

Approved: February 26, 2009
Date

MINUTES OF THE HOUSE GOVERNMENT EFFICIENCY AND FISCAL OVERSIGHT
COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 3:30 p.m. on February 17, 2009, in Room 535-N of the Capitol.

All members were present.

Committee staff present:

Renae Jefferies, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Hank Avila, Kansas Legislative Research Department
Mary Galligan, Kansas Legislative Research Department
Gary Deeter, Committee Assistant

Conferees appearing before the committee:

None

Others attending:

See attached list.

By motion of Representative Vickrey, second from Representative Ruiz, and vote by the Committee the minutes for February 10 and February 12 were approved.

The Chairman transferred the gavel to the Vice-Chair, Representative Burgess, who suggested the Committee consider **HB 2249 - Amendments to the Kansas whistleblower act**. The Vice-Chair explained that two balloon amendments were being presented, one from Gavin Young, Kansas Department of Administration (Attachment 1), and the other by Brent Haden, Chief of Staff, Speaker's Office (Attachment 2). Staff Renae Jefferies commented on the proposed changes in the Young amendment, noting that the primary changes dealt with the term *threaten* running throughout the bill and the concept of a *rebuttable presumption* (page 6, line 3) extending back a year. Mr. Haden commented that the *threaten* language needs to be included in the bill. Patrick Hurley, Chief Counsel, Kansas Department of Administration, stated that the concept of threat is already contained in the wording of the extant statute and that the term is undefined in the bill, a fact which leaves too much latitude for interpretation. Members discussed the merits and problems connected with both proposed amendments. Jane Carter, Executive Director, Kansas Organization of State Employees, observed that the bill as introduced will offer more protection for state employees; she suggested adding financial incentives for employees whose suggestions bring about efficiencies.

A motion was made by Representative Roth, seconded by Representative Spalding, to accept the Young balloon form of the bill. The motion passed.

Representative Neufeld made a motion, seconded by Representative Loganbill, to amend the bill further by inserting the threat language back into the bill. The motion passed. Representative Roth was recorded as voting against the motion.

CONTINUATION SHEET

Minutes of the House Government Efficiency And Fiscal Oversight Committee at 3:30 p.m. on February 17, 2009, in Room 535-N of the Capitol.

Representative Sloan, noting that the term *threaten* is not defined, made a motion to include the following as a definition of *threat*: “a statement or actions outside the normal employee counseling and job review process that convey possible dismissal, transfer, or other punishment for providing information the person believes to be accurate to a member of the legislature, the Attorney General, or any auditing agency.” Representative Neufeld seconded the motion, which passed.

A motion was made by Representative Loganbill, seconded by Representative Ruiz, to recommend the bill as favorable for passage as amended. The motion passed. Representative Roth was recorded as voting no.

The Vice-Chair brought forward **HB 2320 (State finance, state budget stabilization reserve fund in state treasury)** for the Committee’s consideration. Revisor Jim Wilson distributed a draft substitute for the bill (Attachment 3). The Vice-Chair referenced Attachment 4 to explain some of the proposed changes to the original bill, commenting that no more than 50% of the fund could be transferred out at one time and that the Governor could not include the Stabilization Fund in preparing the next fiscal year’s budget. Members discussed the difference between the statutory 7.5% ending balance and the bill’s reference to the possible amount available above the April consensus estimates. Members expressed concern regarding possible cash flow problems created by the bill. Mr. Wilson, responding to a question, said that the two-thirds vote in the substitute bill could not be accomplished without a constitutional amendment. To another question he said that the fund would be capped when it reached 20% of the State General Fund.

A motion was made by Representative Neufeld, seconded by Representative Morrison, to amend the substitute bill to change the 20% to relate to the previous fiscal year’s authorized expenditures. The motion passed 7-5.

A motion was made by Representative Neufeld, seconded by Representative Landwehr, to recommend the substitute bill to be favorable for passage as amended. The motion passed 7-5. Representatives Loganbill, Ruiz, Trimmer, and Henderson were recorded as voting against the motion.

The Vice-Chair suggested the Committee consider **HB 2222 - State agencies; collections of fee, licenses, taxes, surcharges, discounts.** Staff Daniel Yoza distributed a balloon amendment clarifying the language (Attachment 5). Jim Hollingsworth, Executive Director, Information Network of Kansas, thanked the Committee for the clarification and suggested that the amended language “. . .between different types of payment methods” be changed to “. . .between different processing methods.” A motion was made, seconded, and passed to adopt the balloon with the proposed changes in wording. (Motion by Representative Neufeld, seconded by Representative Morrison)

A motion was made by Representative Morrison, seconded by Representative Neufeld, to recommend the bill as amended to be favorable for passage. The motion carried.

The meeting was adjourned at 4:58 p.m. No further meeting was scheduled.

HOUSE BILL No. 2249

By Committee on Government Efficiency and Fiscal Oversight

2-4

Balloon Amendment
Garvin Young, I

Garvin

9 AN ACT concerning the Kansas whistleblower act; regarding protection
10 for whistleblowers; amending ~~K.S.A. 25-4161 and 46-256~~ and K.S.A.
11 2008 Supp. ~~75-2929d, 75-2973 and 75-7427~~ and repealing the existing
12 sections.

section

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

15 Section 1. ~~K.S.A. 25-4161~~ is hereby amended to read as follows: ~~25-~~
16 ~~4161.~~ (a) If a complaint is filed and the commission determines that such
17 verified complaint does not allege facts, directly or upon information and
18 belief, sufficient to constitute a violation of any provision of the campaign
19 finance act, it shall dismiss the complaint and notify the complainant and
20 respondent thereof.

21 (b) Whenever a complaint is filed with the commission alleging a
22 violation of a provision of the campaign finance act, such filing and the
23 allegations therein shall be confidential and shall not be disclosed except
24 as provided in the campaign finance act.

25 (c) If a complaint is filed and the commission determines that such
26 verified complaint does allege facts, directly or upon information and
27 belief, sufficient to constitute a violation of any of the provisions of the
28 campaign finance act, the commission shall promptly investigate the al-
29 leged violation.

30 (d) The commission shall notify the attorney general of any apparent
31 violation of criminal law or other laws not administered by the commis-
32 sion, which is discovered during the course of any such investigation.

33 (e) If after the investigation, the commission finds that probable
34 cause does not exist for believing the allegations of the complaint, the
35 commission shall dismiss the complaint. If after such investigation, the
36 commission finds that probable cause exists for believing the allegations
37 of the complaint, such complaint shall no longer be confidential and may
38 be disclosed. Upon making any such finding, the commission shall fix a
39 time for a hearing of the matter, which shall be not more than 30 days
40 after such finding. In either event the commission shall notify the com-
41 plainant and respondent of its determination.

42 (f) The remedies and protections provided by K.S.A. 75-2973 and
43 amendments thereto shall be available to any state employee against

Attachment 1

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1 whom disciplinary action has been taken *or threatened to be taken* for
2 filing a complaint pursuant to this act.

3 Sec. 2. K.S.A. 46-256 is hereby amended to read as follows: 46-256.

4 (a) If the commission determines that a verified complaint does not allege
5 facts, directly or upon information and belief, sufficient to constitute a
6 violation of any provision of this act, it shall dismiss the complaint and
7 notify the complainant and respondent thereof.

