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March 27, 2017

Chairwoman Carolyn McGinn  
Senate Ways and Means Committee  
RE: Opposition Testimony for Substitute for HB2331 (written only)

Chairman McGinn and Members of the Committee:

I am writing on behalf of the Kansas Organization of State Employees (KOSE). KOSE represents over 8,000 Executive Branch state employees, with covered employees in every Kansas county and legislative district. On behalf of those employees, I ask you to oppose Substitute for HB 2331, particularly those provisions that deal with the establishment of the Kansas Information Technology Enterprise (KITE). We oppose this provision due to its lack of clarity regarding the treatment of state employees which threatens to further impair the state's ability to attract and retain high quality IT employees through the proposed transition and beyond.

Section 12 of Substitute for HB2331 purports to transfer all executive branch employees who "were engaged in the performance, powers, duties or functions for executive branch agencies concerning information technology" to the newly established Kansas information technology enterprise. This description is quite broad. Indeed, many if not most job classifications within the executive branch could be said to "concern information technology". The bill fails to state which existing job classifications are potentially affected or provide a set of criteria for selecting the affected classifications. In addition, the bill does not provide any estimate of the number of employees to be affected. There is no indication of whether the newly formed Kansas information technology enterprise will result in an increase or decrease of the total number of state employees. There is also no indication of the impact to state agency budgets due to the potential loss of employees and unquantified charge back for IT services.

Substitute for HB 2331 also vests complete, unchecked authority in the executive chief information technology officer to decide which employees are "necessary" and therefore eligible for transfer. (Page 11, lines 19-23) The bill provides no restriction regarding the selection criteria creating the potential for decisions based on factors other than experience, merit and qualifications.

The bill is also unclear regarding the retirement benefits and civil service status of employees once transferred. The bill provides that transferred employees “shall retain all retirement benefits and rights of civil service that *had accrued to or vested in* such officer or employee *prior to the effective date of this section.*” (Page 11, lines 23-26) (emphasis added). The continued accrual of these benefits after the date of transfer should be assured as should the employees’ continued participation in their existing bargaining unit.

The A&M study, which is cited as the impetus for this bill, cites the state’s inability to attract and retain IT talent as a barrier to efficiency in the delivery of IT services. (A&M Study p. 60) The fact that state employees have not received an across-the-board wage increase since 2009 is a major factor in that inability to attract and retain employees. Current state IT employees are paid well below market rates. Substitute for HB 2331 does not contain a plan for future pay increases, and the accompanying fiscal note makes no mention of this cost.

Outdated systems provide further disincentive for qualified IT personnel. The bill and fiscal note fail to establish a plan to update the state’s IT systems. Highly qualified IT employees are trained for, and understandably wish to work with, the latest technology...or at least hardware and software that is not several years behind the times. Last year, many state agencies were still running Windows XP which is no longer supported by Microsoft and is vulnerable to hacking. Consolidation of state IT services without a comprehensive, long-term plan to increase the state’s ability to attract and retain high quality employees is simply imprudent and ignores the A&M study findings.

The organizational uncertainty this bill creates for the state’s IT employees will also negatively affect the state’s ability to attract and retain employees in the highly competitive IT job market. The current office of technology services underwent a consolidation/renaming process in 2016. Employees were laid off as part of that process. Yet another major change within a year creates an environment of instability for employees. When coupled with the aforementioned vague provisions regarding the proposed transition process, the lack of planning for competitive wages, and the lack of planning for upgraded systems, it is easy to see that Substitute for HB2331 is an incomplete and inadequate proposal.

Although the bill may seek to improve the state’s IT service efficiency, its lack of clarity regarding potentially impacted employees must be addressed to provide employees reasonable assurance of fair treatment, competitive wages, current systems, job security, and retirement benefits through any transition or consolidation process. As written, the bill fails to accomplish this important task and thus it further jeopardizes the state’s ability to attract and retain high quality IT employees. For these reasons, KOSE respectfully requests committee members join us in opposing HB 2331. Thank you.

Sincerely,  
Brian Wood, Legal Counsel  
Kansas Organization of State Employees