

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 A.M. on March 6, 2006 in Room 514-S of the Capitol.

All members were present except:
Representative Shari Weber- excused

Committee staff present:
J. G. Scott, Legislative Research Department
Becky Krahl, Legislative Research Department
Matt Spurgin, Legislative Research Department
Michele Alishahi, Legislative Research Department
Audrey Dunkel, Legislative Research Department
Carolyn Rampey, Legislative Research Department
Mike Corrigan, Office of Revisor of Statutes
Nikki Feuerborn, Administrative Assistant
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:
Rex Beasley, Attorney General's Office
Terri Roberts, Kansas State Nurses Association
Jerry Slaughter, Kansas Medical Society

Others attending:
See attached list.

- Attachment 1 Budget Committee report on Judicial Council
- Attachment 2 Budget Committee report on Board of Indigents' Defense Services
- Attachment 3 Budget Committee report on Judicial Branch
- Attachment 4 Budget Committee report on **HB 2594**
- Attachment 5 Testimony on **SB 327** by Rex Beasley, Deputy Attorney General, Office of the Attorney General
- Attachment 6 Testimony on **SB 327** by Terri Robert, Kansas State Nurses Assoc.
- Attachment 7 Testimony on **SB 327** by Jerry Slaughter, Kansas Medical Society

Representative McCreary, Chair of the Revenue, Judicial, Transportation and Retirement Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Judicial Council for FY 2006 and FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2006 and FY 2007 (Attachment 1). The motion was seconded by Representative Gatewood. Motion carried.

Representative Sharp, member of the Public Safety Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Board of Indigents' Defense Services (BIDS) for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 2). The motion was seconded by Representative Light. Motion carried.

Representative Sharp, member of the Public Safety Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Board of Indigents' Defense Services (BIDS) for FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2007 (Attachment 2). The motion was seconded by Representative Light. Motion carried.

With the apparent success of the offices in Independence and Chanute, the Committee felt it might be important to look at the possibility of locating additional BIDS' offices in other sections of the state in the future to avoid backlog of cases and travel time.

Representative McCreary, Chair of the Revenue, Judicial, Transportation and Retirement Budget Committee, presented the Budget Committee report on the Governor's budget recommendation

CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on March 6, 2006 in Room 514-S of the Capitol.

for the Judicial Branch for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 3). The motion was seconded by Representative Gatewood. Motion carried.

Representative McCreary, Chair of the Revenue, Judicial, Transportation and Retirement Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Judicial Branch for FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2007 (Attachment 3). The motion was seconded by Representative Gatewood. Motion carried.

The Committee noted that the language in Item No. 5 should read "amount recommended by the Court to replace the Emergency Surcharge" rather than "Governor". It was noted that the Governor has no input on this budget. The Budget Committee stated that the Court has imposed fees or surcharges without approval of the Legislature. The Budget Committee stated that it was their opinion that there was no guarantee that the surcharge would disappear if replaced with State General Fund dollars. The Committee voiced concern with the role of the Legislature and the role of the Court in the budget process, noting that the Court has imposed fees or surcharges without approval of the Legislature, written legislation outside of the Legislature and disregarded their own previous rulings.

Action on HB 2594 - Former Kansas legislators experience history project grant awards authorized, appropriations for such project.

Representative Pottorff, Chair of the General Government and Commerce Budget Committee, presented the Budget Committee report on HB 2594 offering Substitute for HB 2594 and moved for the adoption of the Budget Committee recommendation on Substitute for HB 2594 (Attachment 4). The motion was seconded by Representative Lane. Motion failed on a 10-11 vote.

The Committee felt the legislation is important; however, voiced concern with the funding with State General Fund (SGF) in the legislation and noting that perhaps an alternate source of funding could be secured.

Hearing on SB 327 - Creating the office of inspector general within the Kansas health policy authority.

Audrey Dunkel, Kansas Legislative Research Department, explained that **SB 327** would create the office of inspector general (OIG). The OIG would be responsible for the oversight, auditing, investigation and performance review of the state Medicaid program, the MediKan program, and the State Children's Health Insurance Program (SCHIP).

The Committee voiced concern with the enactment of this legislation, there would be two entities providing oversight on Medicaid fraud - the inspector general as well as the Surveillance and Utilization Review Subsystem (SURS). Because this legislation provides for an expansion of state government, the Committee felt it would be important to have oversight to review the cost of the inspector general program and the benefit to the State.

Chairman Neufeld recognized Rex Beasley, Deputy Attorney General, Office of the Attorney General, who presented testimony in support of **SB 327** (Attachment 5). Mr. Beasley indicated that even though the Office of Attorney General has a Medicaid Fraud and Abuse Division, they are limited in investigative powers because the Attorney General's office is funded by 75 percent federal funds.

Mr. Beasley suggested that language in the legislation tied to programs within the jurisdiction of the "Kansas Health Policy Authority" be changed to "single state Medicaid agency" in case this jurisdiction is changed from the Kansas Health Policy Authority to another agency in the future and to avoid any gap in the process.

The Chair recognized Terri Roberts, Kansas State Nurses Association (KSNA), who presented

CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on March 6, 2006 in Room 514-S of the Capitol.

testimony in support of **SB 327** (Attachment 6). Ms. Roberts offered an amendment to replace the language in Section 2, Item (h), Line 28, Page 9 of **SB 327**.

Chairman Neufeld recognized Jerry Slaughter, Kansas Medical Society, who presented testimony in support of **SB 327** (Attachment 7). Mr. Slaughter offered two amendments to the legislation pertaining to the unrestricted access of health care provider files and records. In addition, Mr. Slaughter noted that there are no definitions in the legislation or oversight of the position.

The hearing on **SB 327** was closed.

Chairman appointed the following Committee members to a Subcommittee to address issues and possible amendments to **SB 327**:

Representative Yoder, Chairman; Representative Bethell, Representative Landwehr, Representative Huy, Representative Williams, Representative Henry and Representative Ballard

H Sub for SB 288 was referred to Agriculture and Natural Resources Budget Committee.

The meeting was adjourned at 11:00 a.m. The next meeting of the Committee will be held at 9:00 a.m. on March 7, 2006.



Melvin Neufeld, Chairman


FY 2006 and FY 2007


HOUSE REVENUE, JUDICIAL, TRANSPORTATION, AND RETIREMENT
BUDGET COMMITTEE

Judicial Council


Representative Bill McCreary, Chair

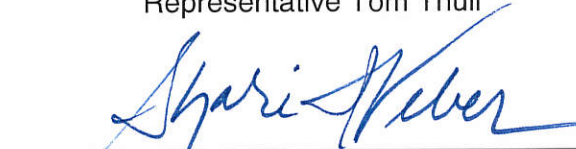

Representative Eric Carter


Representative Doug Gatewood


Representative John Grange


Representative Mike O'Neal


Representative Tom Thull


Representative Shari Weber

HOUSE APPROPRIATIONS

DATE 3-06-2006
ATTACHMENT 1

Senate Subcommittee Report

Agency: Judicial Council

Bill No. --

Bill Sec. --

Analyst: Alishahi

Analysis Pg. No. Vol. I-648

Budget Page No. 221

| <u>Expenditure Summary</u> | <u>Agency Estimate FY 06</u> | <u>Governor's Recommendation FY 06</u> | <u>Senate Subcommittee Adjustments</u> |
|----------------------------|----------------------------------|--|--|
| Operating Expenditures: | | | |
| Special Revenue Funds | \$ 431,375 | \$ 431,375 | \$ 0 |
| FTE Positions | 4.0 | 4.0 | 0.0 |
| Non FTE Uncl. Perm. Pos. | 0.0 | 0.0 | 0.0 |
| TOTAL | <u>4.0</u> | <u>4.0</u> | <u>0.0</u> |

Agency Estimate

The **agency** estimates current year operating expenditures of \$431,375 from special revenue funds, a decrease of \$1,024 or 0.2 percent below the approved amount. The difference between the approved amount and the agency's revised estimate is the result of an increase of \$36 in salaries and wages and a net decrease of \$1,060 in other operating expenditures.

Governor's Recommendation

The **Governor** concurs with the agency's revised estimate.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

Senate Committee Recommendation

The Senate Committee concurs with the Subcommittee's recommendation.

House Budget Committee Report

Agency: Judicial Council

Bill No. --

Bill Sec. --

Analyst: Alishahi

Analysis Pg. No. Vol. I-648

Budget Page No. 221

| <u>Expenditure Summary</u> | <u>Agency Estimate FY 06</u> | <u>Governor's Recommendation FY 06</u> | <u>House Budget Committee Adjustments</u> |
|----------------------------|--------------------------------------|--|---|
| Operating Expenditures: | | | |
| Special Revenue Funds | \$ 431,375 | \$ 431,375 | \$ 0 |
| FTE Positions | 4.0 | 4.0 | 0.0 |
| Non FTE Uncl. Perm. Pos. | 0.0 | 0.0 | 0.0 |
| TOTAL | <u>4.0</u> | <u>4.0</u> | <u>0.0</u> |

Agency Estimate

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Governor's Recommendation

The **Governor** concurs with the agency's revised estimate.

