

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairman Kenny Wilk at 9:05 a.m. on February 21, 2001 in Room 514-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research  
Dr. William Wolff, Legislative Research  
Paul West, Legislative Research  
Amy Kramer, Legislative Research  
Leah Robinson, 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

Others attending: See Attached

**Hearing on SB 57 – Claims against the State**

Dr. William Wolff, Legislative Research Department, reviewed the bill and answered questions regarding individual claims. He explained that if fee agencies do not pay a bill within the budget year or encumber funds for the bill, the recourse for the claimant is to place a claim against the state. Even if the actual claim is larger than the granted amount, if the claimant takes the allocated amount, any additional claim for that particular item is declared null and void. The amount of the claims against the state is \$276,077.

There were no opponents to the bill and Chairman Wilk declared the hearing closed on **SB 57**.

Representative Hermes moved within her right as being on the prevailing side to bring the Budget Committee report on the Governor's budget recommendations for the Attorney General for FY 2002 off the table to reconsider the action of February 20, 2001 to table the report (Attachment 1). Motion was seconded by Representative Nichols. Motion carried.

Representative Nichols withdrew his motion to table the Budget Committee report on the Governor's budget recommendations for the Attorney General for FY 2002 until a date certain, April 19, 2001. Representative Klein withdrew his second.

Representative Shriver issued a substitute motion to adopt the Budget Committee report on the Governor's budget recommendations for the Attorney General for FY 2002 with the inclusion of the Minority Report in the Budget Committee report. Motion was seconded by Representative Klein. Motion failed 12-9.

The Committee acknowledged the question of the constitutionality of the Executive Branch and the Judicial Branch to make settlement agreements and set up foundations without the involvement of the Legislative Branch.

The following motion now being considered appeared in the Minutes of February 20, 2001, of the House Committee on Appropriations:

Representative Pottorff presented the Budget Committee report on the Governor's budget recommendations for the Attorney General for FY 2002 and moved for the adoption of the Budget Committee recommendations for FY 2002 with the noted exceptions (Attachment 1). Motion was seconded by Representative Stone.

The Committee questioned the rationale for granting \$50,000 from the drug forfeiture funds for grants of \$10,000 each to the five counties that have the most illegal methamphetamines activity: Allen, Cowley, Saline, Sedgwick, and Shawnee. A map showing the Kansas Law Enforcement Clandestine Methamphetamine Laboratory Seizures was distributed (Attachment 2). Would such grants be considered an award for the law enforcement agency making the most "busts?" Should the money be awarded on a grant basis? Does this assume that because there were few or no "busts" in several counties that there is no drug activity there? The

Committee also questioned the appropriateness of the Attorney General diverting received drug funds into other channels rather than earmarking it exclusively for fighting drug activity.

Representative Feuerborn moved for an amendment which would substitute language to the Budget Committee report recommendations on the Governor's budget recommendations for the Attorney General for FY 2002 by stating that the \$50,000 would be awarded to the top eleven counties that have the most reported illegal methamphetamine activity according to the reported 2000 data on the provided map (Attachment 2). Motion was seconded by Representative Stone. Motion carried.

Representative Schwartz moved to add an amendment to the Budget Committee report recommendations on the Governor's budget recommendations for the Attorney General for FY 2002 which would require more exact language in the award which would direct the recipient counties to use the money exclusively for controlling methamphetamine activity but could not be used to supplant funds already allocated for such use. Motion was seconded by Representative Nichols. Motion carried.

Representative Nichols moved to amend the Budget Committee report recommendations on the Governor's budget recommendations for the Attorney General for FY 2002 to include a statement that it is the intention of the full House Committee on Appropriations to work with the Judicial Branch, the Executive Branch, and Leadership of the House and Senate in an effort to explore the development of a prospective policy on court settlement moneys and the creation of foundations or other agencies to distribute such funding. Motion was seconded by Representative Campbell. Motion carried.

Representative Pottorff moved for the adoption of the Budget Committee report on the Governor's budget recommendations for the Attorney General for FY 2002 as amended and with the noted exceptions (Attachment 1). Motion was seconded by Representative Stone. Motion carried.

#### **Hearing on SB 32--K-Goal; clean up amendments**

Barb Hinton, Legislative Post Audit, urged the support of the bill as it is technical in nature and necessary for clarification purposes.

There were no opponents and Chairman Wilk declared the hearing on **SB 32** closed.

