

Approved: Al Ramirez 4-1-93
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on April 6, 1993 in Room 531-N of the Capitol.

All members were present except: Senator Bogina - Excused
Senator Feleciano - Excused
Senator Gooch - Excused

Committee staff present: Julian Efird, Legislative Research Department
Fred Carman, Revisor of Statutes
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chairman Ramirez called the meeting to order and stated the order of business was **HB 2228** - comprehensive review of state governmental functions, structure, processes and services. This bill has had two previous hearings.

A balloon was distributed by Subcommittee Chairperson Reynolds and a fiscal note was distributed by staff. (Attachments 1 and 2)

Senator Reynolds explained the balloon amendments and stated that while the executive and legislative branches are included in this bill, the judiciary is excluded from the bill.

Senator Reynolds moved to amend **HB 2228** by adding the amendments contained in the balloon. Senator Harris gave a second to the motion.

Discussion was held. The question was asked if Representative Hendrix and Mr. Reser had set up a meeting with the Governor to discuss the bill. No one present had heard of a meeting having taken place.

The fiscal note of \$429,430 was questioned. Julian Efird, Legislative Research, made a point of clarification. He stated the fiscal note was written on the bill as introduced and before it was amended. The Budget Director is asked to cooperate rather than being directed to provide staff, however, the direction of the Post Auditor over other legislative agencies such as the Research Department is still in the bill. Attention was directed to the fiscal amount on page 2 of the bill. Mr. Efird said the \$121,000 amount, less the \$25,000 amount that can be absorbed, would approximate the amount for post audit. This would not include the cost to other staff agencies, both the legislative and executive who would be asked to participate in the teamwork or the period of management review. The overall cost would depend on the addition of additional staff or costs above their normal operating budgets. The Post Audit amount would be beyond the normal budget. Other agencies, such as the Research Department, would absorb within existing staff the workload.

On a voice vote on the amendment, the motion carried.

Senator Harris moved to recommend **HB 2228** favorable for passage as amended. Senator Papay gave a second to the motion.

In discussion, one of the members stated she opposed the motion because of the agreement to meet with the Governor.

On a voice vote, the motion carried.

Senator Lee was recorded as voting "no".

As there was no further business, the chairman thanked the committee and adjourned the meeting.

Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1993

HOUSE BILL No. 2228

By Representatives Hendrix, Benlon, Bradley, Carmody, Cornfield, Dawson, Empson, Flower, Haulmark, Jennison, Lane, Lowther, Mead, Miller, Mollenkamp, Neufeld, O'Neal, Powers, Roe, Samuelson, Shallenburger, Shore, M. Smith, Wagle and E. Wells

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AN ACT providing for a comprehensive ~~management~~ review of agencies of the state governmental functions, structure, processes and services; imposing duties upon certain state officers therefor; providing for the conduct of such review, the filing of certain reports and recommendations and the administration of the provisions of the act; and providing for the delay of the conduct of certain audits under the Kansas governmental operations accountability law.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The purpose of this act shall be to challenge and question the basic assumptions underlying all state agencies and the programs and services offered by the state to identify those that are vital to the best interests of the people of the state and those that no longer meet that goal; and to provide a comprehensive review of state agencies in providing such programs and services.

(b) As used in this act "state agency" means any state office, officer, department, board, commission, institution, bureau, agency or authority or any division or unit thereof.

Sec. 2. The legislative post audit committee shall direct the post auditor to conduct a management review of state agencies in accordance with the provisions of this act. The review is to focus on how state government is organized, managed and financed. The review's perspective is to emphasize service to the customers of state agencies and satisfaction of the state's taxpayers. In the performance of such duties the post auditor shall:

(a) Conduct a complete review of all state agencies and all programs, services and activities operated by such agencies;

(b) evaluate the efficiency with which state agencies operate the programs under their jurisdictions and fulfill the duties assigned to

of the executive and legislative branches of state government

of such branches

*Y.O. Comm.
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such agencies by law;

(c) determine methods to maximize the amount of federal funds received by the state for programs in order to better ensure that the people of Kansas receive a greater share of the taxes levied on them by the federal government;

(d) identify any state agency or any program or service now offered by an agency that can be eliminated or transferred to the private sector without injury to the public good and well-being; and

(e) make recommendations for the programs and services the various state agencies provide as well as recommendations for the elimination of or reduction in funding to various agencies, programs or services based on the results of the management review.

