

SESSION OF 2006

SUPPLEMENTAL NOTE ON SENATE BILL NO. 327

As Amended by Senate Committee of the Whole

Brief*

SB 327 would create the Office of Inspector General (OIG) within the Kansas Health Policy Authority (KHPA). The OIG would be responsible for the oversight, auditing, investigation and performance review of the state Medicaid program, the MediKan program, and the State Children's Health Insurance Program (SCHIP).

Inspector General

The Inspector General (IG) would be appointed by the Attorney General in the unclassified service and have demonstrated knowledge, skills, abilities, and experience in conducting audits and investigations and will be familiar with the programs subject to oversight by the OIG. The IG would be required to hold, at the time of appointment or within one year after appointment, certification as an inspector general from a national organization that provides training to inspectors general. However, no former or current executive or manager of a program or agency subject to OIG oversight could be appointed as IG within two years of their service with that program or agency. The term of service for the first IG will expire on January 15, 2009. Thereafter, each IG will serve a term that will expire on January 15 of each year in which the whole senate is sworn in for a new term.

The IG may be removed from office by the Attorney General only for just cause, and must communicate those reasons to the Legislature within five days of such removal. The Legislature may remove the IG if it adopts a concurrent resolution expressing lack of confidence in the IG's ability to adequately fulfill the duties of the office.

OIG Operations

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Budget requests by the OIG would be made to the governor and to the Legislature. Compensation for the IG would be determined by law, but may not be diminished during the IG's term of service. The IG may hire staff as necessary, within appropriations, to perform the functions of the office. The IG would not be subject to direction by an other executive or legislative branch officer or agency.

Investigations

The bill would give the IG access to all pertinent information confidential or otherwise, and all personnel and facilities of the KHPA, employees, vendors, contractors, health care providers, and federal, state and local agencies that are necessary to perform the duties of the office as directly related to programs administered by the KHPA. Access to contractor files would be limited to those files necessary to verify the accuracy of the contractor's invoices or its compliance with the contract provisions. However, no health care provider would be compelled to provide individual medical records of patients who are not clients of the medical assistance program. The OIG may subpoena witnesses, and production of books, electronic records and papers directly related to KHPA administered programs, with the exception of individual medical records of persons who are not clients of the KHPA. While the scope of the audit is to be determined by the IG, the OIG would be required to comply with all provisions of Generally Accepted Government Auditing Standards (GAGAS).

If the OIG determines that a possible criminal act relating to fraud, the OIG would immediately notify the Office of the Kansas Attorney General. The OIG may request the Kansas Bureau of Investigation involvement, if within its jurisdiction. The inspector general may present for prosecution the findings of any criminal investigation to the Office of the Attorney General or the Office of the United States Attorney in Kansas.

Reporting

The bill would require the IG to report to the KHPA, and appropriate licensure or regulatory agencies, all convictions, terminations and suspensions against service providers. In addition, the IG would give an annual report of findings on fraud waste and abuse to the Legislature, post auditor, the Legislature and the Governor.

Recommendations

The OIG may make recommendation of the KHPA, Governor and Legislature on changes in the law, rules and regulations, or policy and procedures to carry out the law or improve program efficiency without prior approval of any other official or the authority.

Reports of Fraud

The OIG would be required to solicit and receive reports of fraud from anyone who has the information, without disclosure of the person's identity without written consent. The information is confidential, and would not be disclosed or made public unless it would not result in identification of the person, the person consented to in writing to the disclosure, it was necessary to protect public health, or it was required in court or administrative proceeding, with identity protection provisions

In addition, the bill would add the OIG to both the Kansas Whistle Blower Act and the Confirmations Oversight statutes.

Background

SB 327 was recommended by the 2005 Special Committee on Medicaid Reform.

Senator Derek Schmidt spoke in support of the bill.

The Senate Committee on Ways and Means changed appointment authority for the OIG from the Governor to the Attorney General and amended the language applying to the purpose and requirements for the OIG. In addition, the Committee changed removal authority from the Governor to the Attorney General and change the language "for cause" to "for just cause." The Committee limited the scope of the OIGs review from all programs administered by the Health Policy Authority to the Medicaid, MediKan, SCHIP, and State Employees Health Insurance Programs. The Committee also added language limiting review of contractor files to a review for accuracy of invoices and contract compliance.

The fiscal note on the original bill states that the \$75,000 would be needed from the State General Fund to finance 1.0 new FTE position. The FY 2007 Governor's Budget Report includes funding in this amount for an Inspector General within the Kansas Health Policy Authority. The fiscal note also states that additional funding would be necessary if additional personnel were hired.

The Senate Committee of the Whole amended the bill to remove the State Employees Health Insurance Program from the scope of the OIG's Review.