

Approved: 2-12-98
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:10 a.m. on February 9, 1998, in Room 254-E of the Capitol.

All members were present except:

Senator Ben Vidricksen - excused
Senator Laurie Bleeker - excused

Committee staff present: Mary Galligan, Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Midge Donohue, Committee Secretary

Conferees appearing before the committee:

Mr. John Collins, Division of Personnel Services
Mr. Randy Tongier, Audit Manager, Legislative Division of Post Audit
Ms. Susan Duffy, State Historical Society

Others attending: See attached list.

Senator Oleen told the committee she had a request last Friday for introduction of a bill, and she apologized because the bill did not get introduced at that time. She recognized Senator Biggs who asked that a bill be introduced which would prohibit distribution of sample cigarettes.

Senator Jones moved for introduction of the bill. Senator Becker seconded the motion, and the motion carried.

Senator Oleen recalled that **SB 428**, relating to certain communications by employees of state agencies, and also known as the Whistleblower Act, had been heard by the committee last month. Following the hearing, she indicated there was discussion about the kinds of ways state employees are currently being recognized for their good efforts and, as a result, the Employee Award Program presentation was scheduled before the committee today.

Senator Oleen introduced Mr. John Collins of the Division of Personnel Services, welcomed him, and asked him to give a brief overview of the program, including the length of time it has been in existence.

Mr. Collins thanked the committee for the opportunity to discuss the Employee Award Board which, he explained, began on July 1, 1986, as a result of passage of **SB 581** sponsored by Senator Ben Vidricksen, (Attachment #1). The Board replaced the Kansas State Employee Awards Committee which, he said, was established in 1978 after a legislative study of the state personnel system. He discussed the two programs, the employee suggestion award program and employee service award program, which are the responsibility of the Board. Mr. Collins said the programs benefit state employees, as well as the populace, by encouraging ideas to be brought forward and assuring a fair review. Since the Board was authorized in 1986, the statutes have been revised only once and he said that was in 1989 to clarify the terms of office of members and to allow cash awards to be made as "net" awards as opposed to "gross" awards.

Mr. Collins explained the composition and duties of the Board, whose members are appointed to four-year terms of office, and described the suggestion review process. He noted that the program is relatively successful and credible in the eyes of the employees who feel they are being treated fairly.

Mr. Collins provided the committee with figures showing estimated cost savings as a result of the employee suggestion program and explained that the cash award is based on first year savings, although he noted that some suggestions result in multiple-year savings. He gave examples of ideas that would be acceptable for submission under the employee suggestion program, followed by examples of non-acceptable suggestions.

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MINUTES OF THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE, Room 254-E, Statehouse, at 11:10 a.m. on February 9, 1998.

He explained the two sources of funding for the cash awards: the primary source being the state agency that benefits from the saving and, the second, an annual appropriation provided directly for the board's use to pay for awards as a result of suggestions which may not be agency specific but may provide intangible benefits or benefit the state as a whole. Mr. Collins told the committee that, when viewed in the long run, suggestions adopted by the board since its inception in 1986 through the end of calendar year 1997 resulted in a first year's estimated savings of over \$10 million.

Mr. Collins related several meritorious suggestions that were adopted by the Employee Award Board during the last calendar year. Responding to a question from a committee member, he said the meritorious suggestions receive publicity and information is also published in the Division of Personnel Services report to the Legislative Coordinating Council.

Senator Oleen thanked Mr. Collins for his presentation, and recognized Mr. Randy Tongier, Audit Manager, Legislative Post Audit Division. She explained that time had not allow for his presentation when he was scheduled before the committee earlier, and he had been invited back to review the Compliance and Control Audit of the Historical Society, (a copy of which is on file in the Legislative Division of Post Audit).

Mr. Tongier explained the purpose of compliance and control audits which are focused on certain areas at the direction of the Legislative Post Audit Committee, (Attachment #2). He told the committee the Historical Society audit focused on spending restrictions on its funds and whether the Society made sure that local agencies adhered to spending restriction on moneys those local agencies got from the Society. In general, he said, the audit found that the Society adhered to its own spending restrictions and made sure that local agencies adhered to their spending restrictions, but areas in which the Society could improve its grand administration procedures were identified. He discussed the areas recommended for improvement, one of which was that the grant manager be employed directly by the Society. Mr. Tongier told the committee the Society had agreed to address the recommendations of the audit.

Responding to a concern of a committee member regarding the expense incurred by applicants in connection with the requirement to provide proof of ownership of property to qualify for a grant under the Heritage Trust Fund Program, Mr. Tongier explained that the Society staff had raised that issue and recommended that evidence of title not be required until after the grant is awarded.

