

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairman Kenny Wilk at 9:05 a.m. on January 31, 2001 in Room 514-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research
Rae Anne Davis, Legislative Research
Julian Efrid, Legislative Research
Paul West, Legislative Research
Amy Kramer, Legislative Research
Jim Wilson, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Barb Hinton, Legislative Post Audit
Chip Wheelen, Kansas Association of Osteopaths
Shelly Wakeman, Board of Healing Arts
Larry Beuning, Board of Healing Arts

Others attending: See Attached

Chairman Wilk announced the establishment of a Faith-Based Subcommittee naming Representative Landwehr and Representative Nichols as co-chairs. Other members are Chairman Wilk, Representative Neufeld, and Representative Ballard.

Hearing and Action on HB 2056—Appropriations for the fiscal years ending June 30, 2001, and June 30, 2002, for the legislative coordinating council; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursement and acts incidental to the foregoing

Julian Efrid, Legislative Research Department, explained the bill to the Committee as one that would appropriate funds to be used for an actuarial audit of KPERS as the statutes call for a legislative audit every six years or less.

Representative Lloyd Stone, Chairman of the Joint Committee on Pensions, Investments, and Benefits, presented testimony in support of the bill with the added recommendation that the amount to be requested be \$150,000 (Attachment 1).

The Committee discussed the option of funding this audit other than using the SGF as the proposed budget is spent down within the 7.5 percent SGF ending balance requirement and the EDIF is short. The Committee discussed the option of requiring KPERS to pay for the audit which will be put out on bid. It was pointed out that television ads in support of the constitutional amendment requested by KPERS were paid out of the KPERS fund.

As there were no opponents to the bill, Chairman Wilk declared the hearing closed.

Representative Stone moved to amend the bill by lowering the requested amount to \$150,000. Motion was seconded by Representative Pottorff. Motion carried.

Representative Stone moved the bill be reported favorably as amended. Motion was seconded by Representative Pottorff. Representative Nichols offered a substitute motion containing an amendment requiring the funding of the actuarial audit be paid by KPERS. The substitute motion was seconded by Representative Klein. The Nichols substitute motion failed. The Stone motion to report the bill favorably as amended carried.

Hearing on HB 2040 - Surplus real estate owned by state agencies

Paul West, Legislative Research Department, explained the passage of 2000 **HB 2017** was a step toward State

agencies identifying surplus state land. This bill did not designate an independent entity to make the final decision about whether surplus land should be sold and it lacked financial incentives to encourage the sale of surplus land. **HB 2040** does address these issues.

Barb Hinton, Legislative Post Audit, presented testimony requesting support of the bill which would designate the Secretary of Administration as responsible for developing criteria for identifying surplus land and make recommendations for sale of such land to the Governor. The land would then be eligible for sale with the Governor's and the State Finance Council's approval (Attachment 2). As extra incentive to the agency officials, the bill would also authorize the State Financial Council to designate for the agency selling the land up to 50% of the proceeds after expenses.

Mrs. Hinton explained that the bill did not include KDOT even though they had recommended that KDOT follow the same real estate reporting requirements as other state agencies. Although Legislative Post Audit has declared that KDOT does not have a good inventory system, KDOT's response has been that it is adequate to meet the needs of the agency and public. They have sold land totaling about \$6.1 million over the past ten years. KDOT said they would be unable to meet the inventory reporting system suggested with their existing resources.

As there were no opponents to the bill, Chairman Wilk declared the hearing closed.

Hearing on HB 2121 – State board of healing arts; relating to compensation of review committee members

Amy Kramer, Legislative Research Department, explained that the bill would allow the Board of Healing Arts to provide expert witnesses with an hourly fee for their services in peer review cases. The fee would be set by the Board of Healing Arts.

Chip Wheelen, Kansas Association of Osteopathic Medicine, spoke in support of the bill which would authorize the practice of compensating members of the committee who review medical charts and related information in peer review cases concerning appropriate standards of care (Attachment 3). He pointed out that it takes many hours to review and write opinions in such review cases and these physicians should be compensated by the Board of Healing Arts as they are with any other agency who seeks expert opinion.

