

Approved: 2/16/98
Date

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairperson Phil Kline at 1:30 p.m. on February 5, 1998 in Room 514-S of the Capitol.

All members were present except: Representative McKechnie
Representative Packer
Representative Pottorff
Representative Spangler

Committee staff present: Stuart Little, Shannon Nichols, Rae Anne Davis, Paul West, Legislative Research Dept;
Jim Wilson, Mike Corrigan, Revisor of Statutes Office;
Helen Abramson, Administrative Aide; Linda Swain, Appropriations Secretary

Conferees appearing before the committee:
Duane Johnson, State Library
Bobbi Mariani, Department Director of Personnel Services
Barbara J. Hinton, Legislative Post Auditor
Representative Gene Shore

Others attending: See attached list

Hearing on HB 2478 - Interest earnings on certain funds

Mike Corrigan, revisor, explained the technical nature of the bill.

The hearing on **HB 2478** was closed.

Hearing on HB 2512 - State Library, receipt of gifts, grants and donations.

Duane Johnson, State Library, presented information on **HB 2512** (Attachment 1). He noted these are technical amendments recommended by the Legislative Post Audit after the last audit of the State Library.

There were no questions. The hearing on **HB 2512** was closed.

Hearing on SB 14 - Kansas public employees deferred compensation program

Bobbi Mariani, Assistant Director, Division of Personnel Services, testified in favor of **SB 14** (Attachment 2), stating the bill is sponsored by the Legislative Post Audit Committee and is a result of the audit entitled "Reviewing The Kansas Public Employees Deferred Compensation Program." She briefly explained the purpose of the bill.

There were no questions.

Barb Hinton, Legislative Post Auditor, gave additional information on **SB 14** (Attachment 3). The Legislative Post Audit Committee and staff strongly support this bill.

There were no questions nor additional conferees. The hearing on **SB 14** was closed.

Hearing on SB 15 - Kansas Life & Health Insurance Guaranty Association Act

Assistant Director Bobbi Mariani testified in favor of **SB 15** (Attachment 4). The bill concerns coverage of fixed accounts provided under the Kansas Public Employees Deferred Compensation Plan and the protection offered by the Kansas Life and Health Insurance Guaranty Association. The proposed language is added to protect the value of fixed accounts by ensuring they are protected by the Guaranty Association.

There were no questions.

Auditor Barb Hinton gave additional information on **SB 15**, which was introduced by the Legislative Post Audit Committee. (Attachment 5)

After questions by the committee, the hearing on **SB 15** was closed.

Hearing SB 16 - Kansas highway patrol motor vehicle program.

Representative Gene Shore testified in favor of **SB 16**. He noted that **SB 14**, **SB 15** and **SB 16** were all Legislative Post Audit bills that were passed through the Appropriations Committee last year. **SB 16** had a negative fiscal note of \$20,000 for each year. We have had Legislative Post Audit look at them two years in a row and have found nothing we need to look at the third time. He recommended that **SB 16** be passed, which would save about \$20,000 this year.

Barbara Hinton testified in favor of **SB 16**, explaining about the background of the bill (Attachment 6). The bill, as introduced by Legislative Post Audit Committee would repeal the requirement for another performance audit of the Highway Patrol's Motor Vehicle Program.

There were no questions. The hearing on **SB 16** was closed.

Chair Kline noted, if there were no objections, he would like the committee to work the five bills heard earlier. There were no objections.

Jim Wilson, Revisor's office, explained the technical cleanup made to **HB 2478**. This bill was recommended by the Revisor's Office in 1997. It makes conforming amendments to several statutes that prescribe interest earned on moneys in certain special revenue funds be credited to those funds and not the state general fund, which is the usual rule regarding the interest earnings on the moneys in the state treasury. The bill amends these statutes so the same method for calculating and crediting such interest is provided as prescribed by 1996 **SB 475**. The funds affected by this bill were accidentally omitted in **SB 475** or were created the same session and were not picked up at the time. The bill needed several technical amendments. Two sections included in this bill were corrected in 1997 House Sub for **SB 69** and need to be deleted from **HB 2478**. Additionally several statutory references need to be updated or corrected. He suggested amending the bill by recommending a Substitute Bill.

Representative Minor made a motion, seconded by Representative Reinhardt that **HB 2478** be amended by deleting sections amended in 1997. There was no discussion. The motion carried

Representative Neufeld made a motion, seconded by Representative Landwehr to make the technical amendments to update or correct statutory citations, as recommended by staff, in the form of a substitute bill and that the substitute bill be passed. There was no discussion. The motion carried.

Jim Wilson, Revisor's office, explained the technical amendments to this bill.