Susan Duffy of the State Historical Society was recognized by the chair and assured the committee that evidence of title is not required until after the award has been granted, thus saving the applicant the expense if the grant is not awarded.

Ms. Duffy explained also that the grant manager position referenced in Mr. Tongier's testimony is now a full-time, classified position funded directly by the Society. She indicated this was accomplished by reallocating a position vacated by retirement, which did not raise staff requirements for the agency.

Senator Harrington moved for approval of the minutes of the February 3 meeting. Senator Jones seconded the motion. The motion carried.

The chair directed attention to **SB 428**, relating to certain communications by employees of state agencies, for committee deliberation, noting that the bill had been heard on January 29 and a concern at that time was language on p. 1, line 31, which some thought was too broad or vague, and on p. 2, line 21 which appeared to be unnecessary.

Senator Jones moved to strike the referenced language on p. 2. Senator Biggs seconded the motion. The motion carried.

Senator Biggs moved to recommend favorably to the full Senate **SB 428**, as amended. Senator Jones seconded the motion.

Discussion followed concerning the language referenced on p. 1.

Senator Becker moved to strike "other matters of public concern" on p. 1, line 31, and instead insert "matters relating to the public health, safety and welfare".

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Senator Oleen explained there already was a motion for consideration, so Senator Biggs withdrew his original motion, and Senator Jones withdrew his second of the original motion.

Senator Gooch then seconded Senator Becker's motion, which was in order, and the motion carried.

Senator Biggs moved to recommend favorably to the full Senate **SB 428**, as amended. Senator Schraad seconded the motion. The motion carried.

The meeting adjourned at 12:00 noon. The next meeting is scheduled for February 10.

Presentation Regarding the Employee Award Board Before the
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
February 9, 1998

Good morning. My name is John Collins, an employee of the Division of Personnel Services within the Department of Administration. I have been asked to speak to you today about the Employee Award Board. The board, while independent in its decision-making, is by statute established within the Department of Administration. I am the staff person assigned to assist the board in fulfilling its statutory role.

Generally, statutes give the Employee Award Board responsibilities for two programs that benefit state employees and, I believe, the general public by encouraging state employees to bring forward ideas that improve state government and by recognizing employees' length of state service. Through K.S.A. 75-37,106 the employee suggestion award program and the employee service award program are established. Because the employee service award program, which provides a standard service recognition award for state employees attaining 10-year, 20-year, 30-year and 40-year milestones of service, is administered centrally through the Department of Administration and the board has little to do with the workings of the service award program, my remarks today will be focused on the suggestion award program over which the board has much more impact and for which the board alone can adopt suggestions. Should you have questions regarding the employee service award program I will stand for them later.

Briefly, some history about the board. The Employee Award Board began on July 1, 1986 as a result of the passage of Senate Bill 581 sponsored by Senator Ben Vidricksen. The board replaced the earlier Kansas State Employee Awards Committee which was established in 1978 after a legislative study of the state's personnel system that began in 1976. One of the recommendations resulting from that legislative initiative, published in 1977 entitled: A Study of Policies and Procedures Governing Personnel Management in the State of Kansas, was the establishment of an employee suggestion program for state employees. The Employee Awards Committee administered the service and suggestion programs from Fiscal Year 1979 through Fiscal Year 1986. Under the older format, all 5 committee members were appointed by the Secretary of Administration. All suggestions made during the committee's administration of the program were made through agency chain-of-command channels and only agency heads had the authority to adopt suggestions submitted and to approve cash awards except that cash awards exceeding fifty dollars were subject to approval by the committee. Although the committee was well organized, during its 8-year tenure few suggestions were submitted and very few were adopted. Although support for was very high in a few state agencies, generally little state-wide participation resulted.

During the 1986 Legislative Session, the Employee Award Board was authorized. Since 1986 the statutes have been revised once, in 1989, primarily to clarify the terms of members' offices and to allow cash awards to be made as net awards as opposed to gross awards. As I understand, the matter of net awards was desired so that, for example, a \$500 award would in fact be presented to the deserving employee in the form of a \$500 check. Otherwise, because cash awards are treated under federal and state laws as compensation, an amount lesser than \$500 would be presented to the employee along with an explanation of the tax consequences of the award and that tended to detract from the point of the ceremony - recognizing a meritorious idea from an employee to improve state government.

Today, as now constituted, the board is comprised of five state employee members. The two unclassified employee members are appointed by the Chairman of the Legislative Coordinating Council and the three classified employee members are appointed by the Secretary of Administration. The duties of the board are to adopt rules governing its proceedings, to elect a chairperson and secretary, to keep permanent and accurate records of its proceedings, to establish criteria for making awards, to adopt rules and regulations to carry out the provisions of its enabling legislation and to approve each award made.