House Budget Committee Recommendation

The House Budget Committee concurs with the Governor's recommendation.

Senate Subcommittee Report

Agency: Judicial Council

Bill No. SB 573

Bill Sec. 12

Analyst: Alishahi

Analysis Pg. No. Vol. I-648

Budget Page No. 221

| <u>Expenditure Summary</u> | <u>Agency Request FY 07</u> | <u>Governor's Recommendation FY 07</u> | <u>Senate Subcommittee Adjustments</u> |
|--|---------------------------------|--|--|
| Operating Expenditures: Special Revenue Funds | \$ 432,256 | \$ 438,816 | \$ 0 |
| FTE Positions | 4.0 | 4.0 | 0.0 |
| Non FTE Uncl. Perm. Pos. | 0.0 | 0.0 | 0.0 |
| TOTAL | <u>4.0</u> | <u>4.0</u> | <u>0.0</u> |

Agency Request

The **agency** requests FY 2007 operating expenditures of \$432,256 from special revenue funds, an increase of \$881 or 0.2 percent above the FY 2006 revised estimate.

Governor's Recommendation

The **Governor** recommends FY 2007 operating expenditures of \$438,816 from special revenue funds, an increase of \$7,441 or 1.7 percent above the current year recommendation. The FY 2007 recommendation is \$6,560 or 1.5 percent above the agency's FY 2007 and includes an additional \$6,560 from special revenue funds for a 2.5 percent base salary increase for all state employees.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

Senate Committee Recommendation

The Senate Committee concurs with the Subcommittee's recommendation.

House Budget Committee Report

Agency: Judicial Council

Bill No. HB 2968

Bill Sec. 12

Analyst: Alishahi

Analysis Pg. No. Vol. I-648

Budget Page No. 221

| <u>Expenditure Summary</u> | <u>Agency Request FY 07</u> | <u>Governor's Recommendation FY 07</u> | <u>House Budget Committee Adjustments</u> |
|----------------------------|---------------------------------|--|---|
| Operating Expenditures: | | | |
| Special Revenue Funds | \$ 432,256 | \$ 438,816 | \$ 0 |
| FTE Positions | 4.0 | 4.0 | 0.0 |
| Non FTE Uncl. Perm. Pos. | 0.0 | 0.0 | 0.0 |
| TOTAL | <u>4.0</u> | <u>4.0</u> | <u>0.0</u> |

Agency Request

The **agency** requests FY 2007 operating expenditures of \$432,256 from special revenue funds, an increase of \$881 or 0.2 percent above the FY 2006 revised estimate.

Governor's Recommendation

The **Governor** recommends FY 2007 operating expenditures of \$438,816 from special revenue funds, an increase of \$7,441 or 1.7 percent above the current year recommendation. The FY 2007 recommendation is \$6,560 or 1.5 percent above the agency's FY 2007 and includes an additional \$6,560 from special revenue funds for a 2.5 percent base salary increase for all state employees.

House Budget Committee Recommendation

The House Budget Committee concurs with the Governor's recommendation with the following observations:

- 1. FY 2007 Baseline Budget.** To establish a baseline FY 2007 budget, the FY 2006 budget, as approved by the 2005 Legislature, was adjusted to reflect salary adjustments (removal of the 27th payroll period funding included in FY 2006, annualization of the FY 2006 phased in 2.5 percent base salary adjustment and statutorily required adjustments for Kansas Public Employees Retirement System (KPERs) rates, KPERs death and disability insurance, and longevity). In addition, adjustments were made for required debt service payments, revenue transfers, and consensus items, including school finance funding and caseload estimates for the Department of Social and Rehabilitation Services, the Department of Administration, the Department on Aging, and the Board of Indigents' Defense Services. Finally, adjustments were made for one-time items which impact specific agency budgets.

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For this agency, the FY 2006 approved budget totaled \$432,399 from special revenue funds. The approved budget was reduced by a net total of \$5,851 from special revenue funds to establish a baseline budget for FY 2007. The reductions included \$5,581 in salary adjustments.

2. Comparison of FY 2007 Baseline Budget to Governor's Recommendation.

The table below reflects the difference between the Governor's recommendation and the baseline budget.

| | <u>SGF</u> | <u>All Funds</u> |
|---------------------------|-------------|------------------|
| Governor's Recommendation | \$ 0 | \$ 438,816 |
| Baseline Budget | <u>0</u> | <u>426,548</u> |
| Dollar Difference | <u>\$ 0</u> | <u>\$ 12,268</u> |
| <i>Percent Difference</i> | <i>0.0%</i> | <i>2.8%</i> |

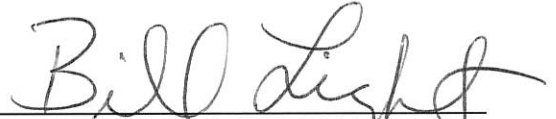
The following table reflects items included in the Governor's recommendation which differ from the baseline budget.

| | <u>SGF</u> | <u>All Funds</u> |
|------------------------|-------------|------------------|
| Base Salary Adjustment | \$ 0 | \$ 6,560 |
| Other Net Adjustments | <u>0</u> | <u>5,708</u> |
| TOTAL | <u>\$ 0</u> | <u>\$ 12,268</u> |

FY 2006 and FY 2007

HOUSE PUBLIC SAFETY BUDGET COMMITTEE

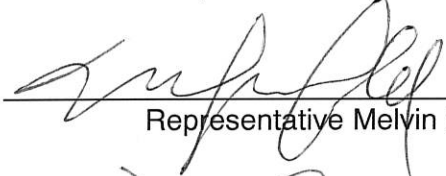
Board of Indigents' Defense Services



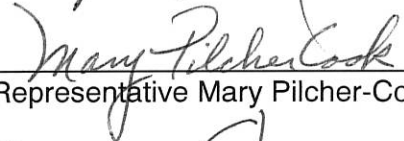
Representative Bill Light, Chair



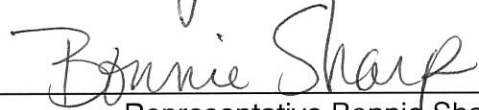
Representative Mitch Holmes



Representative Melvin Neufeld



Representative Mary Pilcher-Cook



Representative Bonnie Sharp



Representative Joshua Svaty



Representative Lee Tafanelli

HOUSE APPROPRIATIONS

DATE 3-06-2006

ATTACHMENT 2

Senate Subcommittee Report

Agency: Board of Indigents' Defense Services **Bill No.** SB 570

Bill Sec. 27

Analyst: Spurgin **Analysis Pg. No.** Vol. 1-659

Budget Page No. 207

| Expenditure Summary | Agency Estimate FY 2006 | Governor's Recommendation FY 2006 | Senate Subcommittee Adjustments |
|--------------------------|-------------------------------|---|---------------------------------------|
| Operating Expenditures: | | | |
| State General Fund | \$ 18,859,793 | \$ 18,325,760 | \$ 250,000 |
| Other Funds | 625,000 | 625,000 | 0 |
| TOTAL | \$ 19,484,793 | \$ 18,950,760 | \$ 250,000 |
| | | | |
| FTE Positions | 178.0 | 178.0 | 0.0 |
| Non FTE Uncl. Perm. Pos. | 1.0 | 1.0 | 0.0 |
| TOTAL | 179.0 | 179.0 | 0.0 |

Agency Estimate

The agency's current year estimate for operating expenditures is \$19,484,793 which is an increase of \$941,176 (5.1 percent) above the approved amount. State General Fund expenditures of \$18,859,793 represent an increase of \$896,176 (5.0 percent) above the approved amount.

Governor's Recommendation

The **Governor** recommends current year operating expenditures of \$18,950,760, an increase of \$407,143 (2.2 percent) above the approved amount. The recommendation includes \$18,325,760 from the State General Fund, an increase of \$362,143 (2.0 percent) above the approved amount. The recommendation includes funding for 27 payroll periods.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following adjustment and observations:

1. Add \$250,000 from the State General Fund for capital defense operations. The Subcommittee recommends that unencumbered expenditures from this account be reappropriated to FY 2007. The Subcommittee notes that the Governor's recommendation for expenditures for capital defense operations would leave an ending balance of \$412,535 in the State General Fund capital defense operations account and that the Governor recommends that this ending balance be lapsed. The recommended lapse is funding that is not budgeted to be spent in FY 2006. The Subcommittee recommends that the net lapse of State General Fund moneys from the capital defense operations account be reduced from \$412,535 to \$162,535 and be reappropriated to FY 2007.

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- 2. The Subcommittee recommends a review at Omnibus of FY 2006 expenditures to determine if additional funding is necessary.

Senate Committee Recommendation

The Senate Committee concurs with the Subcommittee's recommendation.

