

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 Tuesday, February 7, 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
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:

Senator Laura Kelly

Others attending:

See attached list

Bill introductions:

Senator Schmidt introduced 12rs2054 concerning statutes with archaic language and changes this language from "mental retardation" to "intellectual disabilities;" Senator Kelly seconded the motion, which carried on a voice vote.

Hearing on SCR 1611—Constitutional amendment; creating a contingency reserve fund in the state treasury; annual transfers; withdrawals only under certain circumstances

Jill Wolters, Office of the Revisor of Statutes, briefed committee members on this resolution which adds a new section 14 to Article 11 of the Kansas constitution, which establishes a Contingency Reserve Fund in the state treasury on July 1, 2013. (Attachment 1) She explained that SCR 1611 (less formally known as the "Rainy Day Fund") would require that every fiscal year, when state tax receipts increase by more than 3.0 percent over the previous fiscal year, the excess over 3.0 percent (up to 1.0 percent), would automatically be deposited in the Contingency Reserve Fund. When the fund's balance exceeds 15.0 percent of the preceding year's receipts, no additional funds are required to be deposited, although the Legislature would be authorized to deposit

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additional amounts of state tax receipts. By separate act of the Legislature, withdrawals from the Contingency Reserve Fund could be made by a simple majority vote of the legislature whenever state tax receipts for the current fiscal year are less than receipts for the previous fiscal year. Withdrawals could not exceed the difference between the current fiscal year's estimated tax receipts and the amount of actual state tax receipts collected in the preceding fiscal year. That difference also would be reduced by the amount of the current fiscal year's estimated tax receipts not collected as a result of any kind of tax reduction legislation enacted by the Legislature and approved by the Governor in the current or preceding fiscal year.

J. G. Scott, Chief Fiscal Analyst, Legislative Research Department, distributed information concerning **SCR 1611** fiscal impact had the legislation become effective in 1976. (Attachment 2) For purposes of this historical perspective, State General Fund (SGF) receipts were used as a proxy for state tax receipts; the Contingency Reserve Fund estimated deposits include expenditures reflecting 50 percent of any yearly revenue shortfall. Using the assumptions discussed, in FY 2011 the Contingency Reserve Balance would have been approximately \$250 million. In response to a question concerning whether the Rainy Day Fund would have been available for expenditures during the last three to four years, Mr. Scott confirmed that the Reserve could have been spent in FY 2008, FY 2009 and FY 2010.

Senator Kelly spoke in support of **SCR 1611**, noting that the proposed legislation contained 24 co-sponsors in FY 2012. (Attachment 3) Senator Kelly explained how the Fund would work, noted that there are 47 other states with similar funds, and indicated that some states' funds are statutory and others are mandatory (constitutional). She indicated that diligent research resulted in a resolution containing best practices, one that contains the needed flexibility, and one that allows expenditures from the Fund when revenue deficits occur (excluding deficits caused by tax reductions). Senator Kelly added that the Resolution defines "state tax receipts" to mean receipts from any state income tax; sales tax; compensating use tax; or other excise tax; or estate/inheritance tax. The Resolution specifically excludes receipts from any property tax or tax on motor fuels. She commented that while Kansas already has an ending balance law that requires policymakers to include a 7.5 percent reserve in the annual budget, it is not a Constitutional amendment and is routinely ignored, especially in difficult budget periods.

Chairperson McGinn noted that written testimony in opposition to **SCR 1611** was received by J. Kent Eckles, Vice President of Government Affairs for the Kansas Chamber of Commerce. (Attachment 4) A committee member noted Mr. Eckles' position had changed from his testimony presented at the Senate Ways and Means Committee meeting on February 23, 2010, in which he supported the establishment of a budget stabilization fund. Another committee member noted the organization's position

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listed in the Kansas Chamber of Commerce FY 2011 and FY 2012 Legislative Agenda Report was one of supporting a budget stabilization mechanism or “Rainy Day Fund.”

Chairperson McGinn closed the hearing on **SCR 1611**.

Subcommittee Report on Citizens’ Utility Ratepayer Board (CURB), Governmental Ethics Commission, Kansas Human Rights Commission, and Kansas Corporation Commission:

Chairperson McGinn recognized Senator Emler, who chaired the Subcommittee on these agency budgets. The original report was discussed on February 6, 2012; however, adoption of the Subcommittee’s recommendation was held due to amendments required. Senator Emler began with agencies’ budgets without amendments.

