

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Jay Emler at 10:30 a.m. on February 25, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator David Wysong- excused

Committee staff present:

Alan Conroy, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Michael Steiner, Kansas Legislative Research Department
Estelle Montgomery, Kansas Legislative Research Department
Reagan Cussimano, Kansas Legislative Research Department
Dylan Dear, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Aaron Klaassen, Kansas Legislative Research Department
Heather O'Hara, Kansas Legislative Research Department
Jonathan Tang, Kansas Legislative Research Department
Jill Wolters, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Melinda Gaul, Chief of Staff
Shirley Jepson, Committee Assistant

Conferees appearing before the committee:

Senator Derek Schmidt
Barb Hinton, Legislative Post Audit
Robin Kempf
Joe Tilghman, Kansas Health Policy Authority (KHPA)

Others attending:

See attached list.

Introduction of Legislation

Senator Vratil moved to introduce legislation concerning teachers/teacher contracts for the School for the Blind and the School for the Deaf (9rs0884). The motion was seconded by Senator Teichman. Motion carried on a voice vote.

Senator Umbarger moved to introduce legislation concerning the blind and visually impaired (9rs0854). The motion was seconded by Senator Taddiken. Motion carried on a voice vote.

Senator Umbarger moved to introduce legislation concerning liens on commercial property (9rs0864). The motion was seconded by Senator Teichman. Motion carried on a voice vote.

Senator Lee moved to introduce legislation concerning hit and run drivers and the severity level of the crime (9rs0883). The motion was seconded by Senator Teichman. Motion carried on a voice vote.

Approval of Minutes

Senator Schodorf moved to approve the minutes of February 16 and February 17. The motion was seconded by Senator Taddiken. Motion carried on a voice vote.

Hearing on SB 141 - Inspector general within Kansas health policy authority transferred to division of post audit.

Jill Wolters, Revisor of Statutes, explained that **SB 141** transfers the position of inspector general of the Kansas Health Policy Authority (KHPA) to the Legislative Division of Post Audit. Current functions would be transferred from KHPA to Legislative Division of Post Audit or the post auditor. Duties and access of the

CONTINUATION SHEET

Minutes of the Senate Ways And Means Committee at 10:30 a.m. on February 25, 2009, in Room 545-N of the Capitol.

inspector general remain as under current law (Attachment 1).

Senator Derek Schmidt provided testimony in support of **SB 141** (Attachment 2). Senator Schmidt stated that the office of inspector general (OIG) was established within KHPA to oversee the state's Medicaid program and related health care programs. Senator Schmidt indicated that **SB 141** brings forth the opportunity to revisit the initial legislation, revise where the OIG is housed, how the OIG is supervised and the scope of authority. The Senator stated that he supports the move of the OIG from KHPA to the Legislative Division of Post Audit and clarification of the scope of authority given to the OIG.

The Committee noted that the Department of Administration might also be a possible agency in which to locate the OIG.

Barb Hinton, Legislative Division of Post Audit, presented testimony on **SB 141**, noting that she provides neutral testimony on the move of the OIG from KHPA to the Legislative Division of Post Audit (Attachment 3). Ms. Hinton felt it is important to place the OIG where the office can act independently to effectively carry out its critical audit, evaluation and investigation functions.

Ms. Hinton provided several amendments to **SB 141** to clarify the duties of the OIG, term of office, how compensation is determined and how the OIG staff is hired. Responding to a question from the Committee, Ms. Hinton indicated that there are 10 members of the Legislative Post Audit Committee - 5 from the Senate and 5 from the House of which 6 are from the majority party and 4 from the minority party.

Ms. Hinton stated that the Division of Legislative Post Audit is fully funded by the State General Fund (SGF) and felt that current staff could support the OIG without additional support staff.

Robin J. Kempf, the former Inspector General for KHPA, provided testimony in support of **SB 141** (Attachment 4). Ms. Kempf noted that the KHPA OIG was created by the 2007 Legislature to provide independent oversight of KHPA programs and operations and to investigate waste, fraud and abuse in Medicaid and the State Children's Health Insurance Plan (SCHIP). Ms. Kempf indicated that it is important for the OIG to be free of any coercive effects that undermine the objectivity and strength of the office's conclusions. For these reasons, she supports the move of the OIG from KHPA to the Legislative Division of Post Audit.

Joe Tilghman, Chairman, KHPA, presented testimony on concerns of KHPA with regard to **SB 141** (Attachment 5). Mr. Tilghman indicated that the OIG is a critical part of the overall capacity of KHPA to conduct audits and investigate concerns of the public, noting that the OIG provides an additional dimension to agency performance. Mr. Tilghman voiced concern that **SB 141** broadens the functions of the OIG but does not clearly define the new functions. He noted that the functions refer to "investigate inefficiency, mismanagement, and misconduct" with mandatory referral of findings to the Attorney General.

There were no other conferees to come before the Committee on **SB 141**.

The hearing on **SB 141** was closed.

Subcommittee Report on Department of Transportation

Senator Umbarger, Chair of the Transportation Subcommittee, presented the Subcommittee report on the Governor's budget recommendations for the Department of Transportation for FY 2010 and moved for the adoption of the Subcommittee recommendation on the Department of Transportation for FY 2010 with notations and adjustments (Attachment 6). The motion was seconded by Senator Schodorf. Motion carried on a voice vote.

The Subcommittee provided a report on maintenance projects by district and county (Attachment 7).

Subcommittee Report on Human Rights Commission

Senator Emler, Vice-Chair of the Department of Administration Subcommittee, presented the Subcommittee

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Minutes of the Senate Ways And Means Committee at 10:30 a.m. on February 25, 2009, in Room 545-N of the Capitol.

report on the Governor's budget recommendations for the Human Rights Commission for FY 2010 (Attachment 8).

Senator McGinn moved for the adoption of the Subcommittee recommendations on the Human Rights Commission for FY 2010 with notations and adjustments. The motion was seconded by Senator Kelly. Motion carried on a voice vote.

Subcommittee Report on Kansas Corporation Commission

Senator Emler, Vice-Chair of the Subcommittee, presented the Subcommittee report on the Governor's budget recommendations for the Kansas Corporation Commission for FY 2010 (Attachment 8).

Senator Kelly moved to amend the Subcommittee report on the Kansas Corporation Commission for FY 2010 by adding language to Item No. 3 for a "review at Omnibus". The motion was seconded by Senator Umbarger. Motion carried on a voice vote.

The Committee noted that the Kansas Corporation Commission (KCC), who functions as a "court" and the Citizens Utility Ratepayer Board (CURB), who function as the people's lawyer, have budgets being reduced by at least 10.0 percent, while the lawyers who work the utilities will not see their budgets reduced. However, both are paid for by the utility ratepayers. The Committee felt this is a disadvantage to KCC, CURB and the ratepayers.

Senator Schordorf moved for the adoption of the Subcommittee recommendations on the Kansas Corporation Commission for FY 2010 with notations and adjustments as amended. The motion was seconded by Senator Kelly. Motion carried on a voice vote.

Subcommittee Report on Citizens Utility Ratepayer Board (CURB)

Senator Emler, Vice-Chair of the Subcommittee, presented the Subcommittee report on the Governor's budget recommendations for the Citizens Utility Ratepayer Board for FY 2010 (Attachment 8).

With reference to Item No. 4 of the Subcommittee report, Jill Wolters, Revisor, explained that a proviso is necessary which allows reappropriation of any unspent funding for professional services from one fiscal year to the next. Legislation would put the process in substantive law but would be effective for only 1 year.

Senator Emler moved to amend the Subcommittee report on the Citizens Utility Ratepayer Board for FY 2010 by striking language pertaining to substantive law but maintain the language for a proviso, allow for a technical corrections to Item No. 3, and add language to review Item No. 3 at Omnibus. The motion was seconded by Senator Kelly. Motion carried on a voice vote.

Senator Lee moved for the adoption of the Subcommittee recommendation on the Citizens Utility Ratepayer Board for FY 2010 with notations and adjustments as amended. The motion was seconded by Senator Teichman. Motion carried on a voice vote.

Subcommittee Report on Attorney General

Senator Emler, Chairman of the Legislative and Elected Officials Subcommittee, presented the Subcommittee report on the Governor's budget recommendations for the Attorney General for FY 2010 and moved for the adoption of the Subcommittee recommendations on the Attorney General for FY 2010 with notations and adjustments (Attachment 9). The motion was seconded by Senator Teichman. Motion carried on a voice vote.

Subcommittee Report on Secretary of State

Senator Emler, Chairman of the Legislative and Elected Officials Subcommittee, presented the Subcommittee report on the Governor's budget recommendations for the Secretary of State for FY 2010 (Attachment 9).

CONTINUATION SHEET

Minutes of the Senate Ways And Means Committee at 10:30 a.m. on February 25, 2009, in Room 545-N of the Capitol.

Because of necessary corrections being made on Item No. 3 of the report, action will be delayed until additional information is available.

Subcommittee Report on Insurance Commissioner

Senator Emler presented the Subcommittee report on the Governor's budget recommendations for the Insurance Commissioner for FY 2010 with notations and adjustments (Attachment 9).

Senator Lee moved to add language to Item No. 3 for a review at Omnibus. The motion was seconded by Senator McGinn. Motion carried on a voice vote.

Senator McGinn moved for the adoption of the Subcommittee report on the Governor's budget recommendations on the Insurance Commissioner for FY 2010 with notations and amendments as amended. The motion was seconded by Senator Teichman. Motion carried on a voice vote.

Subcommittee Report on State Treasurer

Senator Emler presented the Subcommittee report on the Governor's budget recommendations for the State Treasurer for FY 2010 with notations and adjustments (Attachment 9).

Senator Teichman moved to add language to the Subcommittee report on the State Treasurer for FY 2010 to review Item No. 3 and Item No. 4 at Omnibus. The motion was seconded by Senator Schodorf. Motion carried on a voice vote.

Senator Emler moved for the adoption of the Subcommittee report on the Governor's budget recommendations on the State Treasurer for FY 2010 with notations and adjustments as amended. The motion was seconded by Senator Teichman. Motion carried on a voice vote.

Adjournment

The next meeting is scheduled for February 26, 2009.

The meeting was adjourned at 12:45 p.m.

**SENATE WAYS & MEANS COMMITTEE
GUEST LIST**

DATE: February 25, 2009

NAME	REPRESENTING
Aman Muff	KCC
Vadi Mutha Pangi	KCC
Ethan Erickson	KDOT
Jerry Younger	KDOT
Mark Tallman	KASB
Rach Lopic	MTA
Bill Sneed	KSDT
Bill Glover	KAPE
Jane Carter	KOSTE
Jean Martin	KOSTE
MIKE BEASER	KSOS
Nancy Bryant	KSOS
Dan Gibb	KSAG
Tom Becc	KSAG
Jana El-Koubysi	KSAG
Loren Snell	KSAG
Peter Houston	self
Robin Kempf	"
Diane Gjerstad	Wichita Public Schools
Barb Pongro	KHPA
Scott Bruner	KHPA
Barb Hinton	Post Audit

Julie Thomas

DD

MA

PA

Berly Hale

DB

**SENATE WAYS & MEANS COMMITTEE
GUEST LIST**

DATE: February 25, 2009

NAME	REPRESENTING
Brendan Myers	Ks Human Rights Comm.
Mike Shields	KHI NEWS
Robt. Moyer	KHPA
Marci Nielsen	KHPA
Joe Tilghman	KHPA
Ron Gaches	Gaches Braden
Ruth Glawer	Ks. Human Rights Com.
Bob Vanerum	Blue Valley USD 229
Allen Askel	Federico Consulting
Travis Lowe	Pinegar, Smith & Assoc
William V. Minner	Ks. Human Rights Commission
LIZ MILLER	PM 113
Bruno Anstett	St. Ives Office
Shonda Smith	CURB
Dan Springer	Curb
Sabrina Wells	Kansas Insurance Dept.
Bill Reardon	KCKs Public Schools
Tom Kutz	KASB
Kelly DiRocwo	L & P
JEAN MILLER	CAPITOL STRATEGIES
Berend Knops	Hein Law Firm
Felany Opim-Williams	KHPA OIG
Kimberly Epps	KHPA OIG

Arthur Brown

KDOT

Marlee Carpenter

KHPA

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MEMORANDUM

To: Chairman Emler and members of the Senate Ways and Means Committee
From: Jill Ann Wolters, Senior Assistant Revisor *JAW*
Date: February 25, 2009
Subject: SB 141, Inspector general, transferred to post audit

Senate Bill No. 141 transfers the position of inspector general of the Kansas health policy authority (KHPA) to the division of post audit. Current functions of the KHPA would be transferred to the legislative post audit committee or the post auditor. Duties and access of the inspector general remain as under current law.

Under current law "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 state medicaid program, the state mediKan program and the state children's health insurance program within the jurisdiction of the Kansas health policy authority and to assist in improving agency and program operations and in deterring and identifying fraud, waste, abuse and illegal acts. The office of inspector general shall be independent and free from political influence and in performing the duties of the office under this section 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." K.S.A. 2008 Supp. 75-7427 (b)(1).

In addition to deterring and identifying fraud, waste, abuse and illegal acts, under the bill, the inspector general would also be charged with deterring and identifying inefficiency, mismanagement and misconduct.

Management functions of the office (budgeting and purchasing) would be supervised by the legislative post audit committee. The inspector general would be appointed by the legislative post audit committee not KHPA, and would continue to be subject to Senate confirmation. The inspector general would be unclassified and serve at the pleasure of the legislative post audit committee (currently, the position is classified, and subject to removal pursuant to the Kansas civil service act). Compensation would be determined by the legislative post audit committee and the inspector general could be removed from office by a affirmative seven member vote of the legislative post audit committee. Appropriations for the office of inspector general shall be made to the division of post audit by separate line item appropriations for the office of inspector general. The inspector general shall report to the post auditor and the legislative post audit committee. The inspector general and office employees are employees in the division of post audit and are under the direct supervision of the post auditor. Subject to approval of the Senate Ways & Means Cmte

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Date 2-25-2009

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approval by the post auditor, the inspector general may hire unclassified employees necessary to carry out the duties of the office.

Upon finding credible evidence of fraud, waste, inefficiency, mismanagement, misconduct, abuse or illegal acts, the inspector general shall report its findings to the Kansas health policy authority and the legislative post audit committee and shall refer the findings to the attorney general.

The legislative post audit committee, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed, executive meeting under the open meetings act to discuss with the inspector general any information, records or other matters that are involved in any investigation or audit under this section. All information and records of the inspector general that are obtained or received under any investigation or audit shall remain confidential as under current law.

The bill would take effect upon publication in the Kansas register.

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Senator Derek Schmidt
Majority Leader

Committee Assignments

Chair: Confirmation Oversight
Vice Chair: Assessment & Taxation
Organization Calendar & Rules
Member: Judiciary
Agriculture
Legislative Post Audit

Message Only (800) 432-3924

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**Testimony in Support of Senate Bill 141
Presented to the Senate Ways & Means Committee
February 25, 2009**

Mr. Chairman, members of the committee, thank you for taking time today to consider Senate Bill 141.

The idea of establishing an office of inspector general (OIG) to oversee the state's mammoth Medicaid program, and related health care programs, came about in the summer of 2005. That summer, the Special Committee on Medicaid Reform heard testimony of potentially large amounts of erroneous payments made through the giant program. The sense of that committee was that a permanent set of eyes reviewing the operations of the program would be a good-government move that would help assure taxpayers their money is properly managed.

The concept of having a strong, independent inspector general was then new for Kansas. The efforts of your committee, and of the legislature as a whole, created this new position out of whole cloth. Every decision we made in that initial legislation was precedent setting.

I believe we got most of those decisions right. The state's first inspector general was hired and served about a year before resigning the post. That position is now being held open with an "acting" inspector general serving from among the office's staff. This opening gives us an opportunity to review the law and ask whether any adjustments would be appropriate. As with any major new initiative, the initial experience with the OIG may suggest areas for possible improvement.