House Budget Committee Report

Agency: Board of Indigents' Defense Services **Bill No.** HB 2958 **Bill Sec.** 27

Analyst: Spurgin **Analysis Pg. No.** Vol. 1-659 **Budget Page No.** 207

| Expenditure Summary | Agency Estimate FY 2006 | Governor's Recommendation FY 2006 | Senate Subcommittee Adjustments |
|--------------------------|----------------------------|---|---------------------------------------|
| Operating Expenditures: | | | |
| State General Fund | \$ 18,859,793 | \$ 18,325,760 | \$ 0 |
| Other Funds | 625,000 | 625,000 | 0 |
| TOTAL | \$ 19,484,793 | \$ 18,950,760 | \$ 0 |
| | | | |
| FTE Positions | 178.0 | 178.0 | 0.0 |
| Non FTE Uncl. Perm. Pos. | 1.0 | 1.0 | 0.0 |
| TOTAL | 179.0 | 179.0 | 0.0 |

Agency Estimate

The agency's current year estimate for operating expenditures is \$19,484,793 which is an increase of \$941,176 (5.1 percent) above the approved amount. State General Fund expenditures of \$18,859,793 represent an increase of \$896,176 (5.0 percent) above the approved amount.

Governor's Recommendation

The **Governor** recommends current year operating expenditures of \$18,950,760, an increase of \$407,143 (2.2 percent) above the approved amount. The recommendation includes \$18,325,760 from the State General Fund, an increase of \$362,143 (2.0 percent) above the approved amount. The recommendation includes funding for 27 payroll periods.

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House Budget Committee Recommendation

The House Budget Committee concurs with the Governor's recommendation with the following adjustment and observations:

1. The Budget Committee does not recommend the lapse of \$412,535 from the State General Fund Capital Defense Operation Account. The Budget Committee notes that this amount is available in this account not currently budgeted by the Governor's recommendation. The agency reported that as of January 30, 2006, 76.0 percent of the budgeted funds in this account had been spent. The Budget Committee does not recommend lapsing \$412,535, but recommends lapsing any unencumbered funds in this account as of June 30, 2006.

Senate Subcommittee Report

Agency: Board of Indigents' Defense Services **Bill No.** SB 573

Bill Sec. 13

Analyst: Spurgin

Analysis Pg. No. Vol. 1-659

Budget Page No. 207

| Expenditure Summary | Agency Request FY 2007 | Governor's Recommendation FY 2007 | Senate Subcommittee Adjustments |
|--------------------------------|------------------------------|---|---------------------------------------|
| Operating Expenditures: | | | |
| State General Fund | \$ 22,108,156 | \$ 18,161,055 | \$ 3,521,721 |
| Other Funds | 470,000 | 725,000 | 0 |
| TOTAL | \$ 22,578,156 | \$ 18,886,055 | \$ 3,521,721 |
| | | | |
| FTE Positions | 183.0 | 178.0 | 5.0 |
| Non FTE Uncl. Perm. Pos. | 1.0 | 1.0 | 0.0 |
| TOTAL | 184.0 | 179.0 | 5.0 |

Agency Request

The **agency** requests a FY 2007 operating budget of \$22,578,156, which is an increase of \$3,093,363 (15.9 percent) above the FY 2006 estimated expenditures. State General Fund expenditures are requested in the amount of \$22,108,156, an increase of \$3,248,363 (17.2 percent) above the FY 2006 estimate.

Governor's Recommendation

The **Governor** recommends a FY 2007 operating budget of \$18,886,055, a decrease of \$64,705 below the revised current year estimate. The recommendation includes \$18,161,055 from the State General Fund, a decrease of \$164,705 (0.9 percent) below the revised current year estimate. The recommendation includes funding for 26 payroll periods.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following adjustment and observations:

1. Add \$3,200,000 from the State General Fund to fund the increase in assigned counsel payments from \$50 to \$80 per hour. The Subcommittee notes that the Senate Committee of the Whole has passed HB 2129, as amended, which increases this rate of compensation.
2. The Subcommittee notes the population increases in the Wichita area as well as the expected population increases in the Junction City area with the additional personnel expected to be stationed at Fort Riley. The Subcommittee also notes

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that the population growth has and will place increased demand on the agency's services.

3. Add \$281,721 from the State General Fund for operating expenditures to fund 5.0 additional FTE positions. The Subcommittee recommends 2.0 FTE public defender positions be added in the Wichita office, 2.0 FTE public defender positions be added to the Junction City office, and 1.0 FTE public defender position be added to the Hutchinson office to reduce the caseloads. The Subcommittee notes that the American Bar Association has recommended that defense attorneys handle 150 cases per year to provide effective assistance of counsel. The Subcommittee notes that the attorneys in the agency's trial level public defender offices statewide average 200 completed cases per year, and that attorneys in the Wichita Public Defender Office handle an average of 231 cases per year and that attorneys in the Junction City Public Defender Office handle an average of 214 cases per year. The Subcommittee also notes that if these offices were forced to stop accepting additional cases due to the workload, that the State would incur additional costs for assigned counsel to handle the cases.
4. Add \$40,000 from the State General Fund to fund a database for the Appellate Defender Office, telephone system upgrades and continuing legal education for staff.
5. The Subcommittee notes that several bills have been introduced requiring mandatory sentences for persons convicted of sex offenses. The Subcommittee notes that such a bill, if passed, would have a significant fiscal impact on this agency. Specifically, the agency estimates such a bill could cost the agency \$1,558,000 per year due to the following information:
 - a. In FY 2005, there were approximately 324 cases involving child rapes, sodomy and indecent liberties.
 - b. Currently, many of the cases where a defendant is charged with a sex crime against children are pled to some lesser offense, but that with mandatory sentencing the cases cannot be pled and must go to trial.
 - c. Few public defenders have the necessary training, or are willing to defend sex crimes against children. Additional training would be necessary as would an estimated 4.0 FTE additional attorney positions. Additional FTE expenses are estimated at \$250,000. Additional training is estimated at \$12,000.
 - d. Experts costing from \$4,000 to \$10,000 per case would be required. The agency estimates \$1,296,000 to pay experts \$4,000 per case for 324 cases.
6. The Subcommittee notes that due to the significant fiscal impact that a bill requiring mandatory sentencing for sex offenders, if such a bill should be passed by the legislature the matter should be reviewed at Omnibus to determine if additional funding for the agency is necessary.

Senate Committee Recommendation

The Senate Committee concurs with the Subcommittee recommendation with the following adjustment:

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1. The Committee recommends a review at Omnibus as to whether additional Public Defender offices should be opened.

House Budget Committee Report

Agency: Board of Indigents' Defense Services **Bill No.** HB 2968 **Bill Sec.** 13

Analyst: Spurgin **Analysis Pg. No.** Vol. 1-659 **Budget Page No.** 207

| Expenditure Summary | Agency Request FY 2007 | Governor's Recommendation FY 2007 | House Budget Committee Adjustments |
|--------------------------------|-----------------------------|---|--|
| Operating Expenditures: | | | |
| State General Fund | \$ 22,108,156 | \$ 18,161,055 | \$ 0 |
| Other Funds | 470,000 | 725,000 | 0 |
| TOTAL | <u><u>\$ 22,578,156</u></u> | <u><u>\$ 18,886,055</u></u> | <u><u>\$ 0</u></u> |
| | | | |
| FTE Positions | 183.0 | 178.0 | 0.0 |
| Non FTE Uncl. Perm. Pos. | 1.0 | 1.0 | 0.0 |
| TOTAL | <u><u>184.0</u></u> | <u><u>179.0</u></u> | <u><u>0.0</u></u> |

Agency Request

The **agency** requests a FY 2007 operating budget of \$22,578,156, which is an increase of \$3,093,363 (15.9 percent) above the FY 2006 estimated expenditures. State General Fund expenditures are requested in the amount of \$22,108,156, an increase of \$3,248,363 (17.2 percent) above the FY 2006 estimate.

Governor's Recommendation

The **Governor** recommends a FY 2007 operating budget of \$18,886,055, a decrease of \$64,705 below the revised current year estimate. The recommendation includes \$18,161,055 from the State General Fund, a decrease of \$164,705 (0.9 percent) below the revised current year estimate. The recommendation includes funding for 26 payroll periods.

House Budget Committee Recommendation

1. **FY 2007 Baseline Budget.** To establish a baseline FY 2007 budget, the FY 2006 budget, as approved by the 2005 Legislature, was adjusted to reflect salary adjustments (removal of the 27th payroll period funding included in FY 2006, annualization of the FY 2006 phased in 2.5 percent base salary adjustment and statutorily required adjustments for Kansas Public Employees Retirement System (KPERS) rates, KPERS death and disability insurance, and longevity). In

2-7

addition, adjustments were made for required debt service payments, revenue transfers, and consensus items including school finance funding and caseload estimates for the Department of Social and Rehabilitation Services, the Department of Administration, the Department on Aging, and the Board of Indigents' Defense Services. Finally, adjustments were made for one-time items which impact specific agency budgets.

For this agency, the FY 2006 approved budget totaled \$18,787,147, including \$18,203,942 from the State General Fund. The approved budget was increased by a net total of \$243,530, including \$243,325 from the State General Fund to establish a baseline budget for FY 2007. The reductions included \$156,470 in salary adjustments, partially offset by an increase of \$400,000 for caseload increases.

