (ELARF), in capital improvement funding to refurbish the Labette Correctional Conservation Camp as a facility for geriatric and infirm inmates.
- The Subcommittee concurred with the Governor's recommendation to add \$1.2 million, from the State General Fund (SGF), for treatment and programs in FY 2012 and commended the Department for its efforts to reduce inmate recidivism rates and prepare inmates for successful reentry to communities upon release.

Discussion was heard regarding the addition of funding (\$600,000 from the SGF) for inmate health care. A committee member suggested it was somewhat misleading to indicate that the \$600,000 restoration resulted from not passing **HB 2359** when in reality, Correct Care Solutions, the vendor who provides health care, dental, and behavioral care services to inmates, declined to adjust their contractual provider rate (to the Medicaid rate) during hearings on **HB 2359** in FY 2011.

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

- Add 1.0 full-time equivalent (FTE) position and 14.0 non-FTE unclassified permanent positions to be converted to FTE positions, and use \$1.5 million, from the SGF, which was budgeted for contract jail bed funding for the purchase, renovation, and operation of the Saint Francis Boys' Home in Ellsworth. The Department intends to use the facility in Ellsworth as a minimum-security facility. It is estimated the cost of buying and operating the facility in FY 2013 is approximately \$1.5 million with 15.0 additional positions. With the addition of the 95-bed facility at Ellsworth, along with the 262-bed facility in Labette County, the Department could reduce the use of contract bed space in FY 2013 and could place inmates in more appropriate custody levels. The Subcommittee noted that a bill was requested by the Joint Committee on State Building Construction to authorize the purchase of the Saint Francis Boys' Home.
- The Subcommittee recommended additional review of the Ellsworth expansion at Omnibus.

The Subcommittee heard testimony regarding:

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The Kansas prison population grew from 8,602 in FY 2009 to 9,180 in FY 2011. The Kansas Sentencing Commission projects the population to increase by an additional 2,104 inmates, or 22.9 percent, within the next 10 years. Medium- and maximum-custody inmates are projected to comprise 68.0 percent of the male prison population by 2022. Currently, the male population exceeds the prison capacity by more than 200 beds, requiring the department to contract with the Cowley County Jail and several facilities to exceed assigned capacity. At current facility capacity, population growth will require the DOC to spend nearly \$19.0 million for contract beds in FY 2017.

In FY 2011, 3,712, or 74.9 percent, of the 4,958 offenders admitted to the system were new court commitments. This is the highest amount in both percentage and total number in the past five fiscal years, and the increase is likely due to adjustments in sentencing policy. Prison admissions have exceeded prison releases for the past two fiscal years.

Approximately 47.0 percent of inmates are significantly and persistently mentally ill and an additional 20.0 percent have other substantial mental health issues.

In 2002, the Department experienced a three-year recidivism rate of 55.1 percent. By the year 2007, the three-year recidivism rate was 32.9 percent.

Population trends indicate an increasing need for higher custody, special management, and geriatric beds over the next 10 years. Meeting the growing need for higher custody beds will necessitate contracting for beds, construction of new bed space, and implementation of additional recidivism-reducing programs.

The following responses are to questions concerning the Department of Corrections Subcommittee Report:

- With regard to whether the Subcommittee evaluated out-of-use facilities in Osawatomie and Stockton instead of the proposal to purchase the facility at Ellsworth, Senator Schmidt confirmed the Subcommittee discussed alternatives; the Ellsworth facility offered least expensive renovation expense. Secretary Ray Roberts, Kansas Department of Corrections, was recognized and indicated the \$1.5 million proposed (from the SGF) was targeted for operating and renovation expenses in FY 2013. Senator Schmidt clarified the staffing (for the Ellsworth facility) is a true

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addition of 1.0 FTE, which was converted from 14.0 non-FTE unclassified permanent positions.

- Secretary Roberts confirmed that \$4.8 million (aggregate amount), all from the SGF, for substance abuse programs, sex offender programs, education programs, and transitional resources for mentally ill offenders; community corrections (\$915,000); and replacing the Recovery Act – Justice Assistance Grant (RA-JAG) (\$459,000) are components in the “master plan” to reduce recidivism and to begin the process of reducing both short- and long-term prison beds.
- When asked concerning the construction of a new facility, Secretary Roberts indicated that adding two cell houses to the El Dorado facility would cost approximately \$22 million in construction and \$8 million in operating costs.
- Secretary Roberts indicated that the latest recidivism statistics are from FY 2007-08 data; it is expected the recidivism rate will increase as a result of reduced funding for various programs. A committee member noted the state could be spending far more in renovating existing facilities and operational costs than would be the cost of funding appropriate reentry programs. Another senator suggested that with the recession and economic downturn, incarceration rates normally increase.
- A committee member commented that 47 percent of the inmate population has some type of mental health issue; it appears as though the state is moving community mental health centers into the prison environment, particularly in light of the reductions in mental health appropriations.

