

## MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:40 A.M. on January 18, 2006, in Room 123-S of the Capitol.

All members were present except:

Senator Vicki Schmidt- excused  
Senator David Wysong- excused

Committee staff present:

Jill Wolters, Revisor of Statutes Office  
Michael Corrigan, Revisor of Statutes  
Alan Conroy, Director, Kansas Legislative Research Department  
J. G. Scott, Kansas Legislative Research Department  
Reagan Cussimano, Kansas Legislative Research Department  
Audrey Dunkel, Kansas Legislative Research Department  
Julian Efird, Kansas Legislative Research Department  
Susan Kannarr, Kansas Legislative Research Department  
Judy Bromich, Chief of Staff  
Mary Shaw, Committee Secretary

Conferees appearing before the committee: none

Others attending:

See attached list.

### **Bill Introductions**

Senator Kelly moved, with a second by Senator Schodorf, to introduce a bill regarding workforce development; implementing the developing responsible youth act (5rs1523). Motion carried on a voice vote.

Senator Umbarger moved, with a second by Senator Barone, to introduce a bill relating to Medicaid; payroll agents for certain clients; care services by family members; concerning a waiver for home and community based services programs (5rs1554). Motion carried on a voice vote.

Senator McGinn moved, with a second by Senator Emler, to introduce a bill concerning the developmental disabilities reform act; relating to the provision of certain services (5rs1648). Motion carried on a voice vote.

Chairman Umbarger recognized staff to give a briefing on the following bill:

### **SB 271–Kansas developmental disabilities reform act, provision of certain services**

Staff indicated that hearings were held on **SB 271** during the 2005 Legislative Session.

The Chairman recognized Sherry Diel, Kansas Real Estate Commission, who explained that earlier they believed that their fee fund was so far down that they felt they needed a fee increase, but the number of licensed people has stayed up. She felt at this time it was not needed. There were amendments proposed including adding the words “primary office” on page 2 of the bill and adding the five new fees on Page 4 of the bill. Copies of the proposed balloon were distributed (Attachment 1).

Senator Barone moved, with a second by Senator Teichman, to adopt the proposed balloon regarding page 4 of the bill, including a correction on Page 4 of the bill, beginning line 5, where the years noted should be 2006. Motion carried on a voice vote.

Senator Emler moved, with a second by Senator Barone, to recommend **SB 271** favorable for passage as amended. Motion carried on a roll call vote.

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:40 A.M. on January 18, 2006, in Room 123-S of the Capitol.

The Chairman called the Committee's attention to discussion of the following bill that had a hearing on January 13, 2006:

**HB 2398--Procedures for convening a negotiating committee for architectural, land surveying and engineering services for state capital improvement projects**

Senator Barone moved, with a second by Senator Emler, to recommend **HB 2398** favorable for passage. Motion carried on a roll call vote.

Chairman Umbarger called the Committee's attention to discussion of:

**SB 327--Creating the office of inspector general within the Kansas health policy authority**

The Committee discussed the balloon amendment that was drafted by the Attorney General's Office (Attachment 2). Senator Barone moved, with a second by Senator Emler, to amend the balloon amendment that the inspector general could be removed from office for just cause and not just for cause. Motion carried on a voice vote.

A second balloon was discussed (Attachment 3). Senator Barone moved, with a second by Senator Kelly, to include Medicaid, MediKan, Healthwave and the state employee health insurance program. Motion carried on a voice vote. A third balloon from Tom Bruno was discussed (Attachment 4).

Senator Emler moved, with a second by Senator Teichman, to adopt all balloons, allow staff to make technical cleanup of the bill, and recommend **SB 327** favorable for passage as amended. Motion carried on a roll call vote.

The meeting adjourned at 11:30 a.m. The next meeting was scheduled for January 19, 2006.

## SENATE WAYS AND MEANS GUEST LIST

Date January 18, 2006

NAME	REPRESENTING
<i>Julia Thomas</i>	<i>DOTB</i>
<i>Chris Green</i>	<i>Harris News Service</i>
<i>Will Oper</i>	<i>Federico Consulting</i>
<i>Luke Thompson</i>	<i>DHPF</i>
<i>Gene Cannata</i>	<i>none</i>
<i>Kit May</i>	<i>LBH</i>
<i>Dodie Wellshear</i>	<i>Patrick Hurley &amp; Co.</i>
<i>Sheryl Deil</i>	<i>K's Real Estate Comm</i>
<del><i>John A. Austin</i></del>	<del><i>KMS</i></del>
<i>Don Morin</i>	<i>KMS</i>
<i>Fred Luckey</i>	<i>KHA</i>
<i>Gavin Young</i>	<i>Dept. of Admin.</i>
<i>D. KEITH MEYERS</i>	<i>DEPT. OF ADMINISTRATION - DPM</i>
<i>GARY Hibbs</i>	<i>Dept of Admin - DPM</i>
<i>Mandy Miller</i>	<i>Senator Schmidt</i>
<i>Estelle Montgomery</i>	<i>Hein Law Firm</i>
<i>Richard Saunders</i>	<i>Kenny &amp; Assoc.</i>
<i>Tom Bruno</i>	<i>Bruno &amp; Assoc.</i>
<i>Brad Smoot</i>	<i>BOBSKS &amp; BOBSKC</i>
<i>Randy Van Hower</i>	<i>KATH</i>
<i>Mike Hutfless</i>	<i>Cenpedico</i>

**SENATE BILL No. 271**

By Committee on Ways and Means

2-17

9 AN ACT concerning real estate brokers and sales persons; relating to  
10 fees; amending K.S.A. 2005 Supp. 58-3035 and 58-3063 and repealing  
11 the existing sections.  
12

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

14 Section 1. K.S.A. 2005 Supp. 58-3035 is hereby amended to read as  
15 follows: 58-3035. As used in this act, unless the context otherwise  
16 requires:

17 (a) "Act" means the real estate brokers' and salespersons' license act.

18 (b) "Advance listing fee" means any fee charged for services related  
19 to promoting the sale or lease of real estate and paid in advance of the  
20 rendering of such services, including any fees charged for listing, adver-  
21 tising or offering for sale or lease any real estate, but excluding any fees  
22 paid solely for advertisement or for listing in a publication issued for the  
23 sole purpose of promoting the sale or lease of real estate wherein inquiries  
24 are directed to the owner of the real estate or to real estate brokers and  
25 not to unlicensed persons who publish the listing.