Senator Emler reported that the Subcommittee concurred with the Governor’s FY 2012 recommendation for CURB. Senator Emler reported that the Subcommittee concurred with the Governor’s FY 2013 recommendation for CURB with the adjustments discussed on February 6, 2012.

Senator Emler moved adoption of the Citizens’ Utility Ratepayer Board FY 2012 and FY 2013 Subcommittee Reports; Senator Francisco seconded the motion, which carried on a voice vote.

Senator Emler noted there were no additional amendments required for the Kansas Corporation Commission and moved adoption of the Kansas Corporation Commission Subcommittee Report for FY 2012 and FY 2013 as discussed on February 6, 2012; Senator Kelly seconded the motion, which carried on a voice vote.

For the Governmental Ethics Commission, Senator Emler noted that \$9,175, all from the SGF, was added to the Governmental Ethics Commission agency for FY 2013 (see minutes of February 3, 2012). Therefore, the Subcommittee report required amendment. Senator Emler reported the Subcommittee concurred with Governor’s FY 2012 recommendation. The Subcommittee concurred with the Governor’s FY 2013 recommendation with one adjustment, which required inclusion in the Subcommittee report; therefore, Senator Emler moved to add \$9,175, all from the SGF, to the Governmental Ethics Commission agency for FY 2013 and to amend the Subcommittee report as discussed; Senator Schmidt seconded the motion, which carried on a voice vote. Senator Emler moved to adopt the Governmental Ethics Commission Subcommittee report as amended; Senator Huntington seconded the motion, which carried on a voice vote.

Senator Emler reported the Subcommittee concurred with the Governor’s FY 2012 Human Rights Commission recommendation with one adjustment:

- Add language to increase the limitation on the Annual Banquet Fund by \$125, from \$150 to \$275, to allow the agency to provide receptions for new commissioners joining the agency and for those commissioners who are retiring.

For FY 2013, the Subcommittee concurred with the Governor’s recommendation for the Human Rights Commission, with adjustments:

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- Add \$13,281, from SGF, to contract with a temporary employment services agency to provide staffing on a part-time basis to assist the agency in keeping up with investigations.
- Add \$114,588, all from SGF, and 2.0 FTE positions to fill two Special Investigator II positions in order to assist the agency in completing investigations in a timely manner.

Senator Emler noted that the language “annual banquet fund” should be amended to “hospitality fund;” therefore, Senator Emler moved amending language in the FY 2012 Human Right Commission Subcommittee report from “Annual Banquet Fund” to “Hospitality Fund;” Senator Francisco seconded the motion, which carried on a voice vote.

Senator Emler reported that the Subcommittee’s recommendation for the FY 2013 Human Right Commission required amendment because another funding source (other than the SGF) was not found for the \$114,588 added for filling two Special Investigator II positions; therefore, Senator Emler moved to delete \$114,588, all from SGF to fill two Special Investigator II positions from the FY 2013 Subcommittee recommendation for the Human Rights Commission, Senator Vratil seconded the motion, which passed on a voice vote. Senator Emler moved adoption of the Human Rights Commission FY 2012 and FY 2013 Subcommittee report, as amended, Senator Vratil seconded the motion, which carried on a voice vote.

Subcommittee Report on Agriculture and Kansas State Fair (Attachment 5):

Senator Taddiken reported the Subcommittee concurred with the Governor’s FY 2012 recommendation for the Department of Agriculture.

For FY 2013, the Subcommittee concurred with the Governor’s recommendation for the Department of Agriculture with adjustments and notations:

- Add \$283,992, all from special revenue funds, for 4.0 FTE positions and for five vehicles used for school lunch inspections, which is contingent on the passage of a bill authorizing the agency to perform two annual school inspections. A bill is being written but has not yet been introduced to accomplish that authorization. The United States Department of Agriculture (USDA) increased the requirement for school lunch inspections from one to two inspections annually. The additional FTEs and vehicles will be used to accomplish the USDA’s new regulation and will be purchased using fee funds received from school districts for these additional inspections.
- Add \$253,804, all from special revenue funds, for the agency to purchase up to 15 replacement vehicles. The identified replacement vehicles have odometer readings between 120,531 and 245,158, and the vehicles represent less than one-quarter of vehicles eligible to be replaced under the Department of Administration guidelines. Testimony was heard by the Subcommittee members that vehicles eligible for replacement in a program that receives fee revenue but with lower mileage than

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vehicles in programs that do not receive fee revenue are likely to be transferred to another program within the Department.