Shelly Wakeman, Disciplinary Counsel for the Board of Healing Arts, said that a definite hourly amount for expert witness opinions would probably be in the range of \$70 per hour which is about half of what experts in litigation receive (Attachment 4). This payment would be limited to physicians at this time as they are the only ones qualified to determine if standards of care are met. The Board of Healing Arts is finding it more and more difficult to find members to serve on the peer review board due to time constraints and lack of compensation. Currently they are one member short. The desperate need for expert witnesses is in the specialized branches such as surgery.

Larry Buening, Executive Director of the Board of Healing Arts, said the proposed legislation has been supported twice before by the Board, but they have not voted on it this year as they do not meet until later in the year. The payment of expert witnesses would not cause the raising of fees for members of the healing arts.

Chris Collins, Kansas Medical Society, presented written testimony in support of the bill (Attachment 5).

The hearing was closed on the bill by Chairman Wilk.

The meeting was adjourned at 10:25 a.m. by the Chair. The next meeting will be held on February 1, 2001.

COMMITTEE GUEST LIST

DATE: 1/30/01

NAME	REPRESENTING
Chip Wheelen	Osteopathic Association
Ray Dalton	SRS
Paul Thorton	Post Audit
Kathleen Osterwee	" "
Mike Farmer	Kansas Catholic Conference
Glenn Deck	KPER S
James Scott	ESU
ERIC Sexton	W SU
Danielle Noel	D of A
JOE FREITON	DEPT OF ADMIN / DFM
Sharon Marcum	" "
Melinda Gaul	DOB
Kyle Kessler	DOB
Laurel Murdie	Post Audit
Chris Collins	Kansas Medical Society
Larry Luening	Bd of Healing Arts

LLOYD A. STONE
REPRESENTATIVE, 60TH DISTRICT
LYON COUNTY
1719 HAMMOND DR
EMPORIA, KANSAS 66801-5312
ROOM 155-E
STATE CAPITOL, TOPEKA 66612-1504



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: PENSIONS, INVESTMENTS & BENEFITS
MEMBER: APPROPRIATIONS
E-GOVERNMENT
GEN GOVT & HUMAN RESOURCES
BUDGET

TESTIMONY ON HB 2056
HOUSE APPROPRIATIONS COMMITTEE
JANUARY 31, 2001
REP. LLOYD A. STONE

Thank you Mr. Chairman and members of the Committee for allowing me to speak about HB 2056.

HB 2056 would appropriate funds to be used for an actuarial audit of KPERS. Statutes call for a legislative audit every six years or less. The last audit was conducted in 1995 and the final report submitted in February 1996. In lieu of recent reports and publicity with regard to the KPERS actuarial recommendation it would seem appropriate that this audit be conducted as soon as possible.

The last audit cost \$22,500 because the firm used original data. Had they generated their own data the cost would have been \$55,000. A company recently did an audit of the Texas Teachers Retirement System for \$100,000.

Given this information, Mr. Chairman, I as Chairman of the Joint Committee of Pensions, Investments and Benefits urge the Committee to pass the bill out favorably. In addition, I would recommend that the amount of the request be amended to \$150,000.

Thank you Mr. Chairman.

HOUSE APPROPRIATIONS

DATE 1/31/01
ATTACHMENT 1

**Testimony for the
House Appropriations Committee
on HB 2040**
Barb Hinton, Legislative Post Auditor
January 31, 2001

Mr. Chairman and members of the Committee, thank you for allowing me to appear before you on behalf of the Legislative Post Audit Committee to testify in support of HB 2040. This bill addresses a recommendation we made in our recent performance audit, *State-held Lands: Reviewing the Management and Use of Those Lands in Kansas*.

During our audit, we found that State agencies own just over 4,800 acres of land that could be considered potentially surplus, with an estimated value of about \$6.8 million. About two-thirds of that land is located at Larned and Osawatomie State Hospitals and Lansing Correctional Facility.

For most of this property, there aren't any restrictions that would prevent its sale, although some parcels could be difficult to sell because of the terrain, location, or polluted condition of the land. Some of the most common reasons agencies cited for hanging on to this land were:

- **the land might be needed for future agency expansion.** (However, there are no concrete long-range plans to expand these agencies' facilities, and all these parcels also were identified as surplus 24 years earlier in our 1976 audit of State-held lands.)
- **the land provides a buffer zone.** (Although buffer zones are needed in some instances, there aren't any State guidelines about their size. Federal guidelines say buffer zones should be kept to a minimum.)
- **the land generates income that's used to fund agency programs.** (However, the State generally isn't in the business of owning land to generate income.) *\$150,000 per year*
- **owning the land helps protect groundwater from pollution.** (Again, State agencies generally aren't in the business of owning land to prevent pollution.)