26 (c) "Associate broker" means an individual who has a broker's license  
27 and who is employed by another broker or is associated with another  
28 broker as an independent contractor and participates in any activity de-  
29 scribed in subsection (f).

30 (d) "Branch broker" means an individual who has a broker's license  
31 and who has been designated to supervise a branch office and the activ-  
32 ities of salespersons and associate brokers assigned to the branch office.

33 (e) "Branch office" means a place of business other than the principal  
34 place of business of a broker.

35 (f) "Broker" means an individual, other than a salesperson, who ad-  
36 vertises or represents that such individual engages in the business of buy-  
37 ing, selling, exchanging or leasing real estate or who, for compensation,  
38 engages in any of the following activities as an employee of, or on behalf  
39 of, the owner, purchaser, lessor or lessee of real estate:

40 (1) Sells, exchanges, purchases or leases real estate.

41 (2) Offers to sell, exchange, purchase or lease real estate.

42 (3) Negotiates or offers, attempts or agrees to negotiate the sale,  
43 exchange, purchase or leasing of real estate.

Senate Ways and Means  
1-18-06  
Attachment 1

- 1           (4) Lists or offers, attempts or agrees to list real estate for sale, lease  
2 or exchange.
- 3           (5) Auctions or offers, attempts or agrees to auction real estate or  
4 assists an auctioneer by procuring bids at a real estate auction.
- 5           (6) Buys, sells, offers to buy or sell or otherwise deals in options on  
6 real estate.
- 7           (7) Assists or directs in the procuring of prospects calculated to result  
8 in the sale, exchange or lease of real estate.
- 9           (8) Assists in or directs the negotiation of any transaction calculated  
10 or intended to result in the sale, exchange or lease of real estate.
- 11          (9) Engages in the business of charging an advance listing fee.
- 12          (10) Provides lists of real estate as being available for sale or lease,  
13 other than lists provided for the sole purpose of promoting the sale or  
14 lease of real estate wherein inquiries are directed to the owner of the real  
15 estate or to real estate brokers and not to unlicensed persons who publish  
16 the list.
- 17          (g) "Commission" means the Kansas real estate commission.
- 18          (h) "Lease" means rent or lease for nonresidential use.
- 19          (i) "Licensee" means any person licensed under this act as a broker  
20 or salesperson.
- 21          (j) "Office" means a broker's place of business, where records may  
22 be maintained and licenses displayed, whether or not it is the broker's  
23 ~~principal place of business~~ *primary office*.
- 24          (k) "Person" means any individual or any foreign or domestic cor-  
25 poration, partnership or association.
- 26          (l) "*Primary office*" means a supervising broker's principal place of  
27 business for each company created or established by the broker.
- 28          ~~(4)~~ (m) "Real estate" means any interest or estate in land, including  
29 any leasehold or condominium, whether corporeal, incorporeal, freehold  
30 or nonfreehold and whether the real estate is situated in this state or  
31 elsewhere, but does not include oil and gas leases, royalties and other  
32 mineral interests, and rights of way and easements acquired for the pur-  
33 pose of constructing roadways, pipelines, conduits, wires and facilities  
34 related to these types of improvement projects for private and public  
35 utilities, municipalities, federal and state governments, or any political  
36 subdivision. For purpose of this act, any rights of redemption are consid-  
37 ered to be an interest in real estate.
- 38          ~~(m)~~ (n) "Salesperson" means an individual, other than an associate  
39 broker, who is employed by a broker or is associated with a broker as an  
40 independent contractor and participates in any activity described in sub-  
41 section (f).
- 42          ~~(n)~~ (o) "Supervising broker" means an individual, other than a branch  
43 broker, who has a broker's license and who has been designated as the

1 broker who is responsible for the supervision of the primary office of a  
2 broker and the activities of salespersons and associate brokers who are  
3 assigned to such office and all of whom are licensed pursuant to subsection  
4 (b) of K.S.A. 58-3042 and amendments thereto. "Supervising broker"  
5 also means a broker who operates a sole proprietorship and with whom  
6 associate brokers or salespersons are affiliated as employees or independent  
7 contractors.

8 Sec. 2. K.S.A. 2005 Supp. 58-3063 is hereby amended to read as  
9 follows: 58-3063. (a) The commission shall adopt rules and regulations  
10 fixing the amounts of the fees provided for by this act, subject to the  
11 following:

12 (1) For any examination required for licensure, a fee in an amount  
13 equal to the actual cost of the examination and the administration thereof.

14 (2) For submission of an application for an original salesperson's li-  
15 cense, an amount not exceeding ~~\$25~~ ~~\$50~~ **\$25**.

16 (3) For submission of an application for an original broker's license,  
17 an amount not exceeding \$50.

18 (4) For an original salesperson's license, a prorated fee based on a  
19 two-year amount not exceeding ~~\$100~~ ~~\$150~~ **\$100**.

20 (5) For an original broker's license, a prorated fee based on a two-  
21 year amount not exceeding ~~\$150~~ ~~\$200~~ **\$150**.

22 (6) For renewal of a salesperson's license, a fee based on a two-year  
23 amount not exceeding ~~\$100~~ ~~\$150~~ **\$100**.

24 (7) For renewal of a broker's license, a fee based on a two-year  
25 amount not exceeding ~~\$150~~ ~~\$200~~ **\$150**.

26 (8) For reinstatement of a license which has been deactivated or  
27 which has been canceled pursuant to subsection (d) of K.S.A. 58-3047  
28 and amendments thereto, or by reason of termination of a salesperson,  
29 an amount not exceeding \$15.

30 (9) For reinstatement of all licenses canceled pursuant to subsection

31 (e) of K.S.A. 58-3047 and amendments thereto, an amount not exceeding  
32 \$7.50 for each license canceled.

33 (10) For issuance of a duplicate license, an amount not exceeding  
34 \$10.

35 (11) For certification of licensure to another jurisdiction, an amount  
36 not exceeding ~~\$10~~ ~~\$25~~ **\$10**.