- Concerns from conferees were heard on the backlog of water appropriation application processing. The agency has experienced an increase from 400 average annual applications to over 1,400 applications in FY 2011, and another 2,000 estimated for FY 2012 due to drought conditions across the state.
- Add \$465,907, all from special revenue funds, and 3.0 FTE positions for water appropriation application processing. The Governor deleted 3.0 FTE positions and \$204,763, all from the SGF, for FY 2013. The agency reported that it will need those three positions and has adequate funding from drought term permit fees to fund the positions in FY 2013. The remainder of the additional funding will be used to fund 4.0 vacant FTE positions to establish a drought term permit and multi-year flex account permit processing team in the Division of Water Resources.
- Note that the agency is anticipating the addition of 6.0 FTE positions and approximately \$370,000, which is to be included in a Governor's Budget Amendment (GBA) to restore positions and funding, which were eliminated as part of the Voluntary Retirement Incentive Program (VRIP). If the positions are funding are excluded from a GBA, the Subcommittee recommends reviewing the addition of 6.0 FTE positions and funding during Final budget deliberations.
- Recommend that the \$924,014, all from the State Water Plan Fund, included by the Governor for water rights purchase be used specifically for the Water Transition Assistance Program and the Conservation Reserve Enhancement Program (CREP). Both of these existing programs deal with water rights retirement.
- Add language authorizing the Conservation Reserve Enhancement Program for FY 2013. The language has been included in the appropriations bill each of the previous five Legislative sessions.
- Recommend that the proviso language included for the State Conservation Commission in prior appropriations bills be included for the Department of Agriculture in FY 2013. 2011 Executive Reorganization Order (ERO) Number 40 moved the State Conservation Commission into the Department of Agriculture as the Division of Conservation.
- Note that the current statute states that the Department may perform annual inspections of pet animal facilities licensed by the agency. The Subcommittee encourages the agency to complete an annual inspection of all of the pet animal facilities licensed by the Department from within existing resources.

Committee members discussed the importance of drafting and introducing a bill that includes CREP language as well as language required for the Division of Conservation. Discussion was also heard regarding the Governor's deletion of three positions for water appropriation application processing, and the anticipated GBA adding 6.0 FTES (which were eliminated as part of the VRIP). Senator Taddiken explained the 6.0 FTES were

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eliminated due to a misunderstanding between the agency and the Governor's office; consequently, a GBA reinstating those positions is expected. The funding for these 6.0 FTEs is expected to be from fee funds and SGF (half of the total funding from each source).

Senator Francisco elaborated that the three positions eliminated (under bullet point four) were dedicated to water appropriation application processing were: an environmental scientist III position in Water Management; an environmental scientist II position in Water Appropriations, and an engineering associate III position in the Water Structures program. Senator Francisco moved (under bullet point four) to delete the language contained in the first sentence and to replace it with "Add \$465,907, all from the special revenue funds, and 3.0 FTE positions consisting of: one environmental scientist III position in Water Management; an environmental scientist II position in Water Appropriations, and an engineering associate III position in the Water Structures program;" Senator Umbarger seconded the motion, which carried on a voice vote.

State Fair:

Senator Taddiken reported the Subcommittee concurred with the Governor's recommendation for the State Fair in FY 2012. For FY 2013, the Subcommittee concurred with the Governor's recommendation with the following notations:

- The Legislature has not met its obligation to the State Fair Capital Improvements Fund, as established in KSA 2-223, which states that there will be a matching transfer up to \$300,000, from SGF, to the State Fair Capital Improvements Fund for every dollar the State Fair transfers to the State Fair Capital Improvements Fund from the State Fair Fee Fund. Between FY 2002 and FY 2012, the Legislature included proviso language in the appropriations bill to reduce or eliminate the transfer six times, which reduced funding to the State Fair Capital Improvements Fund by \$1.5 million over those eleven fiscal years. The Subcommittee recommends that the statutory transfer from the SGF to the State Fair Capital Improvements Fund take place in FY 2013 and in future fiscal years.
- Add \$400,000, all from the Expanded Lottery Act Revenue Fund (ELARF), in FY 2013, contingent upon receipts deposited in ELARF being more than \$80,454,000. The Subcommittee recommends using the first \$400,000 in receipts above the estimated \$80.5 million (ELARF) to begin repaying past obligations to the State Fair Capital Improvements Fund.
- The Governor's recommendation includes ELARF to retire the 2001 bond issue held by the State Fair. The State Fair still holds the 2004 series A-2 bonds. When the bonds were approved by the 2001 Legislature, Reno County and the City of Hutchinson each committed \$150,000 per year for 10 years (\$3.0 million total) to the debt service on the bonds. In addition, the State Fair committed \$400,000 per year for 10 years (\$4.0 million total) for debt service. The City and County commitments were met in FY 2011 and the State Fair commitment will be met in FY 2012. The

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remaining debt service on the 2004 A-2 bonds, according to the 2001 agreement, is to be repaid from SGF (approximately \$2.2 million annually until 2022).