#### **Hearing on SB 31--SRS oversight committee; creation of**

Amy Kramer, Legislative Research Department, explained that this bill would eliminate the statute charge of oversight of the closure of Winfield State Hospital and Topeka State Hospital and change the name of the Committee from the SRS Transitional Oversight Committee to the SRS Oversight Committee.

There were no opponents and Chairman Wilk declared the hearing on **SB 31** closed.

#### **Hearing on HB 2283--Attorney for board of adult care home administrators appointed by the attorney general**

Alan Conroy, Legislative Research Department, explained that the bill would require the Attorney General to appoint an Assistant Attorney General for the Board of Adult Care Home Administrators and act as an enforcement agency, therefore removing that responsibility from the Kansas Department of Health and Environment. There would be a fiscal impact of \$30,000 on the budget of the Attorney General.

Lesa Roberts, Director of Health Occupations Credentialing of the Kansas Department of Health and Environment, presented testimony in support of the bill which would put this board in a similar type arrangement as several other state boards (Attachment 3). Ms. Roberts explained that KDHE would retain the investigational portion of any complaints. The enforcement authority would include prosecution of complaints or disciplinary actions brought by any party and providing General Counsel to the Board. At what point the Attorney General would start the enforcement process would have to be determined.

The Committee discussed options of funding the fiscal note of \$30,000 from the KDHE budget. It was pointed out that the Chairman of the Board of Adult Care Home Administrators has been notified of the proposed legislature and there will be a full meeting of the board next week.

There were no opponents to the bill and Chairman Wilk declared the hearing on **HB 2283** closed.

Chairman Wilk referred **HB 2513** to the Budget Committee on Social Services.

The meeting was adjourned at 10:45. The next meeting is scheduled for February 22, 2001.

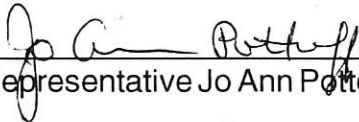





**2001 GENERAL GOVERNMENT AND HUMAN  
RESOURCES BUDGET COMMITTEE**

**FY 2001 and FY 2002**

Attorney General

  
Representative Jo Ann Pottoff, Chairperson

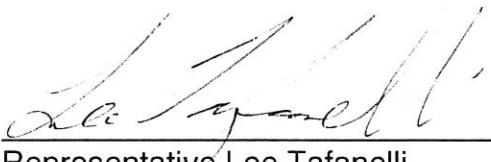
\_\_\_\_\_  
Representative Richard Alldritt

  
Representative Annie Kuether

  
Representative Ralph Ostmeyer

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Representative Joe Shriver

  
Representative Lloyd Stone

  
Representative Lee Tafanelli

HOUSE APPROPRIATIONS

DATE 2/21/01

ATTACHMENT #1

## House Budget Committee Report

**Agency:** Attorney General

**Bill No.** ---

**Bill Sec.** —

**Analyst:** Rampey

**Analysis Pg. No.** 1496

**Budget Page No.** 69

Expenditure Summary	Agency Estimate FY 01	Governor's Recommendation FY 01	House Budget Committee Adjustments
<b>All Funds:</b>			
State Operations	\$ 9,443,467	\$ 9,443,466	\$ 0
Aid to Local Units	8,799,383	0	0
Other Assistance	4,000,000	12,799,383	0
Subtotal - Operating	<u>\$ 22,242,849</u>	<u>\$ 22,242,849</u>	<u>\$ 0</u>
Capital Improvements	0	0	0
<b>TOTAL</b>	<u><u>\$ 22,242,849</u></u>	<u><u>\$ 22,242,849</u></u>	<u><u>\$ 0</u></u>
<b>State General Fund:</b>			
State Operations	\$ 5,747,820	\$ 5,747,820	\$ 0
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Subtotal - Operating	<u>\$ 5,747,820</u>	<u>\$ 5,747,820</u>	<u>\$ 0</u>
Capital Improvements	0	0	0
<b>TOTAL</b>	<u><u>\$ 5,747,820</u></u>	<u><u>\$ 5,747,820</u></u>	<u><u>\$ 0</u></u>
FTE Positions	90.0	90.0	0.0
Other Unclass. Positions	16.0	16.0	0.0
<b>TOTAL</b>	<u><u>106.0</u></u>	<u><u>106.0</u></u>	<u><u>0.0</u></u>

