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Bob L. Corkins, Director

Sam Brownback, Governor

January 16, 2015

Senate Judiciary Committee
Kansas Statehouse, Room 346-S
300 SW 10th Street
Topeka, KS 66612

Re: Testimony of Dir. Bob Corkins on SB 19 – OAH is Proponent
Hearing scheduled for January 22, 2015

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. Electronic filing is now commonplace in federal courts, is operational in some Kansas district courts, and it is time for state administrative proceedings to join this trend.

The assurance of Due Process rights typically require a lot of documentation; traditionally meaning paper. Papers 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 had to argue. Today, the historical reliability and other benefits of paper are matched or exceeded by those of digital communication modes. 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 protest 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 encrypted in order to be confidential and secure. 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 could 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.

The second major factor affecting savings will be the degree to which private individuals consent to use E-filing. SB 19 does not mandate the electronic mode upon anyone. Each state agency will therefore need to supply its consent and obtain the E-filing consent from constituents who want to assert their administrative claims. OAH will need to work closely with state agencies to prepare a standardized consent form. Most critically, the consent documents must include the party's agreement about what will constitute a completed legal service of process.

If SB 19 is enacted, OAH will closely monitor its affects on our operation and report next year with a savings analysis as far as OAH is directly concerned. To budget this project within existing resources, we would start our work as soon as this bill is passed and gradually implement the changes in order to "go live" within the next 12 months. Then, a few months after the public system launch, OAH will be able to reliably report and project its savings with this initiative.

Thank you for your time and consideration.

Sincerely,



Bob L. Corkins, Director
Office of Administrative Hearings