- In 2012, the state fair will celebrate the 100th annual state fair in Kansas since it was designated the State Fair by the 1913 Legislature. The State Fair will celebrate its 100th birthday in 2013.
- The State Fair requested \$100,000 from the Economic Development Initiatives Fund (EDIF) in FY 2013 to promote the Fair's 100th birthday celebration and the Subcommittee recommends that funding be reviewed during final deliberations of the FY 2013 appropriations bill.

A committee member inquired about a study suggesting moving the State Fair to Labor Day; several committee members indicated they knew of the suggestion and commented there was little interest in moving the fair to another date.

A committee member asked if the State Fair had a master plan detailing the amount and purpose of funding needed. Denny Stoecklein, Kansas State Fair General Manager, was in the audience and responded there is a master plan. He indicated that currently ongoing maintenance is required; the fund will zero out this year leaving no funds for maintenance, which represents a critical obstacle to the plan. Mr. Stoecklein indicated the Governor included \$400,000, from SGF, in his FY 2012 recommendation above the \$300,000 statutory requirement; he could not explain the rationale for that decision.

Senator Taddiken moved to adopt the Kansas State Fair and the Department of Agriculture Subcommittee reports, as amended; Senator Teichman seconded the motion, which carried on a voice vote.

SB 311—Supplemental appropriations for FY 2012 and FY 2013 for various state agencies

Senator Vratil proposed an amendment to **SB 311** based on information from the Office of the Revisor of Statutes in which the state printing office currently has no knowledge of funding required to produce annual supplements to statute books; Senator Vratil suggested restoring the lapse in funding (SGF). *Senator Vratil moved to restore funding to the Legislative Coordinating Council by deleting the following language in section c (page 9): "On the effective date of this act, of the \$3,049,313 appropriated for the above agency for the fiscal year ending June 30, 2012, by section 80(a) of chapter 118 of the 2011 Session Laws of Kansas from the state general fund in the office of revisor of statutes — operations account, the sum of \$241,617 is hereby lapsed."* *Senator McGinn seconded the motion, which passed on a voice vote.*

Senator Huntington moved to amend SB 311 to restore funding of \$5,462, all from SGF, for the Midwest Higher Education Compact dues for which the state is in arrears from

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FY 2009 through FY 2012; Senator Francisco seconded the motion. Senator Huntington elaborated Kansas is one of 19 states participating in the Compact which provides for insurance policies, software, hardware and other items for school districts and community colleges. The motion passed on a voice vote.

Senator Kelly indicated her intent to offer a motion to fund the Court Appointed Special Advocate (CASA) program due to federal and local funding losses. Senator Kelly moved to transfer \$50,000, from the Attorney General Medicaid Fraud Prosecution Revolving Fund to the SGF for the purpose of funding the CASA association; Senator Kultala seconded the motion, which passed on a voice vote.

Senator Kelly reminded committee members that part of the Department of Social and Rehabilitation Services (SRS) FY 2011 cost cutting measures consisted of closing SRS regional offices throughout the state. Some local communities absorbed the cost of keeping local offices open; Senator Kelly indicated funding SRS offices is a state's responsibility. Therefore, Senator Kelly moved to refund to Ft. Scott, Lawrence, Marysville, McPherson, and Pratt, the amount of money that was withheld from those communities for the operation of local SRS offices. SRS should refund \$448,977, from their existing resources, to the above communities; the total amount of the refund is to be divided proportionately among the communities named above. Senator Teichman seconded the motion. Senator Kelly clarified the refund would be returned to the city/county entity who coordinated the funding efforts to keep the local offices open.

Discussion was heard about the SRS office closures, the state responsibility for operating regional/local offices, the communities who funded the state's obligation, communities who offered monetary contributions to keep their office open but who were refused the option, and other issues surrounding the FY 2011 SRS decision. Senator Kelly's motion passed on a voice vote.

Senator Teichman noted her concern about funding for the Southwest Kansas Access Program and requested that be kept as a point of interest for possible funding in FY 2013. Senator McGinn indicated her desire to potentially work SB 311 following receipt of a reconciled profile. The meeting was adjourned at 12:18 p.m.