### Agency Estimate/Governor's Recommendation

The Attorney General's estimate for the current year of \$22,242,849 from all funds is a net decrease of \$499,338 from the approved amount of \$22,742,187. The decrease is accounted for by a reduction in special revenue funds that totals \$944,768. The two main funds that decreased from approved amounts are the Violence Against Women Fund, which decreased by \$328,522 (from \$2,058,000 originally estimated to \$1,729,478 currently estimated) and the Victims of Crime Act which decreased by \$1,848,003 (from \$4,957,840 to \$3,109,837). The reduction in special revenue funds from the approved amount is offset by an increase in estimated State General Fund expenditures of \$445,430, made possible by the fact that, by policy of the Governor and the Legislature, statewide elected officials are authorized to carry forward and spend savings from the prior fiscal year. Carry-forward amounts are comprised of the following:

- \$65,786 for agency operations that resulted when non-State General Fund money became available on a one-time basis and was used in place of State General Fund dollars. The savings were used to replace old computers.

- \$25,064 for special litigation expenses that was not used in FY 2000. The money is being used to help fund litigations costs in the current year.
- \$28,842 in funding for Colorado water litigation (out of \$1,552,713 that was available), which is helping to fund activities in FY 2001. That amount, added to the appropriation for FY 2001 of \$723,500, is still \$288,861 short of the \$1,041,203 the agency estimates it will need. One option would be to request a supplemental appropriation, but the option proposed by the Attorney General is to transfer savings from water litigation against Nebraska to Colorado.
- \$330,205 in funding for Nebraska water litigation (out of \$1,271,539 that was available). As explained above, the Attorney General proposes to use part of the savings in the Colorado case. The remainder (\$41,344) is being used to finance Nebraska litigation costs in FY 2001.

**The Governor concurs** with the Attorney General's estimated expenditures for FY 2001.

### **House Budget Committee**

The House Budget Committee concurs with the recommendations of the Governor.



## House Budget Committee Report

**Agency:** Attorney General

**Bill No. ---**

**Bill Sec. ---**

**Analyst:** Rampey

**Analysis Pg. No. 1496**

**Budget Page No. 69**

Expenditure Summary	Agency Request FY 02	Governor's Recommendation FY 02	House Budget Committee Adjustments
All Funds:			
State Operations	\$ 9,703,164	\$ 9,178,542	\$ (162,542)
Aid to Local Units	8,669,133	0	50,000
Other Assistance	4,000,000	12,669,133	0
Subtotal - Operating	<u>\$ 22,372,297</u>	<u>\$ 21,847,675</u>	<u>\$ (112,542)</u>
Capital Improvements	0	0	0
TOTAL	<u><u>\$ 22,372,297</u></u>	<u><u>\$ 21,847,675</u></u>	<u><u>\$ (112,542)</u></u>
State General Fund:			
State Operations	\$ 6,309,494	\$ 5,760,642	\$ (112,542)
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Subtotal - Operating	<u>\$ 6,309,494</u>	<u>\$ 5,760,642</u>	<u>\$ (112,542)</u>
Capital Improvements	0	0	0
TOTAL	<u><u>\$ 6,309,494</u></u>	<u><u>\$ 5,760,642</u></u>	<u><u>\$ (112,542)</u></u>
FTE Positions	95.0	96.0	(1.0)
Other Unclass. Positions	14.0	15.0	--
TOTAL	<u><u>109.0</u></u>	<u><u>111.0</u></u>	<u><u>1.0</u></u>

### Agency Request/Governor's Recommendation

The Attorney General requests a total of \$22,372,297 for FY 2002, a net increase of \$129,448 over the estimate for the current year. The change consists of an increase of \$561,674 from the State General Fund and a reduction of \$432,226 from other funds.

Requested expenditures from the State General Fund total \$6,309,494 and represent 28.2 percent of the budget. The increase in State General Fund spending over the current year is accounted for in part by increased expenditures for water litigation (a net increase of \$146,894), shifting funding for the Drug Abuse Resistance Education (DARE) program from special revenue funds to the State General Fund (\$160,954), and shifting funding for some of the operating expenditures of the consumer protection division back to the State General Fund. (Unusually large receipts of consumer protection recouped fees in the last several years have been used to offset expenditures from the State General Fund.)