37 (12) For approval of a course of instruction submitted by a course  
38 provider pursuant to K.S.A. 58-3046a and amendments thereto, an  
39 amount not exceeding ~~\$75~~ ~~\$150~~ **\$75**.

40 (13) For renewal of an approved course of instruction pursuant to  
41 K.S.A. 58-3046a and amendments thereto, an amount not exceeding \$15.

42 (14) For approval of a course of instruction submitted by any licensee  
43 for credit toward the 12 hours of additional instruction required by K.S.A.

1 58-3046a and amendments thereto, an amount not less than \$10 nor more  
2 than \$20, as determined by the commission.

3 (15) For a temporary salesperson's license, an amount not exceeding  
4 ~~\$25 \$75~~ \$25.

5 (16) *For each branch office opened or established after July 1, 2005,*  
6 *an amount not exceeding \$100.*

7 (17) *For each primary office of a company created or established by*  
8 *a supervising broker after July 1, 2005, an amount not exceeding \$100.*

9 (18) *For certification of a licensee's education history under K.S.A.*  
10 *58-3046a, and amendments thereto, an amount not exceeding \$25.*

11 (19) *For certification of licensure of a professional corporation, an*  
12 *amount not exceeding \$25.*

13 (20) *For each additional primary or branch office at which a sales-*  
14 *person or an associate, supervising or branch broker is associated or em-*  
15 *ployed, if such person is associated or employed by more than one primary*  
16 *or branch office, an amount, to be paid by such salesperson or broker, an*  
17 *amount not exceeding \$50.*

18 (b) For each prorated fee, the commission shall establish a monthly  
19 amount, rounded off to the nearest dollar, and shall compute the fee from  
20 the last calendar day of the month in which the license is issued to the  
21 expiration date of the license.

22 (c) Subject to the limitations of this section, the commission shall fix  
23 the fees provided for by this section in the amounts necessary to admin-  
24 ister and enforce this act.

25 (d) The fees provided for by this section shall be applicable regardless  
26 of the type of license.

27 Sec. 3. K.S.A. 2005 Supp. 58-3035 and 58-3063 are hereby repealed.

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

# SENATE BILL No. 327

By Special Committee on Medicaid Reform

The purpose of the office of inspector general is to establish a full-time program of audit, investigation and performance review to provide increased accountability, integrity and oversight of the programs within the jurisdiction of the Kansas health policy authority and to assist in improving agency and program operations and in deterring and identifying fraud, abuse and illegal acts. The office of inspector general shall have a duty to prevent, detect and eliminate fraud, waste, abuse, mismanagement, inefficiency and misconduct by providers, contractors, agency employees, consumers, or any other person or entity involved in the delivery of services or the handling of funds of any program or agency within the jurisdiction of the Kansas health policy authority. The office of inspector general shall be independent and free from political influence and shall conduct investigations, audits, evaluations, inspections and other reviews in accordance with professional standards that relate to the fields of investigation and auditing in government.

AN ACT creating the office of inspector general within the Kansas health policy authority; providing for the appointment of the inspector general and the powers, duties and functions thereof; amending K.S.A. 46-2601 and K.S.A. 2005 Supp. 75-2973 and repealing the existing sections.

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

New Section 1. (a) (1) There is hereby created the office of inspector general within the Kansas health policy authority. The inspector general shall be appointed by the governor with the advice and consent of the senate and subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto. Except as provided in K.S.A. 46-2601, no person appointed to the position of inspector general shall exercise any power, duty or function of the inspector general until confirmed by the senate. The inspector general shall be a person with extensive experience in investigations, auditing or relevant law enforcement. The term of the person first appointed to the position of inspector general shall expire on January 15, 2009. Thereafter, a person appointed to the position of inspector general shall serve for a term which shall expire on January 15 of each year in which the whole senate is sworn in for a new term.

(2) The inspector general shall be in the unclassified service and shall receive such compensation as is determined by law, except that such compensation may be increased but not diminished during the term of office of the inspector general. The inspector general shall report directly to the governor on matters concerning the administration of the office of inspector general. All budget requests of the inspector general shall be made directly to the governor by the inspector general. Appropriations for the office of inspector general shall be made by separate line item appropriations for the office of inspector general.

(3) The inspector general may be removed from office by the governor for cause, and it shall constitute cause for removal if the legislature adopts a concurrent resolution expressing a lack of confidence in the inspector general's ability to adequately fulfill the duties of the office. The governor shall communicate the reasons for any such removal to both

(2)

attorney general

The inspector general shall be selected without regard to political affiliation and on the basis of integrity, capacity for effectively carrying out the duties of the office of inspector general, demonstrated ability in accounting, auditing, financial analysis, law, law enforcement, management analysis, public administration, investigation, fraud examination, criminal justice administration or other closely related fields. The inspector general shall possess demonstrated knowledge, skills, abilities and experience in conducting audits and investigations and shall be familiar with the programs subject to oversight by the office of inspector general. No former or current executive or manager of any program or agency subject to oversight by the office of inspector general may be appointed inspector general within two years of that individual's period of service with such program or agency. The inspector general shall hold at time of appointment, or shall obtain within one year after appointment, certification as a certified inspector general from a national organization that provides training to inspectors general.

(3)

(4) The inspector general may be removed from office by the attorney general only for cause. It shall constitute cause for removal if the legislature adopts a concurrent resolution expressing a lack of confidence in the inspector general's ability to adequately fulfill the duties of the office. The attorney general shall communicate the reasons for any such removal to both houses of the legislature within five days of such removal.

(5)

The inspector general shall be independent and shall not be subject to direction by any other executive or legislative branch officer or agency.

attorney general and to the leadership of the house of representatives and of the senate, which shall include the house committee on appropriations and the senate committee on ways and means

and such requests shall also be submitted by the inspector general directly to the legislature

Senate Ways and Means  
1-18-08  
Attachment 2



1 [houses of the legislature within five days of such removal]

2 (4) Within the limits of appropriations therefor the inspector general  
3 may hire such employees in the unclassified service as are necessary to  
4 administer the office of the inspector general. Such employees shall serve  
5 at the pleasure of the inspector general.