Members are appointed to four-year terms of office. Public notice is published in the Kansas Register of all meetings of the board and a quorum of three members must be present before the board will take final action on any suggestion or award.

Generally, the suggestion review process begins when an employee, singularly or in a group, submits a suggestion to the board on a form widely available to employees. After the suggestion is logged in, an acknowledgment letter is sent to the employee, usually to the employee's home address, along with information about the process the suggestion takes during the review period. At the same time, a letter is sent to the state agency who seems best able to assess the merits of the employee's suggestion. The agency copy of the suggestion submission form does not contain overt or obvious references to the identity of the submitting employee. This anonymous review process has worked well in virtually all cases and eliminates complaints that the agency's review of a suggestion is influenced by whose name is on the form and not based on what content is written on the form.

After the reviewing agency returns a report on the merits of a suggestion, the entire text of the suggestion as submitted by the employee and the text of the agency review are provided to the members of the board for them to determine whether to adopt the suggestion, to approve an award, or to not adopt the suggestion. The results of the board's decision to adopt a suggestion is thereafter conveyed to the state agency who benefits from the suggestion. If the agency is asked to provide funding for a cash award, the agency is extended the opportunity to advise the board if the agency believes the award may not be warranted or may not be of a justified amount. If the board is not able to adopt a suggestion, the employee receives a letter specifically telling her or him the reasons why the suggestion was not adopted but offering an opportunity to provide any additional information that will better show the merits of the suggestion.

What have been the results of employee suggestion program under the Employee Award Board? In the year just ended, Calendar Year 1997, adopted suggestions resulted in a first year's estimated savings of \$426,482. When viewed in the long run, suggestions adopted by the board since its inception in 1986 through the end of Calendar Year 1997 have resulted in a first year's estimated savings of over \$10 million. The reason these savings figures are presented to you as first year's estimated savings is because this is the language used in the statute under K.S.A. 75-37,110.

The total amount of cash awards approved for payment to employees whose meritorious suggestions were adopted in Calendar Year 1997 was \$14,650. Cash awards may be made to state employees and retired state employees whose adopted suggestions will result in substantial savings or improvement in state operations. Awards can be approved for an amount up to 10% of the first year's estimated savings. The maximum award allowed is \$5,000 and the minimum, \$25. Generally, supervisors of employees granted cash awards receive their own award equal to 10% of the amount received by the employee. Supervisory awards do not reduce awards given to employees. Cash awards may be paid in net amounts.

When an adopted suggestion does not result in an estimated first year's savings, for example when a suggestion improves service to the public or improves safety, a Certificate of Merit is awarded to the employee. The Certificate of Merit is signed by the Governor and the Chairperson of the Employee Award Board. The board always asks the heads of state agencies to present suggestion awards to their employees in a public ceremony to emphasize the importance of their employee's contribution to state service.

A small number of management-level state employees are excluded from participating in the employee suggestion program. Generally those state employees are unclassified management-level employees in state agencies and all of the Governor's staff. All other state employees are eligible to participate.

The types of ideas that are acceptable for submission under the employee suggestion program include those that:

- reduce costs, duplication, time, waste, or accidents;
- increase productivity or job interest;
- improve services, job performance, public relations, or employee morale;
- simplify procedures, methods, forms, tools, or organizations; or
- conserve human resources, material, money, energy, or natural resources.

Non-acceptable suggestions are those that:

- correct a condition that exists only because established procedures are not being followed;
- have been considered or for which awards have been granted previously;

which do not propose a method or way to make the improvement;
are developed as part of the duties of an employee's position;
concern routine maintenance which may be reported through regularly established channels;
personal complaints or criticisms;
require legislative action;
were under active consideration by management prior to having been made;
anonymous suggestions; and
the employee received a patent for.

Funding for cash awards may come from two sources. The primary source is from the state agency that benefits from the saving of the suggestion. In those cases, the board recommends that the state agency provides the funding for the awards because the agency is the main benefactor of the suggestion's savings. In the few cases where the state agency believes it did not benefit from the suggestion or that the employee, though otherwise deserving of recognition, is not eligible for an award, the board and the agency review the situation and resolve any relevant points before a public announcement is made regarding the suggestion. The other funding source for awards is an annual appropriation made therefore. Funds provided directly for the board's use for awards have ranged from \$10,000 to significantly less than that amount. The board has established a policy that allocations made therefor are used to pay for suggestions with intangible benefits or which benefit the state as a whole. This policy is adopted to encourage agencies to share a portion of the financial benefit with employees whose adopted suggestions reduce the agency's expenditures.

And finally, what are some suggestion that have been adopted? Please let me describe several meritorious suggestion that were adopted by the Employee Award Board during Calendar Year 1997.