Senate Bill 141 brings before the committee the question whether we should take this opportunity to revise where the OIG is housed and how it is supervised and, if so, to clarify its scope of authority. There are several reasons these changes may be desirable:

- It is awkward that the OIG, which is by its nature a watchdog organization, is housed with the people it is assigned to watch. That's not a criticism of anybody – it's just an acknowledgment of human nature. All parties might benefit if the supervision of the OIG and its physical location were more insulated from the agency it oversees.
- Moving the OIG into the Legislative Division of Post Audit would benefit both entities and would strengthen the audit capacity to accurately oversee health care programs. By bringing the OIG's expertise in-house at Post Audit, all of our auditors would develop ongoing expertise in the finer points of health care issues. The v entities would benefit – and the approach would be more efficient

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- Placing the OIG in the Legislative Division of Post Audit would avoid the peculiar circumstance of keeping the IG's office unfilled at a time of tight budgets. At the current time, the agency has made the understandable decision to apply the hiring freeze to the opening at OIG. Unfortunately, tight budget times are perhaps precisely the worst time to leave the OIG position unfilled. By moving the OIG under the legislature's budget, the financial burden of operating the office would be lifted from KHPA.

The bill also clarifies the scope of authority of the inspector general to include looking for inefficiencies, mismanagement, and misconduct. That change would more closely mirror the authority of the legislature's other auditors. Why wouldn't we want our oversight body searching for inefficiencies, mismanagement, and misconduct in the agency it oversees?

The bottom line is that we have a rare opportunity to consider a "tune up" to the inspector general statute after a year's operation and with a year's worth of experience. The status quo is functioning adequately. I believe, however, that improvement is possible that would strengthen both the inspector general's function and our own auditors' functions and would result in better and more accurate work product from both.

To that end, I encourage you to consider these recommended changes.



LEGISLATURE OF KANSAS
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Testimony for the Senate Ways and Means Committee on SB 141

Barb Hinton, Legislative Post Auditor

February 25, 2009

Mr. Chairman and members of the Committee, thank you for allowing me to appear before you regarding SB 141. I'm providing neutral testimony today about transferring the OIG to the Division of Post Audit because what's most important in my mind is to have an OIG placed wherever that Office can act independently to effectively carry out its critical audit, evaluation, and investigation functions. If the Legislature decides this independence can best be achieved by transferring the OIG to the Division of Post Audit, and having the Inspector General be appointed by, report to, and serve at the pleasure of the Legislative Post Audit Committee, I think that can be an effective way of accomplishing this purpose.

If the Office of Inspector General is transferred to the Division of Post Audit, I think the following also would occur:

- **Minimizing unnecessary duplication of effort between the OIG and Post Audit staff in conducting audits of the Medicaid, S-CHIP, and mediKan programs administered by KHPA.** The OIG was created to assist in improving agency and program operations within KHPA, and in deterring and identifying fraud, waste, abuse, and illegal acts by KHPA and its agents, employees, vendors, contractors, consumers, clients, and health care providers or other providers. The law authorizes the Inspector General to select the scope, timing, and completion of any audit or investigation. If the OIG were transferred to the Division of Post Audit, that would reduce the need for current Post Audit staff to conduct duplicative audits of the State's medical-related programs, and could free up more time to perform other audits of interest to the Post Audit Committee and the Legislature. At the same time, any audit findings that either audit group identified as being relevant to the work of the other could be readily shared.
- **Maximizing the sharing of relevant non-medical data between our two audit staffs.** In carrying out our audit responsibilities, both Post Audit and OIG staff have access to all pertinent information, confidential or otherwise, of any State or local governmental agency. Post Audit currently maintains copies of datasets for some non-medical information the OIG staff could find useful in carrying out their audits and investigations, including certain expenditure, employment, wage, tax, and death records. We put those datasets into an "analysis-ready" format, which enables our auditors to efficiently access and analyze the information they contain. As employees of the Division, the OIG staff would have access to these same analysis-ready data, which could save time and enhance their audit and investigation work.

As currently envisioned in SB 141, the Inspector General would be appointed and serve at the pleasure of the Legislative Post Audit Committee. SB 141 also

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General fully responsible for the audits, evaluations, and investigations conducted by the OIG, gives the Inspector General general managerial responsibility over the organization of the OIG, gives the Inspector General the authority to hire the staff necessary for the OIG within the limits of appropriations (the OIG's budget would be a separate line-item in Post Audit's budget), and specifies that the Inspector General's staff serve at the pleasure of the Inspector General.

I read subsection (b)(1) on page 3, lines 10-15 as saying Post Audit would provide administrative staff support services, such as clerical, receptionist, human resources, IT support, purchasing, and payroll services. I believe these administrative staff support services can be absorbed by our existing staff, and the fiscal note we prepared reflects that belief. If SB 141 passes, I also would anticipate the Post Audit Committee would adopt procedural rules covering the operations of the OIG as they relate to the Committee and the Division.

Given the reporting relationships described above, however, I would respectfully ask the Committee to consider amending the bill you have before you to clarify the responsibilities and reporting requirements of the Inspector General, the Post Auditor, and the Legislative Post Audit Committee as they relate to the OIG. A balloon has been prepared that suggests making the following substantive changes:

- (page 3, line 15): clarify that the budgeting, purchasing, and management functions of the OIG shall be administered under the direction and supervision of the Post Auditor, not the Post Audit Committee (the Committee is not in a position to "administer" these functions for any of its staff)
- (page 4, lines 5-9): consider removing language that provides for a term of office for the Inspector General (this is a policy decision, but a term of office would appear not to be necessary if the Inspector General serves at the pleasure of the Post Audit Committee)
- (page 4, lines 11-12): have the LCC determine the compensation of the Inspector General (that's the same process used for determining the compensation of the Post Auditor, the other legislative agency heads, and certain high-level staff within those other legislative agencies)
- (page 4, lines 25 and 29): remove references to the Inspector General or the Inspector General's staff reporting to or being under the direction or supervision of the Legislative Post Auditor (other sections of the bill clearly specify otherwise)
- (page 4, line 35): remove the need for the IG to get approval from the Post Auditor to hire employees necessary for the OIG (the OIG would have its own budget line-item in Post Audit's budget, and OIG employees would serve at the pleasure of the Inspector General)
- (page 4, after line 41): make provisions to transfer the furniture, equipment, software and software licenses, and other property or records maintained by the OIG from KHPA to the Division of Post Audit to avoid having to make additional unnecessary capital expenditures.

Finally, the OIG currently is funded with a mix of State and federal funds from within KHPA. Given that the OIG would continue to do the same work under SB 141, but would simply be housed in a different agency, I would think these other funding sources could continue to be used to pay for the operations of the OIG. I'm not certain what's possible or appropriate, but I do think that it's something the Committee should consider, and that the mechanism for doing so should be specified in the bill if needed—including the creation of a fund within Post Audit to separately account for these funds.

SENATE BILL No. 141

By Committee on Judiciary

1-29

9 AN ACT concerning the division of post audit; transferring the inspector
10 general and the office of the inspector general from the Kansas health
11 policy authority to the division of post audit; amending K.S.A. 2008
12 Supp. 75-7427 and repealing the existing section.
13

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

15 Section 1. On the effective date of this act, K.S.A. 2008 Supp. 75-
16 7427 is hereby amended to read as follows: 75-7427. (a) As used in this
17 section:

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

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

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

28 (4) "Client" means past or present beneficiaries or recipients of the
29 state medicaid program, the state mediKan program or the state chil-
30 dren's health insurance program.

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

37 (6) "Contractor files" means those records of contractors which relate
38 to the state medicaid program, the state mediKan program or the state
39 children's health insurance program.

40 (7) "Fiscal agent" means any corporation, firm, individual, organiza-
41 tion, partnership, professional association or other legal entity which,
42 through a contractual relationship with the state of Kansas receives, proc-
43 esses and pays claims under the state medicaid program, the state

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1 mediKan program or the state children's health insurance program.

2 (8) "Health care provider" means a health care provider as defined
3 under K.S.A. 65-4921, and amendments thereto, who has applied to partici-
4 piate in, who currently participates in, or who has previously partici-
5 pated in the state medicaid program, the state mediKan program or the
6 state children's health insurance program.

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

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

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

17 (12) "Person" means any agency, association, corporation, firm, lim-
18 ited liability company, limited liability partnership, natural person, organ-
19 ization, partnership or other legal entity, the agents, employees, inde-
20 pendent contractors, and subcontractors, thereof, and the legal successors
21 thereto.

22 (13) "Provider" means a person who has applied to participate in,
23 who currently participates in, who has previously participated in, who
24 attempts or has attempted to participate in the state medicaid program,
25 the state mediKan program or the state children's health insurance pro-
26 gram, by providing or claiming to have provided goods, services, items,
27 facilities or accommodations.

28 (14) "Recipient" means an individual, either real or fictitious, in
29 whose behalf any person claimed or received any payment or payments
30 from the state medicaid program, or its fiscal agent, the state mediKan
31 program or the state children's health insurance program, whether or not
32 any such individual was eligible for benefits under the state medicaid
33 program, the state mediKan program or the state children's health insur-
34 ance program.

35 (15) "Records" means all written documents and electronic or mag-
36 netic data, including, but not limited to, medical records, X-rays, profes-
37 sional, financial or business records relating to the treatment or care of
38 any recipient; goods, services, items, facilities or accommodations pro-
39 vided to any such recipient; rates paid for such goods, services, items,
40 facilities or accommodations; and goods, services, items, facilities or ac-
41 commodated provided to nonmedicaid recipients to verify rates or
42 amounts of goods, services, items, facilities or accommodations provided
43 to medicaid recipients, as well as any records that the state medicaid

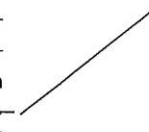
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1 program, or its fiscal agents, the state mediKan program or the state
2 children's health insurance program require providers to maintain. "Re-
3 cords" shall not include any report or record in any format which is made
4 pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments
5 thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925,
6 and amendments thereto.

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

10 (b) (1) There is hereby established within the ~~Kansas health policy~~
11 ~~authority~~ *division of post audit* the office of inspector general. All budg-
12 eting, purchasing and related management functions of the office of in-
13 spector general shall be administered under the direction and supervision
14 of the executive director of the ~~Kansas health policy authority~~ *the legis-*
15 *lative post audit committee*. The purpose of the office of inspector general
16 is to establish a full-time program of audit, investigation and performance
17 review to provide increased accountability, integrity and oversight of the
18 state medicaid program, the state mediKan program and the state chil-
19 dren's health insurance program within the jurisdiction of the Kansas
20 health policy authority and to assist in improving agency and program
21 operations and in deterring and identifying fraud, waste, *inefficiency, mis-*
22 *management, misconduct*, abuse and illegal acts. The office of inspector
23 general shall be independent and free from political influence and in
24 performing the duties of the office under this section shall conduct in-
25 vestigations, audits, evaluations, inspections and other reviews in accord-
26 ance with professional standards that relate to the fields of investigation
27 and auditing in government.

the legislative post auditor.



28 (2) (A) The inspector general shall be appointed by the ~~Kansas health~~
29 ~~policy authority~~ *the legislative post audit committee* with the advice and
30 consent of the senate and subject to confirmation by the senate as pro-
31 vided in K.S.A. 75-4315b, and amendments thereto. Except as provided
32 in K.S.A. 46-2601, and amendments thereto, no person appointed to the
33 position of inspector general shall exercise any power, duty or function
34 of the inspector general until confirmed by the senate. The inspector
35 general shall be selected without regard to political affiliation and on the
36 basis of integrity and capacity for effectively carrying out the duties of
37 the office of inspector general. The inspector general shall possess dem-
38 onstrated knowledge, skills, abilities and experience in conducting audits
39 or investigations and shall be familiar with the programs subject to over-
40 sight by the office of inspector general.

41 (B) No former or current executive or manager of any program or
42 agency subject to oversight by the office of inspector general may be
43 appointed inspector general within two years of that individual's period

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1 of service with such program or agency. The inspector general shall hold
2 at time of appointment, or shall obtain within one year after appointment,
3 certification as a certified inspector general from a national organization
4 that provides training to inspectors general.

5 ~~(C) The term of the person first appointed to the position of inspector
6 general shall expire on January 15, 2009. Thereafter, a each person ap-
7 pointed to the position of inspector general shall serve for a term which
8 shall expire on January 15 of each year in which the whole senate is sworn
9 in for a new term.~~

10 (D) The inspector general shall be in the ~~classified unclassified serv-~~
11 ~~ice and shall receive such compensation as is determined by law the leg-~~
12 ~~islative post audit committee, except that such compensation may be in-~~
13 ~~creased but not diminished during the term of office of the inspector~~
14 ~~general. The inspector general may be removed from office prior to the~~
15 ~~expiration of the inspector general's term of office in accordance with the~~
16 ~~Kansas civil service act shall serve at the pleasure of the legislative post~~
17 ~~audit committee. The inspector general may be removed from office by~~
18 ~~the affirmative vote of not less than seven members of the legislative post~~
19 ~~audit committee taken at any regular meeting of such committee. The~~
20 ~~inspector general shall exercise independent judgment in carrying out the~~
21 ~~duties of the office of inspector general under subsection (b). Appropri-~~
22 ~~ations for the office of inspector general shall be made to the Kansas~~
23 ~~health policy authority division of post audit by separate line item appro-~~
24 ~~priations for the office of inspector general. The inspector general shall~~
25 ~~report to the Kansas health policy authority post auditor and the legisla-~~
26 ~~tive post audit committee.~~

27 (E) ~~Except as otherwise provided by this section, the inspector gen-~~
28 ~~eral and such employees are employees in the division of post audit and~~
29 ~~are under the direct supervision of the post auditor. The inspector general~~
30 ~~shall have general managerial control over the office of the inspector~~
31 ~~general and shall establish the organization structure of the office as the~~
32 ~~inspector general deems appropriate to carry out the responsibilities and~~
33 ~~functions of the office.~~

34 (3) ~~Within the limits of appropriations therefor and subject to ap-~~
35 ~~proval by the post auditor, the inspector general may hire such employees~~
36 ~~in the unclassified service as are necessary to administer for the office of~~
37 ~~the inspector general. Such employees shall serve at the pleasure of the~~
38 ~~inspector general. Subject to appropriations, the inspector general may~~
39 ~~obtain the services of certified public accountants, qualified management~~
40 ~~consultants, professional auditors, or other professionals necessary to in-~~
41 ~~dependently perform the functions of the office.~~

42 (c) (1) In accordance with the provisions of this section, the duties
43 of the office of inspector general shall be to oversee, audit, investigate

[Recommend striking because IG would serve at the plea-
sure of the LPAC as described on page 4, lines 16-19.]

[legislative coordinating council, except that such
compensation may be increased but not diminished
during such service. The legislative post audit
committee may recommend to the legislative
coordinating council changes in the compensation of
the inspector general.]

[Recommend striking post auditor here because the IG
serves at the pleasure of the LPAC as described in this
section.]

of the office of inspector general

[Recommend striking because section E(3), lines 34-41,
gives the IG the authority to hire such employees, and
they serve at the IG's pleasure.]

[Recommend striking because the IG has the authority to
hire such employees, and they serve at the IG's pleasure.]

[New section: As of the effective date of this act, the division of
post audit shall succeed to all property, property rights, and
records which were used for or pertained to the performance of the
powers, duties, and functions of the office of inspector general
being transferred to the division of post audit.]

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1 and make performance reviews of the state medicaid program, the state
2 mediKan program and the state children's health insurance program,
3 which programs are within the jurisdiction of the Kansas health policy
4 authority.

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

10 (A) Investigation of fraud, waste, *inefficiency, mismanagement, mis-*
11 *conduct*, abuse and illegal acts by the Kansas health policy authority and
12 its agents, employees, vendors, contractors, consumers, clients and health
13 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, *inefficiency, mismanagement, mis-*
19 *conduct*, abuse or illegal acts committed by clients of the Kansas health
20 policy authority or by consumers of services administered by the Kansas
21 health policy authority.

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

25 (3) Upon finding credible evidence of fraud, waste, *inefficiency, mis-*
26 *management, misconduct*, abuse or illegal acts, the inspector general shall
27 report its findings to the Kansas health policy authority *and the legislative*
28 *post audit committee* and shall refer the findings to the attorney general.