6 (b) In order to prevent, detect and eliminate fraud, waste, abuse,  
7 mismanagement, inefficiency and misconduct, the inspector general shall  
8 oversee the programs administered by the Kansas health policy authority,  
9 which oversight includes, but is not limited to, the following:

10 (1) Investigation of misconduct by employees, vendors, contractors,  
11 consumers, clients and health care providers.

12 (2) Audits of health care providers related to ensuring that appropri-  
13 ate payments are made for services rendered and to the recovery of  
14 overpayments.

15 (3) Monitoring of quality assurance programs generally related to the  
16 medical assistance program and specifically related to any managed care  
17 program.

18 (4) Quality control measurements of the programs administered by  
19 the Kansas health policy authority.

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

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

25 (A) Violations of the medical assistance program.

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

29 (C) Recoveries of assessments against medical care facilities and long-  
30 term care facilities.

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

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

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

37 (c) The inspector general shall have access to all information, confi-  
38 dential or otherwise, and to all personnel and facilities of the Kansas  
39 health policy authority, their employees, vendors, contractors and health  
40 care providers and any federal, state or local governmental agency that  
41 are necessary to perform the duties of the office as directly related to  
42 programs administered by the authority. No health care provider shall be  
43 compelled under the provisions of this section to provide individual med-

(6) The inspector general shall have general managerial control over the office of the inspector general and shall establish the organization structure of the office as the inspector general deems appropriate to carry out the responsibilities and functions of the office.

Subject to appropriations, the inspector general may obtain the services of certified public accountants, qualified management consultants, professional auditors, or other professionals necessary to independently perform the functions of the office.

carry out the duties of the office, the inspector general shall conduct independent and ongoing oversight of

1 ical records of patients who are not clients of the medical assistance pro-  
2 gram. State and local governmental agencies are authorized and directed  
3 to provide to the inspector general requested information, assistance or  
4 cooperation. Except as otherwise provided in this subsection, the inspec-  
5 tor general and all employees and former employees of the office of in-  
6 spector general shall be subject to the same duty of confidentiality im-  
7 posed by law on any such person or agency with regard to any such  
8 information, and shall be subject to any civil or criminal penalties imposed  
9 by law for violations of such duty of confidentiality. The duty of confi-  
10 dentiality imposed on the inspector general and all employees and former  
11 employees of the office of inspector general shall be subject to the pro-  
12 visions of subsection (e), and the inspector general may furnish all such  
13 information to the attorney general, Kansas bureau of investigation or  
14 office of the United States attorney in Kansas pursuant to subsection (e).  
15 Upon receipt thereof, the attorney general, Kansas bureau of investigation  
16 or office of the United States attorney in Kansas and all assistants and all  
17 other employees and former employees of such offices shall be subject  
18 to the same duty of confidentiality with the exceptions that any such  
19 information may be disclosed in criminal or other proceedings which may  
20 be instituted and prosecuted by the attorney general or the United States  
21 attorney in Kansas, and any such information furnished to the attorney  
22 general, the Kansas bureau of investigation or the United States attorney  
23 in Kansas under subsection (e) may be entered into evidence in any such  
24 proceedings.

25 (d) The inspector general shall serve as the authority's primary liaison  
26 with law enforcement, investigatory and prosecutorial agencies, including,  
27 but not limited to, the following:

- 28 (1) The Kansas highway patrol and Kansas bureau of investigation.
- 29 (2) The federal bureau of investigation and other federal law enforce-  
30 ment agencies.
- 31 (3) The various inspectors general of federal agencies overseeing the  
32 programs administered by the Kansas health policy authority.
- 33 (4) The offices of the United States attorney in Kansas.
- 34 (5) The office of the Kansas attorney general.
- 35 (6) The legislative post auditor.
- 36 (7) The unit of the organization which contracts with the Kansas  
37 health policy authority to make claims payments which is maintained to  
38 detect fraud pursuant to the contract. The inspector general shall meet  
39 on a regular basis with these entities to share information regarding pos-  
40 sible misconduct by any persons or entities involved with the programs  
41 administered by the authority. Any inefficiency discovered by the inspec-  
42 tor general shall be reported immediately to the legislative post auditor.  
43 Copies of any reports and recommendations of the unit of the organiza-

1 tion which contracts with the Kansas health policy authority to make  
2 claims payments which is maintained to detect fraud pursuant to the  
3 contract shall be submitted to the inspector general.

4 (e) All investigations conducted by the inspector general shall be con-  
5 ducted in a manner that ensures the preservation of evidence for use in  
6 criminal prosecutions. If the inspector general determines that a possible  
7 criminal act relating to fraud in the provision or administration of a pro-  
8 gram administered by the Kansas health policy authority has been com-  
9 mitted, the inspector general shall immediately notify the office of the  
10 Kansas attorney general. If the inspector general determines that a pos-  
11 sible criminal act has been committed within the jurisdiction of the office,  
12 the inspector general may request the special expertise of the Kansas  
13 bureau of investigation. The inspector general may present for prosecu-  
14 tion the findings of any criminal investigation to the office of the attorney  
15 general or the office of the United States attorney in Kansas.

16 (f) To carry out the duties as described in this section, the inspector  
17 general and the inspector general's designees shall have the power to  
18 compel by subpoena the attendance and testimony of witnesses and the  
19 production of books, electronic records and papers as directly related to  
20 programs administered by the Kansas health policy authority. No health  
21 care provider shall be compelled to provide individual medical records of  
22 patients who are not clients of the authority.

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

27 (h) The inspector general shall make annual reports, findings and  
28 recommendations regarding the office's investigations into reports of  
29 fraud, waste, abuse, mismanagement or misconduct relating to any pro- the attorney general,  
30 grams administered by the Kansas health policy authority to the legislative  
31 post auditor, the legislature and the governor. These reports shall include,  
32 but not be limited to, the following information:

- 33 (1) Aggregate provider billing and payment information.
- 34 (2) The number of audits of the programs administered by the Kansas  
35 health policy authority and the dollar savings, if any, resulting from those  
36 audits.
- 37 (3) Health care provider sanctions, in the aggregate, including ter-  
38 minations and suspensions.
- 39 (4) A detailed summary of the investigations undertaken in the pre-  
40 vious fiscal year. These summaries shall comply with all laws and rules  
41 and regulations regarding maintaining confidentiality in the programs ad-  
42 ministered by the Kansas health policy authority.
- 43 (i) The inspector general shall make such recommendations to the

attorney general

1 executive director of the Kansas health policy authority, the ~~governor~~ or  
2 the legislature for changes in law, rules and regulations, policy or pro-  
3 cedures as the inspector general deems appropriate to carry out the pro-  
4 visions of law or to improve the efficiency of programs administered by  
5 the Kansas health policy authority. The inspector general shall not be  
6 required to obtain permission or approval from any other official or au-  
7 thority prior to making any such recommendation.