Sec. 3. (a) There is hereby established the state governmental practices advisory committee which shall consist of: ~~(a)~~ (1) The governor or a person designated by the governor from such office; (2) the secretary of administration or a person designated by the secretary from such office; (3) the director of the budget or a person designated by the director from such office; (4) The chairperson and the ranking minority member of the senate standing committee on ways and means; ~~(b)~~ (5) the chairperson and ranking minority member of the standing committee on appropriations of the house of representatives; ~~(c) four members of the executive branch of government, designated by the governor;~~ ~~(d) (6) one member from the judicial branch of state government, designated by the chief justice of the supreme court;~~ (e) (7) one representative of the certified public accounting firm that annually audits the state; ~~(f) (8) one representative of the general public appointed by the governor;~~ (9) one representative of the general public appointed by the president of the senate; and ~~(g) (10) one representative of the general public appointed by the minority leader of the senate;~~ (11) one representative of the general public appointed by the speaker of the house of representatives; and ~~(12) one representative of the general public appointed by the minority leader of the house of representatives;~~ and ~~(13) four members of the executive branch of the government, designated by the governor~~]. Members of the advisory committee shall elect a chairperson and vice-chairperson from the membership of the committee.

(b) It shall be the duty of the advisory committee to advise with the post auditor on all phases of the review including coordination of state agency involvement and in the development of the scope and direction of a work plan for the guidance of teams and taskforces established for the conduct of such review. Members of the committee, who are not governmental officers or employees, shall receive

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compensation and subsistence and mileage expense allowances as prescribed by K.S.A. 75-3223, and amendments thereto.

Sec. 4. For the purpose of providing staff assistance to the post auditor in the conduct of such management review, the director of the legislative research department, ~~the director of the budget and chief administrative officer of all other state agencies~~ shall provide the services of such personnel of the agency as may be requested by the post auditor. [The director of the budget and the chief administrative officers of all other state agencies are authorized to assist and cooperate with the post auditor as may be requested for the conduct of such management review.]

Sec. 5. The chief administrative officer of each state agency may serve on, or may designate a person from within such agency to serve on, a task force of state agency officials whose role is to provide input to the post auditor on various aspects of government operations.

Sec. 5 6. The post auditor shall establish a project management team which shall consist of members of the staff of the post audit division, the legislative research department and ~~the division of the budget~~ [such other employees of executive ~~or judicial branch~~ agencies as permitted by the respective appointing authorities of such employees].

agency

Sec. 6 7. (a) The post auditor shall establish such number of review teams and other taskforces as may be necessary for the conduct of such review. Such teams and taskforces may be organized according to functional areas of government to be reviewed or by department as determined by the post auditor [and subject to the availability of officers and employees of executive ~~and judicial branch~~ agencies as may be determined by the respective appointing authorities of such officers or employees]. The post auditor shall designate the team leader for each review team and may appoint to membership on such teams and taskforces such number of state officers and employees ~~and members of the public~~, business leaders and other interested citizens of the state having special expertise in any area determined advisable by the post auditor.

(b) In the performance of its duties under this act, each review team shall catalog and review the functions of government within its assigned area, consider all information and suggestions received from state officers and employees and members of the public, and make suggestions for reducing costs, improving service and increasing capacity and efficiency in state government.

Sec. 7 8. Every agency of the state of Kansas shall ~~cooperate with, and~~ provide such information and assistance, as may be

required by the post auditor [and is authorized to provide assistance as requested] in the implementation of the provisions of this act.

Sec. 8 9. The post auditor shall develop and adopt a work plan for the direction of teams and taskforces employed in the conduct of the review the review teams assigned to conduct the review.

Sec. 9 10. (a) The state post auditor shall provide a special telephone government operations review hot line to receive suggestions and recommendations for the improvement of state government functions, structure, processes and services from both state officers and employees and the general public. The post auditor shall advertise the existence and purpose of such hot line in all counties of the state and shall post notices of such hot line, its purpose and telephone number in the offices of all agencies of the state. No supervisor or appointing authority of any state agency shall prohibit any employee of the agency from discussing the operation of the agency, either specifically or generally, with the post auditor, any member of the project management team or any member of any team or taskforce involved in the conduct of the review under the provisions of this act.

(b) Any officer or employee who is in the classified service and has permanent status under the Kansas civil service act may appeal to the state civil service board whenever the officer or employee alleges that disciplinary action was taken against the officer or employee for discussing agency operations in accordance with this section. The appeal shall be filed within 30 days of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with subsections (f) and (g) of K.S.A. 75-2949 and amendments thereto and K.S.A. 75-2929d through 75-2929g and amendments thereto. If the board finds that disciplinary action taken was unreasonable, the board shall modify or reverse the agency's action and order such relief for the employee as the board considers appropriate. If the board finds a violation of this section, it may require as a penalty that the violator be suspended on leave without pay for not more than 30 days or, in cases of willful or repeated violations, may require that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the board in such cases may be appealed by any party pursuant to law. As used in this section "disciplinary action" means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work. Any officer or employee who is in the unclassified service who alleges that disciplinary action has been