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

, *the legislative post auditor*; [Change is consistent with
reporting requirements on page 7, line 14.]

as appropriate [This language would give the IG flexibility in
deciding whether to report "inefficiencies or mismanagement" to
the Attorney General.]

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

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

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

43 (h) The inspector general shall report all convictions, terminations

1 and suspensions taken against vendors, contractors and health care pro-
2 viders to the Kansas health policy authority and to any agency responsible
3 for licensing or regulating those persons or entities. If the inspector gen-
4 eral determines reasonable suspicion exists that an act relating to the
5 violation of an agency licensure or regulatory standard has been commit-
6 ted by a vendor, contractor or health care provider who is licensed or
7 regulated by an agency, the inspector general shall immediately notify
8 such agency of the possible violation.

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

19 (1) Aggregate provider billing and payment information;

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

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

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

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

38 (k) (1) The inspector general shall make provision to solicit and re-
39 ceive reports of fraud, waste, *inefficiency, mismanagement, misconduct*,
40 abuse and illegal acts in such programs administered by the Kansas health
41 policy authority from any person or persons who shall possess such in-
42 formation. The inspector general shall not disclose or make public the
43 identity of any person or persons who provide such reports pursuant to

1 this subsection unless such person or persons consent in writing to the
2 disclosure of such person's identity. Disclosure of the identity of any per-
3 son who makes a report pursuant to this subsection shall not be ordered
4 as part of any administrative or judicial proceeding. Any information re-
5 ceived by the inspector general from any person concerning fraud, waste,
6 *inefficiency, mismanagement, misconduct*, abuse or illegal acts in such
7 programs administered by the Kansas health policy authority shall be
8 confidential and shall not be disclosed or made public, upon subpoena or
9 otherwise, except such information may be disclosed if (A) release of the
10 information would not result in the identification of the person who pro-
11 vided the information, (B) the person or persons who provided the in-
12 formation to be disclosed consent in writing prior to its disclosure, (C)
13 the disclosure is necessary to protect the public health, or (D) the infor-
14 mation to be disclosed is required in an administrative proceeding or
15 court proceeding and appropriate provision has been made to allow dis-
16 closure of the information without disclosing to the public the identity of
17 the person or persons who reported such information to the inspector
18 general.

19 (2) No person shall:

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

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

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

25 (A) Prohibiting an employer from requiring that an employee inform
26 the employer as to legislative or auditing agency requests for information
27 or 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 employer;

30 (B) 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 (C) authorizing an employee to represent the employee's personal
37 opinions as the opinions of the employer; or

38 (D) 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 (4) Any agent, employee, contractor or subcontractor who alleges that

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1 disciplinary action has been taken against such agent, employee, contrac-
2 tor or subcontractor in violation of this section may bring an action for
3 any damages caused by such violation in district court within 90 days after
4 the occurrence of the alleged violation.

5 (5) Any disciplinary action taken against an employee of a state agency
6 or firm as such terms are defined under subsection (b) of K.S.A. 75-2973,
7 and amendments thereto, for making a report under subsection (k)(1)
8 shall be governed by the provisions of K.S.A. 75-2973, and amendments
9 thereto.

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

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

19 (n) The Kansas health policy authority *and the legislative post audit*
20 *committee*, in accordance with K.S.A. 75-4319, and amendments thereto,
21 may recess for a closed, executive meeting under the open meetings act,
22 K.S.A. 75-4317 through 75-4320a, and amendments thereto, to discuss
23 with the inspector general any information, records or other matters that
24 are involved in any investigation or audit under this section. All infor-
25 mation and records of the inspector general that are obtained or received
26 under any investigation or audit under this section shall be confidential,
27 except as required or authorized pursuant to this section.

28 Sec. 2. On the effective date of this act, K.S.A. 2008 Supp. 75-7427
29 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its
31 publication in the Kansas register.

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6-1103. Division of post audit; within legislative branch; supervision by post auditor; budget; compensation of employees. There is hereby established the division of post audit within the legislative branch of the government. The division of post audit shall be under the direct supervision of the post auditor in accordance with policies adopted by the legislative post audit committee. Employees in the division of post audit shall be in the unclassified service, shall receive such compensation as is provided under this act and shall be covered by the state group health plan and Kansas public employees retirement system to the same extent as other state employees. ~~Employees of the division of post audit shall receive travel expenses and subsistence expenses and allowances as provided for other state employees.~~ Employees in the division of post audit shall be employed by and be responsible to the post auditor who shall fix the compensation of each such employee subject to approval of the legislative post audit committee and within budget and appropriations therefor. The annual budget request of the division shall be prepared by the post auditor and the post auditor shall present it to the legislative post audit committee. The committee shall make any changes it desires in said budget request and then shall transmit it to the legislative coordinating council. Such council shall make any changes it desires in such budget request and upon approval of the budget request by the council, the post auditor shall submit it to the director of the budget as other budget requests are submitted.

Except as otherwise provided in K.S.A. 75-7427 and amendments thereto,

History: L. 1971, ch. 185, § 3; L. 1974, ch. 220, § 2; L. 1979, ch. 166, § 2; July 1.

46-1132. Same; school district performance audits. (a) In order to assist the legislature in the gathering of information which is necessary for the legislature's consideration when meeting its constitutional duties to: (1) Provide for intellectual, educational, vocational and scientific improvement in public schools established and maintained by the state; and (2) make suitable provision for the finance of educational interests of the state, the school district audit team established by ~~K.S.A. 2007 Supp. 46-1129~~, and amendments thereto, shall conduct performance audits and shall monitor school district funding and other oversight issues through audit work as directed by the 2010 commission. Except as specifically provided by this section, school district performance audits shall be conducted in the manner provided by the legislative post audit act. The scope of such audit work may not be modified by the legislative post audit committee.

K.S.A. 2007 Supp. 46-1130

[Technical amendment unrelated to inspector-general issue]

(b) The topics for school district performance audits may include:

- (1) The accuracy of school expenditures, reports or other information;
- (2) how school districts use the funding received from the state;
- (3) the relationship between school funding levels and costs;
- (4) the weights of various education program components or the level of equity achieved by the funding system;
- (5) whether funding levels for education programs or students are keeping up with the actual costs school districts report;
- (6) the basis for changes in school district costs;
- (7) the reasonableness of the amount and type of actual or budgeted expenditures compared with historical costs or with costs of other districts;
- (8) options for modifying the school funding formula;
- (9) other finance issues identified as needing further study;
- (10) whether a school district has adequate operating or administrative procedures and fiscal controls and whether it is efficiently managed;
- (11) best practices or innovative procedures, practices or controls operating within any school districts that could present oppor-

Testimony In Favor of SB 141

Senate Ways and Means Committee, February 25, 2009

From Robin J. Kempf

Good morning, Chairman Emler and honorable members of the Committee. Thank you for allowing me to testify in favor of Senate Bill (SB) 141 this morning. My name is Robin Kempf. From September 2007 through October 2008, I served as the first Inspector General for the Kansas Health Policy Authority (KHPA) Office of Inspector General (OIG). I encourage you to consider favorably this bill, which moves the OIG from its current position within KHPA to the Legislative Division of Post Audit.

As you well know, the KHPA OIG was created by the 2007 Legislature to provide independent oversight of KHPA programs and operations and to investigate waste, fraud and abuse in Medicaid and the State Children's Health Insurance Plan. In other words, the OIG was tasked to help:

- improve KHPA's use of taxpayer money by improving its effectiveness and efficiency; and
- reduce the loss of funds through waste, fraud or abuse.

Based on my experience as KHPA Inspector General and the training I received to become a certified inspector general, I am in favor of moving the OIG out of KHPA in order to strengthen its ability to do its intended job.

My opinion is that although there are several safeguards in the OIG statute, K.S.A. 75-7427, that protect the OIG's independence and authority, the current placement of the OIG within KHPA ultimately creates a situation where too many pressures can be brought to bear on the auditing and investigation work of the OIG. It is essential that any inspector general's office be free of any coercive effects that undermine the objectivity and strength of the office's conclusions. Without the autonomy or separation proposed in SB 141, I believe that the legislative purpose for

Senate Ways & Means Cmte
Date 2-25-2009
Attachment 4

the KHPA OIG will be unattainable. I would like to share with you some of the experiences I had with KHPA board members and management that has led me to this conclusion.

I want to emphasize I am not here to point fingers at my former colleagues at KHPA. I think that the pressures placed on the OIG are a result of the basic human instinct to protect and defend oneself from a perceived threat. The OIG's independence and public reporting was perceived as a threat. Unfortunately, the position of OIG within KHPA allows such defensiveness to undermine the OIG's important goals of government oversight and accountability.

Here are some examples of the difficulties I experienced while trying to build the OIG infrastructure within KHPA.

Example 1: KHPA attempted to control the OIG's access to the Legislature and the public, thereby causing conflict with the OIG's responsibility to protect the public interest. The statute that created the OIG requires the OIG to follow generally accepted government auditing standards promulgated by the Government Accountability Office. These standards are known as "the Yellow Book." One of the fundamental ethical principles found in those standards, also known as the Yellow Book, is the concept of public interest.

The Yellow Book states: "A distinguishing mark of a [governmental] auditor is acceptance of responsibility to serve the public interest." (GAGAS ¶ 2.07) The Yellow Books expands on the concept of public interest by explaining:

Making decisions consistent with the public interest of the program or activity under audit is an important part of the principle of integrity. In discharging their professional responsibilities, auditors may encounter conflicting pressures from management of the audited entity, various levels of government, and other likely users. Auditors may also encounter pressures to violate ethical principles to inappropriately achieve personal or organizational gain. In resolving those conflicts and pressures, acting with integrity means that auditors place priority on their responsibilities to the public interest. (GAGAS ¶ 2.09, emphasis added)

Because the OIG is internal to KHPA, there are challenges to balancing the public interest with organizational concerns. For example, during the last legislative session, I proceeded to schedule

some “meet and greet” sessions with legislative leaders in the health field to determine what concerns they might have about KHPA programs and operations. In addition, I was pursuing an amendment to strengthen the independence of the OIG statute, which clarified to whom the Inspector General reports to, the KHPA Executive Director or the KHPA Board. (The original version had the OIG reporting directly to the Executive Director whose programs the OIG was to audit, which clearly compromised the OIG’s independence.) My visits with legislators and the introduction of the bill by Sen. Derek Schmidt caused such concern to KHPA’s management that ultimately I was called on the carpet by the Chair of the Board’s Finance and Audit Committee and told I could be fired. This was a very real threat to me as I was still in the probationary period that all classified employees have to go through, during which I could be fired without cause.

The Chair of the Finance and Audit Committee claimed that the OIG statute limited the Inspector General’s ability to interact with the Legislature to only those issues that arose directly from audit work. It was not acknowledged that the OIG should serve the public interest or that the Legislature is one target audience for the OIG’s work. In any case, I was told that I was not to visit with any other legislators unless invited, and if invited, I needed to include Executive Director Marci Nielsen in the meeting. In my opinion, this was a method to control the OIG.

Additionally, when the OIG’s inaugural audit was completed and ready to be presented to the KHPA Board’s Finance and Audit Committee, the Committee chose to discuss the audit in executive session rather than in the scheduled public meeting even though the audit report did not describe any sensitive issues such as alleged illegal acts, human resource issues, or confidential health information. I would assert that it’s in the public interest for the Kansas Open Records Act to be construed as broadly as possible and that such a use of executive session served only to safeguard the interests of KHPA to the detriment of the OIG’s ability to serve the public interest.

Example 2: KHPA restricted the OIG’s access to legal advice, which it needed to establish the necessary procedures to comply with legal requirements. The Yellow Book states:

Each audit organization performing audits or attestation engagements in accordance with [the Yellow Book] must: . . . establish a system of quality control that is designed to provide the audit organization with reasonable assurance that the organization and its personnel comply with professional standards and applicable legal and regulatory requirements. 3.50

To establish such quality control standards, I requested a memo from the KHPA General Counsel for direction on the interplay between the Kansas Open Records Act and the OIG statute. I hoped to gain some guidance for the OIG staff to understand which internal documents were required to be open to the public. Nevertheless, my request for legal advice was denied by KHPA's Executive Director. I was told that the General Counsel would only be available to the OIG for "administrative matters," because the General Counsel reported to the Executive Director, and the Executive Director was only the "administrative" supervisor of the Inspector General. As a result of this decision, I was forced either to spend the OIG's appropriation to either hire private counsel or turn to the Attorney General's Office for legal advice.

Example 3: KHPA attempted to influence the outcome of the OIG audit work. The OIG statute, K.S.A. 75-7427(l), states: "The scope, timing, and completion of any audit or investigation conducted by the Inspector General shall be in the discretion of the Inspector General." This provision is consistent with one of the fundamental principles for government auditors: independence. The Yellow Book states:

In all matters relating to the audit work, the audit organization and the individual auditor, whether government or public, must be free from personal, external, and organizational impairments to independence, and must avoid the appearance of such impairments of independence.

Auditors and audit organizations must maintain independence so that their opinions, findings, conclusions, judgments, and recommendations will be impartial and viewed as impartial by objective third parties with knowledge of the relevant information. Auditors should avoid situations that could lead objective third parties with knowledge of the relevant information to conclude that the auditors are not able to maintain independence and thus are not capable of exercising objective and impartial judgment on all issues associated with conducting the audit and reporting on the work. (GAGAS ¶¶ 3.02 and 3.03)

The first audit report completed by the OIG was finalized on August 5, 2008, and submitted to management for a response as is the recommended process under generally accepted auditing

standards. The response was received, but subsequently withdrawn at a KHPA Finance and Audit Committee on September 8, 2008. As I mentioned above, the Committee went into executive session, and at the close of the executive session, the Committee directed amendments to both the audit report and the management response. I spoke to the Committee Chair subsequently to tell him that it was not appropriate to substitute the Committee's judgment for the professional judgment of the auditors, and that I would not reopen the audit for further work. I explained that I was interested to hear all constructive criticism and incorporate those ideas into future audits, but that I stood behind the audit report as it was written. The response was, verbatim, "This audit is not done until I say it is done." This attempt on the part of the Committee to change audit findings or direct audit work is a direct challenge to the independence of the OIG, and it is a direct result from the OIG being located in KHPA.

These are a few examples of my experiences as I served as Inspector General, all of which I found quite alarming as I was attempting to install the OIG in KHPA. Ultimately, I concluded that I would not be able to meet the legislative intentions for the OIG, nor could I uphold the ethical obligations placed on me as a certified Inspector General. I pursued alternative employment.

Subsequent to my leaving KHPA, the KHPA Board publicly announced that it would not fill the position. Specifically, the minutes from that meeting state: "[Finance and Audit] Committee Chair Ned Holland reported that the IG's position is currently vacant; and with the hiring freeze being implemented at the state, the KHPA Finance and Audit Committee would suggest that this position be kept open for the present time." As of Monday of this week, the position was still not posted. Failing to hire the "overseer" is the most direct way to undermine the oversight. At the very least, it is ironic to use economy as a rationale to avoid filling the position that was created to help the agency save money.

If the Legislature chooses to abandon the experiment of an independent Office of Inspector General that oversees KHPA, that is one thing. But if the Legislature wants the role of the OIG to be as it had originally envisioned, it should look favorably on SB 141. I do not believe the

OIG will ever be effective as the Legislature intended if it remains internal to KHPA. If the Legislature would like the OIG to operate as it was originally envisioned, it should pass SB 141.

Thank you for your attention today.

Coordinating health & health care
for a thriving Kansas



**Senate Ways and Means Committee
February 25, 2009
Testimony on SB 141**

Good morning Mr. Chairman, Vice Chairs, and members of the Committee. I am Joe Tilghman, a retired regional administrator for the Centers for Medicare and Medicaid and the chairman of the Kansas Health Policy Authority Board. I appreciate the opportunity to testify today before the Senate Ways and Means Committee on SB 141.