8 (b) Whenever a complaint is filed with the commission alleging a
9 violation of any provision of this act, such filing and the allegations therein
10 shall be confidential and shall not be disclosed except as provided in this
11 act.

12 (c) If the commission determines that such verified complaint does
13 allege facts, directly or upon information and belief, sufficient to consti-
14 tute a violation of any of the provisions of this act, the commission
15 promptly shall investigate the alleged violation.

16 (d) The commission shall notify the attorney general of any apparent
17 violation of criminal law or other laws not administered by the commis-
18 sion, which is discovered during the course of any such investigation.

19 (e) If, after the investigation, the commission finds that probable
20 cause does not exist for believing the allegations of the complaint, the
21 commission shall dismiss the complaint. If after such preliminary inves-
22 tigation, the commission finds that probable cause exists for believing the
23 allegations of the complaint, such complaint shall no longer be confiden-
24 tial and may be disclosed. Upon making any such finding, the commission
25 shall fix a time for a hearing in the matter, which shall be not more than
26 30 days after such finding. In either event the commission shall notify the
27 complainant and respondent of its determination.

28 (f) The remedies and protections provided by K.S.A. 75-2073 and
29 amendments thereto shall be available to any state employee against
30 whom disciplinary action has been taken *or threatened to be taken* for
31 filing a complaint pursuant to this act.

32 Sec. 3. K.S.A. 2008 Supp. 75-2020d is hereby amended to read as
33 follows: 75-2020d. (a) The state civil service board shall hear appeals taken
34 to it pursuant to: (1) K.S.A. 75-2040, 75-2040 and 75-3747, and amend-
35 ments thereto, concerning demotion, dismissal or suspension of a per-
36 manent employee in the classified service, or concerning refusal to ex-
37 amine an applicant or to certify a person as eligible for a job class, and
38 (2) K.S.A. 75-2073, and amendments thereto, concerning a disciplinary
39 action *taken or threatened to be taken* in violation of that statute.

40 (b) When an appeal is taken to the board, the board shall establish a
41 time and a place for the hearing which shall be held within 45 days after
42 receipt of request for the appeal. The board shall notify the person bring-
43 ing the appeal and the appointing authority or other person whose action

1 is being reviewed of the time and the place of the hearing at least 14 days
2 prior to such hearing. Each party at the hearing shall have the right to be
3 represented by a person of the party's own choice. Hearings shall be
4 conducted in accordance with the provisions of the Kansas administrative
5 procedure act. For purposes of the administrative procedure act, the state
6 civil service board shall be deemed the agency head. The board may
7 affirm, modify or reverse an agency action and order any other action it
8 deems appropriate.

9 (c) The board, or the director of personnel services when authorized
10 by majority vote of the board, may depose witnesses. Either party to a
11 hearing may depose witnesses in accordance with the Kansas administra-
12 tive procedure act. If books and papers are required to be produced in
13 advance of a hearing date, the person or agency producing the books and
14 papers shall be entitled to receive reasonable compensation to recover all
15 costs of such production from the person or agency for which they are
16 produced. The board, any presiding officer or the director may examine
17 such public records as may be required in relation to any matter which
18 the board has authority to investigate.

19 (d) Each person not in the classified or unclassified service who ap-
20 pears before the board or the director by order shall receive for such
21 person's attendance the fees and mileage provided for witnesses in civil
22 actions in the district court. Such fees and mileage shall be audited and
23 paid by the state upon presentation of proper vouchers. Each witness
24 subpoenaed at the request of parties other than the board or the director
25 shall be entitled to compensation from the state for attendance or travel
26 only if the board certifies that the testimony of such witness was relevant
27 and material to the matter investigated or, if such witness is not called to
28 testify, the board determines and certifies that such compensation should
29 be paid.

30 ~~Sec. 4.~~ K.S.A. 2008 Supp. 75-2973 is hereby amended to read as
31 follows: 75-2973. (a) This section shall be known and may be cited as the
32 Kansas whistleblower act.

33 (b) As used in this section:

34 (1) "Auditing agency" means the (A) legislative post auditor, (B) any
35 employee of the division of post audit, (C) any firm performing audit
36 services pursuant to a contract with the post auditor, (D) any state agency
37 or federal agency or authority performing auditing or other oversight
38 activities under authority of any provision of law authorizing such activi-
39 ties, or (E) the inspector general created under K.S.A. 2008 Supp. 75-
40 7427 and amendments thereto.

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

1 (3) "State agency" and "firm" have the meanings provided by K.S.A.
2 46-1112 and amendments thereto.

3 (c) No supervisor or appointing authority of any state agency shall
4 prohibit any employee of the state agency from discussing the operations
5 of the state agency or other matters of public concern, including matters
6 relating to the public health, safety and welfare either specifically or gen-
7 erally, with any member of the legislature, *the attorney general, an em-*
8 *ployee of the state agency where such employee is employed, an employee*
9 *of a state agency pursuant to a mandated reporter statute* or any auditing
10 agency.

11 (d) No supervisor or appointing authority of any state agency shall:
12 (1) Prohibit any employee of the state agency from reporting any
13 violation of state or federal law or rules and regulations to any person,
14 agency or organization; or

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

17 (e) (1) *No supervisor or appointing authority of any state agency*
18 *shall take or threaten to take any disciplinary action against any employee*
19 *of the state agency in retaliation for such employee's disclosure of infor-*
20 *mation to any member of the legislature, the attorney general, an em-*
21 *ployee of the state agency where such employee is employed, an employee*
22 *of a state agency pursuant to a mandated reporter statute* or any auditing
23 agency.

24 (2) *If an employee of a state agency alleges that a disciplinary action*
25 *has been taken or threatened to be taken in violation of this subsection,*
26 *the employee, if in the classified service, may appeal to the state civil*
27 *service board pursuant to subsection (g) and, if in the unclassified service*
28 *under the Kansas civil service act, may bring an action pursuant to sub-*
29 *section (h).*

(j)

30 (f) This section shall not be construed as:

31 (1) Prohibiting a supervisor or appointing authority from requiring
32 that an employee inform the supervisor or appointing authority as to leg-
33 islative or auditing agency requests for information to the state agency or
34 the substance of testimony made, or to be made, by the employee to
35 legislators or the auditing agency, as the case may be, on behalf of the
36 state agency;

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

43 (3) authorizing an employee to represent the employee's personal

1 opinions as the opinions of a state agency; or
2 (4) prohibiting disciplinary action of an employee who discloses in-
3 formation which: (A) The employee knows to be false or which the em-
4 ployee discloses with reckless disregard for its truth or falsity, (B) the
5 employee knows to be exempt from required disclosure under the open
6 records act, or (C) is confidential or privileged under statute or court rule.

