

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 a.m. on March 14, 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

Others attending:

See attached list

Bill introductions:

Senator Taddiken moved introduction of 12rs2412, concerning the extension of a renewable energy tax credit; Senator Francisco seconded the motion, which carried on a voice vote.

Senator Umbarger moved introduction of 12rs2405 concerning traffic (right of way violations); Senator Kelly seconded the motion, which carried on a voice vote.

Follow-up to Department of Commerce Proposed Proviso Language

Jill Wolters, Revisor of Statutes, discussed with committee members the proposed language recommended by the Department of Commerce Subcommittee, which would 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. She explained that the legislative process calls for a program to be proposed, a bill drafted, and an appropriation granted to fund the program. Although inserting a proviso has been done in prior years, Ms. Wolters offered her opinion that the proviso recommended does violate the two subjects clause by inserting the pilot program in it; therefore, is considered a violation of the law.

Given the opinion of the revisor, Senator Vratil moved to amend the Department of Commerce Subcommittee Report by deleting bullet point #4, excluding the last sentence which reads "The proviso would also establish the Employment Incentive for Persons with a Disability Gifts,

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Grants, and Donations Fund as a no limit fund for FY 2013;” Senator Kelly seconded the motion.

Discussion followed in which a committee member questioned the rationale for creating an Employment Incentive Fund for Persons with a Disability Gift, Grant and Donation Fund when the program was deleted. It was clarified that there is no violation to establish a fund; and there is a \$500,000 line item contained in the Department of Commerce budget intended for the Fund discussed.

The motion carried on a voice vote.

Subcommittee Report on SRS/Aging: (Attachment 1)

Senator McGinn reported that the Subcommittee concurred with the Governor’s FY 2013 recommendation for the department of SRS with the following adjustments:

1. Delete \$1,037,883, including \$1,000,000 from the State General Fund, and 20.0 FTE positions for FY 2013, to account for savings associated with not implementing differential response, which is an alternative approach allowing child protective services to respond in multiple ways to abuse and neglect allegations. The Governor did not consider this specific initiative. The Subcommittee requests the agency provide additional information on this initiative.
2. Delete \$617,642, including \$340,611 from the State General Fund, and 13.0 FTE positions for the expansion of the fraud, waste and abuse unit. The Subcommittee notes that this maintains a fraud unit with 4.75 FTE positions and \$271,564, from all funding sources.
3. Add \$2,641,260, including \$2,258,277 from the State General Fund, to restore funding for the foster care contractors to the rates originally contracted for FY 2012. Action during the 2011 Legislative Session decreased payments rate for FY 2012 to the same level as FY 2011. This action would provide increased rates for FY 2013 above from the current fiscal year, but does not increase the rates to the level originally negotiated for FY 2013.
4. Increase the transfer from the Kansas Endowment for Youth Fund to the Children's Initiatives Fund by \$15.8 million, and make the following adjustments to Children's Initiatives Fund expenditures:
 - Add \$159,185 to the Children's Cabinet Accountability Fund;
 - Add \$1,625,775 to Child Care Services;
 - Add \$654,357 to Family Preservation;
 - Combine the Early Childhood Block Grant line item and the Smart Start line item, and add \$5,681,096;
 - Add \$2,964 to the Early Childhood Block Grant- Autism;
 - Delete \$654,357 from the Reading Roadmap, leaving \$256,357 to design plan.

The Subcommittee recommends that the Committee consider the following adjustments:

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- Delete \$716,914 for the Newborn screening program in the Department of Health and Environment and review of the funding of the program at Omnibus, including the status of SB 436, regarding assessing fees for newborn screens. This recommendation would leave \$1,420,271 from the Children's Initiatives Fund for FY 2013.
 - Fund the Parents as Teachers Program at \$7,237,635 and Pre-K Pilot at \$4,799,812 in the Department of Education.
5. Add language directing the agency to use Early Head Start funding for programs and services with the exception of the new Fatherhood Initiative. Any funding budgeted for implementation of the Fatherhood Initiative should be utilized to provide services to children not currently being served.
 6. The Subcommittee notes its concerns with recognizing savings from the fraud, waste and abuse initiative prior to those savings being accomplished. Past experience with fraud recovery has yielded underperformance when compared to expectations. The Subcommittee requests reports to the Senate Ways and Means and House Appropriations Committee in January 2013 regarding any fraud, waste and abuse identified. The Subcommittee also notes its concern with the savings included in the Governor's budget with respect to the implementation of KanCare prior to the contracts being signed.