Last year, the Legislature passed House Bill 2017, which was a step toward encouraging State agencies to identify surplus State land. Under the current law the Secretary of Administration must do 3 things:

- develop criteria for identifying surplus land
- assist State agencies in identifying such land
- develop guidelines for the sale of surplus land

While this legislation was a good start, it didn't designate an independent entity to make the final decision about whether surplus land should be sold, and it lacked any sort of financial incentive to encourage agency officials to dispose of surplus land. HB 2040 would do these things in the following ways.

- ❑ it would make the Secretary of Administration responsible for developing additional criteria for identifying surplus land, periodically determining whether any State-owned land is potentially surplus, and making recommendations to the Governor. Land could only be sold with the Governor's and the State Finance Council's approval, and agency heads would be consulted throughout the process.
- ❑ it would require the State Finance Council to give the agency selling the land up to 50% of the proceeds after expenses. The remainder would be deposited in the State General Fund.

That concludes my remarks about the bill you have before you, but there's one other item I'd like to bring to your attention. This bill doesn't address a recommendation we made that would require KDOT to have to follow the same real estate reporting requirements as other State agencies to help ensure it maintains better records of its land holdings.

Current State law specifically exempts KDOT from having to submit land inventory information to the Director of Accounts and Reports. In our audit, we noted the Department ultimately could provide us with some information about each type of land it owned, but didn't have a good inventory system. As a result, it can't easily identify those parcels of right-of-way or other land that are potentially surplus. This was a problem we'd pointed out in our 1976 audit as well.

In response to the audit, KDOT agreed a better land inventory system would be desirable, but said the records it currently maintained were adequate to meet the needs of the agency and the public. KDOT said its current records enabled it to respond to requests to sell or release property, and pointed out it had sold land totalling about \$6.1 million over the last decade. The response also said the burden on KDOT to "review and compile land acquisition records dating back to the 1920s into a report format acceptable to the Director of Accounts and Reports would be substantial and couldn't be accomplished with existing resources."

Because we think KDOT won't be able to really manage the State lands it has without a better inventory system, I wanted to bring this issue to the Committee's attention.

A Summary of Findings Related to the Department of Transportation's Land Inventory Methods

Land type and acreage	How the data are stored:	Findings related to the inventory:
<p>Land that has an existing highway (right-of-way)</p> <p>179,500 acres (estimated)</p>	<p>Centrally, in a data system called the Control Section Analysis System (CANSYS) planning database. The Department used this system to estimate right-of-way acres with an existing highway.</p>	<p>Although an estimate of this land was available, the Department can't easily identify those "pieces" of right-of-way that are potentially surplus.</p> <p>Although the method it used to arrive at the estimate appeared to be reasonable, when we asked Department officials if they could identify those parcels of right-of-way that could be considered potentially surplus, they told us they don't have a good way of inventorying right-of-way that would allow them to identify potentially surplus land. Even if the Department had such a system, officials told us they would still need additional staff to help identify and sell the surplus parcels.</p> <p>We talked with officials from 3 other states and they have a systematic way of tracking and selling surplus right-of-way. Currently, Kansas doesn't systematically identify, track and sell surplus right-of-way.</p>
<p>Land acquired in anticipation of building a future highway (Also right-of-way)</p> <p>4,600 acres (estimated)</p>	<p>We couldn't tell how the Department stored this information. Department officials told us it was a compilation of data from several information systems.</p>	<p>The Department doesn't keep a systematic inventory of this information. Although we were provided some information about the land the Department has acquired in anticipation of building a highway, the Department doesn't systematically track this information.</p>
<p>Land used for the Department's daily operations</p> <p>1,474 acres</p>	<p>Centrally, in a data system called the Capital Inventory System.</p>	<p>This information was available because it is used in preparing the Department's annual report to the Governor and Legislature.</p> <p>With a few modifications, the Department may be able to use this system to identify and manage its surplus properties.</p>