2. **Comparison of FY 2007 Baseline Budget to Governor's Recommendation.**

The table below reflects the difference between the Governor's recommendation and the baseline budget.

| | SGF | All Funds |
|---------------------------|--------------------|------------------|
| Governor's Recommendation | \$ 18,161,055 | \$ 18,886,055 |
| Baseline Budget | 18,203,942 | 18,787,147 |
| Dollar Difference | <u>\$ (42,887)</u> | <u>\$ 98,908</u> |
| <i>Percent Difference</i> | <i>(0.2)%</i> | <i>0.5%</i> |

The following table reflects items included in the Governor's recommendation which differ from the baseline budget.

| | SGF | All Funds |
|------------------------|--------------------|------------------|
| Base Salary Adjustment | \$ 204,643 | \$ 204,643 |
| Other Net Adjustments | (247,530) | (105,735) |
| TOTAL | <u>\$ (42,887)</u> | <u>\$ 98,908</u> |

3. The Budget Committee notes that several bills have been introduced requiring mandatory sentences for persons convicted of sex offenses. The Budget Committee notes that such a bill, if passed, would have a significant fiscal impact on this agency. Specifically, the agency estimates such a bill would cost the agency \$1,558,000 per year due to the following information from the agency:

- a. In FY 2005, there were approximately 324 cases involving child rapes, sodomy and indecent liberties.
- b. Currently, many of the cases where a defendant is charged with a sex crime against children are pled to some lesser offense, but that with mandatory sentencing the cases cannot be pled and must go to trial.
- c. Few public defenders have the necessary training, or are willing to defend sex crimes against children. Additional training would be necessary as would an estimated 4.0 FTE additional attorney positions. Additional FTE expenses are estimated at \$250,000. Additional training is estimated at \$12,000.

2-8

- d. Experts costing from \$4,000 to \$10,000 per case would be required. The agency estimates \$1,296,000 to pay experts \$4,000 per case for 324 cases.
4. The Budget Committee recommends reviewing an additional 5.0 FTE positions for the Junction City, Wichita and Hutchinson offices at Omnibus.
5. The Budget Committee recommends the review of \$25,000 from the State General Fund for the agency's Appellate Defender database and other equipment upgrades at Omnibus.
6. The Budget Committee notes that if HB 2129 becomes law, the cost to the agency is estimated at \$3,200,000. This bill would increase the rate of compensation for assigned counsel from \$50 to \$80 per hour.
7. The Budget Committee notes that Legal Services for Prisoners, Inc. the not for profit entity that receives pass through funding through this agency's budget, has requested \$16,687 to provide for 5.0 percent increases for salaries. The Budget Committee recommends this funding be reviewed at Omnibus.

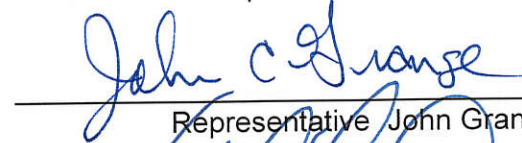
TAX, JUDICIAL, TRANSPORTATION, AND RETIREMENT BUDGET COMMITTEE

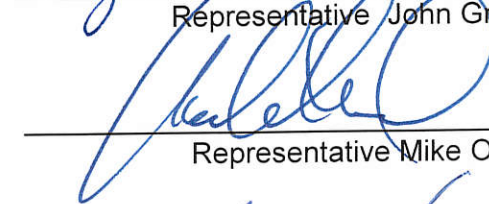
FY 2006 and FY 2007

Judicial Branch


Representative Bill McCreary, Chair

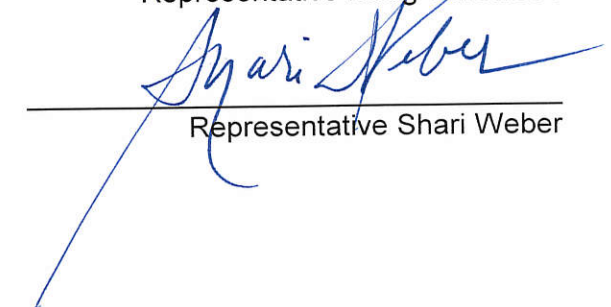

Representative Eric Carter


Representative John Grange


Representative Mike O'Neal


Representative Tom Thull


Representative Doug Gatewood


Representative Shari Weber

HOUSE APPROPRIATIONS

DATE 3-06-2006

ATTACHMENT 3

Senate Subcommittee Report

Agency: Judicial Branch

Bill No.

Bill Sec.

Analyst: Rampey

Analysis Pg. No. Vol. I-633

Budget Page No. 223

| Expenditure Summary | Agency Estimate FY 2006 | Governor's Recommendation FY 2006 | Subcommittee Adjustments |
|-------------------------------------|-------------------------------|---|-----------------------------|
| Operating Expenditures: | | | |
| State General Fund | \$ 97,917,553 | \$ 97,917,553 | \$ 0 |
| Emergency Surcharge | 3,565,720 | 3,565,720 | 0 |
| Nonjudicial Salary Initiatives Fund | 4,002,542 | 4,002,542 | 0 |
| All Other Funds | 6,546,402 | 6,587,326 | 0 |
| TOTAL | <u>\$ 112,032,217</u> | <u>\$ 112,073,141</u> | <u>\$ 0</u> |
| | | | |
| FTE Positions | 1,830.3 | 1,830.3 | 0.0 |
| Non FTE Uncl. Perm. Pos. | 0.0 | 0.0 | 0.0 |
| TOTAL | <u>1,830.3</u> | <u>1,830.3</u> | <u>0.0</u> |

Agency Estimate

The **Judicial Branch** estimates expenditures of \$112,032,217 in the current year. Items in the estimate include the following:

- \$533,364 from the State General Fund reappropriated from FY 2005.
- \$3,565,720 from the Emergency Surcharge Fund. For FY 2006, the Judicial Branch requested that the Emergency Surcharge be replaced with funding from the State General Fund, as it has each year since the Surcharge was imposed in April 2002. However, the Legislature did not replace the funding and the Supreme Court reimposed the Surcharge through FY 2006.

Governor's Recommendation

The **Governor** includes \$112,073,141 in the current resource budget for FY 2006, of which \$97,917,553 is from the State General Fund. The Governor's budget is \$40,924 higher than the Judicial Branch's estimate, which is accounted for almost entirely by the fact that the Governor's budget includes a federal grant of \$40,800, which was received after the budget was submitted. The money is to be used for security devices in the Judicial Center.

Subcommittee Recommendation

The Subcommittee concurs with the recommendations of the Governor.

Senate Committee Recommendation

The Senate Committee concurs with the recommendations of the Subcommittee.

3-2

House Budget Committee Report

Agency: Judicial Branch

Bill No.

Bill Sec.

Analyst: Rampey

Analysis Pg. No. Vol. I-633

Budget Page No. 223

| Expenditure Summary | Agency Estimate FY 2006 | Governor's Recommendation FY 2006 | Budget Committee Adjustments |
|-------------------------------------|----------------------------|---|---------------------------------|
| Operating Expenditures: | | | |
| State General Fund | \$ 97,917,553 | \$ 97,917,553 | \$ 0 |
| Emergency Surcharge | 3,565,720 | 3,565,720 | 0 |
| Nonjudicial Salary Initiatives Fund | 4,002,542 | 4,002,542 | 0 |
| All Other Funds | 6,546,402 | 6,587,326 | 0 |
| TOTAL | \$ 112,032,217 | \$ 112,073,141 | \$ 0 |
| FTE Positions | 1,830.3 | 1,830.3 | 0.0 |
| Non FTE Uncl. Perm. Pos. | 0.0 | 0.0 | 0.0 |
| TOTAL | 1,830.3 | 1,830.3 | 0.0 |

Agency Estimate

The **Judicial Branch** estimates expenditures of \$112,032,217 in the current year. Items in the estimate include the following:

- \$533,364 from the State General Fund reappropriated from FY 2005.
- \$3,565,720 from the Emergency Surcharge Fund. For FY 2006, the Judicial Branch requested that the Emergency Surcharge be replaced with funding from the State General Fund, as it has each year since the Surcharge was imposed in April 2002. However, the Legislature did not replace the funding and the Supreme Court reimposed the Surcharge through FY 2006.

Governor's Recommendation

The **Governor** includes \$112,073,141 in the current resource budget for FY 2006, of which \$97,917,553 is from the State General Fund. The Governor's budget is \$40,924 higher than the Judicial Branch's estimate, which is accounted for almost entirely by the fact that the Governor's budget includes a federal grant of \$40,800, which was received after the budget was submitted. The money is to be used for security devices in the Judicial Center.

Budget Committee Recommendation

The Budget Committee concurs with the recommendations of the Governor.