Considerable discussion followed regarding the Subcommittee recommendations, particularly bullet points one through four. A committee member expressed concern regarding the deletion of bullet point one; Chairperson McGinn explained the differential response is a new initiative that allows alternative responses to allegations of child abuse and neglect. Additional concerns were heard concerning the fraud and abuse unit, where they work, and whether the agency had provided information concerning actual savings resulting from the unit's work. Clarification was provided regarding the intent of the Subcommittee recommendation that funding for Early Head Start should be directed to services and programs for that particular program, not for the Fatherhood Initiative. Discussion was heard concerning the funding from the Children's Initiative Fund for Parents as Teachers and the Pre-K Pilot Program as was recommended by the Education Subcommittee.

Senator Kelly moved to add language requiring SRS to make expenditures of \$11,233,189, from the child care development block grant or other funds, for the early head start program for FY 2013; Senator Teichman seconded the motion, which carried on a voice vote.

Senator Masterson moved to remove bullet point two regarding the fraud and abuse unit; Senator Taddiken seconded the motion. Discussion followed in which Chairperson McGinn suggested the addition of 2.0 FTEs to the fraud and abuse unit and evaluate any potential savings or recovery prior to adding more FTEs.

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Senator Kelly offered a substitute motion to add 2.0 FTEs for the fraud and abuse unit in Wichita and adjust funding accordingly; Senator Vratil seconded the motion, which carried on a voice vote.

Senator McGinn moved adoption of the Subcommittee report on the Department of Social and Rehabilitation Services, as amended; Senator Kelly seconded the motion, which carried on a voice vote..

Subcommittee report on the Department on Aging (see Attachment 1):

Senator McGinn reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Department on Aging with the following adjustments.

1. Add \$1.8 million, all from the State General Fund, for reimbursement of non-Medicaid psychiatric inpatient screening for FY 2013. The Subcommittee notes that screenings are a requirement under the contract and a mandatory obligation for both Medicaid and non-Medicaid eligible individuals. Further, screenings are a necessary assessment tool to prevent individuals from unnecessary hospitalization.
2. Add \$350,000, all from the State General Fund, for grant funding for Centers for Independent Living. The Centers provide support for the home and community based services system and help persons maintain their living and working independence.
3. Add \$1.2 million, including \$532,343, all from the State General Fund to fund an additional 60 individuals to meet the maintenance of effort requirements for the federal Affordable Care Act on the Home and Community Based Services Waiver for individuals with physical disabilities.

The Subcommittee expresses its concern about reductions to the waivers, including a \$2.7 million reduction to the Home and Community Based Services waiver for individuals with developmental disabilities.

4. Add \$4.75 million, all from the Children's Initiative Fund for the Family Centered System of Care. The Family Centered System of Care funds grants to Community Mental Health Centers for community based wrap-around services for children with serious emotional disturbance and their families. The Subcommittee heard compelling testimony from families in rural and urban settings, whose lives were positively affected by the services they received from the Family Centered System of Care. The Subcommittee notes the latest tobacco settlement revenue estimates will be available at Omnibus.
5. Add \$1,164,790, all from the Children's Initiative Fund for the Children's Mental Health Initiative and delete the same amount from the State General Fund for FY 2013. The Severe Emotionally Disturbed (SED) Waiver serves as an alternative to inpatient psychiatric treatment for children and youth with mental health disorders. The traditional Medicaid criteria is waived and children are assessed for Medicaid financial eligibility based solely on the child's income resources and not that of the household. Services include parent support and training; attendant care; professional resource family care;