8 (j) The inspector general shall make provision to solicit and receive  
9 reports of fraud, waste, abuse, mismanagement, misconduct or ineffi-  
10 ciencies in the programs administered by the Kansas health policy au-  
11 thority from any person or persons who shall possess such information.  
12 The inspector general shall not disclose or make public the identity of  
13 any person or persons who provide such reports pursuant to this subsec-  
14 tion unless such person or persons consent in writing to the disclosure of  
15 such person's identity. Disclosure of the identity of any person who makes  
16 a report pursuant to this subsection shall not be ordered as part of any  
17 administrative or judicial proceeding. Any information received by the  
18 inspector general from any person concerning fraud, waste, abuse, inef-  
19 ficiency, mismanagement, misconduct or inefficiencies in the programs  
20 administered by the Kansas health policy authority shall be confidential  
21 and shall not be disclosed or made public, upon subpoena or otherwise,  
22 except such information may be disclosed if (1) release of the information  
23 would not result in the identification of the person who provided the  
24 information, (2) the person or persons who provided the information to  
25 be disclosed consent in writing to its disclosure, (3) the disclosure is nec-  
26 essary to protect the public health or (4) the information to be disclosed  
27 is required in an administrative proceeding or court proceeding and ap-  
28 propriate provision has been made to allow disclosure of the information  
29 without disclosing to the public the identity of the person or persons who  
30 reported such information to the inspector general.

31 (k) The scope, timing and completion of any audit or investigation  
32 conducted by the inspector general shall be within the discretion of the  
33 inspector general. Any audit conducted by the inspector general's office  
34 shall adhere to the government auditing standards promulgated by the  
35 United States government accountability office.

36 (l) Nothing in this section shall limit investigations by any state de-  
37 partment or agency that may otherwise be required by law or that may  
38 be necessary in carrying out the duties and functions of such agency.

39 Sec. 2. K.S.A. 2005 Supp. 75-2973 is hereby amended to read as  
40 follows: 75-2973. (a) This section shall be known and may be cited as the  
41 Kansas whistleblower act.

42 (b) As used in this section:

43 (1) "Auditing agency" means the (A) legislative post auditor, (B) any

1 employee of the division of post audit, (C) any firm performing audit  
2 services pursuant to a contract with the post auditor, ~~or~~ (D) any state  
3 agency or federal agency or authority performing auditing or other over-  
4 sight activities under authority of any provision of law authorizing such  
5 activities or (E) the inspector general created under section 1 and amend-  
6 ments thereto.

7 (2) "Disciplinary action" means any dismissal, demotion, transfer,  
8 reassignment, suspension, reprimand, warning of possible dismissal or  
9 withholding of work.

10 (3) "State agency" and "firm" have the meanings provided by K.S.A.  
11 46-1112 and amendments thereto.

12 (c) No supervisor or appointing authority of any state agency shall  
13 prohibit any employee of the state agency from discussing the operations  
14 of the state agency or other matters of public concern, including matters  
15 relating to the public health, safety and welfare either specifically or gen-  
16 erally, with any member of the legislature or any auditing agency.

17 (d) No supervisor or appointing authority of any state agency shall:

18 (1) Prohibit any employee of the state agency from reporting any  
19 violation of state or federal law or rules and regulations to any person,  
20 agency or organization; or

21 (2) require any such employee to give notice to the supervisor or  
22 appointing authority prior to making any such report.

23 (e) This section shall not be construed as:

24 (1) Prohibiting a supervisor or appointing authority from requiring  
25 that an employee inform the supervisor or appointing authority as to leg-  
26 islative or auditing agency requests for information to the state agency or  
27 the substance of testimony made, or to be made, by the employee to  
28 legislators or the auditing agency, as the case may be, on behalf of the  
29 state agency;

30 (2) permitting an employee to leave the employee's assigned work  
31 areas during normal work hours without following applicable rules and  
32 regulations and policies pertaining to leaves, unless the employee is re-  
33 quested by a legislator or legislative committee to appear before a legis-  
34 lative committee or by an auditing agency to appear at a meeting with  
35 officials of the auditing agency;

36 (3) authorizing an employee to represent the employee's personal  
37 opinions as the opinions of a state agency; or

38 (4) prohibiting disciplinary action of an employee who discloses in-  
39 formation which: (A) The employee knows to be false or which the em-  
40 ployee discloses with reckless disregard for its truth or falsity, (B) the  
41 employee knows to be exempt from required disclosure under the open  
42 records act or (C) is confidential or privileged under statute or court rule.

43 (f) Any officer or employee of a state agency who is in the classified

1 service and has permanent status under the Kansas civil service act may  
2 appeal to the state civil service board whenever the officer or employee  
3 alleges that disciplinary action was taken against the officer or employee  
4 in violation of this act. The appeal shall be filed within 90 days after the  
5 alleged disciplinary action. Procedures governing the appeal shall be in  
6 accordance with subsections (f) and (g) of K.S.A. 75-2949 and amend-  
7 ments thereto and K.S.A. 75-2929d through 75-2929g and amendments  
8 thereto. If the board finds that disciplinary action taken was unreasonable,  
9 the board shall modify or reverse the agency's action and order such relief  
10 for the employee as the board considers appropriate. If the board finds  
11 a violation of this act, it may require as a penalty that the violator be  
12 suspended on leave without pay for not more than 30 days or, in cases of  
13 willful or repeated violations, may require that the violator forfeit the  
14 violator's position as a state officer or employee and disqualify the violator  
15 for appointment to or employment as a state officer or employee for a  
16 period of not more than two years. The board may award the prevailing  
17 party all or a portion of the costs of the proceedings before the board,  
18 including reasonable attorney fees and witness fees. The decision of the  
19 board pursuant to this subsection may be appealed by any party pursuant  
20 to law. On appeal, the court may award the prevailing party all or a portion  
21 of the costs of the appeal, including reasonable attorney fees and witness  
22 fees.