Potentially Surplus State-Owned Land

Agency	Acres	County	Land Type	Est. Value	
Land Agency Officials Identified as Surplus					
Osawatomie State Hosp.	795	Miami	Pasture/rangeland and commercial	\$1,305,900	
Dept. of Administration (includes Topeka State Hospital grounds)	248	Shawnee	Commercial	\$2,264,600	
Dept. of Social and Rehabilitation Services	159 (a)	Stafford	Cropland and other	\$ 182,000	
Dept. of Transportation	62	Various	Shop sites, radio tower sites and	\$ 292,000	
Beloit Juvenile Correctional Facility	32	Mitchell	Cropland and unimproved land	\$ 11,900	
Dept. of Human Resources	.5	Cowley and Leavenworth	Commercial	\$ 150,000	
Subtotal	1,297			\$4,206,400	
Additional Land Legislative Post Audit Identified as Potentially Surplus					Agency rationale for not calling this land surplus
Beloit Juvenile Correctional Facility	43	Mitchell	Cropland	\$49,300	The land is needed for surveillance and isolation purposes. Projections show that the population will increase to 150 inmates by 2008, requiring facility expansion. One of the parcels has no direct access.
Atchison Juvenile Correctional Facility	108	Atchison	Cropland and unimproved land	\$56,100	A 50-bed expansion may be needed by 2006 and another 50 beds later in the decade. One parcel is steep, heavily wooded, and slopes toward the river, providing a buffer zone and discouraging offenders from escaping. In addition, a small cemetery is located on part of the land.
Kansas Neurological Institute	72	Shawnee	Unimproved land	N/A	The State could redefine the mission of KNI and could need all or a portion of this property for development. Also, the property is likely unsellable, and any proceeds from a sale must revert to the federal government, which deeded the land to KNI.
Emporia State University	10	Lyon	Commercial	\$52,500	University officials are considering several options including building a new building, expanding athletic fields, or trading for another parcel of land.

Additional Land Legislative Post Audit Identified as Potentially Surplus (continued)

Agency	Acres	County	Land Type	Est. Value	Agency rationale for not calling this land surplus
Lansing Correctional Facility	1,390	Leavenworth	Cropland and pasture/rangeland	\$1,419,300 (b)	Parcel #1 (95 acres) 15 acres of this land is leased to the city for a park. The institution is considering expanding the cow herd for Correctional industries on the remainder of this land. Parcel #2 (1,295 acres) 1,038 acres of the land are leased out for \$113,533 annually, and the lease proceeds are used to support the Correctional Industries Agri-Business program which provides 18 inmate and 2 staff jobs.
Larned State Hospital	1,104	Pawnee	Cropland, Pastureland, Commercial and unimproved land	\$717,900	The land is needed to maintain groundwater quality.
Norton Correctional Facility	418	Norton	Cropland and Pasture/rangeland	\$121,300	Lease proceeds from this land directly support operations. The land also is used as a buffer zone to provide better security.
University of Kansas	160	Miami	Cropland	\$64,000	This land was bequeathed to the University and the proceeds from any rental or sale must be used for a medical scholarship and to benefit the medical school.
Commission on Veterans' Affairs	216	Cowley and Ford	Pasture/rangeland and cropland	\$108,700	Parcel #1 (28 acres) This parcel was part of a route for a proposed highway project that wasn't funded, but which might be considered again in the future. Parcel #2 (163 acres) The land acts as an environmental buffer, and Commission ownership prevents industrial or agricultural ownership that might cause further groundwater pollution. The land provides quietness and pleasant visual scenery. Parcel #3 (25 acres) The Commission has several ideas for using this land that residents could enjoy. One idea is to keep horses there.
Subtotal	3,521			\$2,589,100	
Total	4,818 (c)			\$6,795,500	

(a) Includes .5 acre located in Colorado

(b) Valued without taking into consideration the toxic waste sites, which would lower the estimated sales price

(c) This doesn't include an additional 350 acres of potential surplus land at the Commission on Veterans' Affairs. Even though the agency has provided uses for those acres, we determined those uses to be inconsistent with agency mission.

valued at \$2.2 million. This value may be low, given that several parcels already have sold for at least that amount. See the profile box below for more background information on the Topeka State Hospital closure and an update as to the State's progress in disposing of those grounds.

Status of the Topeka State Hospital Grounds

The 1997 Legislature closed the Topeka State Hospital. In July 1, 1999, State law gave the Department of Administration control and custody over the Topeka State Hospital grounds as well as the authority to operate and maintain the property. In addition, State law gives the Department authority to lease all or any portion of the grounds, and enter into agreements to sell all or any portion of the property.