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1 taken against such officer or employee in violation of this section
2 may bring a civil action for appropriate injunctive relief, or actual
3 damages, or both within 90 days after the occurrence of the alleged
4 violation. A court, in rendering a judgment in an action brought
5 pursuant to this act, shall order, as the court considers appropriate,
6 reinstatement of the officer or employee, the payment of back wages,
7 full reinstatement of fringe benefits and seniority rights, actual dam-
8 ages, or any combination of these remedies. A court may also award
9 such officer or employee all or a portion of the costs of litigation,
10 including reasonable attorney fees and witness fees.

11 Sec. 10 11. The state employee award board shall provide the
12 post auditor with copies of all suggestions received pursuant to
13 K.S.A. 75-37,106 et seq., and amendments thereto.

14 Sec. 11 12. Upon the completion of its assigned analysis and
15 review each team ~~or taskforce~~ shall report the results of its reviews
16 together with any recommendations thereon to the post auditor.
17 When all of the teams ~~and taskforces~~ have completed the assigned
18 work and filed reports thereon, the post auditor shall prepare a final
19 report and recommendations for the accomplishment or implemen-
20 tation of the objectives of the review. Such report and recommen-
21 dations shall be filed and available to the legislative post audit
22 committee on or before ~~December 15, 1993~~ [June 15, 1994]. Copies
23 of such report and recommendations shall be made available to the
24 governor, the chief administrative officer of each state agency, the
25 governmental practices advisory committee, and to members of each
26 house of the legislature before ~~the first day of the~~ [July 1,] 1994
27 ~~regular session of the legislature.~~

28 Sec. 12 13. (a) ~~The legislative post audit committee~~ The post
29 auditor may accept gifts, grants, or assistance, including the pro-
30 vision of specialized personnel, from any private or public institution,
31 association or organization.

32 (b) ~~There is hereby established in the state treasury the~~
33 ~~state agency management review fund. All moneys credited to~~
34 ~~such fund shall be used to pay costs incurred in the imple-~~
35 ~~mentation of the provisions of this act. All expenditures from~~
36 ~~such fund shall be made in accordance with the provisions of~~
37 ~~appropriations acts and upon warrants of the director of ac-~~
38 ~~counts and reports issued pursuant to vouchers approved by~~
39 ~~the chairperson of the legislative post audit committee or the~~
40 ~~chairperson's designee.~~

41 Sec. 14. On or before July 1, 1994 [1995], the post auditor shall
42 prepare a report, together with recommendations, for implementing
43 a performance-based measurement system for state agencies. Such

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1 report shall address: (a) The extent to which state agencies in Kansas
2 have set program goals, measure program performance against
3 those goals, and publicly report on their progress toward meeting
4 those goals; (b) the performance-based measurement systems other
5 public or private entities have adopted or are adopting; and (c)
6 recommendations for implementing a performance-based measure-
7 ment system that will: (1) Improve program effectiveness and public
8 accountability by promoting a new focus on results, customer service
9 and taxpayer satisfaction; (2) help state managers improve service
10 delivery by providing them with information about program results
11 and service quality; and (3) improve legislative decision making by
12 providing periodic, objective information on achievement of stat-
13 utory objectives and on the relative effectiveness and efficiency of
14 state programs and spending.

15 In preparing this report, the post auditor may seek the advice
16 of the governmental practices advisory committee, state officers or
17 employees, or other members of the general public, as the post
18 auditor deems necessary.

19 This report shall be filed and made available to the legislative
20 post audit committee on or before July 1, ~~1994~~ [1995]. After the
21 report has been made available to the legislative post audit com-
22 mittee, copies of such report shall be made available to the gov-
23 ernor, the chief administrative officer of each state agency, the
24 governmental practices advisory committee and to members of each
25 house of the legislature.

26 Sec. 15. All audits, reviews and evaluations conducted in ac-
27 cordance with the requirements of K.S.A. 74-7283 *et seq.*, and
28 amendments thereto, shall be conducted in the calendar year next
29 following the calendar year prescribed for such audits by K.S.A.
30 74-7288 through 74-72,104, and amendments thereto.

31 Sec. 16. If any provision of this act or the application thereof
32 to any person or circumstances is held invalid, the invalidity shall
33 not affect other provisions or applications of the act which can be
34 given effect without the invalid provision or application, and to this
35 end the provisions of this act are severable.