7 ~~(f) (g)~~ Any officer or employee of a state agency who is in the clas-
8 sified service ~~and has permanent status~~ under the Kansas civil service act
9 may appeal to the state civil service board whenever the officer or em-
10 ployee alleges that disciplinary action was taken ~~or threatened to be taken~~
11 against the officer or employee in violation of this act. The appeal shall
12 be filed within 90 days after the alleged disciplinary action *was taken or*
13 *threatened to be taken*. Procedures governing the appeal shall be in ac-
14 cordance with subsections (f) and (g) of K.S.A. 75-2949 and amendments
15 thereto and K.S.A. 75-2929d through 75-2929g and amendments thereto.
16 If the board finds that disciplinary action taken was unreasonable, the
17 board shall modify or reverse the agency's action and order such relief
18 for the employee as the board considers appropriate *including, but not*
19 *limited to, reinstatement to the employee's former position, back pay and*
20 *reestablishment of any employee benefits for which the employee would*
21 *otherwise have been eligible if such violation had not occurred*. If the
22 board finds a violation of this act, it may require as a penalty that the
23 violator be suspended on leave without pay for not more than 30 days or,
24 in cases of willful or repeated violations, may require that the violator
25 forfeit the violator's position as a state officer or employee and disqualify
26 the violator for appointment to or employment as a state officer or em-
27 ployee for a period of not more than two years. The board may award
28 the prevailing party all or a portion of the costs of the proceedings before
29 the board, including reasonable attorney fees ~~and, witness fees and any~~ **and**
30 ~~other damages~~. The decision of the board pursuant to this subsection may
31 be appealed by any party pursuant to law. On appeal, the court may award
32 the prevailing party all or a portion of the costs of the appeal, including
33 reasonable attorney fees ~~and, witness fees: and any other damages~~ **and**
34 ~~If the prevailing party is the employee against whom a disciplinary action was~~
35 ~~taken, the court may order reinstatement to the employee's former posi-~~
36 ~~tion, back pay, reestablishment of any employee benefits for which the~~
37 ~~employee would otherwise have been eligible if such violation had not~~
38 ~~occurred and other such relief or damages as the court deems appropriate.~~

39 (h) ~~In any proceeding under subsection (g) or (k) concerning a dis-~~
40 ~~ciplinary action taken or threatened against a state employee, which oc-~~
41 ~~urs no later than one year after the employee first transmits facts or~~
42 ~~information concerning a matter listed in subsection (c) to any member~~
43 ~~of the legislature, the attorney general, an employee of the state agency~~

1 where such employee is employed, an employee of a state agency pursuant
2 to a mandated reporter statute or any auditing agency, there shall be a
3 rebuttable presumption that the disciplinary action is in retaliation for
4 the action taken by the employee under subsection (c).

5 (i) ~~No state employee who in good faith discloses facts and informa-~~
6 ~~tion to any member of the legislature, the attorney general, an employee~~
7 ~~of the state agency where such employee is employed, an employee of a~~
8 ~~state agency pursuant to a mandated reporter statute or any auditing~~
9 ~~agency in accordance with this act shall be liable for any civil damages~~
10 ~~resulting from such good faith disclosure.~~

discusses the operations of the state agency or other matters of public concern, including matters relating to public health, safety and welfare with

And by relettering the remaining subsections accordingly

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

14 (h) (k) Any officer or employee who is in the unclassified service
15 under the Kansas civil service act who alleges that disciplinary action has
16 been taken ~~or threatened to be taken~~ against such officer or employee in
17 violation of this section may bring an action pursuant to the act for judicial
18 review and civil enforcement of agency actions within 90 days after the
19 occurrence of the alleged violation. The court may award the prevailing
20 party in the action all or a portion of the costs of the action, including
21 reasonable attorney fees and witness fees: ~~and any other damages.~~ If the
22 prevailing party is the employee against whom a disciplinary action was
23 taken, the court may order reinstatement to the employee's former posi-
24 tion, back pay, reestablishment of any employee benefits for which the
25 employee would otherwise have been eligible if such violation had not
26 occurred ~~and other such relief or damages as the court deems appropriate.~~

and

27 (i) (l) Nothing in this section shall be construed to authorize disclo-
28 sure of any information or communication that is confidential or privi-
29 leged under statute or court rule.

30 Sec. 5. K.S.A. 2008 Supp. 75-7427 is hereby amended to read as
31 follows: 75-7427. (a) As used in this section:

32 (1) "Attorney general" means the attorney general, employees of the
33 attorney general or authorized representatives of the attorney general.

34 (2) "Benefit" means the receipt of money, goods, items, facilities,
35 accommodations or anything of pecuniary value.

36 (3) "Claim" means an electronic, electronic impulse, facsimile, mag-
37 netic, oral, telephonic or written communication that is utilized to identify
38 any goods, service, item, facility or accommodation as reimbursable to
39 the state medicaid program, or its fiscal agents, the state medikan pro-
40 gram or the state children's health insurance program or which states
41 income or expense.

42 (4) "Client" means past or present beneficiaries or recipients of the
43 state medicaid program, the state medikan program or the state chil-

1 children's health insurance program.

2 (5) "Contractor" means any contractor, supplier, vendor or other per-
3 son who, through a contract or other arrangement, has received, is to
4 receive or is receiving public funds or in kind contributions from the
5 contracting agency as part of the state medicaid program, the state
6 medikar program or the state children's health insurance program, and
7 shall include any sub contractor.

8 (6) "Contractor files" means those records of contractors which relate
9 to the state medicaid program, the state medikar program or the state
10 children's health insurance program.

11 (7) "Fiscal agent" means any corporation, firm, individual, organiza-
12 tion, partnership, professional association or other legal entity which,
13 through a contractual relationship with the state of Kansas receives, pro-
14 cesses and pays claims under the state medicaid program, the state
15 medikar program or the state children's health insurance program.

16 (8) "Health care provider" means a health care provider as defined
17 under K.S.A. 65-4921, and amendments thereto, who has applied to par-
18 ticipate in, who currently participates in, or who has previously partici-
19 pated in the state medicaid program, the state medikar program or the
20 state children's health insurance program.

21 (9) "Kansas health policy authority" or "authority" means the Kansas
22 health policy authority established under K.S.A. 2008 Supp. 75-7401, and
23 amendments thereto, or its successor agency.

24 (10) "Managed care program" means a program which provides co-
25 ordination, direction and provision of health services to an identified
26 group of individuals by providers, agencies or organizations.

27 (11) "Medicaid program" means the Kansas program of medical as-
28 sistance for which federal or state moneys, or any combination thereof,
29 are expended, or any successor federal or state, or both, health insurance
30 program or waiver granted thereunder.

31 (12) "Person" means any agency, association, corporation, firm, lim-
32 ited liability company, limited liability partnership, natural person, organ-
33 ization, partnership or other legal entity, the agents, employees, inde-
34 pendent contractors, and subcontractors, thereof, and the legal successors
35 thereto.

36 (13) "Provider" means a person who has applied to participate in,
37 who currently participates in, who has previously participated in, who
38 attempts or has attempted to participate in the state medicaid program,
39 the state medikar program or the state children's health insurance pro-
40 gram, by providing or claiming to have provided goods, services, items,
41 facilities or accommodations.

42 (14) "Recipient" means an individual, either real or fictitious, in
43 whose behalf any person claimed or received any payment or payments

1 from the state medicaid program, or its fiscal agent, the state medik
2 program or the state children's health insurance program, whether or not
3 any such individual was eligible for benefits under the state medicaid
4 program, the state medik program or the state children's health insur
5 ance program.