Because selling the campus in its entirety proved impossible, due to various zoning issues and other obstacles, the Department created a "Master Land Plan" which provided for marketing the property in pieces to attract smaller buyers.

While most of the grounds are offered for sale to private companies, some areas of the campus will remain with the State of Kansas. In November 1999, the Department signed a contract with Kansas Commercial Real Estate Services, Inc., to market the Topeka State Hospital grounds under the new name "Kanza Business and Technology Park."

Since the Topeka State Hospital was closed, more than 81 acres of the 234 acre campus have been sold:

- In June 1997, the Department of Social and Rehabilitation Services sold 18 acres to USD 501 for just over \$1 million.
- The Department of Administration sold the 6th and MacVicar corner parcel (about 12 acres) to a company named Midland Residential Ventures, Inc., for just over \$1 million. However, this sale isn't complete because the Kansas Industries for the Blind must be located to another part of the grounds. When the move is complete, this sale will be finalized. According to Department officials, the company will develop this area into a grocery store and other amenities.
- The Department of Administration sold the 6th and Oakley corner parcel (about 43 acres) to USD 501 for \$1 million. The school will take possession of this property in July of 2001 and turn this parcel into a sports complex.
- The Department also sold an 8.5 acre parcel near the Printing Plant to Eby Reality Group for \$250,000.

In all cases, deeds have not been filed yet, therefore the Department of Administration still owns the entire 234 acres at the Topeka State Hospital grounds.

***Nothing Would Prevent
The State From Trying To
Sell All 4,800 Acres
Identified as Potentially
Surplus, But Location or
Conditions May Make
Some Land Parcels
Difficult to Sell***

We asked agency officials to give us information about any restrictions that might prevent the sale of State-owned parcels of land. For example, a restrictive codicil in the will of a person who had bequeathed land to the State could prevent the State from selling the land. None of the parcels we identified as potentially surplus had these types of restrictions.

Some land parcels did have restrictions on how the sale proceeds can be used, however. Also, agency officials pointed out information about conditions on some land which would make it difficult to sell. At least 830 acres fit in these categories, as follows:



Testimony on HB2121
To The
House Appropriations Committee
By Charles L. Wheelen
January 31, 2001

Thank you for this opportunity to express our support for the provisions of HB2121. This bill would allow the State Board of Healing Arts to resume the practice of compensating members of committees who review medical charts and related information in order to render a professional opinion whether a licensee adhered to appropriate standards of care. These opinions are extremely important because they can have a major bearing on whether the Board takes disciplinary action.

You will note that current law allows the Board to accept review committee nominees from professional associations. When we seek out individuals to serve on these review committees we try to recruit members of the profession who are respected by their peers for consistently sound medical judgment. After all, they are being asked to judge their professional peers and their opinion can possibly determine whether the peer loses or retains his or her license to practice. The kind of people we ask to serve on review committees are typically very busy physicians whose time is extremely valuable.

The peer review process is tedious and oftentimes requires detailed reading of numerous medical charts and similar records. It can be very time consuming.

In the past the Board of Healing Arts paid review committee members a modest fee for service to compensate them for their time devoted to reviewing charts and records. But this practice was curtailed because of an Attorney General's opinion.

Current law authorizes compensation of review committee members in accordance with K.S.A. 75-3223. This is the section of Kansas law that sets out the standard rate for attendance at meetings of boards and subcommittees of boards. A copy is attached for your reference. Neither this section of law nor any of the other sections referenced in K.S.A. 75-3223 provides for hourly compensation. Thus the need to clarify the Board's authority to pay members of review committees. That's what HB2121 does.

We believe that because of the importance of their role in the regulatory process, only the most respected physicians should be appointed to serve on review committees. And we also believe that qualified professionals should receive reasonable compensation for their work. The amount of compensation to be paid review committee members would be a function of the budget process. And of course the source of revenue would be the Healing Arts Fee Fund. In other words, the cost would be afforded by licensees and the Legislature would ultimately decide the appropriate method and rate of pay by way of the appropriations process.

Thank you for considering our request. We urge you to recommend pas **HOUSE APPROPRIATIONS**

DATE 1/31/01
ATTACHMENT 3

75-3223

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES Article 32.--COMPENSATION AND ALLOWANCES

75-3223. Compensation, subsistence allowances, mileage and expenses of members of board; "board" defined. (a) Whenever it is provided by law that a member of a board is to receive compensation as provided in this section, such member shall be paid per diem compensation of thirty-five dollars (\$35) for each day of actual attendance at any meeting of such board or any subcommittee meeting authorized by such board. No per diem compensation shall be paid under this section to salaried state officers or employees except that whenever a member of the legislature is a member of a board he or she shall receive compensation as provided in K.S.A. 75-3212 and amendments thereto.