Equipment Maintenance Agreement

The employees got approval to secure a policy agreement from an insurance company for the College of Veterinary Medicine designed for equipment maintenance. Cost for the policy was 15% to 20% lower than those available directly from manufactures. The policy still provides identical coverage offered by manufacturers plus coverage due to loss from human error, in-house maintenance costs and environmental failures. The employees went beyond their job responsibilities in pursuing this issue. Their hard work produced an estimated first year's savings of \$200,000.

Taxi Service Used for Inmate Discharges from Facility

The employee suggested that the local taxi service transport newly released inmates from the correctional facility to the bus depot. This great idea allows security officers who had spent non-security time transporting former inmates to devote more time to their primary duty

providing for a safer Kansas through effective correctional services. The savings is estimated at \$2,000 the first year.

Include Workzone Safety in Drivers Renewal Information

The employee suggested that highway work zone and worker safety information be included in driver's license renewal information. After the employee spoke with the secretary of transportation at a ceremony honoring a colleague, the secretary was able to get the department of revenue to make highway worker and construction zone safety part of the driver's license examination.

Thank you for your courtesy and attention. I will remain standing for any questions you may have.

**Compliance and Control Audit of the
HISTORICAL SOCIETY**

**Presentation to the
Senate Federal and State Affairs Committee
February 9, 1998**

Randy Tongier, Audit Manager
Legislative Division of Post Audit

Compliance and control audits are audits of a State agency's financial management practices that are focused into certain areas at the direction of the Legislative Post Audit Committee. They are called for by the Legislative Post Audit Act, and are done by Legislative Post Audit staff.

This audit looked at whether the Historical Society adhered to State and federal spending restrictions on its funds, and whether the Society made sure that local agencies adhered to spending restrictions on moneys those local agencies got from the Society.

In general, we found that the Society adhered to its own spending restrictions, and made sure that local agencies adhered to their spending restrictions. In doing our work, we identified the following areas where the Society could improve its grant administration procedures:

- The Society uses a grant manager to supervise and oversee its grants. At the time of our audit, the grant manager actually was an employee of the Society's not-for-profit affiliate organization. The moneys the affiliate organization used to pay that salary of the grant manager came from grants it received from the Historical Society. That meant the grant manager supervised the grants that provided funding for his own salary.

Federal guidelines prohibit individuals administering the Historic Preservation Fund program from having an interest that would conflict or appear to conflict with fair, impartial, and objective carrying out of their duties. Although we saw no indications of any lack of impartiality on the part of the grant manager, the existing situation seemed to us to constitute at least the appearance of an impermissible conflict of interest. Based on that finding, we recommended that the Historical Society employ the grant manager directly.

In its written response, the Historical Society agreed to address this recommendation.

- The Society administers the State's Heritage Trust Fund Program, which provides financial assistance to renovate, repair, or maintain property listed on the National or State Registers of Historic Places. Grants have totaled about \$600,000 per year. Based on our review of the Program, we made recommendations for improvement in the Society's procedures. We also made recommendations for changes in State law.

To reduce the risk of inappropriate use of those grant moneys, we recommended the following changes in the Society's grant administration procedures:

- To ensure that an applicant has ownership of the property, the Society should require applicants to provide a title report.
- To ensure that all owners are subject to restrictions on modification, use, and disposition of the property, the Society should require all owners to sign the project agreement.
- To better assess the need of the property owner for financial assistance (required by State law), the Society should require summary financial information from all owners.
- To verify an applicant's claim of being a nonprofit corporation, the Society should require the applicant to provide a current Certificate of Good Standing from the Secretary of State.

In its written response, the Historical Society agreed to address these recommendations.

The Program provides for "recapture" of grant moneys if the property is sold within five years of project completion, and places additional restrictions on grants to for-profit corporations. To reduce the risk of inappropriate transfers of property benefitting from grant moneys, and provide for more consistent treatment of grantees, we recommended that the Legislative Post Audit Committee consider introducing a bill that would amend State law to do the following:

- require repayment of grant moneys when property is sold within five years of the date of the award (Current State law calls for "recapture" of grant moneys if the property is sold within five years of project completion. That would allow sale of the property after grant moneys have benefitted the project, but before completion, without recapture.)
- provide exceptions to the recapture provisions when property is transferred to a county or local government, a historical society, or a not-for-profit organization.
- remove current restrictions on the amount of grants to for-profit corporations, or include for-profit applicants that have other organizational structures, such as partnerships, in the current restrictions

The Legislative Post Audit Committee introduced House Bill 2611, which would implement the above recommendations. (On the third point above, House Bill 2611, as introduced, would include for-profit applicants that have other organizational structures in the current restrictions on not-for-profit corporations.