The integrity of Kansas Medicaid, the State Children's Health Insurance Program, and the State Employee Health Plan are of the utmost importance to the KHPA Board and the agency. The commitment to integrity begins with our vision principles. Stewardship is one of six principles that guide the agency's actions and priorities: "The Kansas Health Policy Authority will administer the resources entrusted to us by the citizens and the State of Kansas with the highest level of integrity, responsibility and transparency." The Board and staff take very seriously the responsibility of managing over \$2 billion of health care spending, and health care services for nearly 400,000 Kansans. The agency programs are overseen and audited by five state and federal entities and millions of dollars are spent to ensure payment accuracy each year.

In 2007, the KHPA actively supported the creation of the Office of the Inspector General (OIG). The Board believes that the OIG provides an additional mechanism to improve the functionality of the KHPA and ensure accountability to Kansas citizens. As was the case in 2007, we believe that the current location of the OIG within the structure of the agency itself -- and responsible to the KHPA Board of Directors -- is the most desirable placement. This model has a longstanding history within the federal government, and has demonstrated significant capacity to deter fraud, waste, and abuse as well as improve agency operations. Housing the OIG within the agency gives the OIG staff an opportunity to gain an in-depth understanding of the health care services operated by KHPA. It also provides an opportunity for interaction between OIG and agency staff, who both benefit from shared knowledge and insights about the complex statutes, regulations, and policies that guide the agency's actions.

The OIG is a critical part of the overall capacity of KHPA to conduct audits and investigate concerns from the public. The KHPA Board views the role of the OIG as an additional independent actor to audit, evaluate, and investigate agency operations and business practices. The internal audit capacity of KHPA is limited to financial and compliance audits. The OIG adds a dimension,

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Attachment 5

especially with agency performance auditing, that the Board would lose if SB 141 were enacted. Accordingly, we support the current structure of the OIG residing within the KHPA.

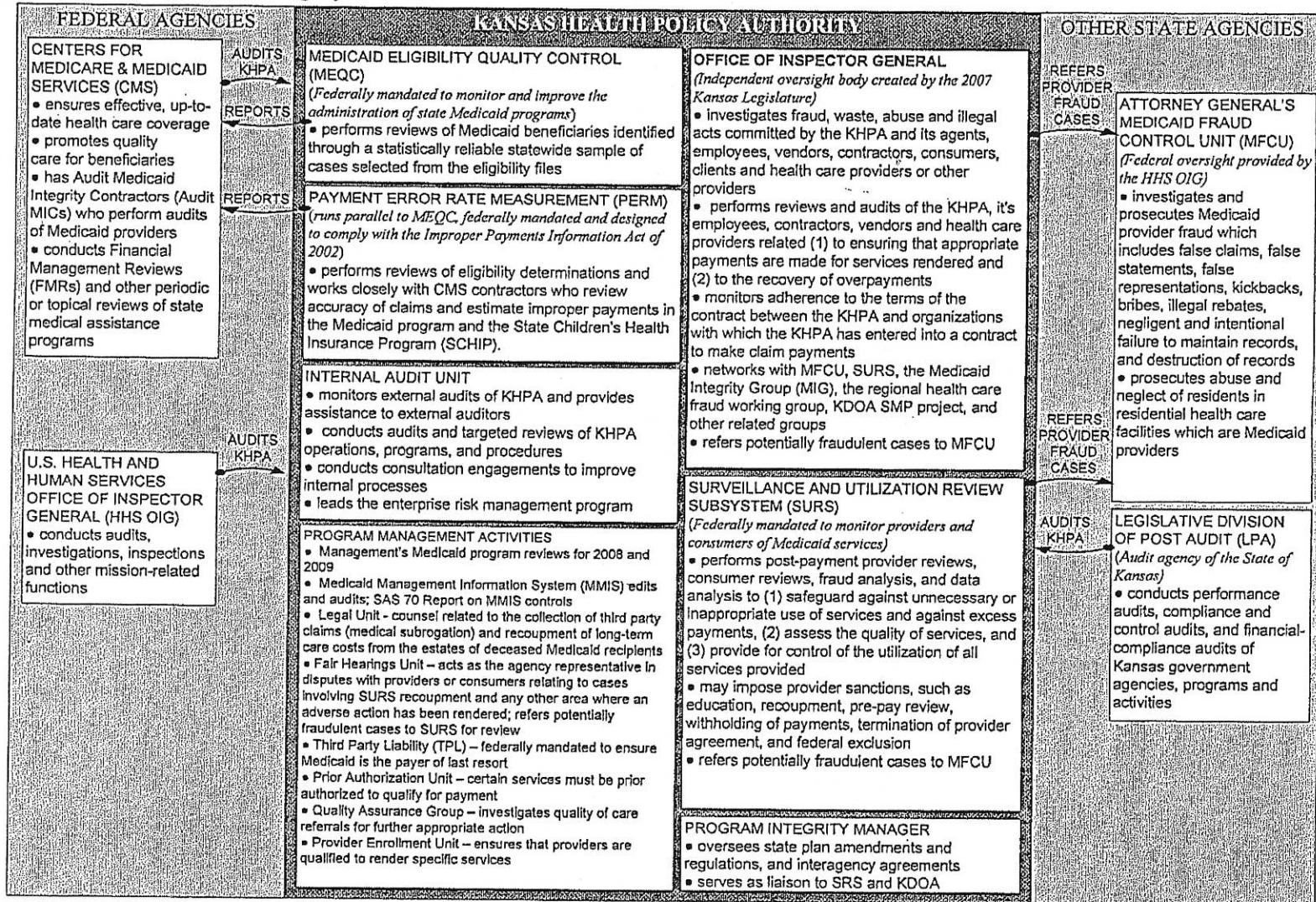
There are a few additional concerns with SB 141. The bill broadens the functions of the OIG but does not clearly define the new functions. The original statute specified that the OIG would investigate fraud, waste, abuse, and illegal acts by KHPA. Apart from "waste", these terms have uniform meaning and are not generally subject to interpretation. SB 141 adds to those terms the additional requirements to "investigate inefficiency, mismanagement, and misconduct" with mandatory referral of findings to the Attorney General. The terms inefficiency, mismanagement, and misconduct are not standardized terms within health care delivery that have universal meaning and the bill provides no statutory definition. Because the state currently relies on the Attorney General's resources to prosecute fraudulent activities in the Medicaid program and this bill requires the OIG to refer any evidence of inefficiency, mismanagement, or misconduct to the Attorney General, there is concern about ensuring that fraud, waste, and abuse investigations remain the top priority. It is also unclear how the state's prosecutorial agency would address lawful acts interpreted by the OIG to be inefficient or representative of "mis-management".

Although the agency supports the current configuration of the OIG as part of the KHPA, the Board acknowledges the purview of the legislature in structuring the office. Thank you for hearing the concerns of the KHPA Board related to SB 141 and I am happy to stand for questions.

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KHPA PROGRAM INTEGRITY ACTIVITIES

The chart below shows the KHPA programs and units performing program integrity functions. It also shows how these programs and units relate to federal agencies which provide oversight of KHPA medical assistance programs, as well as other State agencies which perform related program integrity functions.



FY 2010

SENATE WAYS AND MEANS SUBCOMMITTEE


Department of Transportation



Senator Dwayne Umbarger, Chair



Senator Kelly Kultala



Senator Ruth Teichman

Senate Ways & Means Cmte
Date 2-25-2007
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Senate Subcommittee Report

Agency: Kansas Department of Transportation **Bill No.** SB --

Bill Sec. --

Analyst: Klaassen

Analysis Pg. No. Vol. --

Budget Page No. 461

Reportable Expenditure Summary	Agency Request FY 10	Governor's Recommendation FY 10	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 0	\$ 0	\$ 0
State Highway Fund	359,627,157	350,673,588	(79,527,691)
Other Funds	347,824,395	337,760,731	0
Subtotal - Operating	<u>\$ 707,451,552</u>	<u>\$ 688,434,319</u>	<u>\$ (79,527,691)</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
State Highway Fund	555,217,439	553,022,439	0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 555,217,439</u>	<u>\$ 553,022,439</u>	<u>\$ 0</u>
 TOTAL	<u>\$ 1,262,668,991</u>	<u>\$ 1,241,456,758</u>	<u>\$ (79,527,691)</u>
 FTE Positions	3,113.5	3,113.5	0.0
Non FTE Uncl. Perm. Pos.	47.0	47.0	0.0
TOTAL	<u>3,160.5</u>	<u>3,160.5</u>	<u>0.0</u>

Agency Request

For **FY 2010**, the **agency** requests a reportable budget of \$1.3 billion, which is a decrease of \$525.3 million, or 29.4 percent, below the FY 2009 revised request. Reportable expenditures from the State Highway Fund total \$915.8 million, which is a decrease of \$566.9 million, or 38.3 percent, below the FY 2009 revised request. Large reductions in expenditures are attributable to the near completion of the Comprehensive Transportation Plan and associated project expenditures. The request includes an enhancement request for \$2,855,936, all from the State Highway Fund, for the replacement of 158 vehicles. The request includes 3,113.5 FTE positions and 47.0 non-FTE positions. The agency's request includes expenditures of \$7,837,439, all from the State Highway Fund, which include \$4,481,058 for building projects and \$3,356,381 for rehabilitation and repair.

Governor's Recommendation

For **FY 2010**, the **Governor** recommends a reportable budget of \$1.2 billion, which is a decrease of \$255.6 million, or 17.1 percent, below the FY 2009 recommendation, and a decrease of \$21.2 million, or 1.7 percent, below the agency's FY 2010 request. Reportable expenditures from the State Highway Fund total \$903.7 million, which is a decrease of \$297.3 million, or 24.8 percent, below the FY 2009 recommendation, and a decrease of \$11.1 million, or 1.2 percent, below the agency's FY 2010 request. The Governor's recommendation includes the following adjustments: A reduction of \$2,195,000 in capital improvements requests; continued funding of Kansas Highway

Patrol Operations through a transfer to the State General Fund (\$36,064,798); cancellation of the FY 2010 loan repayment to the State Highway Fund of \$30,896,209; and, do not make the transfer from the State General Fund to the Special City and County Highway Fund (SCCHF) in FY 2010 (\$10,063,664). The Governor recommends a 1.0 percent pay increase for state employees that will come from existing resources.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following adjustments and notation:

1. **Moratorium on Employer Contributions to the State Health Plan.** Add \$5,193,447, all from special revenue funds, to restore the Governor's recommended deletion to suspend state contributions to the state employee Health Insurance Premium Reserve Fund for all state agencies for seven payroll periods in FY 2010. The employer health insurance moratorium has been accelerated to FY 2009 as part of House Substitute for Substitute for S.B. 23, the current year rescission bill.
2. **KPERS Death and Disability Moratorium.** Add \$401,862, all from special revenue funds, to restore part of the Governor's recommended deletion of funds related to a nine-month moratorium on state contributions to the KPERS Death and Disability Group Insurance Fund for all state agencies. Four months of the Governor's recommended moratorium on KPERS Death and Disability has been accelerated to FY 2009 as part of House Substitute for Substitute for S.B. 23, the current year rescission bill. The action still captures five months of savings from the moratorium in FY 2010.
3. **10.0 Percent Expenditure Reduction.** Delete \$65,479,000, all from special revenue funds, to achieve a 10.0 percent reduction to expenditures. The agency provided a scenario in which substantial maintenance spending would be reduced, and provided a listing of possible expenditures by county for substantial maintenance that could be done if funding permitted. The reduction would be in addition to the approximately \$40.0 million in projects that are currently underfunded.
4. **3.0 Percent Expenditure Reduction.** Delete an additional \$19,644,000, all from special revenue funds, to achieve an additional 3.0 percent reduction to expenditures. The agency estimated that a portion of this reduction would come from operating expenditures and another portion would be reduced from substantial maintenance.
5. The Subcommittee notes the important role that the Kansas Department of Transportation plays in job creation and maintaining the state's roads. The Subcommittee notes that putting off maintenance and allowing highways to deteriorate increases the cost to return them to the condition they are in now. The Subcommittee also notes the necessity of being proactive in transportation matters as it is an important backbone that not only supports the economy, but also generates economic growth in the state.

KDOT District	County	Type of Candidate Substantial Maintenance Project			
		IR	Contract Maintenance *	Interstate Set-a-Side	Bridge Set-a-Side
District I	Atchison	\$ -	2	\$ -	\$ 257,500
	Doniphan	-	-	-	160,401
	Douglas	-	-	-	669,604
	Jackson	7,025,249	10	-	-
	Jefferson	1,249,805	-	-	-
	Johnson	1,691,955	-	10,000,000	2,821,620
	Leavenworth	3,951,137	8	-	2,750,000
	Lyon	2,521,271	-	-	292,800
	Marshall	4,264,988	-	-	166,910
	Nemaha	1,620,599	-	-	-
	Osage	1,504,953	-	-	-
	Pottawatomie	1,602,925	-	-	-
	Riley	1,864,701	-	-	229,512
	Shawnee	1,720,694	-	10,000,000	719,410
	Wabaunsee	7,808,854	-	-	-
	Wyandotte	2,826,397	2	4,000,000	6,906,214
	District I Total	\$ 39,653,528	22	\$ 24,000,000	\$ 14,973,971
District II	Chase	\$ 283,373	31	\$ -	\$ -
	Clay	2,239,640	-	-	-
	Cloud	5,053,882	-	-	120,400
	Dickinson	943,154	-	-	388,224
	Ellsworth	4,892,534	16	-	213,230
	Jewell	3,365,717	9	-	-
	Lincoln	143,611	-	-	131,770
	Marion	96,066	3	-	-
	McPherson	3,197,178	-	-	776,456
	Mitchell	2,200,593	-	-	126,810
	Morris	-	9	-	-
	Ottawa	4,336,039	-	-	289,430
	Republic	4,799,872	-	-	565,815
	Saline	-	3	-	-
	Washington	3,304,800	-	-	439,676
District II Total	\$ 34,856,459	72	\$ -	\$ 3,051,811	

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 Date 2-25-2009
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KDOT District	County	Type of Candidate Substantial Maintenance Project			
		IR	Contract Maintenance *	Interstate Set-a-Side	Bridge Set-a-Side
District III	Ellis	\$ -	-	\$ -	\$ 744,576
	Decatur	1,998,918	18	-	-
	Gove	466,571	-	12,000,000	112,056
	Graham	3,200,059	-	-	-
	Logan	2,673,216	-	-	-
	Norton	2,616,786	-	-	-
	Phillips	3,973,079	-	-	-
	Rawlins	-	12	-	-
	Rooks	1,377,648	-	-	230,112
	Russell	-	4	-	-
	Sheridan	2,063,537	-	-	-
	Sherman	-	-	500,000	111,000
	Smith	442,124	-	-	-
	Thomas	3,136,552	-	-	255,000
Wallace	442,038	-	-	-	
	District III Total	\$ 22,390,528	34	\$ 12,500,000	\$ 1,452,744
District IV	Bourbon	\$ 3,225,334	15	\$ -	\$ -
	Cherokee	582,422	-	-	-
	Coffey	0	10	-	-
	Crawford	2,364,277	-	-	125,000
	Labette	0	-	-	555,700
	Linn	289,202	-	-	-
	Montgomery	0	-	-	493,217
	Neosho	195,421	-	-	210,600
	Wilson	193,298	-	-	-
	Woodson	1,938,233	11	-	-
		District IV Total	\$ 8,788,187	35	\$ -

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KDOT District	County	Type of Candidate Substantial Maintenance Project			
		IR	Contract Maintenance *	Interstate Set-a-Side	Bridge Set-a-Side
District V	Barber	\$ -	29	\$ -	\$ 234,540
	Butler	3,286,624	22	-	1,262,370
	Cowley	2,706,923	-	-	-
	Harper	-	29	-	178,968
	Harvey	-	-	3,000,000	447,390
	Kiowa	4,241,733	-	-	-
	Pawnee	1,588,248	38	-	-
	Pratt	1,168,474	1	-	113,840
	Reno	3,432,167	-	-	244,132
	Rice	-	-	-	158,840
	Rush	3,563,352	-	-	-
	Sedgwick	2,875,355	-	-	4,351,417
	Sumner	1,513,696	12	-	360,108
	District V Total	\$ 24,376,571	130	\$ 3,000,000	\$ 7,351,605
District VI	Finney	\$ 1,444,271	-	-	-
	Ford	1,631,267	-	-	-
	Grant	2,020,486	-	-	-
	Gray	2,977,560	37	-	-
	Greeley	938,839	-	-	-
	Haskell	1,849,327	4	-	-
	Hodgeman	2,148,312	-	-	-
	Lane	4,284,178	-	-	-
	Morton	2,116,800	14	-	-
	Ness	3,384,563	-	-	-
	Seward	1,228,693	10	-	-
	Stevens	2,638,980	-	-	-
	District VI Total	\$ 26,663,274	66	\$ -	\$ -
Grand Total	\$ 156,728,547	359	\$ 39,500,000	\$ 28,214,648	

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KDOT District	County	Type of Candidate Substantial Maintenance Project			
		IR	Contract Maintenance *	Interstate Set-a-Side	Bridge Set-a-Side

Explainer

IR Program

The intent of the IR program is to preserve and maintain non-interstate pavement condition and keep rideability at an acceptable level

Contract Maintenance Program

Examples of Contract Maintenance Projects are mud-jacking contracts, slide repairs, PCCP patching jobs, pipe replacements or inserts under highways and various other repairs that are beyond the ability of KDOT's workforce. The total amount to be spent on Contract Maintenance in FY 2010 is \$10 Million. Roughly \$5.2 Million of Contract Maintenance projects have not been identified at this time. Candidate projects are listed by number of miles of work rather than dollar amounts as final costs have not been calculated.