6 (15) "Records" means all written documents and electronic or mag
7 netic data, including, but not limited to, medical records, X rays, profes
8 sional, financial or business records relating to the treatment or care of
9 any recipient; goods, services, items, facilities or accommodations pro
10 vided to any such recipient; rates paid for such goods, services, items,
11 facilities or accommodations; and goods, services, items, facilities or ae
12 ccommodations provided to nonmedicaid recipients to verify rates or
13 amounts of goods, services, items, facilities or accommodations provided
14 to medicaid recipients, as well as any records that the state medicaid
15 program, or its fiscal agents, the state medik program or the state
16 children's health insurance program require providers to maintain. "Re
17 cords" shall not include any report or record in any format which is made
18 pursuant to K.S.A. 65 4922, 65 4923 or 65 4924, and amendments
19 thereto, and which is privileged pursuant to K.S.A. 65 4915 or 65 4925,
20 and amendments thereto.

21 (16) "State children's health insurance program" means the state chil
22 dren's health insurance program as provided in K.S.A. 38 2001 et seq.,
23 and amendments thereto.

24 (b) (1) There is hereby established within the Kansas health policy
25 authority the office of inspector general. All budgeting, purchasing and
26 related management functions of the office of inspector general shall be
27 administered under the direction and supervision of the executive direc
28 tor of the Kansas health policy authority. The purpose of the office of
29 inspector general is to establish a full time program of audit, investigation
30 and performance review to provide increased accountability, integrity and
31 oversight of the state medicaid program, the state medik program and
32 the state children's health insurance program within the jurisdiction of
33 the Kansas health policy authority and to assist in improving agency and
34 program operations and in deterring and identifying fraud, waste, abuse
35 and illegal acts. The office of inspector general shall be independent and
36 free from political influence and in performing the duties of the office
37 under this section shall conduct investigations, audits, evaluations, in
38 spections and other reviews in accordance with professional standards
39 that relate to the fields of investigation and auditing in government.

40 (2) (A) The inspector general shall be appointed by the Kansas health
41 policy authority with the advice and consent of the senate and subject to
42 confirmation by the senate as provided in K.S.A. 75 4315b, and amend
43 ments thereto. Except as provided in K.S.A. 46 2601, and amendments

1 thereto, no person appointed to the position of inspector general shall
2 exercise any power, duty or function of the inspector general until con-
3 firmed by the senate. The inspector general shall be selected without
4 regard to political affiliation and on the basis of integrity and capacity for
5 effectively carrying out the duties of the office of inspector general. The
6 inspector general shall possess demonstrated knowledge, skills, abilities
7 and experience in conducting audits or investigations and shall be familiar
8 with the programs subject to oversight by the office of inspector general.

9 (B) No former or current executive or manager of any program or
10 agency subject to oversight by the office of inspector general may be
11 appointed inspector general within two years of that individual's period
12 of service with such program or agency. The inspector general shall hold
13 at time of appointment, or shall obtain within one year after appointment,
14 certification as a certified inspector general from a national organization
15 that provides training to inspectors general.

16 (C) The term of the person first appointed to the position of inspector
17 general shall expire on January 15, 2009. Thereafter, a person appointed
18 to the position of inspector general shall serve for a term which shall
19 expire on January 15 of each year in which the whole senate is sworn in
20 for a new term.

21 (D) The inspector general shall be in the classified service and shall
22 receive such compensation as is determined by law, except that such
23 compensation may be increased but not diminished during the term of
24 office of the inspector general. The inspector general may be removed
25 from office prior to the expiration of the inspector general's term of office
26 in accordance with the Kansas civil service act. The inspector general shall
27 exercise independent judgment in carrying out the duties of the office of
28 inspector general under subsection (b). Appropriations for the office of
29 inspector general shall be made to the Kansas health policy authority by
30 separate line item appropriations for the office of inspector general. The
31 inspector general shall report to the Kansas health policy authority.

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

36 (3) Within the limits of appropriations therefor, the inspector general
37 may hire such employees in the unclassified service as are necessary to
38 administer the office of the inspector general. Such employees shall serve
39 at the pleasure of the inspector general. Subject to appropriations, the
40 inspector general may obtain the services of certified public accountants,
41 qualified management consultants, professional auditors, or other profes-
42 sionals necessary to independently perform the functions of the office.

43 (c) (1) In accordance with the provisions of this section, the duties

1 of the office of inspector general shall be to oversee, audit, investigate
2 and make performance reviews of the state medicaid program, the state
3 medikar program and the state children's health insurance program,
4 which programs are within the jurisdiction of the Kansas health policy
5 authority.

6 (2) In order to carry out the duties of the office, the inspector general
7 shall conduct independent and ongoing evaluation of the Kansas health
8 policy authority and of such programs administered by the Kansas health
9 policy authority, which oversight includes, but is not limited to, the
10 following:

11 (A) Investigation of fraud, waste, abuse and illegal acts by the Kansas
12 health policy authority and its agents, employees, vendors, contractors,
13 consumers, clients and health care providers or other providers.

14 (B) Audits of the Kansas health policy authority, its employees, con-
15 tractors, vendors and health care providers related to ensuring that ap-
16 propriate payments are made for services rendered and to the recovery
17 of overpayments.

18 (C) Investigations of fraud, waste, abuse or illegal acts committed by
19 clients of the Kansas health policy authority or by consumers of services
20 administered by the Kansas health policy authority.

21 (D) Monitoring adherence to the terms of the contract between the
22 Kansas health policy authority and an organization with which the au-
23 thority has entered into a contract to make claims payments.

24 (3) Upon finding credible evidence of fraud, waste, abuse or illegal
25 acts, the inspector general shall report its findings to the Kansas health
26 policy authority and refer the findings to the attorney general.

27 (d) The inspector general shall have access to all pertinent informa-
28 tion, confidential or otherwise, and to all personnel and facilities of the
29 Kansas health policy authority, their employees, vendors, contractors and
30 health care providers and any federal, state or local governmental agency
31 that are necessary to perform the duties of the office as directly related
32 to such programs administered by the authority. Access to contractor or
33 health care provider files shall be limited to those files necessary to verify
34 the accuracy of the contractor's or health care provider's invoices or their
35 compliance with the contract provisions or program requirements. No
36 health care provider shall be compelled under the provisions of this sec-
37 tion to provide individual medical records of patients who are not clients
38 of the state medicaid program, the state medikar program or the state
39 children's health insurance program. State and local governmental agen-
40 cies are authorized and directed to provide to the inspector general re-
41 quested information, assistance or cooperation.

