

Approved: February 2, 2010
Date

MINUTES OF THE HOUSE GOVERNMENT EFFICIENCY AND FISCAL OVERSIGHT
COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 3:30 p.m. on January 27, 2010, in Room 546-S of the Capitol.

All members were present except:

Representative Sean Gatewood- excused
Representative Charlie Roth- excused
Representative Tom Sloan- excused

Committee staff present:

Renae Jefferies, Office of the Revisor of Statutes
Gordon Self, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Gary Deeter, Committee Assistant

Conferees appearing before the Committee:

Vicky Johnson, Chief Counsel, Kansas Department of Transportation
Peter Carttar, Assistant Bureau Chief for Construction and Maintenance, Kansas Department of Transportation
Terry Heidner, Legislative Liaison, Kansas Department of Transportation

Others attending:

See attached list.

The minutes for the January 19 meeting were approved. (Motion by Representative Trimmer, seconded by Representative Ruiz)

Representative Spalding, noting the need for the legislature to determine how much real property is owned by the state, made a motion requesting introduction of a bill requiring each state agency to ascertain what real property it owns and to report annually to the legislature what real property is available for sale, for rent, or for future planning. The motion, seconded by Representative Craft, passed unanimously.

Representative Burgess recommended a feasibility study under the direction of the Legislative Chief Information Technology Officer and the Kansas Chief Information Technology Architect to determine how, using existing resources, data centers might be consolidated. He made a motion to that effect; the motion, seconded by Representative Neufeld, passed unanimously.

Representative Burgess commented on a possible bill introduction to place into statute the Kansas Partnership for Accessible Technology, presently existing under an executive order. Members agreed to a meeting at the rail on Monday if a bill introduction is deemed necessary.

The Chair referenced a Legislative Division of Post Audit document reviewing audits of interest to the

CONTINUATION SHEET

Minutes of the House Government Efficiency and Fiscal Oversight Committee at 3:30 p.m. on January 27, 2010, in Room 546-S of the Capitol.

Committee (Attachment 1).

Representative Trimmer raised a question about ethanol efficiency ratings. Peter Carttar, Assistant Bureau Chief for Construction and Maintenance, Kansas Department of Transportation (KDOT), replied that ethanol has a lower BTU rating than gasoline, that ethanol production costs vary, and that ratings are always based on mile-per-gallon, not cost of production.

Vicky Johnson, Chief Counsel, KDOT, appeared at the request of the Committee to review excess real property owned by the agency (Attachment 2). She explained that, as design standards and safety requirements change, KDOT must purchase additional land for interchanges and rights-of-way, often resulting in slivers of land-locked parcels which are unmarketable except to an adjoining land owner. She added that advance acquisition of land for proposed highway expansion is cost-effective for KDOT and is not considered excess property. She explained that KDOT is doing an inventory to ascertain all agency property, currently has completed 80 counties, and, when the inventory is completed in about a year, will have a more nearly accurate assessment of potentially excess real property. She noted that all property will be evaluated for possible future use or will be declared excess property.

Ms. Johnson said that KDOT owns very few large marketable properties, and those that are marketable are usually offered for sale. Some small parcels also are used for materials storage. She commented that if only one individual is interested in purchasing the property, the Secretary is authorized to negotiate the sale; however, if more than one individual expresses interest in the property, the property must be appraised and sold at auction, and the sale must be at least two-thirds of the appraised value.

Ms. Johnson explained two other factors that impinge on selling excess property:

1. If federal funds were originally included in the purchase of land, those funds must be returned to the federal government.
2. A recent court ruling held that if the land were acquired by eminent domain, the state can release the land only as an easement for highway purposes; otherwise the land reverts back to the original owner.

Ms. Johnson responded to a variety of members' questions:

- She will provide information later on the total acres inventoried from the 80 counties.
- Newly acquired land is automatically included in the property database.
- Salina and Saline County were not interested in purchasing the land acquired by eminent domain along I-135.
- KDOT usually allows landowners to take care of advance acquisition land; landowners pay rent to KDOT, and the rent is sent to the appropriate county appraiser office as compensation for removing the land from the tax rolls. KDOT is proposing legislation to clarify the issue.
- KDOT's right-of-way mowing policy is complex, depending on location, the presence of noxious weeds, and the classification of the roadway.

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Minutes of the House Government Efficiency and Fiscal Oversight Committee at 3:30 p.m. on January 27, 2010, in Room 546-S of the Capitol.

- Borrow pits are often used as replacement for wetlands.

Terry Heidner, Legislative Liaison, KDOT, explained that the agency is judicious in land acquisition for future right-of-way, reserving such purchases for high-growth and high-traffic areas.

Ms. Johnson continued responding to members' questions:

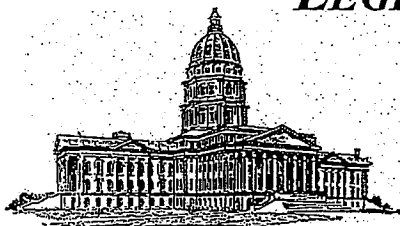
- The administrative requirements of renting small parcels to local farmers is often counter-productive from both a cost and safety perspective. Occasionally hay permits are issued to local farmers.
- Some decommissioned rest areas are sold, but some are landlocked and not marketable.