Senator Francisco suggested the Saint Francis Boys’ Facility section of the subcommittee report be amended to reflect the appropriation for renovation and operating expenses is contingent on the purchase of the facility, thereby eliminating the need to consider at Omnibus. Senator Francisco moved to add the 1.0 FTE position and the 14.0 non-FTE unclassified permanent positions that will be converted to FTE positions, along with using \$1.5 million, all from the SGF, for contract jail bed funding for the purchase, renovation, and operation of the Saint Francis Boys’ Home in Ellsworth contingent on the purchase of the facility; the motion was seconded by Senator Kelly. During discussion, Secretary Roberts commented the DOC had evaluated the Atchison, El Dorado, and Toronto units rather than

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the Saint Francis Boys' Home to house the minimum- to medium-security level offenders; operational costs at Saint Francis Boys' Home would be less than the other units.

Senator Francisco, with the permission of the Senator Kelly (who seconded the motion), moved to amend her motion to reflect that \$1.5 million, all from the SGF, be used by spending \$350,000 for the purchase of the building and the remaining balance for operating expenses for the Kansas Boys' Home in Ellsworth; Senator Kelly seconded the motion, which failed on a voice vote.

Senator Teichman inquired about staffing at the Larned Facility; Secretary Roberts responded the staffing issues to which the Senator referred were the Larned State Hospital and not the corrections facility.

Senator Schmidt moved to adopt the Subcommittee Report for the Department of Corrections for FY 2012 and FY 2013; Senator Umberger seconded the motion, which passed on a voice vote.

Senator Schmidt reported that the Subcommittee reviewed the various Department of Corrections Facilities; the Subcommittee concurred with the Governor's recommendations with the exception: the Lansing Correctional Facility Subcommittee Report included one recommendation for FY 2012 which follows:

The facility has applied for grants from the Federal Emergency Management Agency (FEMA) related to the Missouri River flooding that affected the facility during the summer and that a fund must be appropriated for the facility to receive the grant funds. The Subcommittee recommended appropriating the fund.

Senator Schmidt moved to adopt the Subcommittee Reports for the Department of Corrections Facilities: El Dorado, Ellsworth, Hutchinson, Lansing, Larned Correctional Mental Health, Norton, Topeka, and Winfield for FY 2012 and FY 2013; Senator Francisco seconded the motion, which passed on a voice vote.

Hearing on **HB 2453—Commission on disability concerns; changes**

Jill Wolters, Office of the Revisor of Statutes, briefed committee members on **HB 2453**, which is a bill that reflects the **Executive Reorganization Order 35** heard during the 2011 legislative session and amends the statute to relocate the Commission on Disability Concerns to the Governor's office. (Attachment 2)

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Written testimony was received from Martha Gabehart, Executive Director, of the Kansas Commission on Disability Concerns, who encouraged passage of **HB 2453**.

*Senator Taddiken moved to pass out **HB 2453** favorably; Senator Masterson seconded the motion.* During discussion, a committee member indicated that **HB 2453** is of a non-controversial nature, and perhaps the motion could be amended to place **HB 2453** on the consent agenda. *Senator Taddiken, with the permission of Senator Masterson, moved to amend the original motion to pass out favorably **HB 2453** and to place it on the consent agenda; Senator Masterson seconded the motion, which passed on a voice vote.*

Hearing on **SB 353—Board of barbering; powers and duties; fees; licensure:**

Susan Duffy, Fiscal Analyst from the Legislative Research Department, briefed committee members on the bill and its contents (Attachment 3). She indicated that the Kansas Attorney General's office recommended and assisted in drafting the proposed legislation. The bill codifies in statute two fees currently being collected.

Bob Zook, Executive Director, of the Kansas Board of Barbering, discussed the changes in SB 353 that will amend current statutes. He explained the provisions contained in the bill will broaden the Board's authority to not only suspend, revoke or refuse to issue or renew a license but also to provide authority to censure, limit or condition barbering licenses. (Attachment 4). Mr. Zook encouraged favorable passage of **SB 353**.

Michael Amyx, current Chairman of the Board of Barbering, was recognized and indicated the entire board is in unanimous support of **SB 353** (no written testimony).

In response to questions, Mr. Zook indicated:

- The bill proposes to shorten the license restoration period from three years to two without examination. In the event that a barber's license has been expired for a period of more than two years, the license can be renewed after successful reexamination by the board and upon payment of the required examination and license fees.
- The fee structure that codifies statute appears on page 2 of the bill; these fees are \$25 and \$40 and do not represent an increase in fees currently collected.

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Vice-Chairman Vratil closed the hearing on **SB 353**.

The meeting was adjourned at 11:27 a.m.

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