42 (e) Except as otherwise provided in this section, the inspector general
43 and all employees and former employees of the office of inspector general

1 shall be subject to the same duty of confidentiality imposed by law on
2 any such person or agency with regard to any such information, and shall
3 be subject to any civil or criminal penalties imposed by law for violations
4 of such duty of confidentiality. The duty of confidentiality imposed on
5 the inspector general and all employees and former employees of the
6 office of inspector general shall be subject to the provisions of subsection
7 (f), and the inspector general may furnish all such information to the
8 attorney general, Kansas bureau of investigation or office of the United
9 States attorney in Kansas pursuant to subsection (f). Upon receipt thereof,
10 the attorney general, Kansas bureau of investigation or office of the
11 United States attorney in Kansas and all assistants and all other employees
12 and former employees of such offices shall be subject to the same duty
13 of confidentiality with the exceptions that any such information may be
14 disclosed in criminal or other proceedings which may be instituted and
15 prosecuted by the attorney general or the United States attorney in Kan-
16 sas, and any such information furnished to the attorney general, the Kan-
17 sas bureau of investigation or the United States attorney in Kansas under
18 subsection (f) may be entered into evidence in any such proceedings.

19 (f) All investigations conducted by the inspector general shall be con-
20 ducted in a manner that ensures the preservation of evidence for use in
21 criminal prosecutions or agency administrative actions. If the inspector
22 general determines that a possible criminal act relating to fraud in the
23 provision or administration of such programs administered by the Kansas
24 health policy authority has been committed, the inspector general shall
25 immediately notify the office of the Kansas attorney general. If the in-
26 spector general determines that a possible criminal act has been com-
27 mitted within the jurisdiction of the office, the inspector general may
28 request the special expertise of the Kansas bureau of investigation. The
29 inspector general may present for prosecution the findings of any criminal
30 investigation to the office of the attorney general or the office of the
31 United States attorney in Kansas.

32 (g) To carry out the duties as described in this section, the inspector
33 general and the inspector general's designees shall have the power to
34 compel by subpoena the attendance and testimony of witnesses and the
35 production of books, electronic records and papers as directly related to
36 such programs administered by the Kansas health policy authority. Access
37 to contractor files shall be limited to those files necessary to verify the
38 accuracy of the contractor's invoices or its compliance with the contract
39 provisions. No health care provider shall be compelled to provide indi-
40 vidual medical records of patients who are not clients of the authority.

41 (h) The inspector general shall report all convictions, terminations
42 and suspensions taken against vendors, contractors and health care pro-
43 viders to the Kansas health policy authority and to any agency responsible

1 for licensing or regulating those persons or entities. If the inspector gen-
2 eral determines reasonable suspicion exists that an act relating to the
3 violation of an agency licensure or regulatory standard has been commit-
4 ted by a vendor, contractor or health care provider who is licensed or
5 regulated by an agency, the inspector general shall immediately notify
6 such agency of the possible violation.

7 (i) The inspector general shall make annual reports, findings and rec-
8 ommendations regarding the office's investigations into reports of fraud,
9 waste, abuse and illegal acts relating to any such programs administered
10 by the Kansas health policy authority to the executive director of the
11 Kansas health policy authority, the legislative post auditor, the committee
12 on ways and means of the senate, the committee on appropriations of the
13 house of representatives, the joint committee on health policy oversight
14 and the governor. These reports shall include, but not be limited to, the
15 following information:

16 (1) Aggregate provider billing and payment information;

17 (2) the number of audits of such programs administered by the Kan-
18 sas health policy authority and the dollar savings, if any, resulting from
19 those audits;

20 (3) health care provider sanctions, in the aggregate, including ter-
21 minations and suspensions; and

22 (4) a detailed summary of the investigations undertaken in the pre-
23 vious fiscal year, which summaries shall comply with all laws and rules
24 and regulations regarding maintaining confidentiality in such programs
25 administered by the Kansas health policy authority.

26 (j) Based upon the inspector general's findings under subsection (e),
27 the inspector general may make such recommendations to the Kansas
28 health policy authority or the legislature for changes in law, rules and
29 regulations, policy or procedures as the inspector general deems appro-
30 priate to carry out the provisions of law or to improve the efficiency of
31 such programs administered by the Kansas health policy authority. The
32 inspector general shall not be required to obtain permission or approval
33 from any other official or authority prior to making any such
34 recommendation.

35 (k) (1) The inspector general shall make provision to solicit and re-
36 ceive reports of fraud, waste, abuse and illegal acts in such programs
37 administered by the Kansas health policy authority from any person or
38 persons who shall possess such information. The inspector general shall
39 not disclose or make public the identity of any person or persons who
40 provide such reports pursuant to this subsection unless such person or
41 persons consent in writing to the disclosure of such person's identity.
42 Disclosure of the identity of any person who makes a report pursuant to
43 this subsection shall not be ordered as part of any administrative or ju-

1 dicial proceeding. Any information received by the inspector general from
2 any person concerning fraud, waste, abuse or illegal acts in such programs
3 administered by the Kansas health policy authority shall be confidential
4 and shall not be disclosed or made public, upon subpoena or otherwise,
5 except such information may be disclosed if (A) release of the information
6 would not result in the identification of the person who provided the
7 information, (B) the person or persons who provided the information to
8 be disclosed consent in writing prior to its disclosure, (C) the disclosure
9 is necessary to protect the public health, or (D) the information to be
10 disclosed is required in an administrative proceeding or court proceeding
11 and appropriate provision has been made to allow disclosure of the in-
12 formation without disclosing to the public the identity of the person or
13 persons who reported such information to the inspector general.

14 (2) No person shall:

15 (A) Prohibit any agent, employee, contractor or subcontractor from
16 reporting any information under subsection (k)(1); or

17 (B) require any such agent, employee, contractor or subcontractor to
18 give notice to the person prior to making any such report.

19 (3) Subsection (k)(2) shall not be construed as:

20 (A) Prohibiting an employer from requiring that an employee inform
21 the employer as to legislative or auditing agency requests for information
22 or the substance of testimony made, or to be made, by the employee to
23 legislators or the auditing agency, as the case may be, on behalf of the
24 employer;

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

31 (C) authorizing an employee to represent the employee's personal
32 opinions as the opinions of the employer; or

33 (D) prohibiting disciplinary action of an employee who discloses in-
34 formation which (A) the employee knows to be false or which the em-
35 ployee discloses with reckless disregard for its truth or falsity, (B) the
36 employee knows to be exempt from required disclosure under the open
37 records act, or (C) is confidential or privileged under statute or court rule.

38 (4) Any agent, employee, contractor or subcontractor who alleges that
39 disciplinary action has been taken against such agent, employee, contrac-
40 tor or subcontractor in violation of this section may bring an action for
41 any damages caused by such violation in district court within 90 days after
42 the occurrence of the alleged violation.

43 (5) Any disciplinary action taken or threatened to be taken against an

1 employee of a state agency or firm as such terms are defined under sub-
2 section (b) of K.S.A. 75-2073, and amendments thereto, for making a
3 report under subsection (k)(1) shall be governed by the provisions of
4 K.S.A. 75-2073, and amendments thereto.

5 (l) The scope, timing and completion of any audit or investigation
6 conducted by the inspector general shall be within the discretion of the
7 inspector general. Any audit conducted by the inspector general's office
8 shall adhere and comply with all provisions of generally accepted govern-
9 mental auditing standards promulgated by the United States government
10 accountability office.