Interstate Set-a-Side

The Interstate Resurfacing Program targets pavement surface deficiencies on the interstate system.

Bridge Set-a-Side

Funds are reserved annually for the purpose of prolonging the life of bridges and culverts. Examples of repair work in this category include deck patching and overlay, replacing portions of deteriorating decks, repairing support members, and repairing or replacing deteriorating culverts.

FY 2010

SENATE WAYS AND MEANS SUBCOMMITTEE

Human Rights Commission
Kansas Corporation Commission
Citizens' Utility Ratepayer Board



Senator John Vratil, Chair



Senator Jay Emler



Senator Janis Lee

Senate Ways & Means Cmte
Date 2-25-2009
Attachment 8

Senate Subcommittee Report

Agency: Kansas Human Rights Commission **Bill No.** SB

Bill Sec.

Analyst: Dear

Analysis Pg. No. Vol.-

Budget Page No. 37

Expenditure Summary	Agency Request FY 2010	Governor's Recommendation FY 2010	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 1,823,425	\$ 1,639,149	\$ (13,969)
Other Funds	409,475	388,436	12,469
Subtotal - Operating	\$ 2,232,900	\$ 2,027,585	\$ (1,500)
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
TOTAL	\$ 2,232,900	\$ 2,027,585	\$ (1,500)
FTE Positions			
	34.0	34.0	0.0
Non FTE Uncl. Perm. Pos.			
	0.0	0.0	0.0
TOTAL	34.0	34.0	0.0

Agency Request

The **Human Rights Commission** requests \$2,232,900 for operating expenditures during FY 2010. This is a decrease of \$241 below the FY 2009 revised estimate. The request includes \$1,823,425 from the State General Fund, an increase of \$57,894, or 3.3 percent, above the FY 2009 revised estimate. Fee funds comprise \$409,475 of the request, a decrease of \$58,135, or 12.4 percent, below the FY 2009 revised estimate. The reduction is primarily caused by a depletion of Federal Fund reserves. The request would fund 32.0 FTE positions, the same as the revised estimate.

Governor's Recommendation

The **Governor** recommends FY 2010 operating expenditures of \$2,027,585, a decrease of \$164,039, or 7.5 percent, below the FY 2009 Governor's recommendation. The Governor's recommendation is a decrease of \$205,315, or 9.2 percent, below the FY 2010 agency estimate. The decrease is attributable a 3.0 percent operating expenditure reduction of \$52,090 combined with a projected decrease of \$7,352 in federal funds in FY 2010. The Governor also recommends moratoriums on State contributions to the Kansas Public Employee Death and Disability Insurance fund and the Group Insurance fund for a reduction of \$58,779. The Governor also does not recommend adoption of the enhancement request for two additional level 2 investigators for an additional reduction of \$86,817 from the agency's FY 2010 request.

Senate Subcommittee Recommendation

The **Committee** concurs with the Governor's recommendation with the following recommendations and notations:

1. **Moratorium on Employer Contributions to the State Health Plan.** Add \$49,497, including \$38,003 from the State General Fund, to restore the Governor's recommended deletion to suspend state contributions to the state employee Health Insurance Premium Reserve Fund for all state agencies for seven payroll periods in FY 2010. The Kansas Guardianship Program does not participate in the Kansas employer health insurance program. The funds originally recommended by the Governor to be removed in FY 2010 were not removed from the agency's State General Fund account.
2. **KPERS Death and Disability Moratorium.** Add \$4,126, including \$3,151 from the State General Fund to restore part of the Governor's recommended deletion of funds related to a nine-month moratorium on state contributions to the KPERS Death and Disability Group Insurance Fund for all state agencies. Four months of the Governor's recommended moratorium on KPERS Death and Disability has been accelerated to FY 2009 as part of House Substitute for Substitute for S.B. 23, the current year rescission bill. The action still captures five months of savings from the moratorium in FY 2010.
3. The committee recommends that the legislature consider amending KSA 44-1004 (13) to allow the Kansas Human Rights Commission to render their annual report to the legislature in an electronic rather than paper format to reduce costs to the State General Fund.
4. **Continue the FY 2009 1.25 percent reduction.** Delete \$22,212, all from the State General Fund, to adjust the FY 2010 budget to duplicate the FY 2009 1.25 percent reduction, excluding debt service, Department of Education, and human service caseloads, approved by the 2009 Legislature for FY 2009.
5. Delete \$32,911, all from the State General Fund, in order to reach a target of 10 percent below the FY 2009 Governor's recommendation for agency expenditures in FY 2010.

Analysis in Making Proposed SGF Reductions

In developing proposed SGF reductions, particular attention was paid to the KHRC's mission and how we achieve it. In short, the KHRC's mission is to prevent and eliminate discrimination in the areas of employment, housing, public accommodation, and profiling in conjunction with traffic stops. As authorized by statute, the agency achieves its mission through a two-prong approach:

1. the receipt and investigation of complaints alleging discrimination, conducting hearings, and initiating litigation, and
2. a public education program as a proactive attempt to prevent future acts of discrimination.

The Commission has pledged to never return to the times of pending case levels of over 2,700 (versus the pending level of 713 at the end of FY 2008) and a nearly two year resolution time (versus approximately 7.93 months at the end of FY 2008).

Special emphasis was also given to maintaining funding from our federal EEOC contract. The agency receives payment for the processing and resolving of complaints jointly filed under Kansas statutes and federal regulations (Title VII of the Civil Rights Act, The Age Discrimination in Employment Act of 1967, and the Americans With Disabilities Act). The contract also includes reimbursement for the receipt of complaints which fall under federal regulations, but outside the Commission's jurisdiction. To maximize payment, we must continue to resolve complaints through a mediation contract with Kansas Legal Services and the investigative process.

Due to a combination of factors (reduced SGF, the lack of a federal funds reserve which was used over the past several years due to decreased EEC revenues and flagging State General Fund support after September 2001) and increased expenses beyond our control, three positions (two Special Investigators and one unclassified Senior Legal Counsel/Attorney C) filled at the beginning of FY 2009 are now being held open due to inadequate funding. An additional two positions were not budgeted.

10 Percent Reduction List-\$172,401

Please note the following is a tentative list. If employees either quit or retire, it is possible that we would be able to accrue savings by leaving their position vacant, which could impact the following.

1. Eliminate unneeded phone lines and network connections-\$1,907 SGF
Eliminate phone lines that are not necessary and network connections associated with vacant positions which are projected to remain vacant.
2. Eliminate newspaper subscriptions-\$296 SGF
Rely on electronic versions of newspapers, rather than subscribing to hard copies for the Topeka and Wichita offices.

3. Eliminate hard copies of the Annual Report-\$192 SGF
K.S.A. 44-1004 (13) requires the Commission to render each year to the Governor and to the state Legislature a full written report of its activities and of its recommendations. In FY 2008, 110 hard copies were ordered from the Division of Printing. To fulfill the statutory requirement, we will produce paper versions from our own copier. Other subscribers will either be supplied electronic copies or notified they can download an electronic copy from our website.
4. Eliminate public service advertisements-\$2,165 SGF
Public service advertisements are used to fulfill the requirement of K.S.A. 44-1004 (10) for programs of formal and informal education. Public service advertisements are used in various publications to inform the public about the Commission, changes in Kansas laws, and their rights under Kansas laws. This proposal would eliminate all ads, except those for job postings. Public service advertisements are used to fulfill the requirement of K.S.A. 44-1004 (10) for programs of formal and informal education.
5. Eliminate hard copies of the *Spectrum* newsletter-\$2,255 SGF
The *Spectrum* is published twice per year as a means to inform the public about the Commission and developments in discrimination law. The *Spectrum* is used to fulfill the requirement of K.S.A. 44-1004 (10) for programs of formal and informal education. Rather than sending hard copies ordered from the Division of Printing, the *Spectrum* will be sent through electronic means or subscribers will be notified they download an electronic copy from our website. We will need to gather e-mail addresses from those that currently receive hard copies. In FY 2008, 2,430 copies were ordered.
6. Reduce travel by Commission meetings by holding teleconferences for half of the monthly meetings-\$3,859 SGF
In FY 2008, the agency held nine monthly Commission meetings, all in person. The largest expense associated with Commission meetings is the travel expense. In an effort to balance the needs of regular Commission meetings with decreased revenue sources, it is proposed that one-half of the meetings in FY 2010 be held by teleconference.
7. Continue to hold open a vacant Special Investigator II position for a portion of FY 2010-\$7,951 SGF
As noted above, two Special Investigator II positions which were filled at the beginning of FY 2009 are being held open. We projected filling one of the Special Investigator II positions for a portion of FY 2010 at a total cost of \$32,529 (\$24,973 SGF). It is recommended that the vacant position be held open for a longer period of time in FY 2010 in order to generate SGF savings of \$7,951 in salary and benefits.

Holding Special Investigator positions open adversely impacts our ability to

efficiently close cases and maximize EEOC revenues.

Special Investigator positions are the “front line” of the agency by investigating, resolving, and settling complaints. A reduced workforce would result in fewer resolved cases, fewer recoveries, a higher pending case load, and a longer processing time. Because we have a small investigative staff (10 currently filled positions), any vacancy has a significant impact on the agency’s overall performance.

To compensate for currently vacant investigator positions, supervisory personnel increased their workloads by investigating cases in addition to their regular duties.

This option is listed at a higher priority than proposed layoffs because we feel it is less traumatic to employee morale to hold open vacant positions than to initiate layoffs.

8. Layoff Administrative Assistant (Topeka Receptionist-1.00 FTE)-\$23,691 SGF

The Topeka office has one receptionist, who would be laid off. It is proposed that two other administrative support positions assume the receptionist duties in addition to their current workloads. We anticipate difficulties in scheduling due to the limited number of personnel. Delays in completing their current workloads can be anticipated due to the additional phone duties, which may impact the timely notification of respondents and the completion and filing of various legal documents.

Total salaries and benefits are \$30,860, with \$23,691 being derived from SGF.

9. Layoff Administrative Assistant (Wichita Receptionist-1.00 FTE)-\$24,140 SGF and associated telephone and network connections-\$739 SGF

The Wichita office has two administrative support positions. With the layoff of an Administrative Assistant (receptionist), the office will not have adequate personnel to staff phones if the remaining administrative support person is sick or on vacation leave. In that situation, it will be necessary for callers to leave messages and for them to be retrieved later. This situation could be perceived as not customer-friendly and could cause delays and disruption of communication, resulting in complaints from the public, complainants, and respondents.

Total salaries and benefits are \$31,444, with \$24,140 allocated to SGF.

10. Reduce travel for public education programs-\$5,569 SGF

K.S.A.44-1004 (10) provides for programs of formal and informal education. The primary way the agency fulfills this requirement is by offering a variety of training on diversity, sexual harassment, discrimination laws, and a KHRC overview. This program is the agency’s proactive attempt to decrease future acts of discrimination through education. This proposal calls for the reduction of in-state travel expenses for the public information/education portion of the Compliance and Education

program. This program has had a tremendous response in recent years, increasing the number of individuals trained from an estimated 3,096 in FY 2005 to 7,423 in FY 2008. Reducing in-state travel will correspondingly reduce the number of people trained. The \$5,569 scheduled for the reduced resource package is 15 percent of the scheduled in-state travel for the budget year. Therefore, we would expect a corresponding 15 percent reduction in the number of trainings and the number of individuals trained in FY 2010. The projected number of trainings for FY 2010 would be reduced from 167 to 142 and the projected number of individuals trained would be reduced from 7,500 to 6,375.

11. Reduce activities at the public hearing level-\$6,024 SGF

Unconciliated probable cause cases can advance to the public hearing level. In FY 2008, the Commission incurred approximately \$13,300 in costs to pursue cases at the public hearing level. In order to meet the reduced SGF allocation for FY 2010, we already projected reductions of \$2,347 in this area. Decreased funding in this area will mean that complainants will not be represented to the fullest extent in a timely manner and delays in public hearings will occur because depositions cannot be taken, copies of files cannot be acquired or court reporters retained for public hearings during the fiscal year. Cases closed at the public hearing level typically spend 12 months at that level. Being unable to pursue activities for public hearings will delay closure, possibly increasing the closure time up to two years at this level.

12. Layoff Unclassified Attorney C (Senior Legal Counsel-1.00 FTE)-\$60,188 SGF and associated telephone and network connections-\$739 SGF

Please note that all three legal staff positions were filled at the beginning of FY 2009. Due to a vacancy occurring in November 2008 and restricted funding resources, an unclassified Senior Legal Counsel/Attorney C position is currently being held open. A layoff of another Senior Legal Counsel will leave only the Chief Legal Counsel to handle all legal activities and questions. Laying off a Senior Legal Counsel will create delays in the public hearing process, delays in answering questions from the staff and public, and addressing Commission legal issues. During FY 2008, cases closed at the public hearing level spent one year at the public hearing stage. With reduced legal staff, it is estimated that public hearing cases will spend two years at that level before being closed.

Total salaries and benefits are \$78,401 with \$60,188 funded by the SGF.

The associated telephone and network connections can be eliminated.

13. Substituting Federal Funds and Training Fee Funds Savings from Laid Off Positions for SGF-\$32,686

Because the above positions which are being laid off are not funded solely through SGF, \$32,686 in salaries and benefits budgeted from federal funds and training fee funds are saved through the layoffs. These federal funds and training

fee funds can be substituted for State General Fund, lowering the need for SGF by a like amount. An itemization follows:

Item No.	Position	Federal Funds Saved	Training Fee Funds Saved	Total Non-SGF Funds Saved
8	Administrative Assistant (Topeka Receptionist)	\$7,141	\$28	\$7,169
9	Administrative Assistant (Wichita Receptionist)	\$7,276	\$28	\$7,304
12	Unclassified Attorney C (Senior Legal Counsel)	\$18,142	\$71	\$18,213
Total		\$32,559	\$127	\$32,686

Additional 3 Percent Reduction List-\$51,720

14. Layoff Intake Staff (Senior Administrative Assistant-1.00 FTE)-\$29,226 SGF

The Topeka office has two full-time intake staff (Senior Administrative Assistants). These employees are the first contact for individuals inquiring about possible discrimination or wanting to file a complaint. The KHRC had 5,814 public contacts in FY 2008 through these intake staff, as well as investigators in the Independence and Dodge City offices. Reducing intake staff will create delays in responding to inquiries and the writing of complaints. As a result, the KHRC could be perceived as not customer-friendly, resulting in complaints. It will be necessary for existing staff to assist with the workload.

Total salaries and benefits are \$38,069, with \$29,226 allocated to SGF.