(b) Whenever it is provided by law that a member of a board is to be paid subsistence allowances as provided in this section, such member shall be paid subsistence allowances as provided in K.S.A. 75-3207, unless such member is also a member of the legislature, in which case such member shall be paid subsistence allowances as provided in K.S.A. 75-3212 and amendments thereto.

(c) Whenever it is provided by law that a member of a board shall be paid mileage as provided in this section, such member shall be paid the mileage rate prescribed under K.S.A. 75-3203a and amendments thereto for miles actually traveled in going to and returning from a meeting of such board (or any subcommittee meeting authorized by such board), computed in accordance with rules and regulations of the secretary of administration adopted under K.S.A. 75-3207.

(d) Whenever it is provided by law that a member of a board shall be paid expenses (in addition to mileage and subsistence), such member shall be paid actual and necessary expenses incurred in performing his or her statutory duties as such member in accordance with K.S.A. 75-3203 and amendments thereto and K.S.A. 75-3207 and rules and regulations of the secretary of administration adopted under K.S.A. 75-3207.

(e) Whenever it is provided by law that members of a board shall receive amounts provided for in [this] subsection (e) of K.S.A. 75-3223 and amendments thereto, such members shall receive subsistence allowances as provided in K.S.A. 75-3207 and amendments thereto, mileage at the rate prescribed under K.S.A. 75-3203a and amendments thereto and other actual and necessary expenses incurred in performing his or her statutory duties as such member in accordance with K.S.A. 75-3203 and amendments thereto and rules and regulations of the secretary of administration adopted under K.S.A. 75-3207, unless such member is a legislator in which case such legislator shall receive the compensation, subsistence allowances, mileage and other expenses authorized for legislators under subsections (a), (b), (c) and (d) of this section.

(f) "Board" as used in this section means any three or more public officers or other persons who are given by law a joint authority.

History: L. 1974, ch. 348, § 1; L. 1974, ch. 361, § 93; L. 1975, ch. 416, § 29; July 1.

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor



235 S. Topeka Blvd.
Topeka, KS 66603-3068
(785) 296-7413
FAX # (785) 296-0852
(785) 368-7102

MEMORANDUM

TO: House Committee on Appropriations

FROM: Shelly R. Wakeman
Disciplinary Counsel

DATE: January 31, 2001

RE: **HOUSE BILL NO. 2121**

Chairman Wilk and members of the Committee, thank you for the opportunity to appear before you and provide information in support of House Bill No. 2121. The Board did not request introduction of this bill and has not taken a formal position on it. However, the bill contains language identical to bills introduced in 1997 and 1999 which were supported by the Board at that time. The effect of the bill is very simple—it would enable, but not require the Board to compensate review committee members for time expended reviewing investigative records and reports in preparation for the review committee meetings.

Review committees in the three branches of the healing arts were created by the 1984 Legislature to provide assistance to the Board in the analysis of investigative information and to make recommendations to the Board when, in the judgment of the review committee, a violation of the Healing Arts Act had occurred. The review committee for the practice of podiatry was created by the 1992 Legislature. Currently, the Board has 6 three-member review committees—one each for osteopathic medicine and surgery, chiropractic, and podiatry and three for medicine and surgery.

Several years ago, the Board recognized the increasing number of investigative cases being presented to the review committees and the amount of time expended by each of the members in reviewing investigative materials and preparing for the committee meetings. For instance, in FY85 the Board received a total of 190 complaints, not all of which were made into investigative cases. In FY00, the Board opened 372 investigative cases. In the early 1990s, the Board authorized payment of hourly compensation to the review committee members for time expended outside of the review committee meetings themselves. When a question was raised as to the statutory authority of the Board to pay this compensation, the Board sought the advice of the Attorney General. In August