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

14 (n) The Kansas health policy authority, in accordance with K.S.A. 75-
15 4310, and amendments thereto, may recess for a closed, executive meet-
16 ing under the open meetings act, K.S.A. 75-4317 through 75-4320a, and
17 amendments thereto, to discuss with the inspector general any informa-
18 tion, records or other matters that are involved in any investigation or
19 audit under this section. All information and records of the inspector
20 general that are obtained or received under any investigation or audit
21 under this section shall be confidential, except as required or authorized
22 pursuant to this section.

And by renumbering the remaining sections accordingly

23 ~~Sec. 6. K.S.A. 25-4161 and 46-256 and K.S.A. 2008 Supp. 75-2029d.~~
24 ~~75-2073 and 75-7427 are hereby repealed.~~

is

25 Sec. 7. This act shall take effect and be in force from and after its
26 publication in the statute book.

HOUSE BILL No. 2249

By Committee on Government Efficiency and Fiscal Oversight

2-4

9 AN ACT concerning the Kansas whistleblower act; regarding protection
10 for whistleblowers; amending K.S.A. 25-4161 and 46-256 and K.S.A.
11 2008 Supp. 75-2929d, 75-2973 and 75-7427 and repealing the existing
12 sections.
13

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

15 Section 1. K.S.A. 25-4161 is hereby amended to read as follows: 25-
16 4161. (a) If a complaint is filed and the commission determines that such
17 verified complaint does not allege facts, directly or upon information and
18 belief, sufficient to constitute a violation of any provision of the campaign
19 finance act, it shall dismiss the complaint and notify the complainant and
20 respondent thereof.

21 (b) Whenever a complaint is filed with the commission alleging a
22 violation of a provision of the campaign finance act, such filing and the
23 allegations therein shall be confidential and shall not be disclosed except
24 as provided in the campaign finance act.

25 (c) If a complaint is filed and the commission determines that such
26 verified complaint does allege facts, directly or upon information and
27 belief, sufficient to constitute a violation of any of the provisions of the
28 campaign finance act, the commission shall promptly investigate the al-
29 leged violation.

30 (d) The commission shall notify the attorney general of any apparent
31 violation of criminal law or other laws not administered by the commis-
32 sion, which is discovered during the course of any such investigation.

33 (e) If after the investigation, the commission finds that probable
34 cause does not exist for believing the allegations of the complaint, the
35 commission shall dismiss the complaint. If after such investigation, the
36 commission finds that probable cause exists for believing the allegations
37 of the complaint, such complaint shall no longer be confidential and may
38 be disclosed. Upon making any such finding, the commission shall fix a
39 time for a hearing of the matter, which shall be not more than 30 days
40 after such finding. In either event the commission shall notify the com-
41 plainant and respondent of its determination.

42 (f) The remedies and protections provided by K.S.A. 75-2973 and
43 amendments thereto shall be available to any state employee against

1 (3) "State agency" and "firm" have the meanings provided by K.S.A.
2 46-1112 and amendments thereto.

3 (c) No supervisor or appointing authority of any state agency shall
4 prohibit any employee of the state agency from discussing the operations
5 of the state agency or other matters of public concern, including matters
6 relating to the public health, safety and welfare either specifically or gen-
7 erally, with any member of the legislature, *the attorney general, an em-*
8 ~~*ployee of the state agency where such employee is employed,*~~ *an employee*
9 *of a state agency pursuant to a mandated reporter statute or any auditing*
10 *agency.*

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

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

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

17 (e) (1) *No supervisor or appointing authority of any state agency*
18 *shall take or threaten to take any disciplinary action against any employee*
19 *of the state agency in retaliation for such employee's disclosure of infor-*
20 *mation to any member of the legislature, the attorney general, an em-*
21 ~~*ployee of the state agency where such employee is employed,*~~ *an employee*
22 *of a state agency pursuant to a mandated reporter statute or any auditing*
23 *agency.*

24 (2) *If an employee of a state agency alleges that a disciplinary action*
25 *has been taken or threatened to be taken in violation of this subsection,*
26 *the employee, if in the classified service, may appeal to the state civil*
27 *service board pursuant to subsection (g) and, if in the unclassified service*
28 *under the Kansas civil service act, may bring an action pursuant to sub-*
29 *section (i).*

30 (f) This section shall not be construed as:

31 (1) Prohibiting a supervisor or appointing authority from requiring
32 that an employee inform the supervisor or appointing authority as to leg-
33 islative or auditing agency requests for information to the state agency or
34 the substance of testimony made, or to be made, by the employee to
35 legislators or the auditing agency, as the case may be, on behalf of the
36 state agency;

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

43 (3) authorizing an employee to represent the employee's personal

1 opinions as the opinions of a state agency; or
2 (4) prohibiting disciplinary action of an employee who discloses in-
3 formation which: (A) The employee knows to be false or which the em-
4 ployee discloses with reckless disregard for its truth or falsity, (B) the
5 employee knows to be exempt from required disclosure under the open
6 records act, or (C) is confidential or privileged under statute or court rule.
7 ~~(f) (g)~~ Any officer or employee of a state agency who is in the clas-
8 sified service ~~and has permanent status~~ under the Kansas civil service act
9 may appeal to the state civil service board whenever the officer or em-
10 ployee alleges that disciplinary action was taken *or threatened to be taken*
11 against the officer or employee in violation of this act. The appeal shall
12 be filed within 90 days after the alleged disciplinary action *was taken or*
13 *threatened to be taken*. Procedures governing the appeal shall be in ac-
14 cordance with subsections (f) and (g) of K.S.A. 75-2949 and amendments
15 thereto and K.S.A. 75-2929d through 75-2929g and amendments thereto.
16 If the board finds that disciplinary action taken was unreasonable, the
17 board shall modify or reverse the agency's action and order such relief
18 for the employee as the board considers appropriate *including, but not*
19 *limited to, reinstatement to the employee's former position, back pay and*
20 *reestablishment of any employee benefits for which the employee would*
21 *otherwise have been eligible if such violation had not occurred*. If the
22 board finds a violation of this act, it may require as a penalty that the
23 violator be suspended on leave without pay for not more than 30 days or,
24 in cases of willful or repeated violations, may require that the violator
25 forfeit the violator's position as a state officer or employee and disqualify
26 the violator for appointment to or employment as a state officer or em-
27 ployee for a period of not more than two years. The board may award
28 the prevailing party all or a portion of the costs of the proceedings before
29 the board, including reasonable attorney fees ~~and~~, witness fees *and any*
30 *other damages*. The decision of the board pursuant to this subsection may
31 be appealed by any party pursuant to law. On appeal, the court may award
32 the prevailing party all or a portion of the costs of the appeal, including
33 reasonable attorney fees ~~and~~, witness fees *and any other damages*. *If the*
34 *prevailing party is the employee against whom a disciplinary action was*
35 *taken, the court may order reinstatement to the employee's former posi-*
36 *tion, back pay, reestablishment of any employee benefits for which the*
37 *employee would otherwise have been eligible if such violation had not*
38 *occurred and other such relief or damages as the court deems appropriate*.
39 ~~(h) In any proceeding under subsection (g) or (k) concerning a dis-~~
40 ~~ciplinary action taken or threatened against a state employee, which oc-~~
41 ~~curs no later than one year after the employee first transmits facts or~~
42 ~~information concerning a matter listed in subsection (c) to any member~~
43 ~~of the legislature, the attorney general, an employee of the state agency,~~

1 ~~where such employee is employed, an employee of a state agency pursuant~~
 2 ~~to a mandated reporter statute or any auditing agency, there shall be a~~
 3 ~~rebuttable presumption that the disciplinary action is in retaliation for~~
 4 ~~the action taken by the employee under subsection (c).~~

5 (i) No state employee who in good faith discloses facts and informa-
 6 tion to any member of the legislature, the attorney general, ~~an employee~~
 7 ~~of the state agency where such employee is employed, an employee of a~~
 8 state agency pursuant to a mandated reporter statute or any auditing
 9 agency in accordance with this act shall be liable for any civil damages
 10 resulting from such good faith disclosure.