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

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

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

37 Sec. 3. K.S.A. 46-2601 is hereby amended to read as follows: 46-  
38 2601. (a) There is hereby established the confirmation oversight com-  
39 mittee which shall have six members. Except as provided by this subsec-  
40 tion, members of the confirmation oversight committee shall be  
41 appointed in the manner provided by senate rule for the appointment of  
42 members of standing committees of the senate. The two major political  
43 parties shall have proportional representation on such committee. In the

1 event application of the preceding sentence results in a fraction, the party  
2 having a fraction exceeding .5 shall receive representation as though such  
3 fraction were a whole number. One of the members of the committee  
4 shall be the majority leader, or the majority leader's designee, who shall  
5 be the chairperson. One of the members of the committee shall be the  
6 minority leader, or the minority leader's designee, who shall be the vice-  
7 chairperson. The committee shall meet on the call of the chairperson or  
8 any three members of the committee.

9 (b) If a vacancy occurs in the membership of a board, commission,  
10 council, committee, authority or other governmental body *or in the po-*  
11 *sition of inspector general created under section 1 and amendments*  
12 *thereto* and the appointment to fill such vacancy is subject to confirmation  
13 by the senate as provided in K.S.A. 75-4315b, and amendments thereto,  
14 the confirmation oversight committee may authorize, by a majority vote  
15 thereof, the person appointed to fill such vacancy to exercise the powers,  
16 duties and functions of the office until such appointment is confirmed by  
17 the senate in the manner provided by K.S.A. 75-4315b, and amendments  
18 thereto, at the next regular or special session of the legislature.

19 Prior to authorizing any person to exercise the powers, duties and func-  
20 tions of an office pursuant to this section, the confirmation oversight com-  
21 mittee may require such person to appear before the committee.

22 (c) (1) If the confirmation oversight committee authorizes a person  
23 appointed to fill a vacancy to exercise the powers, duties and functions of  
24 an office as provided by this section, such person shall not be subject to  
25 confirmation by the senate if at the time of such person's appointment  
26 there is less than six months in the unexpired term of such.

27 (2) The provisions of this subsection shall not apply to appointments  
28 to the state board of regents.

29 Sec. 4. K.S.A. 46-2601 and K.S.A. 2005 Supp. 75-2973 are hereby  
30 repealed.

31 Sec. 5. This act shall take effect and be in force from and after its  
32 publication in the statute book.

# SENATE BILL No. 327

By Special Committee on Medicaid Reform

1-5

Proposed Amendment For  
Consideration by the Senate  
Committee on Ways and Means

Senate Ways and Means  
1-18-06  
Attachment 3

9 AN ACT creating the office of inspector general within the Kansas health  
10 policy authority; providing for the appointment of the inspector gen-  
11 eral and the powers, duties and functions thereof; amending K.S.A.  
12 46-2601 and K.S.A. 2005 Supp. 75-2973 and repealing the existing  
13 sections.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. (a) (1) There is hereby created the office of inspector  
17 general within the Kansas health policy authority. The inspector general  
18 shall be appointed by the governor with the advice and consent of the  
19 senate and subject to confirmation by the senate as provided in K.S.A.  
20 75-4315b and amendments thereto. Except as provided in K.S.A. 46-  
21 2601, no person appointed to the position of inspector general shall ex-  
22 ercise any power, duty or function of the inspector general until con-  
23 firmed by the senate. The inspector general shall be a person with  
24 extensive experience in investigations, auditing or relevant law enforce-  
25 ment. The term of the person first appointed to the position of inspector  
26 general shall expire on January 15, 2009. Thereafter, a person appointed  
27 to the position of inspector general shall serve for a term which shall  
28 expire on January 15 of each year in which the whole senate is sworn in  
29 for a new term.

30 (2) The inspector general shall be in the unclassified service and shall  
31 receive such compensation as is determined by law, except that such  
32 compensation may be increased but not diminished during the term of  
33 office of the inspector general. The inspector general shall report directly  
34 to the governor on matters concerning the administration of the office of  
35 inspector general. All budget requests of the inspector general shall be  
36 made directly to the governor by the inspector general. Appropriations  
37 for the office of inspector general shall be made by separate line item  
38 appropriations for the office of inspector general.

39 (3) The inspector general may be removed from office by the gov-  
40 ernor for cause, and it shall constitute cause for removal if the legislature  
41 adopts a concurrent resolution expressing a lack of confidence in the  
42 inspector general's ability to adequately fulfill the duties of the office. The  
43 governor shall communicate the reasons for any such removal to both

to provide oversight of programs as designated in this section

The office of the inspector general shall only oversee, audit, investigate and provide a performance review of the state medicaid program, mediKan program and the state children's health insurance program as provided in K.S.A. 38-2001 et seq., and amendments thereto, within the jurisdiction of the Kansas health policy authority and subject to the provisions of this act.

jurisdiction of the



SENATE BILL No. 327

By Special Committee on Medicaid Reform

1-5

AN ACT creating the office of inspector general within the Kansas health policy authority; providing for the appointment of the inspector general and the powers, duties and functions thereof; amending K.S.A. 46-2601 and K.S.A. 2005 Supp. 75-2973 and repealing the existing sections.

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

New Section 1. (a) (1) There is hereby created the office of inspector general within the Kansas health policy authority. The inspector general shall be appointed by the governor with the advice and consent of the senate and subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto. Except as provided in K.S.A. 46-2601, no person appointed to the position of inspector general shall exercise any power, duty or function of the inspector general until confirmed by the senate. The inspector general shall be a person with extensive experience in investigations, auditing or relevant law enforcement. The term of the person first appointed to the position of inspector general shall expire on January 15, 2009. Thereafter, a person appointed to the position of inspector general shall serve for a term which shall expire on January 15 of each year in which the whole senate is sworn in for a new term.