15. Substituting Federal Funds and Training Fee Funds Savings from Laid Off Positions for SGF-\$11,249

Because the above positions which are being laid off are not funded solely through SGF, \$11,249 in salaries and benefits from federal funds and training fee funds are saved through the layoffs. These federal funds and training fee funds can be substituted for State General Fund, lowering the need for SGF by a like amount. An itemization follows:

Item No.	Position	Federal Funds Saved	Training Fee Funds Saved	Total Saved
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7	Special Investigator II	\$2,397	\$9	\$2,406
14	Intake Staff (Senior Administrative Assistant)	\$8,809	\$34	\$8,843
Total		\$11,206	\$43	\$11,249

16. Furloughs of All Staff-\$11,245 SGF

Based on current payroll figures, it would be necessary to furlough a staff of 30 employees approximately 3.27 days to accrue SGF savings of \$11,245. Given the proposed layoffs above, it would be necessary to furlough a smaller staff for a slightly longer period of time to accrue the necessary savings to meet the target.

Actions of this sort will damage employee morale, disrupt service to the public, complainants, and respondents, reduce the number of complaints resolved, lower the amount of recoveries, and make it more difficult to meet the EEOC contract.

Because we have reached the point of furloughing all staff at the 13% level, we have opted not to explore further cuts at this point in time, per the Subcommittee's allowance.

We would like to bring to the Subcommittee's attention the current uncertainty of EEOC funding. Although we are well into federal fiscal year 2009, a contract has not yet been signed. A contract for federal fiscal year 2009 for 623 contract resolutions and 12 intake credits has been offered for total projected revenue of \$343,250. However, the EEOC has advised that downward modifications are more than likely to occur. Downward modifications have occurred in previous years. For example, the contract for federal fiscal year 2007 was lowered from 655 cases to 599 cases midway through the year. In September 2007, the case load of 599 was upgraded by 43 cases to a total of 642. The upgrade, however, was contingent on other agencies not being able to meet their contracts.

If the EEOC contract is reduced, along with State General Fund, the agency will be forced to make additional cuts due to our inability to absorb additional reductions.

Senate Subcommittee Report

Agency: Kansas Corporation Commission **Bill No.** SB --

Bill Sec. --

Analyst: O'Hara **Analysis Pg. No.** Vol. --

Budget Page No. 23

Expenditure Summary	Agency Request FY 10	Governor's Recommendation FY 10	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 185,799	\$ 0	\$ 0
Other Funds	21,835,163	20,515,226	(1,189,943)
Subtotal - Operating	<u>\$ 22,020,962</u>	<u>\$ 20,515,226</u>	<u>\$ (1,189,943)</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 22,020,962</u></u>	<u><u>\$ 20,515,226</u></u>	<u><u>\$ (1,189,943)</u></u>
FTE Positions	214.0	214.0	0.0
Non FTE Uncl. Perm. Pos.	6.5	6.5	0.0
TOTAL	<u><u>220.5</u></u>	<u><u>220.5</u></u>	<u><u>0.0</u></u>

Agency Request

The **agency** requests a FY 2010 budget totaling \$22.0 million, including \$185,799 from the State General Fund, which is a decrease of \$82,450, or 0.4 percent, below the agency's revised FY 2009 estimate. The FY 2010 request includes enhancement requests totaling \$421,180, all from special revenue funds, including \$116,480 for the 2010 Business Process Innovation and Improvement Project and \$304,700 for replacement vehicles. The agency request also includes \$185,799 from the State General Fund for Kansas Energy Council expenditures. Absent the enhancement requests, the request is \$21.6 million, which is a decrease of \$503,630, or 2.3 percent, below the agency's revised FY 2009 estimate. The decrease reflects one-time expenditures that are budgeted for expenditure in FY 2009. The decrease is partially offset by the agency's two enhancement requests which total \$421,180.

Governor's Recommendation

The **Governor** recommends a FY 2010 budget totaling \$20.5 million, all from special revenue funds, which is a decrease of \$1,505,736, or 6.8 percent, below the agency's FY 2010 request and a decrease of \$957,311, or 4.5 percent, below the Governor's FY 2009 recommendation. The Governor recommends \$116,480, all from special revenue funds, for the agency's enhancement request for the 2010 Business Process Innovation and Improvement Project. In addition, the Governor recommends the following reductions to the agency's budget: \$504,900 to increase shrinkage, \$355,000 to reduce contractual services expenditures, \$366,128 for a moratorium on the

state's contribution for health insurance, and \$73,421 for a moratorium on the state's contribution for KPERS death and disability. The Governor also recommends shifting the funding of \$185,799 for FY 2010 Kansas Energy Council (KEC) expenditures from the State General Fund to the agency's Public Service Regulation Fund and the Governor recommends \$98,413 for Kansas Electric Transmission Authority (KETA) expenditures in FY 2010.

Senate Subcommittee Recommendation

The **Senate Subcommittee** concurs with the Governor's FY 2010 recommendation, with the following adjustments and notation:

1. **Moratorium on Employer Contributions to the State Health Plan.** Add \$366,128, all from special revenue funds, to restore the Governor's recommended deletion to suspend state contributions to the state employee Health Insurance Premium Reserve Fund for all state agencies for seven payroll periods in FY 2010. The employer health insurance moratorium has been accelerated to FY 2009 as part of House Substitute for Substitute for SB 23, the current year recision bill.
2. **KPERS Death and Disability Moratorium.** Add \$32,631, all from special revenue funds, to restore part of the Governor's recommended deletion of funds related to a nine-month moratorium on state contributions to the KPERS Death and Disability Group Insurance Fund for all state agencies. Four months of the Governor's recommended moratorium on KPERS Death and Disability has been accelerated to FY 2009 as part of House Substitute for Substitute for S.B. 23, the current year recision bill. The action still captures five months of savings from the moratorium in FY 2010.
3. **Operating Expenditures Reduction.** Delete \$1,588,702, all from special revenue funds, to reduce operating expenditures in FY 2010 to an amount that is 10.0 percent below the Governor's FY 2009 recommendation. The Senate Subcommittee does not recommend the transfer of the \$1,588,702 from the agency's special revenue funds to the State General Fund in FY 2010.
4. **Enhancement Request.** The Senate Subcommittee notes its support of the agency's enhancement request of \$116,480, all from special revenue funds, in FY 2010 for the 2010 Business Process Innovation and Improvement Project. This is a technology infrastructure project that will improve service to external and internal clients. Funding for this project was requested by the agency and approved by the Governor in both FY 2009 and FY 2010. The Senate Subcommittee supports the Governor's inclusion of the requested enhancement funding of \$116,480 in the Governor's FY 2010 recommendation.

Amount	FY 2009 3% Targeted Gov Reductions (634,875)	Commission/Program Impacts
487,000	Increase Shrinkage to 8.6%	The FY 2008 shrinkage rate was a mixture of 2.5% to 6% (\$745,350). The 8.6% equates to (\$1,232,350) This increased shrinkage requires the Commission to - leave vacancies open and not fill retirements. This may impede the Commission in carrying out the mission of the agency.
144,800	Reduce Professional Services*	The Commission relies on consultants with expertise in areas of auditing, FERC, FCC, and specific analysis for rate cases. Reduction of contractual services could impact the Commission's ability to respond to dockets, which could impact Kansas ratepayers. * The Commission will target capital outlay and OS travel prior to reducing contractual services.
3,075	Reduce KETA funding	The Commission Public Service Regulation Fund, is the source of funding for the KETA administrative activities and leaves \$97,388.
634,875	Total	

Funding Source Reduction

176,625	Public Service Regulation Fund (PSR) - 2019
168,650	Conservation Fee Fund (CFF) - 2130
100,000	Motor Carrier Fee Fund (MCFF) - 2812
154,600	Natural Gas Underground Storage (NGUS) - 2181
35,000	Facility Conservation Improv Program (FCIP) - 2432
634,875	Total - 3%

Other Funding Reductions

80,000	State Water Plan (SWP) Transfer Abandoned Well
400,000	State General Fund (SGF) Transfer Abandoned Well
1,000,000	KETA Development Fund
1,480,000	Total

2,114,875 Grand Total - 3% with Other Funding Reductions

9-13

FY 2010

Amount 4% Targeted Gov Reductions (864,000)

Commission/Program Impacts

172,401	Increase Shrinkage to 9%	The FY 2008 shrinkage rate was a mixture of 2.5% to 6% (\$745,350). The 8.6% equates to (\$1,232,350) This increased shrinkage requires the Commission to leave vacancies open and not fill retirements. This may impede the Commission in carrying out the mission of the agency.
366,128	Health Moratorium	Governor's Recommendation
73,421	DD Moratorium	Governor's Recommendation
250,000	Reduce Professional Services*	The Commission relies on consultants with expertise in areas of auditing, FERC, FCC, and specific analysis for rate cases. Reduction of contractual services could impact the Commission's ability to respond to dockets, which could impact Kansas ratepayers. In addition, the Conservation Division contracts are also reduced, which impact RBDMS and SOLAR projects. * The Commission will target capital outlay and OS travel prior to reducing contractual services. The 4% reduction was applied to the 2010 Project of 116,480.
2,050	Reduce KETA Funding	The Commission Public Service Regulation Fund, is the source of funding for the KETA administrative activities.
864,000	Total	

Funding Source Reduction

260,799	Public Service Regulation Fund (PSR) - 2019
246,169	Conservation Fee Fund (CFF) - 2130
155,813	Motor Carrier Fee Fund (MCFF) - 2812
159,754	Natural Gas Underground Storage (NGUS) - 2181
41,465	Facility Conservation Improv Program (FCIP) - 2432
864,000	Total - 4%

Other Funding Reductions

111,350	1% COLA Estimate - Absorb
112,000	State Water Plan (SWP) Transfer Abandoned Well
400,000	State General Fund (SGF) Transfer Abandoned Well
512,000	Total

1,376,000 Grand Total - 4% with Other Funding Reductions

Amount **FY 2010**
10% Targeted Reductions (1,760,806)**

** less Federal Funds and \$2.6M Abandoned Well transfers/expenditures.

Commission/Program Impacts

172,401	Increase Shrinkage to 9%	The FY 2008 shrinkage rate was a mixture of 2.5% to 6% (\$745,350). The 8.6% equates to (\$1,232,350) This increased shrinkage requires the Commission to leave vacancies open and not fill retirements. This may impede the Commission in carrying out the mission of the agency.
155,784	Eliminate all Capital Outlay Purchases	This funding is for replacement PCs, printers, servers, laptops, etc. as part of the KCC IT plan.
174,362	Eliminate all OS Travel except for \$31K SPP/Comm	We will work to participate via video. The Commission would not participate at key FERC and FCC venues. Also, Kansas would lose its voice at the national level on issues impacting the Commission.
10,800	Eliminate all clothing expenditures	Staff will not replace any steel toe boots, gloves, shirts, jackets, etc.
50,242	Reduce Office Supplies by 30%	Eliminate office supplies to basic needs.
50,000	Reduce the majority of Memberships/Subscription	Except for statutory required ones (IOGCC) and eliminate many publications. This action will limit the Commission's ability to stay abreast of current issues impacting the industries will regulate.
40,000	Reduce significantly Registration/Training	The Commission staff will not be able to gain knowledge from various training opportunities. We must maintain Camp NARUC for 2 new staff.
3,500	Eliminate Employee Tuition Reimbursement Program	The employee tuition reimbursement is a tool used by the Commission as part of the benefits package and has proven beneficial in retaining employees.
5,133	Reduce Professional Supplies	Eliminate scientific supplies to bare minimum.
9,944	Reduce KETA Funding	The Commission Public Service Regulation Fund, is the source of funding for the KETA administrative activities and leaves \$89,494.
27,913	Eliminate/scale back Energy and Pipeline Conferences	The elimination of these conferences will limit educational opportunities to industry and specific groups of individuals.
12,300	Park 64 state vehicles for one day per month	Staff currently assigned state vehicles will be required to report to their official work station for in-house work/training.
14,735	Eliminate one Legal Intern for the Fiscal Year	The Commission relies on legal interns to assist staff in dockets and research.
533,892	Reduce Professional Services Approx. 35%	The Commission relies on consultants with expertise in areas of auditing, FERC, FCC, and specific analysis for rate cases. Reduction of contractual services could impact the Commission's ability to respond to dockets, which could impact Kansas ratepayers. The Conservation Division contract with KGS will need to be reduced impacting RBDMS and SOLAR projects.

8-1-8

499,800	Reduce Abandoned Well Plugging Program by 96 wells	If this reduction occurs, approximately 429 of the most serious wells will be plugged.
<u>1,760,806</u>	Total	

Funding Source Reduction

376,828	Public Service Regulation Fund (PSR) - 2019
357,246	Conservation Fee Fund (CFF) - 2130
325,713	Motor Carrier Fee Fund (MCFF) - 2812
159,754	Natural Gas Underground Storage (NGUS) - 2181
41,465	Facility Conservation Improv Program (FCIP) - 2432
499,800	Abandoned Well Remediation Fund - 2143
<u>1,760,806</u>	Total - 10%

Other Funding Reductions

111,350	1% COLA Estimate - Absorb
112,000	State Water Plan (SWP) Transfer Abandoned Well
400,000	State General Fund (SGF) Transfer Abandoned Well
<u>512,000</u>	Total

2,272,806 Grand Total - 10% with Other Funding Reductions

**Federal Funds and \$2.6M Abandoned Well Expenditures are backed out.

Amount
FY 2010
8% Additional Targeted
Reductions (1,408,644)**

Commission/Program Impacts

7,955	Reduce KETA Funding	The Commission Public Service Regulation Fund, is the source of funding for the KETA administrative activities and leaves \$78,556.
1,400,689	Reduce Abandoned Well Plugging Program by 270 wells	If this reduction occurs, approximately 255 (of 525 projected) of the most serious wells will be plugged.
1,408,644	Total	

Funding Source Reduction

1,400,689	Abandoned Well Remediation Fund - 2143
7,955	Public Service Regulation Fund (PSR) - 2019
1,408,644	Total - 8%

3,681,450 Grand Total - 18% with Other Funding Reductions

Changes in substantive law or state plan amendments (other than modification of the revenue transfers for well plugging) are not necessary with these adjustments at this time.

Senate Subcommittee Report

Agency: Citizens' Utility Ratepayer Board **Bill No.** SB --

Bill Sec. --

Analyst: O'Hara

Analysis Pg. No. Vol.---

Budget Page No. 35

Expenditure Summary	Agency Request FY 10	Governor's Recommendation FY 10	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	814,127	765,919	7,738
Subtotal - Operating	\$ 814,127	\$ 765,919	\$ 7,738
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
TOTAL	\$ 814,127	\$ 765,919	\$ 7,738
FTE Positions	6.0	6.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	6.0	6.0	0.0

Agency Request

The **agency** requests FY 2010 operating expenditures of \$814,127, all from special revenue funds, which is a decrease \$69,592, or 7.9 percent, below the agency's revised FY 2009 estimate. The FY 2010 request includes \$478,404 for salaries and wages for 6.0 FTE positions; \$324,992 for contractual services; \$5,461 for commodities; and \$5,270 for capital outlay.

Governor's Recommendation

The **Governor** recommends FY 2010 operating expenditures of \$765,919, all from special revenue funds, which is a decrease of \$48,208, or 5.9 percent, below the agency's FY 2010 request and a decrease of \$93,700, or 10.9 percent, below the Governor's FY 2009 recommendation. The Governor recommends a reduction in contractual services (\$32,565) and salaries and wages (\$15,643) for a moratorium on death and disability and health insurance payments.