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

14 (h) (k) Any officer or employee who is in the unclassified service
 15 under the Kansas civil service act who alleges that disciplinary action has
 16 been taken or threatened to be taken against such officer or employee in
 17 violation of this section may bring an action pursuant to the act for judicial
 18 review and civil enforcement of agency actions within 90 days after the
 19 occurrence of the alleged violation. The court may award the prevailing
 20 party in the action all or a portion of the costs of the action, including
 21 reasonable attorney fees and, witness fees: and any other damages. If the
 22 prevailing party is the employee against whom a disciplinary action was
 23 taken, the court may order reinstatement to the employee's former posi-
 24 tion, back pay, reestablishment of any employee benefits for which the
 25 employee would otherwise have been eligible if such violation had not
 26 occurred and other such relief or damages as the court deems appropriate.

27 (i) (l) Nothing in this section shall be construed to authorize disclo-
 28 sure of any information or communication that is confidential or privi-
 29 leged under statute or court rule.

30 Sec. 5. K.S.A. 2008 Supp. 75-7427 is hereby amended to read as
 31 follows: 75-7427. (a) As used in this section:

32 (1) "Attorney general" means the attorney general, employees of the
 33 attorney general or authorized representatives of the attorney general.

34 (2) "Benefit" means the receipt of money, goods, items, facilities,
 35 accommodations or anything of pecuniary value.

36 (3) "Claim" means an electronic, electronic impulse, facsimile, mag-
 37 netic, oral, telephonic or written communication that is utilized to identify
 38 any goods, service, item, facility or accommodation as reimbursable to
 39 the state medicaid program, or its fiscal agents, the state mediKan pro-
 40 gram or the state children's health insurance program or which states
 41 income or expense.

42 (4) "Client" means past or present beneficiaries or recipients of the
 43 state medicaid program, the state mediKan program or the state chil-

DRAFT Substitute for HOUSE BILL NO. 2320

By

AN ACT concerning state finance; establishing the budget stabilization reserve fund in the state treasury; prescribing guidelines for expenditures from such fund and transfers between such fund and the state general fund; amending K.S.A. 2008 Supp. 75-3721 and repealing the existing section.

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

New Section 1. (a) There is hereby established in the state treasury the budget stabilization reserve fund which shall be administered by the department of administration. All expenditures from the budget stabilization reserve fund shall be made in accordance with appropriation acts and the provisions of this section upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of administration or the secretary's designee, except that no expenditures shall be made from the budget stabilization reserve fund unless the specific expenditure is specifically authorized by appropriation act or other act of the legislature.

(b) On August 1, 2009, and on August 1 of each year thereafter, if the actual revenues credited to the state general fund for the preceding state fiscal year are more than the joint estimate of revenue to the state general fund for the preceding state fiscal year conducted on or before April 20 of such fiscal year pursuant to K.S.A. 75-6701, and amendments thereto, and adjusted for enacted legislation not considered or included in preparing such joint estimate, then the director of the budget and the director of legislative research jointly shall certify to

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the director of accounts and reports the amount determined by the director of the budget and the director of legislative research to be equal to the amount by which the actual revenues to the state general fund for the preceding fiscal year exceed such joint estimate of revenue to the state general fund for such state fiscal year, adjusted for enacted legislation not considered or included in preparing such joint estimate. Upon receipt of such certification, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer the amount certified from the state general fund to the budget stabilization reserve fund. At the same time the director of the budget sends such certification to the director of accounts and reports, the director of the budget shall send a copy of such certification to the director of legislative research.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the budget stabilization reserve fund interest earnings based on: (1) The average daily balance of moneys in the budget stabilization reserve fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) Except as specifically prescribed by appropriation act or other act of the legislature, in no case shall additional moneys be transferred into the budget stabilization reserve fund during a fiscal year under authority of this section if the

balance in the budget stabilization reserve fund is equal to or more than the amount equal to 20% of the unencumbered balance credited to the state general fund for such state fiscal year.

(e) For any state fiscal year that commences on or after July 1, 2010, if the amount of the total state general fund revenue is less than the amount of total state general fund revenue for the preceding state fiscal year, the legislature shall provide by appropriation act or other act of the legislature for the transfer of moneys from the budget stabilization reserve fund to the state general fund in an appropriate amount equal to not more than the difference between the amount of total state general fund revenue for the prior state fiscal year and the amount of total state general fund revenue for the current state fiscal year. Under no other circumstances shall moneys be transferred or expended from the budget stabilization fund of the state.

(f) It is the intent of the legislature that not more than 50% of the moneys credited to the budget stabilization reserve fund shall be transferred from the budget stabilization reserve fund to any other fund in the state treasury during any state fiscal year.

Sec. 2. K.S.A. 2008 Supp. 75-3721 is hereby amended to read as follows: 75-3721. (a) On or before the eighth calendar day of each regular legislative session, the governor shall submit the budget report to the legislature, except that in the case of the regular legislative session immediately following the election of

a governor who was elected to the office of governor for the first time, that governor shall submit the budget report to the legislature on or before the 21st calendar day of that regular legislative session.

(b) The budget report of the governor shall be set up in three parts, the nature and contents of which shall include the following:

(1) Part one shall consist of a budget message by such governor, including the governor's recommendations with reference to the fiscal policy of the state government for the current fiscal year and the ensuing fiscal year, describing the important features of the budget plan for each of the fiscal years included, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income for the current fiscal year and the ensuing fiscal year, with the basis and factors upon which the estimates were made, and the means of financing the budget plan for the each of the fiscal years included, compared with the corresponding figures for at least the last completed fiscal year, and the director of the budget shall prepare the figures for the governor for such comparisons.

(A) The budget plan shall not include (i) any proposed expenditures of anticipated income attributable to proposed legislation that would provide additional revenues from either current or new sources of revenue, or (ii) any proposed

expenditures of moneys in the ending balance in the state general fund required by K.S.A. 75-6702, and amendments thereto, or (iii) any proposed expenditures of moneys credited to the budget stabilization reserve fund established by section 1, and amendments thereto.

(B) The general budget summary may be supported by explanatory schedules or statements, classifying the expenditures contained therein by state agencies, objects, and funds, and the income by state agencies, funds, sources and types. The general budget summary shall include all special or fee funds as well as the state general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(2) Part two shall embrace the detailed budget estimates for each of the fiscal years included, both of expenditures and revenues, showing the requests of the state agencies, if any, and the governor's recommendations thereon, which shall include amounts for payments by the state board of regents pursuant to K.S.A. 75-4364 and amendments thereto. It shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the last completed fiscal year, and the estimated amount for the current fiscal year and for each of the ensuing fiscal years included, the debt authorized and unissued, and the condition of the sinking funds.