The Governor recommends expenditures of \$21,847,675, of which \$5,760,642 would be from the State General Fund. The Governor funds the DARE program with \$160,954 from the State General Fund, as requested, and concurs with all of the Attorney General's enhancements requests, except for one, for a total of \$218,136 from special revenue funds. The recommended enhancements add 3.0 new FTE positions, plus convert 2.0 other unclassified positions currently on the staff to permanent status, for a total increase of 5.0 FTE positions. The Governor adds \$112,542 from the State General Fund for the salary and associated operating costs for a Criminal Justice Information System (CJIS) Coordinator, a position the Attorney General did not request, and recommends \$870,000 for water litigation against Colorado and \$715,000 for water litigation against Nebraska. The Colorado recommendation is \$100,000 less than requested and the Nebraska recommendation is \$400,000 less than requested.

### House Budget Committee Recommendations

The House Budget Committee concurs with the recommendations of the Governor, with the following exceptions:

1. Delete 1.0 FTE position and \$112,542 from the State General Fund for the salary and associated operating costs for the Criminal Justice Information System (CJIS) Coordinator, a position the Attorney General did not request. The CJIS Coordinator serves as staff to the Criminal Justice Coordinating Council, which supervises the implementation of the CJIS. The 2000 Legislature made the decision to move the CJIS Coordinator from the Office of the Attorney General to the Sentencing Commission and the Governor's recommendation would move the position back. The Budget Committee believes the Legislature correctly located the position with the Sentencing Commission a year ago and sees no merit in moving it again.
2. Use the \$50,000 remaining of the \$188,453 in drug forfeiture funds the Attorney General received in FY 2001 for grants of \$10,000 each to the five counties that have the most illegal methamphetamines activity (Allen, Cowley, Saline, Sedgwick, and Shawnee). The money would be for one-time enhancements and not normal operating expenditures pertaining to law enforcement activities and could be used at the discretion of the county commissions in each county.
3. The Budget Committee notes that the Governor recommended \$100,000 less than the Attorney General requested for water litigation with Colorado (\$870,000 instead of \$970,000) and \$400,000 less than requested for water litigation with Nebraska (\$715,000 instead of \$1,115,000). The Budget Committee also notes that the Attorney General reported to the Committee that, since the budget was submitted, the possibility of additional costs associated with water litigation have arisen, making it possible that as much as \$600,000 in additional funding could be necessary.

The Budget Committee notes the Attorney General's concern and observes that, if specific information about actual, and not possible, costs becomes available as litigation activity proceeds, the General will have the opportunity to bring that information to the Legislature's attention for inclusion in the Omnibus Bill or as a supplemental appropriation requested during the 2002 Session.



## Minority Report

### 2001 General Government and Human Resources Budget Committee

FY 2001 and FY 2002

I wish to voice my objection to the agreement reached August 21, 2001, between the Attorney General and the Insurance Commissioner, representing the State of Kansas, and Blue Cross and Blue Shield of Kansas, Inc.

Under the agreement, Blue Cross and Blue Shield of Kansas, Inc., agreed to pay \$75.0 million to an appropriate charitable entity under terms and conditions provided by the settlement agreement.

My objection is that the Judicial Branch of government has determined that an elected state official in the Executive Branch will have virtual control of setting up an organization that will decide how to spend \$75.0 million, plus interest, without input from the Legislature. The Attorney General's appointment authority for all but one member of the Board of Trustees gives one person in state government control over the direction the Foundation will take. In addition, state employees on the Attorney General's staff worked on the litigation with state dollars and presently are employed with the Sunflower Foundation.

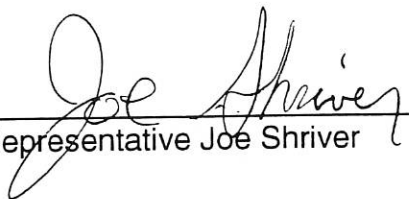
- The Attorney General is responsible for incorporating the Sunflower Foundation, which will receive the money and make charitable distributions, and for organizing the first meeting of trustees and helping the Foundation qualify as a tax-exempt charitable organization.
- The Attorney General is responsible for appointing eight of the nine members of the Sunflower Foundation Board of Trustees.

I understand that a distinction is being made between "state" money, which is subject to appropriation, and "public" money, which belongs to residents of Kansas in general and not to state government, but my argument is that the Legislature and other governmental entities were excluded from the mediation process that led to the agreement. My objection is that the district court, in fashioning the agreement, ignored the Legislative Branch of government and its subordinate governmental units and deprived them of the opportunity to raise issues and to question other benefits Blue Cross and Blue Shield of Kansas, Inc., may have obtained.