(2) The inspector general shall be in the unclassified service and shall receive such compensation as is determined by law, except that such compensation may be increased but not diminished during the term of office of the inspector general. The inspector general shall report directly to the governor on matters concerning the administration of the office of inspector general. All budget requests of the inspector general shall be made directly to the governor by the inspector general. Appropriations for the office of inspector general shall be made by separate line item appropriations for the office of inspector general.

(3) The inspector general may be removed from office by the governor for cause, and it shall constitute cause for removal if the legislature adopts a concurrent resolution expressing a lack of confidence in the inspector general's ability to adequately fulfill the duties of the office. The governor shall communicate the reasons for any such removal to both houses of the legislature within five days of such removal.

(4) Within the limits of appropriations therefor the inspector general may hire such employees in the unclassified service as are necessary to administer the office of the inspector general. Such employees shall serve at the pleasure of the inspector general.

(b) In order to prevent, detect and eliminate fraud, waste, abuse, mismanagement, inefficiency and misconduct, the inspector general shall oversee the programs administered by the Kansas health policy authority, which oversight includes, but is not limited to, the following:

(1) Investigation of misconduct by employees, vendors, contractors, consumers, clients and health care providers.

(2) Audits of health care providers related to ensuring that appropriate payments are made for services rendered and to the recovery of overpayments.

(3) Monitoring of quality assurance programs generally related to the medical assistance program and specifically related to any managed care program.

(4) Quality control measurements of the programs administered by the Kansas health policy authority.

(5) Investigations of fraud or intentional program violations committed by clients of the Kansas health policy authority or by consumers of services administered by the Kansas health policy authority.

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

Senate Ways and Means  
1-18-06  
Attachment 4

reasons:

- (A) Violations of the medical assistance program.
- (B) Sanctions against health care providers brought in conjunction with the department of social and rehabilitation services or the department on aging, or both.
- (C) Recoveries of assessments against medical care facilities and long-term care facilities.
- (D) Sanctions mandated by the United States department of health and human services against health care providers.
- (E) Violations of contracts related to any managed care programs.
- (F) Monitoring adherence to the terms of the contract between the Kansas health policy authority and an organization with which the authority has entered into a contract to make claims payments.

(c) The inspector general shall have access to all pertinent information, confidential or otherwise, and to all personnel and facilities of the Kansas health policy authority, their employees, vendors, contractors and health care providers and any federal, state or local governmental agency that are necessary to perform the duties of the office as directly related to programs administered by the authority. Access to Contractor files shall be limited to those files necessary to verify the accuracy of the Contractor's invoices or its compliance with the contract provisions. No health care provider shall be compelled under the provisions of this section to provide individual medical records of patients who are not clients of the medical assistance program. State and local governmental agencies are authorized and directed to provide to the inspector general requested information, assistance or cooperation. Except as otherwise provided in this subsection, the inspector general and all employees and former employees of the office of inspector general shall be subject to the same duty of confidentiality imposed by law on any such person or agency with regard to any such information, and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality. The duty of confidentiality imposed on the inspector general and all employees and former employees of the office of inspector general shall be subject to the provisions of subsection (e), and the inspector general may furnish all such information to the attorney general, Kansas bureau of investigation or office of the United States attorney in Kansas pursuant to subsection (e). Upon receipt thereof, the attorney general, Kansas bureau of investigation or office of the United States attorney in Kansas and all assistants and all other employees and former employees of such offices shall be subject to the same duty of confidentiality with the exceptions that any such information may be disclosed in criminal or other proceedings which may be instituted and prosecuted by the attorney general or the United States attorney in Kansas, and any such information furnished to the attorney general, the Kansas bureau of investigation or the United States attorney in Kansas under subsection (e) may be entered into evidence in any such proceedings.

(d) The inspector general shall serve as the authority's primary liaison with law enforcement, investigatory and prosecutorial agencies, including, but not limited to, the following:

- (1) The Kansas highway patrol and Kansas bureau of investigation.
- (2) The federal bureau of investigation and other federal law enforcement agencies.
- (3) The various inspectors general of federal agencies overseeing the programs administered by the Kansas health policy authority.
- (4) The offices of the United States attorney in Kansas.
- (5) The office of the Kansas attorney general.
- (6) The legislative post auditor.
- (7) The unit of the organization which contracts with the Kansas health policy authority

to make claims payments which is maintained to detect fraud pursuant to the contract. The inspector general shall meet on a regular basis with these entities to share information regarding possible misconduct by any persons or entities involved with the programs administered by the authority. Any inefficiency discovered by the inspector general shall be reported immediately to the legislative post auditor. Copies of any reports and recommendations of the unit of the organization which contracts with the Kansas health policy authority to make claims payments which is maintained to detect fraud pursuant to the contract shall be submitted to the inspector general.

(e) All investigations conducted by the inspector general shall be conducted in a manner

that ensures the preservation of evidence for use in criminal prosecutions. If the inspector general determines that a possible criminal act relating to fraud in the provision or administration of a program administered by the Kansas health policy authority has been committed, the inspector general shall immediately notify the office of the Kansas attorney general. If the inspector general determines that a possible criminal act has been committed within the jurisdiction of the office, the inspector general may request the special expertise of the Kansas bureau of investigation. The inspector general may present for prosecution the findings of any criminal investigation to the office of the attorney general or the office of the United States attorney in Kansas.

(f) To carry out the duties as described in this section, the inspector general and the inspector general's designees shall have the power to compel by subpoena the attendance and testimony of witnesses and the production of books, electronic records and papers as directly related to programs administered by the Kansas health policy authority. Access to Contractor files shall be limited to those files necessary to verify the accuracy of the Contractor's invoices or its compliance with the contract provisions. No health care provider shall be compelled to provide individual medical records of patients who are not clients of the authority.

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

(h) The inspector general shall make annual reports, findings and recommendations regarding the office's investigations into reports of fraud, waste, abuse, mismanagement or misconduct relating to any programs administered by the Kansas health policy authority to the legislative post auditor, the legislature and the governor. These reports shall include, but not be limited to, the following information:

- (1) Aggregate provider billing and payment information.
- (2) The number of audits of the programs administered by the Kansas health policy authority and the dollar savings, if any, resulting from those audits.
- (3) Health care provider sanctions, in the aggregate, including terminations and suspensions.