Representative Landwehr made a motion, seconded by Representative O'Connor that **HB 2512** be amended as recommended by the Committee on Appropriations during the 1997 session and to further amend the bill by making technical amendments to update or correct statutory citations, as recommended by staff, and that the bill be passed as amended. No discussion. The motion carried.

Representative Farmer made a motion, seconded by Representative Mollenkamp that **SB 14** be amended as recommended by the Committee on Appropriations during the 1997 session and that the bill be passed as amended. No Discussion. The motion carried.

Representative Ballard made a motion, seconded by Representative Landwehr that **SB 15** be amended as recommended by the Committee on Appropriations during the 1997 session and that the bill be passed as amended. No discussion. The motion carried.

Representative Kejr made a motion, seconded by Representative Minor that **SB 16** be amended by making technical amendments to update or correct statutory citations, as recommended by staff, and that the bill be passed as amended. No discussion. The motion carried.

Chair Kline reminded the committee of the meeting on Monday, February 9 to begin at 12:30 p.m. in the Department of Education Building for a video conference, then moving back to Rm 313-S for the continuation of the meeting.

Representative Ballard made a motion, seconded by Representative O'Connor to approve the minutes of the 2/2/94 meeting. The motion carried.

The meeting adjourned at 2:10 p.m.

APPROPRIATIONS COMMITTEE GUEST LIST

DATE: 2/5/98

NAME	REPRESENTING
Linda Becker	Ka Life & Health Ins Guaranty Assoc.
Megan Kachow	intern for Rep Pottorff
Tash Copeland	SB67
CHUCK KREISER	Aetna
Bernie Heffernon	Aetna
Ron Sebes	Dept of Admin.
B. Mariani	Dept of Adm.
Doug Foreman	DOR
Katie Sackman	intern for Rep. Farmer
Barb Hinton	Post Audit
Jonda Belrose	KS Insurance Dept.
Pat Giffey	KHP
Carol K. Srague	State Treasurer's Office
Roger Franke	KGC

House of Representatives, Appropriations Committee

Representative Phil Kline, Chair

February 5, 1998

House Bill No. 2512

Information from Duane Johnson, State Library

The amendments proposed in HB 2512 would,

1) authorize the State Librarian to apply for and receive public or private grants and gifts,
(page 1, lines 34 through 37)

and, responding to recommendations in the latest agency audit, regarding the agency's work with the Grants-in-aid to libraries,

2) in calculating the aid distributions, allow the State Library to use population statistics certified by the Division of the Budget, alternative to the additional statistics now required to be reported by local officials,
(page 1, lines 41, 42, 43)

3) in determining the maintenance of local effort required by the law, allow the State Library to use official city and county budget information reported to the state Division of Accounts and Reports, alternative to the additional tax levy information now required to be supplied by local officials,
(page 2, lines 24 through 27)

4) in certifying information to the Director of Accounts and Reports, allow February 15 to be the deadline rather than January 15,
(page 3, line 9)

5) remove reference to a fund, because there is no special fund for this purpose,
(page 3, lines 13 through 17)

6) modify the wording relating to the local reporting requirement, so that state and federal report requirements can be met by a single report, rather than the two that have been necessary.
(page 3, lines 31 through 37)

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Attachment 1*

**Testimony To The
House Appropriations Committee
Honorable Phil Kline, Chairperson**

**By
Bobbi Mariani, Assistant Director
Division of Personnel Services**

**February 5, 1998
RE: Senate Bill 14**

Thank you Mr. Chairman and members of the Committee. I appreciate you allowing me to testify as a proponent to Senate Bill 14.

Deferred Compensation is wholly separate of KPERS. Aetna has the state contract for management of the Deferred Compensation Program. Currently, almost 10,000 state employees or 50% of eligible employees participate in the Deferred Compensation Program. Compared to similar mid-western states, our rate of participation is much higher than our neighbors.

Senate Bill 14 is sponsored by the Legislative Post Audit Committee following the audit entitled "Reviewing The Kansas Public Employees Deferred Compensation Program." In summary, the Post Auditors found that employees were very satisfied with the Program, the services offered, and performance of the funds. The Auditors found the average rates to return for the fixed rate and variable funds were very comparable to funds based on market performance and industry averages. They found that the fees charged to Kansas employees in the variable return funds were actually lower than fees charged in other states. Management fees were some of the lowest charged compared to other states. Secretary Stanley concurs with the Post Audit findings that the state's Deferred Compensation Program is in very good shape and provides significant investment opportunities and services to state workers.