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- wrap around facilitation; short term respite care; and independent living skills.
6. Add language directing the agency to continue to provide annual renewable contracts for mental health education, outreach and advocacy services to Keys for Networking, the National Alliance on Mental Illness (NAMI) and the Consumer Advisory Counsel at a minimum funding level of \$150,000 for FY 2013 to assist families facing challenges in the delivery and accessibility of mental health services.
 7. The Subcommittee expresses its concern regarding the agency's decision to finalize the payment rate for the Financial Management System (FMS) at \$115 instead of the \$140 proposed when the system was being designed during the 2011 Legislative Session. The original proposed contract rate was \$140. The Secretary on Aging recently stated he would consider an enhanced rate for the first three months of implementation (November - January). The Subcommittee requested the agency provide the cost of the three month enhanced rate as well as the cost to implement a change for FY 2013.
 8. The Subcommittee requests that the Legislative Coordinating Council (LCC) assign the following issues for Interim study:
 - Financial Management System (FMS) monitoring;
 - Olmstead Act and discussion with the Centers for Medicaid and Medicare;
 - Census Management at the state hospitals; and
 - Problem Gambling and Addictions Grant Fund (the request for this item was approved in the Lottery subcommittee report.)
 9. The Subcommittee expresses its concern about fraud savings and KanCare savings as the Governor has already assumed the savings will materialize. Many of the Governor's recommendations includes expenditures of these savings in other areas. The Subcommittee requests a report be submitted to the Senate Ways and Means Committee and the House Appropriations Committee on January 1, 2013, concerning the amount and type of fraud savings the agency has recovered.
 10. The Subcommittee notes testimony regarding the Community First Choice Option (CFCO) which gives Kansas a 6.0 percent increase (43.39% to 49.39%) in Medicaid enhanced match rate. The Subcommittee also received information from the Kansas Department on Aging that adopting the Option would increase overall state expenditures the home and community based services waivers as the option would create an entitlement for these services.
 11. The Subcommittee recommends reviewing the following two items at Omnibus: Additional funding for the Senior Care Act Program. The program provides services in the customer's home such as homemaker, chore, attendant care and case management services. The service prevents premature nursing home placement for persons who have not exhausted their financial resources, unlike the home and community based Services for the Frail Elderly program. Participants contribute a significantly higher proportion of the cost of Senior Care Act services. The contributions are determined by a sliding fee scale based on self reported income and liquid assets for individuals served by the program. The cost is currently estimated at \$881,920 for 340 Kansas seniors.

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Funding of \$1.5 million to restore grant funding for the 11 Area Agencies on Aging for home visits, assessment of needs, and outreach. Grant funding of \$750,000 was eliminated in FY 2010. Area Agency on Aging staff make in-home visits to Kansas seniors in order provide a complete assessment of needs in their home environment.

12. The Subcommittee commends the families that spoke to the Subcommittee, discussing their experiences, the difficulties encountered and the hope of success in their lives. The Subcommittee acknowledges their courage in appearing before the Subcommittee at the hearing to recount their personal experiences in order that the legislators could better understand the impact of funding agency programs.

A committee member inquired whether or not the Subcommittee had discussed the reduction of the Home and Community Based Services (HCBS) waiting lists. Chairperson McGinn recommended reducing the PD waiting list by 60 individuals, and she will request an interim study on the Olmstead Act.

Senator Kelly moved to reconsider bullet point #10 concerning the Community First Choice option at Omnibus; Senator Francisco seconded the motion, which carried on a voice vote.

Senator McGinn moved to adopt the Subcommittee report on the Department of Aging, as amended; Senator Teichman seconded the motion, which carried on a voice vote.

Senator McGinn reported that the Subcommittee concurred with the Governor's FY 2013 recommendation for the Kansas Guardianship Program.

Senator McGinn moved to adopt the Subcommittee report on the Kansas Guardianship Program; Senator Huntington seconded the motion, which carried on a voice vote.

Confirmation on Phyllis Gilmore to Secretary, Department of Social and Rehabilitation Services:

Senator Schodorf expressed appreciation to Ms. Gilmore for her openness in communicating with every committee member concerning her thoughts about children, families, and improving services.

Senator Schodorf moved to recommend Phyllis Gilmore to the position of Secretary, Department of Social and Rehabilitation Services, and upon implementation of Executive Reorganization Order 41, to the Department of Children and Families; Senator Teichman seconded the motion, which passed on a voice vote.

The meeting adjourned at 12:00 p.m.