The Chair thanked Ms. Johnson for providing information to the Committee. He requested that attorney Bob Vancrum be invited to brief the Committee on Connected Real Estate.

The meeting was adjourned at 4:37 p.m. The next meeting is scheduled for February 2, 2010.

LEGISLATURE OF KANSAS

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January 14, 2010

Representative Jim Morrison, Chair
House Government Efficiency and Fiscal Oversight Committee
Room 274-W, Statehouse

Dear Representative Morrison:

As you start the 2010 legislative session, I'd like to remind you of the tremendous audit and staff resources available through the Legislative Division of Post Audit. The Division's audits, which offer independent and objective assessments of specific problem areas or concerns, can provide crucial information to you as a decision maker. The Division's staff serve all Kansas legislators, not just the Legislative Post Audit Committee.

The enclosed document provides abstracts for the audits distributed to your Committee since the end of the 2009 session. In addition, we have enclosed audit reports released at the Legislative Post Audit Committee's December 17 meeting that we thought your Committee might be interested in. I've enclosed a full copy of these audits for you, the Vice-Chair, and the ranking minority member, with all other members receiving a copy of our "Audit Highlights" document. If any member would like a full copy of any of these audits, or if your Committee would like a presentation or more information, please contact our office at 296-3792.

Currently we are working on a number of audits that may be of interest to your Committee. We have provided all legislators, under separate cover, with a list of audits approved or under way. Also, as an added convenience, we've provided all members with a list of all our performance audit reports issued in the last three years, along with a CD that contains these audit reports in PDF format.

Audits can help determine how and why moneys are spent, and identify programs that can be operated more efficiently or economically. Such audits often point out ways to save the State money. If you would like an audit in a particular area, we would be happy to help you develop an audit scope statement for the Legislative Post Audit Committee's consideration. Again, if you have any questions about any of our audits, please let us know. We look forward to working with you.

Sincerely,

A handwritten signature in cursive script that reads "Barbara J. Hinton".

Barbara J. Hinton
Legislative Post Auditor

cc: Representative Mike Burgess, Vice-Chair
Representative Ed Trimmer, Ranking Minority Member
Julian Efird, Legislative Research Department

Enclosure

Attachment 1
GEFO 1-27-10

Legislative Post Audit
Reports Distributed to House Government Efficiency and Fiscal Oversight Committee
2009

American Recovery and Reinvestment Act: A Preliminary Assessment of the Risk That Recovery Act Moneys Won't Be Appropriately Accounted for or Spent

10CC02 December 2009 Supervisor: Amy Thompson

The \$787 billion American Recovery and Reinvestment Act of 2009 (ARRA) requires unprecedented accountability and oversight of federal moneys being spent at the State and local levels. State agencies in Kansas will receive more than \$2 billion in formula grants under the Act through 2011. The 2008 Statewide Single Audit had identified procedural or control weaknesses in four State programs that will be receiving ARRA moneys. Correction of those weaknesses, which related to things like reconciling records, improving eligibility determinations, and implementing computer edits to prevent improper payments, will be checked during the 2009 Single Audit. In eight other programs reviewed for this audit, the risk that agencies won't comply with the requirements of ARRA appears to be relatively small. We found no weaknesses in the way that agencies are accounting for the ARRA moneys. However, in areas of monitoring and quarterly reporting, we found that officials from several of the programs needed to commit their procedures to writing to ensure consistency and, in a few cases, needed to further develop procedures or hire additional staff to ensure that monitoring or reporting functions could be carried out effectively. In separate work, we found that the Department of Transportation's process for selecting highway projects to fund appears to comply with Recovery Act requirements.

K-12 Education: School District Efficiency Audit

08PA11 July 2009 Supervisor: Laurel Murdie

This audit was limited to a review of available data on the non-instructional operational spending for 121 school districts to identify trends or patterns that could shed light on districts' efficiency. While our review showed that per-student spending generally was driven by economies of scale--the more students there were in a district, the less they tended to spend--there was still a lot of variation in spending among similar-sized districts. When districts spent more per student than their peers in various areas, it tended to be in the area of staffing costs. In addition, we found that school districts didn't always report expenditure and staffing data consistently, making meaningful comparisons difficult. We concluded that efficiency audits that are more in-depth than this one can serve a vital role in helping districts identify additional efficiencies. NOTE: Appendix B of the report contains detailed information on the non-instructional operating costs for the 121 districts included in our review.

Adult Correctional Agencies: Determining Whether Functions Could Be Combined To Gain Cost Efficiencies

10PA02 October 2009 Supervisor: Justin Stowe

From an efficiency standpoint, we found no benefit to merging the 3-member Parole Board into the Department of Corrections. Board members already are co-located with the Department, the two agencies share a conference room, and Department employees provide both the direct and indirect administrative support Board members need. Merging the Sentencing Commission staff function into the Department of Corrections would save about \$152,000 a year (\$760,000 over five years) by eliminating duplicate administrative functions—including agency management, payroll, IT support, and the like—and the staff positions and other costs associated with them. That represents about 20% of the Commission's current annual operating costs. If only the administrative functions of the Commission's staff were merged into the Department, and not research functions, the savings would be reduced to about \$48,000 a year. Commission staff raised a number of concerns related to merging their functions within the Department, but we think those concerns can be reasonably addressed. Further, many other states perform these functions through a correctional agency.