The Post Audit Report suggested that increased oversight of the Deferred Compensation Program could be useful. In response, the Department of Administration established an Administrative Oversight Committee to work with the vendor and represent employees to monitor the Deferred Compensation Program. This Committee is composed of three standing members: the Director of Personnel Services who is statutorily charged with oversight of the program and who will serve as chair; the Director of Accounts & Reports; and the Manager of Compensation and Benefits Section of Personnel Services. This group meets at least quarterly and represents employees' interest in the Program. They monitor legal and contractual requirements and interface with representatives from Aetna. This Administrative Oversight Committee is happy to have received input from state employees, legislators, and legislative staffers, or others.

The following are services to employees and administrative changes that have been initiated by the Administrative Oversight Committee:

1. An Employee Satisfaction Survey was conducted.
2. A plan for periodic audits of the deferred compensation plan was established. The first audit is scheduled for August, 2000, with subsequent audits to be conducted every 3-5 years.

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3. A member inquiry process for questions or problems. Agencies have been encouraged to include this process in new employee orientation sessions.
4. Administrative fees will be included in quarterly statements
5. The transfer of salary deferrals are made on the payroll date as opposed to the following Tuesday.
6. Member informational sessions will be conducted by Aetna.

Mr. Chairman, I do appreciate the opportunity to appear as a proponent of Senate Bill 14. The Deferred Compensation Program is a valuable program for state employees. We are pleased to see that Sec. 3 of this years bill incorporates the provisions of Section 457 of the federal internal revenue code.

Thank you Mr. Chairman for the opportunity to stand before you today. I stand for questions.

**TESTIMONY FOR THE
HOUSE APPROPRIATIONS COMMITTEE
ON SENATE BILL 14**

Barb Hinton, Legislative Post Auditor
February 5, 1998 Room 514-S

Mr. Chairman and members of the Committee, thank you for giving me the opportunity to testify on behalf of the Legislative Post Audit Committee on SB 14, which would specify in statute the oversight requirements regarding the Deferred Compensation Program.

The Legislative Post Audit Committee introduced this bill last session to address an issue raised in our performance audit, *Reviewing the Kansas Public Employees' Deferred Compensation Program*. The Committee initially authorized that audit because of questions about how moneys in the Program were being administered for the many State employees who participate in it. In general we found that the Program offered good quality services at a reasonable cost, but that State oversight was lacking.

Legislation establishing the Program created an Advisory Committee comprising the Director of the Budget, the Secretary of Administration, the Commissioner of Insurance, the Secretary of Revenue, and the Executive Director of KPERS.

That Advisory Committee was charged with various statutory duties and responsibilities relating to getting the Deferred Compensation Program up and running. The law also called for continued oversight of the Program, requiring the Advisory Committee to review and analyze Program operations and make recommendations to the Director of Accounts and Reports and the Legislature for improvements.

The Advisory Committee was abolished July 1, 1988, and its duties and responsibilities were delegated to the Director of Personnel Services. However, the specific oversight duties that had been mentioned in the statute were left out.

During our audit we found that the Director of Personnel Services performed only limited oversight of the Program, and told us he viewed oversight as unnecessary. The Department of Administration's legal department also concluded the State had no duty to provide oversight of the Program. We noted at the time, however, that providing such oversight was the general practice in the six surrounding states we contacted.

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Such oversight can help ensure that the deferred compensation "benefit" for State employees continues to provide good customer service, to provide investment returns comparable to those of the market over time, and to be offered at a reasonable cost.

SB 14 re-establishes the mechanism for providing such assurances. It was amended last year to give the Secretary flexibility to name whomever he or she wanted to be on the Advisory Committee, and we can support that amendment.

Finally, the amendments under Section 3 are designed to ensure that the Deferred Compensation Program is handled according to federal requirements, and that its assets can't be siphoned off for any other use.

The Legislative Post Audit Committee and staff strongly support this bill, and would urge the Committee to consider it favorably. I'd be happy to try to answer any questions you may have.

Testimony To The
HOUSE APPROPRIATIONS

By
Bobbi Mariani, Assistant Director
Division of Personnel Services

Thursday, February 5, 1997
RE: Kansas Public Employees Deferred Compensation Plan - Senate Bill 15

Mr. Chairperson and members of the committee, thank you for the opportunity to appear before you today. I am here in support of Senate Bill 15, which concerns coverage of fixed accounts provided under the Kansas public employees deferred compensation plan and the protection offered by the Kansas Life and Health Insurance Guaranty Association. The proposed language is added to protect the value of fixed accounts by ensuring that these accounts are protected by the Guaranty Association.