(3) Part three shall consist of a draft of a legislative measure or measures reflecting the governor's budget for all of

the fiscal years included in the budget report.

(c) The division of the budget shall compile a children's budget document consisting of the information contained in agency budget estimates regarding programs that provide services for children and their families. Such document shall be provided to the Kansas children's cabinet established by K.S.A. 38-1901, and amendments thereto, and other persons or entities on request.

(d) The division of the budget, upon request, shall furnish the governor or the legislature with any further information required concerning the budget.

(e) Nothing in this section shall be construed to restrict or limit the privilege of the governor to present supplemental budget messages or amendments to previous budget messages, which may include proposals for expenditure of new or increased sources of revenue derived from proposed legislation.

(f) The budget estimate for the judicial branch of state government as submitted to the director of the budget pursuant to K.S.A. 20-158, and amendments thereto, shall be included in the governor's budget report.

(g) The division of the budget shall compile a Kansas homeland security budget document consisting of the information contained in agency budget estimates under subsection (a)(3) of K.S.A. 75-3717, and amendments thereto. Such document shall be provided to the house of representatives committee on appropriations, the senate committee on ways and means and such other committees upon request.

Sec. 3. K.S.A. 2008 Supp. 75-3721 is hereby repealed.

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

Proposed Amendments to House Bill No. 2320

- Base the shifting of funds into the State Budget Stabilization Fund on the amount of State General Fund actual receipts are above the April Consensus Revenue estimate (as adjusted for legislation). If actual receipts are less than the estimate, then no transfer would be made.
 - For example, at the end of FY 2007, the actual State General Fund receipts for that fiscal year were \$87.8 million above the April estimate, as adjusted for legislation. That amount under this proposal would have been shifted to the State Budget Stabilization.
 - For example, in FY 2008, actual State General Fund receipts were \$41.4 million below the April estimate (as adjusted for legislation), so no transfer would of been made.
 - If this proposal was in place, since FY 2003 there would of been \$299.1 million (the equivalent of 4.9 percent of expenditures) in the State Budget Stabilization Fund.
- To be able to access the funds in the State Budget Stabilization Fund, it would take a 2/3's vote in each chamber.
- No more than 50 percent of the funds in the State Budget Stabilization Fund could be transferred out of the Fund to the State General Fund at one time.
- 50 percent of the State Budget Stabilization Fund would be invested in a more long-term investment strategy to earn a higher rate of interest, which would remain with the State Budget Stabilization Fund.
- The Governor could not utilize funds in the State Budget Stabilization to prepare the *Governor's Budget Report* to the Legislature.
- The State Budget Stabilization Fund can be no larger than 20 percent of the State General Fund.

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STATE GENERAL FUND REVENUE ESTIMATES
Difference Between Actual Receipts and Final Estimate

(In Millions)

Fiscal Year	Final Estimate ^a	Actual Receipts ^a	Difference Between Actual Receipts and Final Estimate	
			Amount	Percent
1975	\$614.9 ^b	\$627.6	\$12.7	2.1%
1976	699.7	701.2	1.4	0.2
1977	760.7	776.5	15.8	2.1
1978	861.2	854.6	(6.5)	(0.8)
1979	1,019.3	1,006.8	(12.5)	(1.2)
1980	1,095.9	1,097.8	1.9	0.2
1981	1,226.4	1,226.5	0.1	0.0
1982	1,320.0	1,273.0	(47.0)	(3.6)
1983	1,366.9	1,363.6	(3.2)	(0.2)
1984	1,539.0	1,546.9	7.9	0.5
1985	1,679.7	1,658.5	(21.3)	(1.3)
1986	1,666.4	1,641.4	(25.0)	(1.5)
1987	1,764.7	1,778.5	13.8	0.8
1988	2,031.5	2,113.1	81.6	4.0
1989	2,206.9	2,228.3	21.4	1.0
1990	2,283.3	2,300.5	17.2	0.8
1991	2,360.6	2,382.3	21.7	0.9
1992	2,454.5	2,465.8	11.3	0.5
1993	2,929.6	2,932.0	2.4	0.1
1994	3,126.8	3,175.7	48.9	1.6
1995	3,243.9	3,218.8	(25.1)	(0.8)
1996	3,409.2	3,448.3	39.0	1.1
1997	3,642.4	3,683.8	41.4	1.1
1998	3,971.0	4,023.7	52.7	1.3
1999	4,051.9	3,978.4	(73.4)	(1.8)
2000	4,161.0	4,203.1	42.1	1.0
2001	4,408.7	4,415.0	6.4	0.1
2002	4,320.6	4,108.9	(211.7)	(4.9)
2003	4,235.6	4,245.6	9.9	0.2
2004	4,450.5	4,518.7	68.2	1.5
2005	4,793.8	4,841.3	47.5	1.0
2006	5,308.7	5,394.4	85.7	1.6
2007	5,721.3	5,809.0	87.8	1.5
2008	5,736.3	5,694.9	(41.4)	(0.7)

a) For FYs 1975-1988, not adjusted for 1988 legislation which changed three revenue transfers (netted out of receipts) to demand transfers (expenditures).

b) The first estimate of the Consensus Estimating Group was the revised estimate for FY 1975. This final estimate of \$614.9 million reflects a reduction in receipts of about \$127,000 made by the 1975 Legislature.

Note: Details may not add to totals due to rounding.

Kansas Legislative Research Department
February 16, 2009

(a) Recognizing the cost difference between different types of payment methods, any

Session of 2009

HOUSE BILL No. 2222

By Committee on Government Efficiency and Fiscal Oversight

2-3

9 AN ACT concerning state agencies; relating to the collection of licenses,
10 fees, charges, taxes and exactions.

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

12 Section 1. (a) Any state department, agency, commission or authority
13 which is obligated by statute to collect any license, fee, charge, tax or
14 other exaction is authorized to impose a surcharge of not to exceed 5%
15 of the amount of such license, fee, charge, tax or other exaction in order
16 to enhance the efficiency of such collections. agency.

17
18 (b) Any state department, agency, commission or authority which is
19 obligated by statute to collect any license, fee, charge, tax or other exac-
20 tion is authorized to establish a discount of not to exceed 5% of the
21 amount of such license, fee, charge, tax or other exaction in order to
22 enhance the efficiency of such collections. agency.

23 (c) Any state department, agency, commission or authority which
24 elects to exercise the powers granted in subsections (a) and (b), shall adopt
25 rules and regulations: and or

- 26 (1) To establish the specific surcharge or discount;
27 (2) to state the efficiency goals to be achieved; and
28 (3) to insure the surcharge or discount is revenue neutral to the
29 agency.

30 Sec. 2. This act shall take effect and be in force from and after its
31 publication in the statute book.

, which may include, but are not limited to insuring that the surcharge or discount has measured benefits of efficiency to the agency and customers.

Attachment 3
GEFO 2-17-09