Vehicle Travel: Determining Whether the State Is Becoming More Cost Efficient With Its Vehicle Fleet

09PA04 July 2009 Supervisor: Justin Stowe

Overall, State employees have increased the number of miles they drive for work by 2% since 2003. Fuel expenditures have increased by \$6.8 million since 2003, which represents a 3.5% increase adjusted for inflation. The use of ethanol has gone from 11% of fuel purchases to about 35% during that period. The Governor and the Department of Administration have taken steps to improve the average gasoline fuel efficiency (as measured by M.P.G. ratings) of vehicles available through the State's vehicle contract since 2007. However, the State has more "flexible-fuel" vehicles that can use either ethanol or gasoline available on the contract now, which likely will reduce the State fleet's overall fuel efficiency. That's because ethanol is much less fuel efficient than gasoline. For the 140 vehicles we reviewed in which flexible-fuel vehicles replaced gasoline-only vehicles, we estimate that fuel efficiency could decrease by as much as 5.3 M.P.G., or 25.5%, if agencies use only ethanol fuel. Finally, 6.4% of the State's vehicle purchases in fiscal year 2008 were used vehicles. Our review of 251 commonly purchased new vehicles in fiscal year 2008 showed the State potentially could save up to \$112,000 a year (9%) by purchasing those vehicles used instead of new. However, this level of savings assumes agencies would buy a used 2007 vehicle instead of a 2009 vehicle of the same make and model, and that they could buy the used vehicle at 20% below market value. If they couldn't achieve that level of discount, bought different or better-equipped used vehicles, or bought used vehicles that needed significant maintenance, any or all potential savings could evaporate.

State Data Systems: Reviewing for Evidence of Inappropriate Payments (January - June 2009)

09CC02.2 July 2009 Supervisor: Levi Bowles

We used data-mining techniques to analyze several State data systems, including a focus on overtime. The State paid a total of \$13.1 million in overtime pay in fiscal year 2008, including \$4.4 million in overtime premiums. Agencies with very high overtime costs could reduce their costs by as much as \$260,000 a year if they could hire additional employees, rather than paying so much overtime to existing employees. However, for some agencies recruiting qualified employees is a problem, or existing employees want the overtime pay to make their low-paying jobs more attractive. We also looked at several specific cases where employees worked significant amounts of overtime, or where State agencies paid their employees as contractors, and found that agencies generally had reasonable explanations for these situations. Finally, we identified an instance at the Department of Health and Environment where a manager is married to a subordinate, and the Department hasn't acted to limit the potential conflict of interest.

**Audits Potentially of Interest to the
House Government Efficiency and Fiscal Oversight Committee
Available in the Coming Weeks**

- School Reorganization—*available in early February*
- Data Center Consolidation— not yet started
- Sole Source Purchasing—not yet started
- Medicaid Managed Care—not yet started
- Consolidation of Water Agencies—not yet started

**TESTIMONY BEFORE
HOUSE GOVERNMENT EFFICIENCY AND FISCAL OVERSIGHT COMMITTEE**

RELATING TO KDOT EXCESS RIGHT-OF-WAY

JANUARY 27, 2010

Good afternoon Mister Chairman, members of the committee. I am Vicky Johnson, Chief Counsel for the Kansas Department of Transportation (KDOT), here today to discuss KDOT's excess right-of-way.

The agency is currently evaluating all counties for excess right-of-way. To date, 80 counties have been analyzed for possible tracts of excess. As those tracts are identified, they are passed on for internal review to determine if they are in fact excess right-of-way. Excess tracts are then analyzed for marketability, and will be sold if marketable.

After an agency determination that the parcel is excess right-of-way, it can be sold to a private individual or business. K.S.A. 68-413 requires that the agency sell the land for at least 2/3 of the appraised value, or it can be sold at public auction.

The quality of the excess right-of-way often presents a challenge in attempting to sell that property. The size, shape, and location of the tracts are not desirable to buyers, as shown in Exhibit B. Exhibit B is a tract of land that is considered to be an uneconomic remnant. Tracts can be land-locked, which means there is no access to the land except over the land of an adjoining owner. In these situations, the land is offered for sale to an adjoining owner.

Decisions about offering excess right-of-way for sale must include careful consideration of how and when the property was acquired. The Kansas Supreme Court, in an unpublished opinion, held that right of way easements acquired during certain time frames, if determined to be excess and offered for sale, revert to the underlying fee owner leaving no saleable interest for disposal by the state.

An additional complication arises when federal funds have been used to purchase the right-of-way. If KDOT later determines that right of way to be excess, the amount of the federal contribution must be given back to the federal government.

Thank you for the opportunity to update the committee on KDOT's excess right-of-way. I would be happy to answer questions at the appropriate time.