3-3

Senate Subcommittee Report

Agency: Judicial Branch

Bill No. 573

Bill Sec. 14

Analyst: Rampey

Analysis Pg. No. Vol. I-633

Budget Page No. 223

| Expenditure Summary | Agency Request FY 2007 | Governor's Recommendation FY 2007 | Subcommittee Adjustments |
|-------------------------------------|------------------------------|---|------------------------------|
| Operating Expenditures: | | | |
| State General Fund | \$ 105,269,804 | \$ 100,774,803 | \$ (3,923,525) |
| Emergency Surcharge | 0 | 0 | 0 |
| Nonjudicial Salary Initiatives Fund | 3,891,919 | 3,978,497 | 0 |
| All Other Funds | 6,686,028 | 6,668,854 | 0 |
| TOTAL | <u>\$ 115,849,751</u> | <u>\$ 111,422,154</u> | <u>\$ (3,923,525)</u> |
| FTE Positions | 1,867.3 | 1,833.3 | (2.0) |
| Non FTE Uncl. Perm. Pos. | 0.0 | 0.0 | 0.0 |
| TOTAL | <u>1,867.3</u> | <u>1,833.3</u> | <u>(2.0)</u> |

Agency Request

The **Judicial Branch requests** a total of \$115,847,751 for FY 2007, of which \$105,269,804 is from the State General Fund. In addition, \$141,141 from the State General Fund is requested for capital improvements associated with the expansion of the Court of Appeals.

- The Judicial Branch's FY 2007 request includes \$6,718,536 for enhancements, of which \$6,637,448 is from the State General Fund. Requested enhancements from the State General Fund include \$2,950,657 for a 10 percent salary increase for all judges; \$75,031 for a salary increase for chief judges of the district court; \$756,488 for new judges and associated positions; \$147,838 for 2.0 FTE research attorneys for the Court of Appeals; \$1,907,357 for a 3.2 percent cost of living increase for nonjudicial employees; \$10,528 for nonjudicial personnel reclassifications; \$773,149 for 22.0 FTE nonjudicial positions; and \$16,400 to replace a mini-van.
- \$297,296 from the State General Fund is included for the ongoing expansion of the Court of Appeals which is due to add the 13th judge January of 2007. The estimate includes half-year funding for the new judge and 2.0 FTE associated positions, half-year funding for other operating expenditures, and funding for capital outlay and capital improvements. **Staff Note:** The Judicial Branch is withdrawing this request and asking that legislation be introduced to delay the ongoing expansion of the Court of Appeals by one year.
- The Judicial Branch once again requests that the Emergency Surcharge be replaced with funding from the State General Fund. Replacement costs are estimated to be \$3,700,000.

3-4

Governor's Recommendation

The **Governor recommends** \$111,422,154 in FY 2007 for operating expenditures, of which \$100,774,803 is from the State General Fund. As in past years, the Governor replaces funding from the Emergency Surcharge with funding from the State General Fund. The Governor does not include requested enhancements in the current service budget except for \$16,400 from the State General Fund to replace a vehicle. The Governor also includes \$2,150,446 from the State General Fund and \$150,492 from other funds for the 2.5 base salary adjustment for classified employees and a 2.5 percent merit pool for unclassified employees, as well as requested funding associated with adding the 13th judge to the Court of Appeals (\$297,296 from the State General Fund).

Subcommittee Recommendations

The Subcommittee concurs with the Governor, with the following exceptions and comments:

1. Delete \$297,296 from the State General Fund for all costs associated with the addition of the 13th judge to the Court of Appeals in January of 2007 and recommend the introduction of legislation to delay ongoing expansion of the Court of Appeals by one year. This action is taken at the request of the Chief Judge of the Court of Appeals, who requested that the expansion be delayed but not abandoned.
2. Delete \$3,700,000 from the State General Fund, which is the amount recommended by the Governor to replace the Emergency Surcharge. The Subcommittee's recommendation would force the Kansas Supreme Court to consider whether to reimpose the Surcharge for FY 2007.
3. Add \$73,771 from the State General Fund for the salary and fringe benefits of 1.0 FTE Research Attorney II for the Court of Appeals. The new position would be used to develop expertise on the staff in the area of utility rate cases.
4. The Subcommittee notes recurring requests by the Judicial Branch for additional judges and nonjudicial personnel. In order to give the Legislature a context in which to evaluate these requests, the Subcommittee requests that the Judicial Branch prepare information for submission to the Subcommittee by the time of first adjournment of the 2006 Legislature which would identify proposals to give the Judicial Branch more flexibility to address caseload imbalances among judges and judicial districts.
5. Consider the Judicial Branch's request for 3.0 FTE new district court judges and 6.0 FTE associated staff positions in the Omnibus Bill. The Subcommittee is generally supportive of increasing judicial positions in districts with high and growing caseloads, but wants to delay making a decision until the Judicial Branch has provided the information requested in item 4 above, which would identify proposals to give the Judicial Branch flexibility to address caseload imbalances.
6. Consider the Judicial Branch's request for 22.0 FTE additional nonjudicial positions in the Omnibus Bill and ask the Judicial Branch to resubmit the request in priority order.

Senate Committee Recommendation

The Senate Committee concurs with the recommendations of the Subcommittee.

3-5

House Budget Committee Report

Agency: Judicial Branch

Bill No. HB 2968

Bill Sec. 14

Analyst: Rampey

Analysis Pg. No. Vol. I-633

Budget Page No. 223

| Expenditure Summary | Agency Request FY 2007 | Governor's Recommendation FY 2007 | Budget Committee Adjustments |
|-------------------------------------|------------------------------|---|------------------------------------|
| Operating Expenditures: | | | |
| State General Fund | \$ 105,269,804 | \$ 100,774,803 | \$ (4,013,696) |
| Emergency Surcharge | 0 | 0 | 0 |
| Nonjudicial Salary Initiatives Fund | 3,891,919 | 3,978,497 | 0 |
| All Other Funds | 6,686,028 | 6,668,854 | 0 |
| TOTAL | <u>\$ 115,847,751</u> | <u>\$ 111,422,154</u> | <u>\$ (4,013,696)</u> |
| | | | |
| FTE Positions | 1,867.3 | 1,833.3 | (2.0) |
| Non FTE Uncl. Perm. Pos. | 0.0 | 0.0 | 0.0 |
| TOTAL | <u>1,867.3</u> | <u>1,833.3</u> | <u>(2.0)</u> |

Agency Request

The **Judicial Branch requests** a total of \$115,847,751 for FY 2007, of which \$105,269,804 is from the State General Fund. In addition, \$141,141 from the State General Fund is requested for capital improvements associated with the expansion of the Court of Appeals.

- The Judicial Branch's FY 2007 request includes \$6,718,536 for enhancements, of which \$6,637,448 is from the State General Fund. Requested enhancements from the State General Fund include \$2,950,657 for a 10 percent salary increase for all judges; \$75,031 for a salary increase for chief judges of the district court; \$756,488 for new judges and associated positions; \$147,838 for 2.0 FTE research attorneys for the Court of Appeals; \$1,907,357 for a 3.2 percent cost of living increase for nonjudicial employees; \$10,528 for nonjudicial personnel reclassifications; \$773,149 for 22.0 FTE nonjudicial positions; and \$16,400 to replace a mini-van.
- \$297,296 from the State General Fund is included for the ongoing expansion of the Court of Appeals which is due to add the 13th judge January of 2007. The estimate includes half-year funding for the new judge and 2.0 FTE associated positions, half-year funding for other operating expenditures, and funding for capital outlay and capital improvements. **Staff Note:** The Judicial Branch is withdrawing this request and asking that legislation be introduced to delay the ongoing expansion of the Court of Appeals by one year.
- The Judicial Branch once again requests that the Emergency Surcharge be replaced with funding from the State General Fund. Replacement costs are estimated to be \$3,700,000.

3-6

Governor's Recommendation

The **Governor recommends** \$111,422,154 in FY 2007 for operating expenditures, of which \$100,774,803 is from the State General Fund. As in past years, the Governor replaces funding from the Emergency Surcharge with funding from the State General Fund. The Governor does not include requested enhancements in the current service budget except for \$16,400 from the State General Fund to replace a vehicle. The Governor also includes \$2,150,446 from the State General Fund and \$150,492 from other funds for the 2.5 base salary adjustment for classified employees and a 2.5 percent merit pool for unclassified employees, as well as requested funding associated with adding the 13th judge to the Court of Appeals (\$297,296 from the State General Fund).

Budget Committee Recommendations

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

1. **FY 2007 Baseline Budget.** To establish a baseline FY 2007 budget, the FY 2006 budget, as approved by the 2005 Legislature, was adjusted to reflect salary adjustments (removal of the 27th payroll period funding included in FY 2006, annualization of the FY 2006 phased in 2.5 percent base salary adjustment and statutorily required adjustments for Kansas Public Employees Retirement System (KPERs) rates, KPERs death and disability insurance, and longevity). In addition, adjustments were made for required debt service payments, revenue transfers, and consensus items including school finance funding and caseload estimates for the Department of Social and Rehabilitation Services, the Department of Administration, the Department on Aging, and the Board of Indigents' Defense Services. Finally, adjustments were made for one-time items which impact specific agency budgets.

For the **Judicial Branch**, the FY 2006 approved budget totaled \$111,662,075, including \$97,384,189 from the State General Fund. The approved budget was reduced by a net total of \$1,835,368, including \$1,735,002 from the State General Fund, to establish a baseline budget for FY 2007. The reductions all are salary adjustments, offset by a one-time adjustment to add \$297,296 for the 13th judge for the Court of Appeals, which is statutorily required.