(4) A detailed summary of the investigations undertaken in the previous fiscal year. These summaries shall comply with all laws and rules and regulations regarding maintaining confidentiality in the programs administered by the Kansas health policy authority.

(i) The inspector general shall make such recommendations to the executive director of the Kansas health policy authority, the governor or the legislature for changes in law, rules and regulations, policy or procedures as the inspector general deems appropriate to carry out the provisions of law or to improve the efficiency of programs administered by the Kansas health policy authority. The inspector general shall not be required to obtain permission or approval from any other official or authority prior to making any such recommendation.

(j) The inspector general shall make provision to solicit and receive reports of fraud, waste, abuse, mismanagement, misconduct or inefficiencies in the programs administered by the Kansas health policy authority from any person or persons who shall possess such information. The inspector general shall not disclose or make public the identity of any person or persons who provide such reports pursuant to this subsection unless such person or persons consent in writing to the disclosure of such person's identity. Disclosure of the identity of any person who makes a report pursuant to this subsection shall not be ordered as part of any administrative or judicial proceeding. Any information received by the inspector general from any person concerning fraud, waste, abuse, inefficiency, mismanagement, misconduct or inefficiencies in the programs administered by the Kansas health policy authority shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, except such information may be disclosed if (1) release of the information would not result in the identification of the person who provided the information, (2) the person or persons who provided the information to be disclosed consent in writing to its disclosure, (3) the disclosure is necessary to protect the public health or (4) the information to be disclosed is required in an administrative proceeding or court proceeding and appropriate provision has been made to allow disclosure of the information without disclosing to the public the identity of the person or persons who reported such information to the inspector general.

(k) The scope, timing and completion of any audit or investigation conducted by the inspector general shall be within the discretion of the inspector general. Any audit conducted by the inspector general's office shall adhere and comply with all provisions of Generally Accepted Government Auditing Standards (GAGAS), promulgated by the United States government accountability office.

(1) Nothing in this section shall limit investigations by any state department or agency that may otherwise be required by law or that may be necessary in carrying out the duties and functions of such agency.

Sec. 2. K.S.A. 2005 Supp. 75-2973 is hereby amended to read as follows: 75-2973. (a) This section shall be known and may be cited as the Kansas whistleblower act.

(b) As used in this section:

(1) "Auditing agency" means the (A) legislative post auditor, (B) any employee of the division of post audit, (C) any firm performing audit services pursuant to a contract with the post auditor, et (D) any state agency or federal agency or authority performing auditing or other oversight activities under authority of any provision of law authorizing such activities or (E) *the inspector general created under section 1 and amendments thereto.*

(2) "Disciplinary action" means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work.

(3) "State agency" and "firm" have the meanings provided by K.S.A. 46-1112 and amendments thereto.

(c) No supervisor or appointing authority of any state agency shall prohibit any employee of the state agency from discussing the operations of the state agency or other matters of public concern, including matters relating to the public health, safety and welfare either specifically or generally, with any member of the legislature or any auditing agency.

(d) No supervisor or appointing authority of any state agency shall:

(1) Prohibit any employee of the state agency from reporting any violation of state or federal law or rules and regulations to any person, agency or organization or

(2) require any such employee to give notice to the supervisor or appointing authority prior to making any such report.

(e) This section shall not be construed as:

(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative or auditing agency requests for information to the state agency or the substance of testimony made, or to be made, by the employee to legislators or the auditing agency, as the case may be, on behalf of the state agency;

(2) permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee or by an auditing agency to appear at a meeting with officials of the auditing agency;

(3) authorizing an employee to represent the employee's personal opinions as the opinions of a state agency; or

(4) prohibiting disciplinary action of an employee who discloses information which: (A) The employee knows to be false or which the employee discloses with reckless disregard for its truth or falsity, (B) the employee knows to be exempt from required disclosure under the open records act or (C) is confidential or privileged under statute or court rule.

(f) Any officer or employee of a state agency who is in the classified service and has permanent status under the Kansas civil service act may appeal to the state civil service board whenever the officer or employee alleges that disciplinary action was taken against the officer or employee in violation of this act. The appeal shall be filed within 90 days after the alleged disciplinary action. Procedures governing the appeal shall be in accordance with subsections (f) and (g) of K.S.A. 75-2949 and amendments thereto and K.S.A. 75-2929d through 75-2929g and amendments thereto. If the board finds that disciplinary action taken was unreasonable, the board shall modify or reverse the agency's action and order such relief for the employee as the board considers appropriate. If the board finds a violation of this act, it may require as a penalty that the

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violator he suspended on leave without pay for not more than 30 days or, in cases of willful or repeated violations, may require that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The board may award the prevailing party all or a portion of the costs of the proceedings before the board, including reasonable attorney fees and witness fees. The decision of the board pursuant to this subsection may be appealed by any party pursuant to law. On appeal, the court may award the prevailing party all or a portion of the costs of the appeal, including reasonable attorney fees and witness fees.

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

(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. 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.

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

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

(b) If a vacancy occurs in the membership of a board, commission, council, committee, authority or other governmental body or in the position of inspector general created under section 1 and amendments thereto and the appointment to fill such vacancy is subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, the confirmation oversight committee may authorize, by a majority vote thereof, the person appointed to fill such vacancy to exercise the powers, duties and functions of the office until such appointment is confirmed by the senate in the manner provided by K.S.A. 75-4315b, and amendments thereto, at the next regular or special session of the legislature.

Prior to authorizing any person to exercise the powers, duties and functions of an office pursuant to this section, the confirmation oversight committee may require such person to appear before the committee.

(c) (1) If the confirmation oversight committee authorizes a person appointed to fill a vacancy to exercise the powers, duties and functions of an office as provided by this section, such person shall not be subject to confirmation by the senate if at the time of such person's appointment there is less than six months in the unexpired term of such.

(2) The provisions of this subsection shall not apply to appointments to the state board of regents.

Sec. 4. K.S.A. 46-2601 and K.S.A. 2005 Supp. 75-2973 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.