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Bob L. Corkins, Director

Sam Brownback, Governor

March 10, 2016

House Judiciary Committee
Kansas Statehouse, Room 112-N
300 SW 10th Street
Topeka, KS 66612

Re: Testimony of Dir. Bob Corkins on SB 19 – OAH is Proponent
Hearing scheduled for March 14, 2016

Honorable Chair and Members of the Committee,

The Office of Administrative Hearings (OAH) is eager to embark on the reform enabled by SB 19 and encourages your support for its enactment. This bill was drafted by the Kansas Judicial Council and was introduced at its behest. This year it passed the Senate on a unanimous 40-0 vote. A nearly identical proposal (2014, HB 2466) passed the House two years ago on a vote of 118-2. Electronic filing is now commonplace in federal courts, will soon be widely used in all Kansas district courts, and it is time for state administrative proceedings to join this trend.

The assurance of Due Process rights require a lot of documentation, traditionally in the form of paper. Papers routinely document whether notice was provided and whether opposing parties were each given an opportunity to be heard -- and of course they also record the substance of what the parties argue. Today, the historical reliability and other benefits of paper are matched or exceeded by those of digital communication modes that are faster and cheaper. That is why SB 19 is now before you.

Due Process is what OAH is all about. My staff and I provide the "fair hearing" process by which thousands of Kansans contest the decisions of state agencies. We also provide the forum in which thousands of private parties seek administrative remedy for alleged wrongs by other private parties. And in most of these cases, parties need to exhaust their administrative remedies before they can resort to the district courts. My reason for this cursory backdrop is to highlight the importance of providing good access for all Kansans -- in most cases without attorneys -- to seek resolution of their disputes with civility.

Electronic filing will improve the public's accessibility to administrative hearings, making legal procedures more user-friendly. For example, today a given party might need to make three photocopies of a 100-page document to submit as evidence, then buy postage to send it to everyone in advance of their hearing. The alternative would be a simple online uploading of a PDF attachment that is available to opposing parties and the

hearing officer at the same time. E-filing will reduce costs of time, paper and postage for everyone involved in the process.

The degree to which the state will realize savings depends on a few key factors. First, there is the matter of technology rollout. This is not indicated by the bill's text, but OAH and other state agencies must assure that their electronic transmissions to private parties will be secure and confidential. Following the prudent lead of the Judiciary, our secure environment will take the form of a public Internet portal to which parties will log-in to post their case filings or obtain copies of documents filed by other parties or the assigned hearing officer. The system would also send email alerts to notify all parties of newly filed documents.

OAH will bear the cost of implementing such a system and we have determined that we can do so within our currently budgeted resources, but it will take some time that delays the bill's advantages.

The second major factor affecting savings will be the degree to which parties consent to use E-filing. SB 19 does not mandate the electronic mode upon anyone. It is a safe assumption that all state agencies will consent to use E-filing, but OAH will need to work closely with state agencies to provide a standardized consent form for private parties to utilize. Most critically, the consent documents must include the party's agreement about what will constitute a completed legal service of process.

To budget this project within existing resources, OAH has already started modernizing our database management systems. We have also received guidance from OITS and some state agencies that are embarking on nearly identical projects. That input has strongly reinforced OAH's assessment that our next phase of acquiring a quality vendor to build the public Internet portal and connect it with our OAH database can be done economically within about one year from now.

Thank you for your time and consideration.

Sincerely,



Bob L. Corkins, Director
Office of Administrative Hearings