2. **Comparison of FY 2007 Baseline Budget to Governor's Recommendation.** The table below reflects the difference between the Governor's recommendation and the baseline budget.

| | SGF | All Funds |
|---------------------------------|---------------------|---------------------|
| Governor's Recommendation | \$ 100,940,343 | \$ 111,587,694 |
| Baseline Budget | 95,946,483 | 110,124,003 |
| Dollar Difference | \$ 4,993,860 | \$ 1,463,691 |
| Percent Difference | 4.9% | 1.3% |
| Base Salary Adjustment | \$ 2,150,446 | \$ 2,300,938 |
| Emergency Surcharge | 3,700,000 | 0 |
| Mini-Van | 16,400 | 16,400 |
| Judicial Branch Technology Fund | 0 | (207,112) |
| Net Other Adjustments | (872,986) | (646,535) |
| TOTAL | \$ 4,993,860 | \$ 1,463,691 |

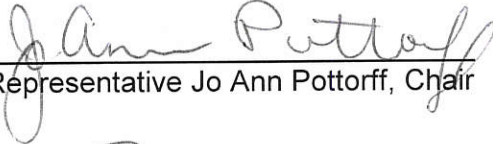
3-7

The primary reasons the Governor's recommendations are higher than the baseline budget are the 2.5 percent salary adjustment for all state employees and the fact that the Governor recommends replacing the Emergency Surcharge with money from the State General Fund.

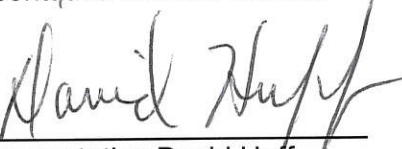
3. Delete \$16,400 from the State General Fund for a replacement mini-van and consider the request in the Omnibus Bill.
4. Delete \$297,296 from the State General Fund for all costs associated with the addition of the 13th judge to the Court of Appeals in January of 2007. The action is taken at the request of the Chief Judge of the Court of Appeals, who requested that the expansion be delayed but not abandoned. The delay will require the enactment of legislation, which has been recommended for introduction by the Senate Ways and Means Committee (SB 568).
5. Delete \$3,700,000 from the State General Fund, which is the amount recommended by the Governor to replace the Emergency Surcharge. The Budget Committee's recommendation would force the Kansas Supreme Court to consider whether to reimpose the Surcharge for FY 2007.
6. The Budget Committee notes recurring requests by the Judicial Branch for additional judges and nonjudicial personnel. In order to give the Legislature a context in which to evaluate these requests, the Budget Committee requests that the Judicial Branch prepare information for submission to the Budget Committee by the time of first adjournment of the 2006 Legislature which would identify proposals to give the Judicial Branch more flexibility to address caseload imbalances among judges and judicial districts.
7. The Budget Committee recommends that all requests by the Judicial Branch for additional judges and staff be considered in the Omnibus Bill. The requests include \$139,464 for two new research attorneys for the Court of Appeals, \$691,193 for 3.0 FTE district court judges and 6.0 FTE associated staff positions, and \$773,149 for 22.0 FTE nonjudicial personnel. (All funding would be from the State General Fund.)

GENERAL GOVERNMENT AND COMMERCE BUDGET COMMITTEE

HB 2594


Representative Jo Ann Pottorff, Chair



Representative Richard Carlson


Representative David Huff


Representative Annie Kuether


Representative Harold Lane


Representative Clark Shultz


Representative Kevin Yoder

HOUSE APPROPRIATIONS

DATE 3-06-2006
ATTACHMENT 4

House General Government and Commerce Budget Committee

Recommendation on House Bill 2594

Brief

Substitute for HB 2594 as recommended by the Budget Committee, directs the State Historical Society to compile experiences of former legislators. The substitute bill makes an appropriation of \$160,000 from the State General Fund to the State Historical Society. Funds would be appropriated in FY 2007 and unencumbered balances would reappropriate to FY 2008. The bill charges the Historical Society with gathering the histories of former State Legislators. The bill provides for the Historical Society to conduct audiotaped oral histories, and then follow up with videotaped interviews to be used to produce an educational documentary video to be disseminated by the Historical Society. The bill provides that the Historical Society may contract with a state educational institution or a municipal university with experience creating educational videos on the experiences of Kansas politicians.

The substitute bill also charges the State Historical Society with establishing an advisory records retention schedule for legislative papers.

Background

HB 2594, as introduced, created a competitive grant program through the State Historical Society to compile experiences of former State Legislators. The bill made an appropriation of \$160,000 from the State General Fund to the State Historical Society in FY 2007, with a reappropriation to FY 2008 of unused funds. Of the appropriation, \$10,000 would have gone to the State Historical Society to cover administrative costs, and the remaining \$150,000 would have been distributed as competitive grants to state educational institutions, non-profit organizations, private colleges and universities, and local historical agencies to compile these histories.

HB 2594 was requested by the Joint Committee on Arts and Cultural Resources. Representative Deana Horst appeared in support of the bill, as did former Representative Dave Heineman. Others speaking in favor of the bill included Dr. Bob Beaty, Washburn University, and Jennie Chinn, Executive Director of the State Historical Society. Conferees noted the importance of recording these experiences and noted that many former legislators are now deceased. Dr. Beaty had recently completed a documentary interviewing six Kansas Governors who are still living. (A copy of the DVD was provided to the Budget Committee members.) The Budget Committee determined that Washburn University should be included in the eligible entities to participate in this project.

The Budget Committee believes that for consistency a set program would be better than various projects completed by grant recipients. The Budget Committee noted that Washburn University has established an Institute of Kansas Politics, and also noted that the Dole Institute at the University of Kansas focused on larger issues and not necessarily Kansas politics and government. The State Historical Society proposed that the Historical Society conduct interviews to gather the oral histories of the former legislators. Once those interviews were compiled, Washburn University would conduct filmed interviews. Those filmed interviews would be made available for researchers, schools and universities. Dr. Beaty testified that the filmed interviews would be compiled into a documentary film, similar to the Kansas Governors Documentary.

PROPOSED Substitute for HOUSE BILL NO. 2594

By Joint Committee on Arts and Cultural Issues

AN ACT concerning the state historical society; authorizing a program for recording experiences of former state legislators; concerning appropriations for the fiscal years ending June 30, 2007, and June 30, 2008, for the state historical society.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Subject to the provisions of appropriation acts and in accordance with the provisions of this act, the executive director of the state historical society shall complete a project or projects to document the history of the legislative process based on the experiences of former legislators, as follows:

(a) The state historical society shall conduct audio taped oral histories of former legislators. Publications based on such audio and oral histories shall be disseminated by the state historical society in a manner prescribed by the executive director of the state historical society, except that such publications shall be made available on the state historical society internet website.

(b) The state historical society shall conduct and record follow-up interviews with former legislators on videotape. The videotape recordings shall be used to produce an educational documentary video. The educational documentary shall be disseminated by the state historical society in a manner prescribed by the executive director of the state historical society.

(c) The state historical society shall establish and maintain an advisory records retention and disposition schedule for legislative papers.

(d) The state historical society shall advise and consult with the joint committee on arts and cultural resources concerning each project proposed pursuant to this section.

(e) The executive director of the state historical society is hereby authorized to enter into a contract or contracts for services with either a state educational institution as defined in K.S.A. 74-3201b, and amendments thereto, or a municipal university as defined in K.S.A. 74-3201b, and amendments thereto, which has experience creating educational videos on the experiences of Kansas politicians.

Sec. 2. (a) For the fiscal years ending June 30, 2007, and June 30, 2008, appropriations are hereby made, restrictions and limitations are hereby imposed and transfers, fees, receipts, disbursement and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

Sec. 3.

STATE HISTORICAL SOCIETY

(a) There is hereby appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Legislative history project operating expenditures

For the fiscal year ending June 30, 2007 \$160,000

Provided, That any unencumbered balance in the legislative history project operating expenditures account in excess of \$100 as of June 30, 2007, is hereby reappropriated for fiscal year 2008.

(b) This act shall not be subject to the provisions of subsection (a) of K.S.A. 75-6702, and amendments thereto.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

4-4



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

PHILL KLINE
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
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March 6, 2006

House Appropriations Committee

Dear Chairman Neufeld , Vice-Chair Landwehr , and Members of the Committee:

Thank you for allowing me to appear today on behalf of Attorney General Phill Kline to testify in support of Senate Bill No 327 which would create the office of Inspector General to provide oversight of various Medicaid programs within the jurisdiction of the Health Policy Authority. My name is Rex Beasley. I am a Deputy Attorney General and the head of Attorney General Phill Kline's Medicaid Fraud and Abuse Division. Our Division is the Medicaid Fraud Control Unit (MFCU) required of the states by the Medicare-Medicaid Anti-Fraud and Abuse Amendments (P.L. 95-142), enacted by Congress in 1977. Along with establishing the state Medicaid Fraud Control Units, Congress provided the states with incentive funding to investigate and prosecute Medicaid provider fraud, and to investigate fraud in the administration of the Medicaid program.

The federal government provides slightly over 60% of the state's Medicaid funding and 75% of the operating expenses of the Medicaid Fraud Control Unit. Consequently both the Medicaid program and the Medicaid Fraud Control Unit are governed by and must follow not only the state laws but also a myriad of federal rules regulations and policies. The federal government requires that a single state agency administer the state Medicaid agencies. Because the agencies that administer the Medicaid programs in the various states are known by different names the federal rules, regulations, and policies generally refer to the Medicaid agencies as the single state agencies. This nomenclature is a term of art and I will discuss how that term applies to Senate Bill 327 later in this testimony.