8-18

Senate Subcommittee Recommendation

The **Senate Subcommittee** concurs with the Governor's FY 2010 recommendation, with the following adjustments and notation:

1. **Moratorium on Employer Contributions to the State Health Plan.** Add \$12,873, all from special revenue funds, to restore the Governor's recommended deletion to suspend state contributions to the state employee Health Insurance Premium Reserve Fund for all state agencies for seven payroll periods in FY 2010. The employer health insurance moratorium has been accelerated to FY 2009 as part of House Substitute for Substitute for SB 23, the current year recision bill.
2. **KPERS Death and Disability Moratorium.** Add \$2,770, all from special revenue funds, to restore part of the Governor's recommended deletion of funds related to a nine-month moratorium on state contributions to the KPERS Death and Disability Group Insurance Fund for all state agencies. Four months of the Governor's recommended moratorium on KPERS Death and Disability has been accelerated to FY 2009 as part of House Substitute for Substitute for SB 23, the current year recision bill. The action still captures five months of savings from the moratorium in FY 2010.
3. **Operating Expenditures Reduction.** Delete \$7,905, all from special revenue funds, to reduce operating expenditures in FY 2010 to an amount that is 10.0 percent below the Governor's FY 2009 recommendation. The Senate Subcommittee does not recommend the transfer of the \$6,366 from the agency's special revenue funds to the State General Fund in FY 2010.
4. **Reappropriation Proviso.** The Senate Subcommittee recommends a bill introduction and requests the staff from the Office of the Revisor of Statutes, in conjunction with the agency, draft legislation that would place into substantive law a proviso that has appeared for several years in the appropriations bill. The 2008 Legislature approved HB 2637, which placed into substantive law an appropriations bill proviso that concerned professional services and competitive bidding for the agency's contractual services, which the agency utilizes during its participation in rate cases. The remaining proviso in the appropriations bill allows reappropriation of any unspent funding for professional services from one fiscal year to the next. The agency relies upon this reappropriation authority each fiscal year to ensure funding for the professional services is available for any rate case that may require these services. Rather than recommending reappropriation authority to be included in the appropriations bill this session, the Senate Subcommittee recommends the drafting of legislation to place this proviso into substantive law.

Citizens' Utility Ratepayer Board
Additional Budget Guidelines for Senate Ways and Means
Subcommittees for FY 2010

1. A **10 percent reduction** in FY 2010 from the FY 2009 Governor's revised amount would result in an additional reduction from CURB's consultant services (under Contractual Services) or from Salary & Wages (S&W)—CURB's two largest expenditures. CURB would choose to reduce consultant services over eliminating a FTE position, since we only have 6 positions.

Total Expenditures: $\$814,127 - \$48,208 (5.9\%) = \$765,919$ Gov.'s Rec. for FY 2010
This reduction of \$48,208 includes \$32,565 (4%) from expenditures and \$15,643(1.9%) from S&W for the nine month statewide moratorium on the payment of death & disability and health insurance benefits in FY 2010.
 $\$765,919 - 76,592 (10\%) = \$689,327$

Consultant Services: $\$250,000 - \$32,565 (4\%) = \$217,435$
 $\$250,000 - \$76,592 (10\%) = \$173,408$

2. If there is a **reduction in excess of 10 percent** for FY 2010, again, the reduction would come out of CURB's consultant services (under Contractual Services); or, CURB would eliminate a FTE position.

Total Expenditures: $\$765,919 - \$99,569 (13\%) = \$666,350$
 $\$765,919 - \$137,865 (18\%) = \$628,054$

Consultant Services: $\$250,000 - \$99,569 (13\%) = \$150,431$
 $\$250,000 - \$137,865 (18\%) = \$112,135$

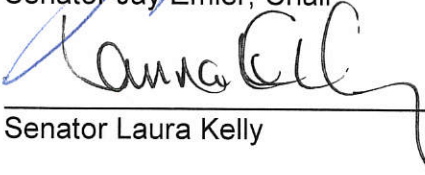
FY 2010

SENATE WAYS AND MEANS SUBCOMMITTEE

Attorney General
Secretary of State
Insurance Commissioner
State Treasurer



Senator Jay Emler, Chair



Senator Laura Kelly

Senate Ways & Means Cmte
Date 2-25-2009
Attachment 9

Senate Subcommittee Report

Agency: Attorney General **Bill No.** SB **Bill Sec.**
Analyst: Cussimano **Analysis Pg. No.** Vol.- **Budget Page No.** 98

Expenditure Summary	Agency Request FY 2010	Governor's Recommendation FY 2010	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 5,704,520	\$ 4,946,463	\$ (262,303)
Other Funds	14,719,970	12,597,554	106,316
Subtotal - Operating	<u>\$ 20,424,490</u>	<u>\$ 17,544,017</u>	<u>\$ (155,987)</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 20,424,490</u></u>	<u><u>\$ 17,544,017</u></u>	<u><u>\$ (155,987)</u></u>
FTE Positions			
FTE Positions	113.0	108.0	0.0
Non FTE Uncl. Perm. Pos.	16.1	21.8	0.0
TOTAL	<u><u>129.1</u></u>	<u><u>129.8</u></u>	<u><u>0.0</u></u>

Agency Request

The agency requests an FY 2010 budget of \$20.4 million, a decrease of \$106,244, or 0.5 percent, below the revised current fiscal year estimate. The request includes State General Fund expenditures of \$5.7 million, an increase of \$368,076, or 6.9 percent, above the revised current fiscal year estimate. The request would fund 113.0 FTE positions, an increase of 9.0 FTE positions from the revised current fiscal year estimate. The increase in positions is due to the agency's enhancement request of \$383,868, including \$373,068 from the State General Fund, and 5.0 FTE positions for operating expenditures and 4.0 unfunded FTE positions in the civil division for tobacco litigation.

Governor's Recommendation

The Governor recommends an FY 2010 budget of \$17.5 million, including \$4.9 million from the State General Fund. The Governor concurs with the one of the agency's enhancements to add 4.0 FTE unfunded FTE positions for tobacco related litigation. The recommendation is decrease of \$2.0 million, or 10.3 percent, below the revised current fiscal year recommendation. The State General Fund recommendation is a decrease of \$154,245, or 3.0 percent, below the revised FY 2009 recommendation.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following notations and adjustments:

1. **Moratorium on Employer Contributions to the State Health Plan.** Add \$180,782, including \$83,320 from the State General Fund, to restore the Governor's recommended deletion to suspend state contributions to the state employee Health Insurance Premium Reserve Fund for all state agencies for seven payroll periods in FY 2010.
2. **KPERS Death and Disability Moratorium.** Add \$18,593, including \$9,739 from the State General Fund, to restore part of the Governor's recommended deletion of funds related to a nine-month moratorium on state contributions to the KPERS Death and Disability Group Insurance Fund for all state agencies. Four months of the Governor's recommended moratorium on KPERS Death and Disability has been accelerated to FY 2009 as a part of House Substitute for Substitute for SB 23, the current year recision bill. The action still captures five months of savings from the moratorium in FY 2010.
3. Delete \$355,362, all from the State General Fund, from the FY 2010 Governor's recommended budget in order to reach a target of 10.0 percent below the FY 2009 Governor's recommendation for agency expenditures in FY 2010.
4. The Committee notes that the following are non-discretionary, limited use special revenue funds and will not be impacted by the reductions taken in FY 2010:
 - Court Cost (Consumer Protection) Fund
 - Protection from Abuse Fund
 - Interstate Water Litigation Fund
 - Tobacco Master Settlement Agreement Fund
 - Concealed Weapon Licensure Fund
 - Anti-Trust Special Revenue Fund
 - Crime Victims Compensation Fund
 - Crime Victims Assistance Fund
 - Tort Claims Fund
 - Children's Advocacy Center Funds

OFFICE OF THE ATTORNEY GENERAL

		Priority	Program Reduction	Amount	FUND		Notes
	FY2009	1	2% miscellaneous Gov Rec	\$108,000	SGF	2.02%	SB23 rounded
		2	Shift Consumer funding Gov Rec	\$155,000	SGF	2.90%	SB23 rounded
		3	Shrinkage increase Gov Rec	\$30,000	SGF	0.56%	SB23 rounded
		4	Capital Outlay Gov Rec	\$10,000	SGF	0.19%	SB23 rounded
		5	Victims Srvcs Legislation Gov Rec	\$33,000	SGF	0.62%	SB23 rounded
		6	SB 23 1.25% shrinkage	\$67,000	SGF*	1.25%	SB23 rounded
		7	VOLUNTARY SHRINKAGE 4FTE	\$173,000	SGF Projected*	3.25%	SB23 rounded
			TOTAL	\$576,000		10.80%	

*Projected savings based on temporary shrinkage. The agency manages current vacancies to minimize effects on each division. This balance shifts as other vacancies occur if and where such vacancies can be tolerated.

		Priority	Program Reduction	Amount	FUND		Con't 2011	Notes
SCENARIO #1	FY2010	1	Netsmartz	\$150,000	SGF	2.81%	yes	** See below for effect of reduction
Target 10%		2	Victims Srvcs Legislation RQT	\$120,000	SGF	2.25%	yes	Would not affect core mission functions
		3	4 FTE shrinkage Continued	\$245,000	SGF	4.59%	possible	Temporary reductions.
			TOTAL	\$270,000		9.65%		

**

Attorney General Steve Six strongly supports the Netsmartz program because one of the most effective approaches to combating sexual predators on the internet has been educating internet users, especially youth. NetSmartz is an interactive, educational safety resource from the National Center for Missing & Exploited Children (NCMEC) and Boys & Girls Clubs of America (BGCA) for children aged 5 to 17, parents, guardians, educators, and law enforcement that uses age-appropriate activities to teach children how to be safe on the Internet. Netsmartz safety presentations are given to school children throughout Kansas, enhancing the ability of children to recognize dangers on the internet, encouraging children to report victimization to a trusted adult and enhancing community education efforts.

Based on the FY09 enhancement request, a reduction in the resources allocated to Netsmartz may result in the cutting of 4 Netsmartz trainers that teach the program statewide. The consequence is that 28,000 fewer youth and parents would be served with in-person instruction of educational materials throughout the state.

MEDICAID REVOLVING FUND

SCENARIO #1	2010	1	Special Project Spending	\$50,000	Discretionary Fees	10%	possible
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Target 10%

Senate Subcommittee Report

Agency: Secretary of State **Bill No.** SB **Bill Sec.**
Analyst: Cussimano **Analysis Pg. No.** Vol.- **Budget Page No.** 128

Expenditure Summary	Agency Request FY 2010	Governor's Recommendation FY 2010	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 165,117	\$ 0	\$ 0
Other Funds	7,565,866	7,568,735	(2,050,910)
Subtotal - Operating	<u>\$ 7,730,983</u>	<u>\$ 7,568,735</u>	<u>\$ (2,050,910)</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 7,730,983</u></u>	<u><u>\$ 7,568,735</u></u>	<u><u>\$ (2,050,910)</u></u>
FTE Positions			
FTE Positions	55.0	55.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>55.0</u></u>	<u><u>55.0</u></u>	<u><u>0.0</u></u>

Agency Request

The **agency** requests an FY 2010 budget of \$7.7 million, an increase of \$1.7 million, or 28.0 percent, above the revised current fiscal year estimate. The request includes \$165,117 in State General Fund expenditures. The request would fund 55.0 FTE positions, with one position shifted internally in conjunction with the agency enhancement request. Enhancement funding of \$165,117 and financing for 1.0 FTE position is requested from the State General Fund for work related to the upcoming federal census.

Governor's Recommendation

The **Governor** recommends FY 2010 expenditures of \$7.6 million, an increase of \$1.5 million, or 25.5 percent, above the revised current fiscal year recommendation. The Governor recommends the new census position be funded from available resources and does not recommend State General Fund financing.

Senate Subcommittee Recommendation

The Committee concurs with the Governor's recommendation with the following notations and adjustments:

9-5

1. **Moratorium on Employer Contributions to the State Health Plan.** Add \$83,895, all from special revenue funds, to restore the Governor's recommended deletion to suspend state contributions to the state employee Health Insurance Premium Reserve Fund for all state agencies for seven payroll periods in FY 2010.
2. **KPERS Death and Disability Moratorium.** Add \$7,445, all from special revenue funds, to restore part of the Governor's recommended deletion of funds related to a nine-month moratorium on state contributions to the KPERS Death and Disability Group Insurance Fund for all state agencies. Four months of the Governor's recommended moratorium on KPERS Death and Disability has been accelerated to FY 2009 as a part of House Substitute for Substitute for SB 23, the current year rescission bill. The action still captures five months of savings from the moratorium in FY 2010.
3. Delete \$2,142,910, all from special revenue funds, from the FY 2010 Governor's recommended budget in order to reach a target of 10.0 percent below the FY 2009 Governor's recommendation for agency expenditures in FY 2010.
4. The Subcommittee encourages greater use of electronic filing and the utilization of electronic copies of publications. The Committee requests the agency review the process and look into the changes that would be necessary to make all filings electronic.

Senate Ways and Means
 Information for Budget Subcommittee
 Secretary of State's Office Budget
 FY 2010

6-6

Governor's revised amount 6,029,428
 10% reduction 602,943

Programs that will be reduced or eliminated

- census--eliminate
- administration--reduce expenditures
- business services--reduce expenditures
- elections and legislative matters--reduce expenditures
- uniform commercial code--reduce expenditures

Savings that can be identified and actually realized

		<u>Time frame to implement</u>
eliminate census adjustment (will require change to constitution and state law)	165,117	November 2010
--constitutional duty assigned to the State; State law assigns it to the SOS		
substantially decrease out-of-state travel	25,000	July 1, 2010
decrease storage space in basement of Memorial Hall by one-third	9,700	July 1, 2010
do not purchase PCs and other hardware per our rotation schedule	30,000	July 1, 2010
do not hire temps to help open mail during busy annual report filing season	5,000	July 1, 2010
do not purchase redaction service (to complete redaction of UCC documents)	10,000	July 1, 2010
do not print a complete set of KARs; provide electronically instead--more research is needed	250,000	July 1, 2010
subtotal	494,817	

Number of FTE positions that will be eliminated and associated salary and fringe benefit costs

	salary	fringe	total	
1 full-time clerical (preferably through attrition)	26,645	9,626	36,271	July 1, 2010
2 part-time office assistants	17,368	1,508	18,876	July 1, 2010
4 summer interns	11,584	1,004	12,588	July 1, 2010
do not fill e-government filing position in business services	32,000	9,626	41,626	July 1, 2010
subtotal			109,361	
total			604,178	

Expenditure reductions by funding source

all reductions are from agency fee funds

Description of the impact of the proposed reduction

please see attached

Adjustments that will also realize savings in FY 2011

census adjustment--a savings of approximately 418,000 will be realized in FY 11	418,000
decrease storage space in basement of Memorial Hall	9,700
do not print a KAR <i>supplement</i> ; provide electronically instead	30,000

8-9

Governor's revised amount 6,029,428
additional 5% 301,471

Programs that will be reduced or eliminated

administration--will be reduced
 business services--will be reduced
 elections and legislative matters--will be reduced

Savings that can be identified and actually realized

		<u>Time frame to implement</u>
do not print the Kansas Register; provide electronically instead--more reseach is needed	90,000	July 1, 2010
do not print Session Laws; provide electronically instead (will require law change)--more research needed	85,000	Depends on law change
purchase fewer support and development hours from imaging vendor	7,000	July 1, 2010
postpone purchase of new iSeries computer and server hardware (need partially for redundancy)	50,000	July 1, 2010
do not hire IT consultants/programmers to assist with in-house filing application to improve business filing processes	50,000	July 1, 2010
decrease central mail & overnight mail charges	1,500	July 1, 2010
subtotal	283,500	

Number of FTE positions that will be eliminated and associated salary and fringe benefit costs

	salary	fringe	total	
1 clerical position--change from FT to PT w/benefits	13,323	4,813	18,136	July 1, 2010
subtotal			18,136	

total 301,636

Expenditure reductions by funding source

all reductions are from agency fee funds

Description of the impact of the proposed reduction

see attached

Adjustments that also realize savings in FY 2011

do not print the Kansas Register; provide electronically instead	90,000
do not print Session Laws; provide electronically instead (will require law change)	85,000
decrease central mail & overnight mail charges	1,500

Secretary of State's Office
February 16, 2009

10% Reduction

Description of the impact of the proposed reduction

1. Eliminate census adjustment – Redistricting of the Kansas Senate, Kansas House and Kansas State Board of Education would take place using unadjusted federal census figures. Kansas is currently the only state that uses adjusted federal census figures to redistrict state legislative boundaries.
2. Substantially decrease out-of-state travel – Several employees serve as members of national groups chartered to monitor trends and propose revisions in matters that pertain to the office such as: elections administration, notaries public and commercial business administration. A substantial reduction in travel could weaken the ability of employees to remain current in their areas of expertise as well as reduce the likelihood of leadership in some matters. However, employees could expand their efforts to stay current and relevant by using less expensive (non-travel) means of communication.
3. Decrease storage space in basement of Memorial Hall by one-third – Recent document imaging efforts have reduced the agency's need for physical storage space. It may be difficult for the department of administration to back fill this type of space.
4. Do not purchase PCs and other hardware per rotation schedule – The agency adopted a 3 – 4 year rotation schedule to keep pace with technological changes. The temporary suspension of this policy should not have a dramatic impact in the near-term on standard business operations.
5. Do not hire temps to help open mail during busy annual report filing season – The agency typically receives 40,000 – 50,000 annual reports through the mail every March/April. Temporary workers allow us to process these documents in a more timely fashion for our customers. Not hiring temporary help would require that existing full-time employees devote more time to completing this task. We would not expect this to cause a significant delay in processing time or a substantial drop in customer satisfaction.
6. Do not purchase redaction service for UCC documents – There are UCC documents online that contain personally identifiable information (PII). These documents are currently only accessible through a paid subscription account. However, the agency is dedicated to removing all PII as soon as possible. In lieu of contracting with a redaction service, existing agency staff may be assigned to complete this important project.
7. Do not print the complete set of KARs; provide electronically instead – We are researching this issue. KARs are currently available in electronic and hard copy format; although, the electronic version is not the quality we desire. This cost saving idea is based on the premise that KARs will be only be distributed electronically.