I also wish to voice my objection to the Attorney General's budget for the following reasons:

- The Budget Committee has had insufficient time to fully review the activity in this budget.
- The Budget Committee should receive assistance for a more complete audit of the funding shifts that have occurred with this budget.

- Because of staff time, the Budget Committee was only able to meet with assigned research staff on a limited basis.
- The Committee limited debate on this budget and requested all questions to be submitted in writing to the Attorney General.
- Further research into this budget should be focused on what appears to be use of funds for one purpose dedicated for use by the Legislature and used by the agency on the litigation of the Sunflower Foundation and then reimbursed by the agency upon the settlement agreement.
- Further research should focus on contracts offered by the agency to employees of the agency to litigate and/or operate the Sunflower Foundation while under state employment.
- An employee of the Attorney General is operating the Sunflower Foundation as reported by the Attorney General when she gave the budget report to the Committee.
- This budget has a number of funding shifts from fee funds to the State General Fund.
- This budget contains a trend from the past few years that funding shifts of employment from temporary to permanent employment from fee funds that may or may not support the positions in the future.

  
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Representative Joe Shriver

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**KANSAS**  
**DEPARTMENT OF HEALTH & ENVIRONMENT**  
BILL GRAVES, GOVERNOR  
Clyde D. Graeber, Secretary

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**House Bill No. 2283**

to the  
**House Committee on Appropriations**

by  
**Lesa Roberts, Director, Health Occupations Credentialing**

**February 21, 2001**

Chairman Wilk, I am pleased to appear before the House Committee on Appropriations to discuss House Bill 2283. This bill removes the enforcement activity for the Board of Adult Care Home Administrators from the Secretary of the Kansas Department of Health and Environment and transfers that authority to the Office of the Attorney General. It also requires that an Assistant Attorney General be appointed to serve as the Board's attorney.

The department maintains administrative responsibility but not enforcement. We interpret this new language to mean that the prosecution of any case against an adult care home administrator or applicant would be under the purview of the Attorney General. Moving the Board's counsel to the Office of the Attorney General may cause incidental disruptions to current processes, but it is not expected to hamper or change the administrative service the department provides the Board. This is stated with the caveat that the Attorney General's office does not promote major procedural or processing changes.

The department is very aware of the discontent some members of the adult care home industry have with the current organizational structure. The changes that have been affected over the past six years have not mediated the discontent. During the past six years these changes have occurred:

- a reduction in the paperwork associated with a complaint, summarizing essential allegations
- changes in personnel assigned as General Counsel to the Board
- changes in litigators
- collection of written responses from the licensee to be included with the complaint presented to the Board
- an increase in survey and inspection information

- the development of abuse, neglect, exploitation investigation and reporting guidelines for licensees (completed by a task force of representatives of the industry's associations, a consumer advocacy group and Board members)
- the development determinants and disciplinary guidelines for referrals that are made to the Board (also the product of the task force)

There does not seem to be an historic precedent for the Office of the Attorney General's involvement in investigatory phases related to licensure boards. If it is the implication of the bill to shift investigatory efforts to the Office of the Attorney General, the impact of the proposal changes considerably. We assume that the bill does not require the Office of the Attorney General to complete investigatory functions, per se, and that the responsibility of enforcement includes prosecution of any complaint, administrative action or disciplinary cases brought to the Board on behalf of any party.

Removing the legal representation, including General Counsel and litigators from the department is not problematic. It resembles the current arrangement which has been called into question, that the Board's counsel is appointed by the same entity appointing the litigator. It is unclear how administrative hearings would be conducted with this arrangement. This needs to be clarified. Several other state boards have similar type arrangements with the state's chief law enforcement and general counsel. For example, the Behavioral Sciences Regulatory Board, Board of Mortuary Arts, Real Estate Appraisal Board, Board of Accountancy, Board of Emergency Medical Services, Board of Nursing, Dental Board, Board of Technical Professions, Board of Hearing Aid Examiners and Board of Optometry each is served by the Office of the Attorney General with Assistant Attorneys General as board counsel. Some of those boards also have litigators assigned to them by the Office of the Attorney General's Civil Litigation Division.

With the interpretation that the "enforcement" authority includes prosecution of complaints or disciplinary actions brought by any party and providing General Counsel to the Board, the department respectfully requests that the bill be passed. Thank you again for the opportunity to comment on House Bill 2283. I would gladly respond to any questions you may have.