The idea of establishing a full-time program of audit, investigation, and performance review to provide increased accountability integrity and oversight of Kansas Medicaid programs was born out of the Special Committee on Medicaid Reform which has been studying ways to avoid wasting our precious Medicaid dollars. The creation of the office of Inspector General would fill gaps that currently exists in the state's efforts to control rising Medicaid costs. One of those gaps is the limitations that the federal government places on the efforts of the Medicaid Fraud Control Unit. Federal regulations prohibit the Medicaid Fraud Control Unit from data mining. We may investigate only when the possibly of fraud, abuse, or waste have been reported to us by some other person or entity. Generally that entity is the fiscal agent hired by the Medicaid program Surveillance and Utilization Review Subsystem or SURS. We also learn of suspected fraud, abuse, or waste from private citizens or providers.

HOUSE APPROPRIATIONS

DATE 3-06-2006
ATTACHMENT 5

Another gap in the system lies in the structure of the Kansas Medicaid program. The persons who are charged with finding and reporting fraud waste and abuse in the Kansas Medicaid program are not independent from the people who run the program. The Centers for Medicare and Medicaid Services (CMS) which provides the federal funding of the Medicaid programs conducted a review of the program integrity procedures within the Kentucky Medicaid program in August 2005. CMS noted that Kentucky had recently re-organized its program by taking the program integrity functions out of the single state agency and created an new Division of Fraud, Waste and Abuse Identification and Prevention - called FWAIP - which reports directly to an Inspector General. In its report of Kentucky's program, CMS discussed what it called "Benchmark Practices" by saying: "In most single state agencies, the program integrity staff is subordinate to the Medicaid director. While this may facilitate cooperation between policy/program staff and the fraud and abuse staff, the goal of those groups can often be at odds. By placing FWAIP directly under the Inspector General, the organizational status of the program integrity functions has been elevated. In reporting to the Inspector General (IG), the director of FWAIP had the immediate and direct attention of the IG. Having the independence of the OIG also gives FWAIP the freedom to take unpleasant but necessary measures to protect the integrity of the Medicaid program."

We believe that Kansas should following the guidance of CMS pass Senate Bill 327 to give those charged with finding fraud waste and abuse in the Kansas Medicaid program the independence CMS found desirable.

It should be noted, however that the authority granted to the Inspector General by Senate Bill 327 is tied to the programs within the jurisdiction of the "Kansas health policy authority." It would be better to change the references to the Kansas health policy authority throughout the bill to the "single state Medicaid agency". Such change would be consistent with federal nomenclature and would not require an amendment to the statute in the event of a change of the name of the agency administering the Kansas Medicaid agency, and would also prevent any gaps occurring before the Kansas health policy authority actually takes control of the Medicaid program.

Respectfully,

OFFICE OF THE ATTORNEY GENERAL
PHILL KLINE

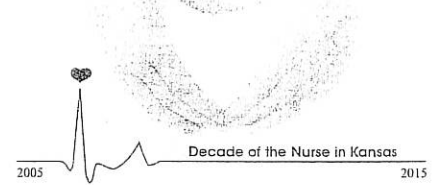


Rex G. Beasley
Deputy Attorney General
Director, Kansas Medicaid Fraud Control Unit



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ELLEN CARSON, PH.D., A.R.N.P., B.C.
 PRESIDENT

THE VOICE AND VISION OF NURSING IN KANSAS

TERRI ROBERTS, J.D., R.N.
 EXECUTIVE DIRECTOR

Terri Roberts J.D., R.N.
 troberts@ksna.net
 March 6, 2006

S.B. 327 Establishment of the Office of Inspector General

Representative Neufeld and members of the House Appropriations Committee, my name is Terri Roberts J.D., R.N. and I am here representing the KANSAS STATE NURSES ASSOCIATION. We support the creation of the *Office of the Inspector General* that is embodied in S.B. 327, and we have monitored the discussions about the breadth and scope of the activities that the office will be charged with monitoring.

We too have discussed, even before the Medicaid Reform Task Force came out with their recommendation the need for an OIG office in the state. Our discussions have been more global in nature, similar to some of the Senate Ways and Means Committee debate on the scope of work to be included in S.B. 327. We suspect that the legislature will revisit the *scope statement* for the office of the OIG in future years as issues arise that are deemed outside the scope of their review, but significant and warranting attention. It is important that this new office maintain some record of reports, and complaints file with them that are deemed outside their scope and that a report of this information is given in aggregate to the legislature for your review.

KSNA's most pressing issue with the creation of the OIG is that it is commonly held knowledge that whistle-blowers are one of the main source of information, and the Kansas whistleblower statutes only provide protection for "state employees". Furthermore, the Kansas statutes afford little protection to employees who "do the right thing". KSNA recommends that the Kansas Whistleblower statute be amended to shift the burden of proof so that the any action against the known whistleblower is presumed retaliation.

We recommend adding on page 9, line 23 after the word violation. The following:

If the alleged disciplinary action was taken within 90 days after the supervisor or appointing authority first knew of communications by the employee which are protected by this section, the supervisor or appointing authority shall have the burden of proving that a violation of this section did not occur.

We would also strongly recommend that this committee look into exp protection for all Kansans, not just state workers. This would be parti the work of the OIG and those who come forward to assist in this work

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**Kansas State Nurses Association
Proposed Amendment to S.B. 327
March 6, 2006**

SB 327—Am. by SCW

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1 the board shall modify or reverse the agency's action and order such relief
2 for the employee as the board considers appropriate. If the board finds
3 a violation of this act, it may require as a penalty that the violator be
4 suspended on leave without pay for not more than 30 days or, in cases of
5 willful or repeated violations, may require that the violator forfeit the
6 violator's position as a state officer or employee and disqualify the violator
7 for appointment to or employment as a state officer or employee for a
8 period of not more than two years. The board may award the prevailing
9 party all or a portion of the costs of the proceedings before the board,
10 including reasonable attorney fees and witness fees. The decision of the
11 board pursuant to this subsection may be appealed by any party pursuant
12 to law. On appeal, the court may award the prevailing party all or a portion
13 of the costs of the appeal, including reasonable attorney fees and witness
14 fees.

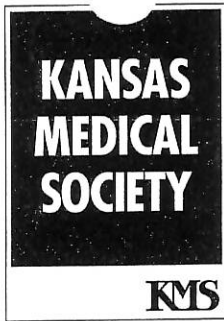
15 (g) Each state agency shall prominently post a copy of this act in
16 locations where it can reasonably be expected to come to the attention
17 of all employees of the state agency.

18 (h) Any officer or employee who is in the unclassified service under
19 the Kansas civil service act who alleges that disciplinary action has been
20 taken against such officer or employee in violation of this section may
21 bring an action pursuant to the act for judicial review and civil enforce-
22 ment of agency actions within 90 days after the occurrence of the alleged
23 violation. The court may award the prevailing party in the action all or a
24 portion of the costs of the action, including reasonable attorney fees and
25 witness fees.

26 (i) Nothing in this section shall be construed to authorize disclosure
27 of any information or communication that is confidential or privileged
28 under statute or court rule.

29 Sec. 3. K.S.A. 46-2601 is hereby amended to read as follows: 46-
30 2601. (a) There is hereby established the confirmation oversight com-
31 mittee which shall have six members. Except as provided by this subsec-
32 tion, members of the confirmation oversight committee shall be
33 appointed in the manner provided by senate rule for the appointment of
34 members of standing committees of the senate. The two major political
35 parties shall have proportional representation on such committee. In the
36 event application of the preceding sentence results in a fraction, the party
37 having a fraction exceeding .5 shall receive representation as though such
38 fraction were a whole number. One of the members of the committee
39 shall be the majority leader, or the majority leader's designee, who shall
40 be the chairperson. One of the members of the committee shall be the
41 minority leader, or the minority leader's designee, who shall be the vice-
42 chairperson. The committee shall meet on the call of the chairperson or
43 any three members of the committee.


(h) Any officer or employee who is in the unclassified service under the Kansas civil service act who alleges that disciplinary action has been taken against such officer or employee in violation of this section may bring an action pursuant to the act for judicial review and civil enforcement of agency actions within 90 days after the occurrence of the alleged violation. If the alleged disciplinary action was taken within 90 days after the supervisor or appointing authority first knew of communications by the employee which are protected by this section, the supervisor or appointing authority shall have the burden of proving that a violation of this section did not occur. The court may award the prevailing party in the action all or a portion of the costs of the action, including reasonable attorney fees and witness fees.



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To: House Appropriations Committee

From: Jerry Slaughter
Executive Director 

Date: March 6, 2006

Subject: SB 327; concerning the Office of the Inspector General

The Kansas Medical Society appreciates the opportunity to submit the following comments on SB 327, which establishes an Office of the Inspector General.