36 Sec. ~~13~~ 17. This act shall take effect and be in force from and
37 after its publication in the Kansas register.

STATE OF KANSAS



DIVISION OF THE BUDGET

Room 152-E

State Capitol Building

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Joan Finney
Governor

Gloria M. Timmer
Director

February 18, 1993

The Honorable Marvin Smith, Chairperson
Committee on Governmental Organization and Elections
Statehouse, Room 115-S
Topeka, Kansas 66612

Dear Representative Smith:

SUBJECT: Fiscal Note for HB 2228 by Representatives Hendrix,
et al.

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2228 is respectfully submitted to your committee.

HB 2228 requires the Legislative Post Auditor to conduct a comprehensive management review involving all state agencies, with a focus on how state government is organized, managed, and financed. Specifically, the Post Auditor would be required to:

1. Evaluate the efficiency of state agency operations and the fulfillment of their duties under law.
2. Determine methods to maximize federal funds.
3. Identify any state agency or program that can be eliminated or transferred to the private sector.
4. Make recommendations for elimination or reduction of funding for state agencies or programs based on the results of the review.

HB 2228 establishes a 12-member advisory committee to assist in the review. The membership would include the chairperson and ranking minority member of both the Senate Committee on Ways and Means and House Committee on Appropriations, four executive branch appointees of the Governor, one judicial branch member appointed by the Chief Justice, one representative of a certified accounting

*G.O. Comm.
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firm that audits state government, and two representatives of the general public, one appointed by the Senate President and one by the House Speaker.

Upon request of the Post Auditor, the following agencies must provide staff assistance for the review: the Legislative Research Department, the Division of the Budget, and the chief fiscal officer of each state agency. The Post Auditor must establish and advertise a hotline to receive suggestions from the state employees and the general public. The bill requires that no supervisor can prohibit employees from discussing the operation of state government with the Post Auditor or any member of task forces established by the bill. Penalties and an appeals process are established for violations.

The bill authorizes the Legislative Post Audit Committee to accept gifts and grants in financial support of the review. Any gifts or grants received would be deposited in a newly-created fund, the State Agency Management Review Fund.

HB 2228 requires the review to be completed and a final report submitted to the Legislative Post Audit Committee by December 15, 1993. The bill becomes effective upon publication in the *Kansas Register*.

The commitment of state resources to the management review would be substantial. The most direct effect would be borne by the Legislative Division of Post Audit. Post Audit submits an estimate of \$120,900, all from the State General Fund, upon passage of this bill. Of this amount, \$24,400 can be absorbed in the Post Auditor's budget. Included in the fiscal effect is funding for the required telephone hotline; expenses for the advisory committee as well as public and agency meetings; contractual services for the KPERS audit; printing of the final report; and miscellaneous operating expenditures.

The Legislative Division of Post Audit bases its estimate on the following assumptions: (1) no other audit work would be undertaken until January 1, 1994, (2) the planned K-GOAL audits would be postponed or eliminated, (3) the KPERS annual audit would be contracted out, and (4) the Legislature would loan Post Audit all necessary computer equipment.

The fiscal effect on other agencies depends on the extent to which the Post Auditor requests assistance. The Post Auditor estimates that a staff of 20, working full-time for six months, would be required. The Division of the Budget and the Legislative Research Department are two agencies specifically mentioned to provide staff assistance. As an illustration, assuming the estimated average salary of a budget analyst for FY 1994, including

The Honorable Marvin Smith, Chairperson
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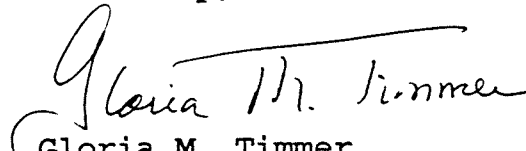
fringe benefits, and multiplying that amount by 20 staff at six months yields a total of \$429,430.

The extent to which existing staff could be utilized is not known. In the case of the Division of the Budget, any staff assistance requested would have to be new positions financed from the State General Fund, because the timeframe for the management review coincides with the review of budgets and preparation of the *Governor's Budget Report* in the fall.

The Legislative Research Department, if no additional staff were added, would have to depend on minimal interim activity. The Legislative Coordinating Council controls the level of interim activity; however, some joint committees can meet without LCC approval. In September, when the budget requests are received, the commitment of fiscal staff time to budget analysis also could be affected.

It is not known whether the teams and taskforces would be housed within existing office space. If the taskforces would need to be housed in a common work area and no existing space is available, additional office space would have to be provided for the six months the study would be underway. The FY 1994 rate for office space in state buildings is \$12.45 per square foot. The rate in private, leased space ranges up to \$17 per square foot.

Sincerely,


Gloria M. Timmer
Director of the Budget

cc: Barb Hinton, Legislative Post Audit

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