Secretary of State's Office

Additional 5% Reduction

Description of the impact of the proposed reduction

1. Do not print the Kansas Register; provide electronically instead – The Register is currently available in both electronic and hard copy formats. Initially, free distribution would be done electronically with a goal of eliminating the hard copy option for paying customers and those receiving free distribution. More research needs to be completed before a final decision is made.
2. Do not print Session Laws; provide electronically instead (will require law change) – The Session Laws are now available in both electronic and hard copy format. This cost saving idea presumes all Session Laws will be distributed electronically. Again, additional research needs to be done.
3. Purchase fewer support and development hours from imaging vendor – Support and development hours are purchased to help agency personnel solve problems with the system when they arise, and construct improvements to the system when necessary. A reduction in these hours could mean an increase in the time needed to solve problems with the system, and a decrease in improvements to the system.
4. Postpone purchase of new iSeries computer and server hardware (need partially for redundancy) – Our current iSeries was purchased in 2003. Postponing the purchase would cause delay in obtaining the level of security and redundancy we prefer. However, current disaster recovery procedures (including the creation of daily back-up tapes) will continue to be implemented.
5. Do not hire IT consultants/programmers to assist with in-house filing application to improve business filing processes – In our smaller IT shop, broad-based general knowledge is often more coveted than highly specialized knowledge. It is occasionally more advantageous for us to contract with specialists when completing highly technical projects. Not hiring IT consultants/programmers to assist us in renovating our in-house business filing process would necessitate existing IT staff acquire additional skills and slow the completion of the project.

Senate Subcommittee Report

Agency: Kansas Insurance Department **Bill No.** SB

Bill Sec.

Analyst: Dear **Analysis Pg. No. Vol.-**

Budget Page No. 115

Expenditure Summary	Agency Request FY 2010	Governor's Recommendation FY 2010	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	24,772,709	24,008,261	(1,094,001)
Subtotal - Operating	\$ 24,772,709	\$ 24,008,261	\$ (1,094,001)
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	125,325	125,325	0
Subtotal - Capital Improvements	\$ 125,325	\$ 125,325	\$ 0
TOTAL	\$ 24,898,034	\$ 24,133,586	\$ (1,094,001)
FTE Positions	143.4	143.4	(5.0)
Non FTE Uncl. Perm. Pos.	3.5	3.5	0.0
TOTAL	146.9	146.9	(5.0)

Agency Request

The **agency** requests budget year operating expenditures of \$24,772,709, an increase of \$212,854, or 0.9 percent, above the FY 2009 revised estimate. The request is completely funded by special revenue funds.

Governor's Recommendation

The **Governor** recommends FY 2010 operating expenditures of \$24,008,261, an increase of \$90,750, or 0.4 percent, above the FY 2009 Governor's recommendation. The recommendation is \$764,448, or 3.1 percent, below the FY 2010 agency request.

The Governor's recommendations would further reduce salaries and wages by \$497,961 and transfer the savings to the State General Fund. The Governor also recommends a seven pay period moratorium on state contributions to the Kansas Public Employee Retirement System (KPERs) Death and Disability Fund and the Health Insurance Premium Reserve Fund for a savings of \$266,487 and that the savings be transferred to the State General Fund. The Governor further recommends that anticipated transfers from the State General Fund to the Workers's Compensation Fund of \$1.0 million in FY 2010 be halted.

9-11

Senate Subcommittee Recommendation

The **Committee** concurs with the Governor's recommendation with the following recommendations and notations:

1. **Moratorium on Employer Contributions to the State Health Plan.** Add \$221,354, all from Special Revenue Funds, to restore the Governor's recommended deletion to suspend state contributions to the state employee Health Insurance Premium Reserve Fund for all state agencies for seven payroll periods in FY 2010. The employer health insurance moratorium has been accelerated to FY 2009 as part of House Substitute for Substitute for SB 23, the current year recision bill.
2. **KPERS Death and Disability Moratorium.** Add \$20,060, all from Special Revenue Funds to restore part of the Governor's recommended deletion of funds related to a nine-month moratorium on state contributions to the KPERS Death and Disability Group Insurance Fund for all state agencies. Four months of the Governor's recommended moratorium on KPERS Death and Disability has been accelerated to FY 2009 as part of House Substitute for Substitute for S.B. 23, the current year recision bill. The action still captures five months of savings from the moratorium in FY 2010.
3. Delete \$1,335,415, all from special revenue funds, from the FY 2010 Governor's recommended budget in order to reach a target of 10.0 percent below the FY 2009 Governor's recommendation for agency expenditures in FY 2010.
4. Reduce the number of approved FTE positions at the Kansas Insurance Department by 5.0 positions to properly reflect current wage and salary funding levels.
5. Delay the transfer of \$1.0 million from the State General Fund to the Workers Compensation Fund to FY 2012. The transfer was scheduled to occur in FY 2010. The Committee further recommends a review of the transfer prior to June 30, 2013.
6. Accept the Kansas Insurance Department recommendation to suspend transfers from the State General Fund to the Insurance Department Service Regulation for premium tax receipts in the State of Kansas. Such an action will require a substantive law amendment temporarily suspending KSA 40-112(b). Premium tax revenues are used for the general operations of the Kansas Insurance Department.



SUBCOMMITTEE REPORT ATTACHMENT Kansas Insurance Department

1. **Rules and Regulations** - Per the request of the Senate Ways and Means Budget Subcommittee, the Insurance Department is reviewing all rules and regulations back to 2006, where comments have been requested. Our Legal Department contacted Legislative Research regarding this issue. The Department will work with the Rules and Regulations Committee to ensure that comments, where requested, are provided. All future requests for comments will receive a written response.
2. **“What-If” List of 10% Reductions to the FY 2009 Governor’s Recommendations**

Firefighters Relief Program

- Reduce \$7,000 from contractual services. This program has another \$10.0 million in aid to approximately 580 firefighter districts. However, these funds were not considered by the Insurance Department as part of the proposed 10% reductions.
Impact: The Administrator of the Firefighter Relief Program would curtail all travel. He assists the various districts with preparing the statutorily required financial reports which qualifies them to receive their districts share of the annual distribution.

Regulation Program

The Governor’s recommendation for salaries and wages in this program, which houses positions that carry-out functions of licensing, market conduct review, consumer protection and financial surveillance have been drastically reduced by the Governor and will force us to find force cuts of more than \$600,000. We cannot incur additional reductions in this category and perform our responsibilities to Kansas consumers.

- Reduce \$40,000 from contractual services. The Governor’s FY 2009 recommendation for contractual services in the Regulation Program is already \$75,000 less than actual FY 2008 expenditures.
Impact: The Department would continue reducing costs associated with out-of-state travel, printing, mailing and other contractual services.
- Reduce \$81,000 from capital outlay purchases.
Impact: No computer purchases or furniture or equipment placement would occur. Broken furniture would not be replaced and a computer replacement schedule would have to be re-worked which would result in higher replacement costs in future years.

Company Examination Program

- Reduce \$100,000 by abolishing 1.0 FTE company examiner position (\$80,000 with fringes) and \$20,000 in related operating expenses.

Impact: Kansas law requires that domestic companies be inspected at a minimum of once every five years and HMOs once every three years. We have a small staff that must meet these requirements. If there are issues of solvency or other problems, exams are more frequent to guard against insolvencies. The goal of this program is to ensure the financial solvency of companies to ultimately protect our state's business climate and Kansas consumers.

Workers Compensation Program

- Reduce \$25,000 administrative costs. **Impact:** Eliminate staff time associated with imaging paper documents and profiling those documents for more efficient retrieval and use.

- Reduce \$500,000 from contractual services and commodities.

Impact: This is a major expenses category. The proposed reduction represents roughly one-fourth of total payments related to payments to fund attorneys, injured workers physicians, hospitals, nursing homes and rehabilitation services. We could delay payments or apply a percentage reduction to payments as they are processed. As with the Firefighters Relief Program, we "held harmless" and do not propose a reduction to the compensation that is paid to injured and disabled workers.

- Reduce \$300,000 from expenses associated with reimbursing insurance companies who paid claimant expenses and should not have done so. Additionally, we would not repay the state's self-insurance fund for reimbursable expenses.

*Capital Improvements Program

* We realize that these expenditures are not under the purview of the budget subcommittee; however, as part of our meeting the 10% cuts, we would:

- Reduce \$30,000 from our repairs budget.

Proposed Revenue Adjustment: Suspend for One Year, the 1.0% of Premium Tax Collections that is Transferred to the Regulation Fee Fund

- Legislature could opt to suspend the transfer of approximately \$1.0 million that is transferred each year to the Insurance Department Regulation's Fee Fund from the State General Fund. *KSA 40-112(b)*.

Senate Subcommittee Report

Agency: State Treasurer

Bill No. SB

Bill Sec.

Analyst: Tang

Analysis Pg. No. Vol.-

Budget Page No. 139

Expenditure Summary	Agency Request FY 10	Governor's Recommendation FY 10	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 0	\$ 0	0
Other Funds	4,426,594	4,093,116	(295,836)
Subtotal - Operating	<u>\$ 4,426,594</u>	<u>\$ 4,093,116</u>	<u>\$ (295,836)</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 4,426,594</u></u>	<u><u>\$ 4,093,116</u></u>	<u><u>\$ (295,836)</u></u>
FTE Positions	55.5	55.5	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>55.5</u></u>	<u><u>55.5</u></u>	<u><u>0.0</u></u>

Agency Request

The **State Treasurer** requests FY 2010 operating expenditures of \$4,426,594, a decrease of \$43,568, or 1.0 percent below the FY 2009 revised estimate. The request includes \$767,773 for the Pooled Money Investment Board. The request includes \$50,000 from the State General Fund for marketing and administering the KIDS Matching Grant Program.

Governor's Recommendation

The **Governor** recommends FY 2010 operating expenditures of \$4,093,116, a decrease of \$126,084, or 3.0 percent below the FY 2009 recommendation, and a decrease of \$333,478, or 7.5 percent below the agency's request. The Governor does not recommend the \$50,000 from the State General Fund for marketing and administering the KIDS Matching Grant Program. The Governor's recommendation includes \$754,526 for the Pooled Money Investment Board (PMIB), a decrease of \$13,247, or 1.7 percent below the PMIB's FY 2010 request. The Governor also recommends transferring the savings from the moratoriums on state contributions to KPERs death and disability and State Employee Health Insurance, totaling \$89,864, to the State General Fund. The Governor recommends transferring \$171,463 from the special revenue funds to the State General Fund, including \$30,710 from the PMIB Fee Fund to the State General Fund.

9-15

Senate Subcommittee Recommendation

The **Senate Subcommittee** concurs with the Governor's recommendation with the following recommendations and notations:

1. **Moratorium on Employer Contributions to the State Health Plan.** Add \$75,124, all from special revenue funds, to restore the Governor's recommended deletion to suspend state contributions to the state employee Health Insurance Premium Reserve Fund for all state agencies for seven payroll periods in FY 2010. The employer health insurance moratorium has been accelerated to FY 2009 as part of House Substitute for Substitute for S.B. 23, the current year recision bill.
2. **KPERS Death and Disability Moratorium.** Add \$6,551, all from special revenue funds, to restore part of the Governor's recommended deletion of funds related to a nine-month moratorium on state contributions to the KPERS Death and Disability Group Insurance Fund for all state agencies. Four months of the Governor's recommended moratorium on KPERS Death and Disability has been accelerated to FY 2009 as part of House Substitute for Substitute for S.B. 23, the current year recision bill. The action still captures five months of savings from the moratorium in FY 2010.
3. Delete the transfer of \$171,463 from all special revenue funds to the State General Fund for FY 2010. This is the amount of savings created by a 3.0 percent budget reduction in the Governor's recommendation and will now remain in the agency's fee fund.
4. Delete \$377,511, all from special revenue funds, to achieve the target reduction of 10.0 percent below the Governor's FY 2009 recommendation. The State Treasurer will reduce its FY 2010 budget by \$316,593, and the Pooled Money Investment Board will reduce its FY 2010 budget by \$60,918. The Subcommittee has given latitude to the State Treasurer and the PMIB to achieve the reductions without negatively impacting vital operations.
5. Delete the No Limit on expenditures for the Kansas Postsecondary Education Savings Program Trust Fund and replace with \$0.
6. The Subcommittee commends the State Treasurer for receiving an "A" ranking, the highest in the country, from the Council on State Taxation, for the state's laws and regulations governing unclaimed property.
7. The Subcommittee commends the Pooled Money Investment Board for receiving an AAf/S1+ rating from Standard & Poor's, which is the highest possible rating for a government investment pool.

Senate Subcommittee Recommendation Attachment

The **Senate Subcommittee** recommends reducing \$316,593 from the FY 2010 budget in order to achieve the target reduction of 10.0 percent below the Governor's FY 2009 recommendation. The **State Treasurer** has identified the following areas for reductions, in priority order:

1. \$29,869 - Reduce the expenditure limitation of the State Treasurer Operating Fund.
2. \$243,000 - Reduce Linked Deposit Program cost via passage of 2009 HB 2331.
3. \$2,200 - Reduce agency copier contract.
4. \$7,300 - Reduce contract performance audit fees via passage of 2009 HB 2265. The bill would change the audits on financial management practices of the State Treasurer and the Pooled Money Investment Board from once a year to once every three years. However, basic financial compliance audits would continue every year.
5. \$2,300 - Eliminate conference attendance for Unclaimed Property and Cash Management programs. This would restrict the staff's ability to network with other states and meet with banking and software industry representatives.
6. \$30,000 - Freeze 1.0 FTE position in the Bonds Services Division. This would affect the timeliness and accuracy of bond servicing. The State Treasurer would not have the personnel available to be cross-trained or to provide the necessary "separation of duties."
7. \$5,000 - Reduce advertising for the LearningQuest 529 Program and the KIDS Matching Grant Program. This would reduce the contractor's ability to reach potential plan participants.
8. \$7,400 - Reduce Unclaimed Property holder and claimant outreach. This would restrict the Unclaimed Property Division's ability to educate holders about unclaimed property.
9. \$16,502 - Reduce contracted fees and services. These are critical contracts and agreements that affect the core agency functions, such as software licenses, communications with DISC, contract banking fees, securities' pricing fees, and the new accounting system assessments.

The **Senate Subcommittee** recommends reducing \$60,918 from the FY 2010 budget in order to achieve the target reduction of 10.0 percent below the Governor's FY 2009 recommendation. The **Pooled Money Investment Board** has identified the following areas for reductions, in priority order:

1. \$53,736 - Keep the Accountant IV position unfilled for eight months of FY 2010. The PMIB staff would be temporarily reduced from six to five FTE, and the reduction would result in impaired customer response time and less effective management of the State's idle fund balances.
2. \$7,400 - Reduction in fees for professional services. This assumes no performance audit fees are paid in FY 2010, dependent on the passage of 2009 HB 2265.