A recent audit performed by the Legislative Division of Post Audit found that statutes relating to the State's Deferred Compensation Program do not address the issue of liability coverage by the Guaranty Association. The audit found a potential difference of opinion as to whether moneys invested in such fixed accounts would be covered if the investment provider should ever become insolvent. The Guaranty Association Act does not provide coverage for unallocated annuity contracts. Unallocated contracts are defined as ones that are not issued to and owned by an individual. Because the Internal Revenue Service requires that this money be held as assets of the State, it could be interpreted that participants' money is unallocated and, therefore, not covered. However, since the money is being held in trust on behalf of the individual investors, it might be considered allocated. Aetna has taken the position that these accounts are covered and, in fact, has been filing premium reports and has paid the assessments.

A similar debate is going on at the national level. Until model legislation is drafted and introduced by the National Association of Insurance Commissioners, the amendments in Senate Bill 15 will protect plan participants with fixed accounts in case of insolvency.

Thank you for the opportunity to speak to you today. I would be happy to provide additional information.

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**TESTIMONY FOR THE
HOUSE APPROPRIATIONS COMMITTEE
ON SENATE BILL 15**

Barb Hinton, Legislative Post Auditor
February 5, 1998 Room 514-S

Mr. Chairman and members of the Committee, thank you for giving me the opportunity to testify on behalf of the Legislative Post Audit Committee on SB 1, which would clarify that employees investments in "fixed-accounts" offered by the Deferred Compensation Program are covered up to \$100,000 by the Kansas Life and Health Insurance Guaranty Association.

The Legislative Post Audit Committee introduced this bill last session to address an issue raised in our performance audit, *Reviewing the Kansas Public Employees' Deferred Compensation Program..* One of the questions that audit answered was, "What liability does the State have for employees' investments in the Program, should Aetna ever default or mismanage them?"

We found that, under Kansas law, the State clearly had no responsibility for any loss incurred by an employee under the Deferred Compensation Program. However, the law wasn't as clear as to whether the moneys in the Program's fixed-return funds would be covered by the Kansas Life and Health Insurance Guaranty Association if Aetna or another investment provider became insolvent. During the audit, officials from Aetna and from the Guaranty Association had different interpretations as to whether these funds would be covered; Aetna was convinced they were covered, while the Guaranty Association wasn't sure.

One thing that makes this a potential problem is that in August 1992, in response to employees' questions about what would happen if Aetna were to become insolvent, the Department of Administration sent a letter to all State employees informing them that moneys in Aetna's fixed-return funds would be covered by the Guaranty Association up to \$100,000.

Because of the representations made in this letter, it's conceivable the State could bear some liability for employees' losses if, in the unlikely event the Program's investment provider ever became insolvent, the Guaranty Association maintained these funds weren't covered.

The Legislative Post Audit Committee introduced SB 15 to clarify that there was Guaranty Association coverage for fixed-return accounts. Providing for this coverage won't increase the State's costs—any losses charged to the Guaranty Association would be assessed against all insurance companies doing business in Kansas. In addition, this bill would bring the law in-line with where the industry is headed in providing coverage for these types of funds.

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The Legislative Post Audit Committee and staff strongly support this bill, and would urge the Committee to consider it favorably. I'd be happy to try to answer any questions you may have.

**TESTIMONY FOR THE
HOUSE APPROPRIATIONS COMMITTEE
ON SENATE BILL 16**

Barb Hinton, Legislative Post Auditor
February 5, 1998 Room 514-S

Mr. Chairman and members of the Committee, thank you for giving me the opportunity to testify on behalf of SB 16. This bill, as introduced by the Legislative Post Audit Committee, would repeal the requirement for another performance audit of the Highway Patrol's Motor Vehicle Program.

Legislation passed in 1996 called for three annual performance audits of this program, including a review of the number and purchase price of new motor vehicles, the number and resale value of retired motor vehicles, and the average number of miles motor vehicles are driven before being resold. The bill required the Patrol to pay for those audits.

The first audit was contracted out to a CPA firm at a cost of \$28,000, and was completed last December. That audit evaluated the Patrol's policies and procedures relating to motor vehicles, and provided the required information. Because the audit provided "baseline" information the Patrol could readily keep up-to-date—without the additional cost of two more audits—the Committee and staff concluded those audits would be a waste of money. Legislation to repeal the 2nd and 3rd year audit requirements was introduced in the 1997 legislative session. It passed in the Senate, and was on the House calendar at the end of the session.

Because this legislation didn't pass in 1997, a second audit was contracted to the same CPA firm (following competitive bids) at a cost of \$20,000, and was completed in late 1997. After reviewing this audit, Committee members again expressed their support to eliminate the 3rd year audit requirement for the Motor Vehicle Program. The Patrol can use the information already provided in the first two audits to do the analyses and comparisons called for, without the need for—and cost of—an additional audit.

I'd be happy to try to answer any questions you may have about Senate Bill 16.

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Attachment 6*