Let me say from the outset, that like all Kansans, we believe that waste, fraud, abuse, mismanagement and inefficiency in the state Medicaid program should be identified and addressed. The size, complexity and cost of Medicaid and other public programs dictates that responsible efforts be undertaken to assure that taxpayer funds are used appropriately and efficiently. That said, we have concerns about this legislation. Our concerns do not mean we condone fraud in any way. We do, however, have some questions about details of this legislation, as well about the overall approach and structure of this new agency.

Our first concern is one that probably only health care providers would even notice. New Section 1 mentions such things as "improving agency operations," and agency "performance review," and eliminating inefficiency and mismanagement in the conduct of programs administered by the Kansas health policy authority. However, at the risk of stating the obvious, a close reading of the bill (e.g., subsection (b) of New Section 1, pages 3-4; and subsection (h) on page 6) clearly seems to focus the Inspector General's attention on alleged misconduct of health care providers, other contractors and clients. In other words, this bill really isn't about improving the efficiency of these programs, or reducing the complexity of the programs so that there are fewer billing errors by providers. It's one more program, in addition to all those we already have, to go after providers and clients in our pursuit of those few who actually do commit fraud.

Another thing that concerns us is that there are no definitions in this legislation. It is pretty basic, and fair, that important terms in our laws are defined so that their meaning and application are clear to those affected. For example, the term "health care provider" is used extensively throughout the bill. The term "provider" is also used. Are these two terms interchangeable, or are they different? Wouldn't it be more appropriate to include a definition of health care provider as a person licensed to practice a branch of the healing

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arts, etc., who *currently contracts with the Kansas health policy authority*? There are numerous other examples of terms that ought to be defined in order to reduce uncertainty and confusion about the application of the law.

Second, the subsections of the bill (subsections (c) and (f) of New Section 1) that authorize the Inspector General to access the records, files and information of health care providers and other contractors is too broad, in our opinion. We understand that the IG will need to access information directly related to the programs administered by the Kansas health policy authority, such as Medicaid. However, the bill places hardly any restraints on the Inspector General's ability to demand any and all information that he or she deems necessary. We believe such demands should be limited to business records and patient information that is directly related to the public programs under the jurisdiction of the Kansas health policy authority, and none other. Health care providers who contract with the state shouldn't give up the right to have their business and personal records protected from disclosure if those records are not directly relevant to the services rendered to individuals covered by these public programs. We have attached an amendment that addresses this point.

We believe these issues are worthy of attention and further consideration because this new Inspector General will have unprecedented authority, and virtually unlimited power to investigate, audit, and sanction anyone who is involved as a service provider in public programs under the jurisdiction of the Kansas health policy authority. The bill provides that the Inspector General "*shall be independent and shall not be subject to direction by any other executive or legislative branch or agency.*" The individual in this position will answer only to himself or herself. It is little consolation that the IG can be removed from office by the attorney general for just cause, or that the legislature can by concurrent resolution express a lack of confidence in the individual, which would constitute just cause. As a practical matter, I think it will be very difficult for any legislator or attorney general to remove an Inspector General, because of fears that they would be portrayed by their political opponents as soft on fraud and abuse prosecution. In effect, this bill then creates a position that will possess immense power, with no practical way for any other agency or individual to exercise any check and balance over the Inspector General's activities.

One of the strengths of our system is the presence of checks and balances on agencies and individuals within our government. There must be a way to assure that the Office of the Inspector General is functionally free to do the tasks assigned to it, but within the structure of either the executive or legislative branch, to which he or she would ultimately be responsible. Possibly a good model would be that of the Legislative Division of Post Audit. That agency has a high degree of credibility and independence, and like the proposed IG, its functions are also audit and oversight of government programs

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Finally, from a health care provider's standpoint, there is some important context around this legislation. You may be aware that there is another, related bill working its way through the legislature that deals with Medicaid fraud. SB 326 would establish a state-level, false claims act, modeled after the federal false claims act. That legislation provides for significant civil and criminal penalties for fraud. These two bills, taken together, send a very clear message – probably unintended - to health care providers that we don't trust them to deal fairly in these public programs. The potential for billing errors in these exceedingly complex programs is very high, and providers are concerned that honest mistakes will be interpreted as fraud, with all the financial and legal consequences that implies. The combined effect of these bills could very well serve to discourage providers from participating in these programs, out of fear that they will be subjected to defending themselves against costly investigations over honest errors.

We urge you to carefully consider the impact of the legislation before you. Thank you for the opportunity to offer these comments.

1 program.

2 (4) Quality control measurements of ~~the~~ **such** programs administered
3 by the Kansas health policy authority.

4 (5) Investigations of fraud or intentional program violations commit-
5 ted by clients of the Kansas health policy authority or by consumers of
6 services administered by the Kansas health policy authority.

7 (6) Actions initiated against contractors or health care providers for
8 any of the following reasons:

9 (A) Violations of the medical assistance program.

10 (B) Sanctions against health care providers brought in conjunction
11 with the department of social and rehabilitation services or the depart-
12 ment on aging, or both.

13 (C) Recoveries of assessments against medical care facilities and long-
14 term care facilities.

15 (D) Sanctions mandated by the United States department of health
16 and human services against health care providers.

17 (E) Violations of contracts related to any managed care programs.

18 (F) Monitoring adherence to the terms of the contract between the
19 Kansas health policy authority and an organization with which the au-
20 thority has entered into a contract to make claims payments.

21 (c) The inspector general shall have access to all **pertinent** infor-
22 mation, confidential or otherwise, and to all personnel and facilities of
23 the Kansas health policy authority, their employees, vendors, contractors
24 and health care providers and any federal, state or local governmental
25 agency that are necessary to perform the duties of the office as directly
26 related to **such** programs administered by the authority. **Access to con-**
27 **tractor files shall be limited to those files necessary to verify the**
28 **accuracy of the contractor's invoices or its compliance with the con-**
29 **tract provisions.** No health care provider shall be compelled under the
30 provisions of this section to provide individual medical records of patients
31 who are not clients of the medical assistance program. State and local
32 governmental agencies are authorized and directed to provide to the in-
33 spector general requested information, assistance or cooperation. Except
34 as otherwise provided in this subsection, the inspector general and all
35 employees and former employees of the office of inspector general shall
36 be subject to the same duty of confidentiality imposed by law on any such
37 person or agency with regard to any such information, and shall be subject
38 to any civil or criminal penalties imposed by law for violations of such
39 duty of confidentiality. The duty of confidentiality imposed on the in-
40 spector general and all employees and former employees of the office of
41 inspector general shall be subject to the provisions of subsection (e), and
42 the inspector general may furnish all such information to the attorney
43 general, Kansas bureau of investigation or office of the United States

Access to health care provider files and records shall be limited to only that information which is directly related to such health care provider's services rendered to clients of the Kansas health policy authority.

1 attorney general or the office of the United States attorney in Kansas.

2 (f) To carry out the duties as described in this section, the inspector
3 general and the inspector general's designees shall have the power to
4 compel by subpoena the attendance and testimony of witnesses and the
5 production of books, electronic records and papers as directly related to
6 **such** programs administered by the Kansas health policy authority. **Ac-**
7 **cess to contractor files shall be limited to those files necessary to**
8 **verify the accuracy of the contractor's invoices or its compliance**
9 **with the contract provisions.** No health care provider shall be com-
10 pelled to provide individual medical records of patients who are not cli-
11 ents of the authority.

12 (g) The inspector general shall report all convictions, terminations
13 and suspensions taken against vendors, contractors and health care pro-
14 viders to the Kansas health policy authority and to any agency responsible
15 for licensing or regulating those persons or entities.

16 (h) The inspector general shall make annual reports, findings and
17 recommendations regarding the office's investigations into reports of
18 fraud, waste, abuse, mismanagement or misconduct relating to any **such**
19 programs administered by the Kansas health policy authority to **the at-**
20 **torney general**, the legislative post auditor, the legislature and the gov-
21 ernor. These reports shall include, but not be limited to, the following
22 information:

23 (1) Aggregate provider billing and payment information.

24 (2) The number of audits of the programs administered by ~~the~~ **such**
25 Kansas health policy authority and the dollar savings, if any, resulting from
26 those audits.

27 (3) Health care provider sanctions, in the aggregate, including ter-
28 minations and suspensions.

29 (4) A detailed summary of the investigations undertaken in the pre-
30 vious fiscal year. These summaries shall comply with all laws and rules
31 and regulations regarding maintaining confidentiality in ~~the~~ **such** pro-
32 grams administered by the Kansas health policy authority.

33 (i) The inspector general shall make such recommendations to the
34 executive director of the Kansas health policy authority, the ~~governor~~
35 **attorney general** or the legislature for changes in law, rules and regu-
36 lations, policy or procedures as the inspector general deems appropriate
37 to carry out the provisions of law or to improve the efficiency of **such**
38 programs administered by the Kansas health policy authority. The in-
39 spector general shall not be required to obtain permission or approval
40 from any other official or authority prior to making any such
41 recommendation.

42 (j) The inspector general shall make provision to solicit and receive
43 reports of fraud, waste, abuse, mismanagement, misconduct or ineffi-

Access to health care provider files and records shall be limited to only that information which is directly related to such health care provider's services rendered to clients of the Kansas health policy authority.

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