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

MEMBERS OF THE BOARD
ROBERT L. FRAYSER, D.O., PRESIDENT
HOISINGTON
LANCE E. MALMSTROM, D.C., VICE-PRESIDENT
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DONALD B. BLETZ, M.D., OVERLAND PARK
JAMES D. EDWARDS, D.C., EMPORIA
HOWARD D. ELLIS, M.D., LEAWOOD
FRANK K. GALBRAITH, D.P.M., WICHITA
JOHN P. GRAVINO, D.O., LAWRENCE
SUE ICE, PUBLIC MEMBER, NEWTON
JANA D. JONES, M.D., LEAVENWORTH

BETTY MCBRIDE, PUBLIC MEMBER, COLUMBUS
CHARLOTTE L. SEAGO, M.D., LIBERAL
CAROLINA M. SORIA, D.O., WICHITA
EMILY TAYLOR, PUBLIC MEMBER, LAWRENCE
ROGER D. WARREN, M.D., HANOVER

HOUSE APPROPRIATIONS

DATE 2/31/01
ATTACHMENT #4

1996, the AG issued an informal opinion stating that, in the absence of statutory authority which authorizes compensation for time spent reviewing files outside of a meeting, review committee members may not receive additional compensation for reviewing files. The Board immediately discontinued the payment of any compensation over and above that authorized by K.S.A. 65-2840c. In FY96, the Board had authorized compensation at the rate of \$70 per hour for time expended outside of review committee meetings. The Board paid compensation of \$13,653.50 to 8 review committee members for their preparation time for record review prior to 16 review committee meetings. This was less than 1% of the Board's expenditure limitation for FY96. If House Bill No. 2121 is enacted, the board estimates annual expenses for FY02 and future years to be approximately \$22,000, again, less than 1 % of our requested expenditure limitation.

In preparing for review committee meetings, the members may spend between 4-6 hours reviewing investigative material, including medical records, for a meeting where an average of 15 cases are reviewed. The investigative materials for an average meeting fills 2 to 3 bank boxes. So, the task we are asking review committee members to undertake is considerable and very time consuming.

Review committee members are appointed by the Board. They operate in relative obscurity as the peer review function they perform is confidential. Review committee members are generally not recognized and they do not have their names on the Board's letterhead. However, the review committees perform a vital function in the manner in which the Board operates. Review committees are utilized not only to review investigative materials following the conclusion of an investigation, but also to review information and complaints received in the Board office to determine whether an investigation should be commenced. The review committees recommend to Board staff whether the treatment that a licensee provided adhered to the applicable standard of care. Occasionally, they request more information or an interview with the physician before reaching their recommendation. For performing these functions, the review committee members currently receive \$35 for attending the meeting plus their mileage expenses.

House Bill No. 2121 does not change the amount of compensation review committee members would receive for attending the meetings themselves. Further, House Bill No. 2121 **does not require** the Board to compensate review committee members for any of their time expended in preparation for the meetings. It would provide the Board with the authority to compensate them for this outside preparation time. However, whether and if the Board would exercise this authority would depend on the Legislature authorizing these expenditures through the budget process and whether the Board's fee fund balance could accommodate such additional expenditures.

In conclusion, the Board asks for your support for Senate Bill No. 2121 so that the extremely important function that review committees perform can proceed and the Board can continue to attract and retain competent and willing individuals to perform this vital work.

Thank you for allowing me to appear before you today. I would be happy to respond to any questions.



TO: House Committee on Appropriations

FROM: Chris Collins *Chris Collins*
Director of Government Affairs

DATE: January 31, 2001

RE: HB 2121: Compensation of Board of Healing Arts Committee Members

Ladies and Gentlemen of the Committee:

Thank you for the opportunity to present written testimony today in support of HB 2121. The Kansas Medical Society respectfully urges this committee to pass the bill as written.

HB 2121 reinstates the long-standing practice of compensating health care professionals fairly for the time that they spend reviewing medical records or otherwise preparing to review disciplinary proceedings before the Board of Healing Arts. The skills involved in participating in these review panels are professional skills and participation on the review panels requires members to exercise their clinical judgment. Panels are frequently time-consuming and require a health care professional to set aside their other professional duties in order to serve the public good. The Kansas Medical Society would respectfully submit to this committee that health care professionals should be fairly compensated for their time.

For the foregoing reasons, KMS urges the House Committee on Appropriations to support the bill as written. Thank you for the opportunity to comment today on this important issue. Please do not hesitate to contact me if I can provide additional information that would be helpful in your deliberations.

HOUSE APPROPRIATIONS
DATE 1/31/01
ATTACHMENT 5