

Held in Room 519 S, at the Statehouse at 10:00 a. m. ~~p.m.~~, on February 16, 19 79.

All members were present except: Senator Gaar

The next meeting of the Committee will be held at 10:00 a. m. ~~p.m.~~, on February 19, 19 79.

~~These minutes of the meeting held on xxxxxxxxxxxxxxxxxxxxxxxxx, 19xx were considered, corrected and approved~~


Chairman

The conferees appearing before the Committee were:

- Max Moses - Kansas County and District Attorneys Association
- Mike Malone - Douglas County District Attorney
- Geary N. Gourp - Butler County Attorney
- Philip E. Winter - Lyon County Assistant County Attorney
- Leonard J. Dix - Rooks County District Attorney
- Captain Howard H. Docker - Kansas Highway Patrol
- Tom Haney - Attorney General's Office
- Thomas Kelly - Kansas Bureau of Investigation
- Elaine Esparza - Governor's Committee on Criminal Administration
- Chief Fred Howard - Topeka Police Department
- Bob Tilton - Kansas Sheriffs' Association
- Ken Gormas - Topeka Police Department
- Gene Olander - Shawnee County Attorney

Staff present:

- Art Griggs - Revisor of Statutes
- Jerry Stephens - Legislative Research Department
- Wayne Morris - Legislative Research Department

Senate Bill No. 171 - Optional statewide district attorney plan.
Senator Hein, one of the authors of the bill, explained the bill. The other author of the bill, Senator Hess, distributed a copy of the fiscal note, which is attached and explained it. The authors indicated that the bill, by setting up a statewide district attorneys program, would provide for better prosecution. It also would provide for a shifting to the state from local units some of the cost involved.

Max Moses testified in support of the bill, and distributed a packet in support of it, a copy of which is attached. Included in the packet were suggested amendments to the bill to provide for a local option election; to provide the phasing in of state funding; and to provide a different manner of determining the pay scale and budget for the profession staff of the district attorneys office. He stated the current system forces inexperienced prosecutors to go up against very experienced defense attorneys.

Mike Malone, the Douglas County District Attorney, spoke in support of the bill. He stated that going to the district

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the Senate Committee on Judiciary February 16, 1979.

SB 171 continued --

attorney system was very beneficial for Douglas County.

Gary Gourp testified in support of the bill, pointing out the need for specialized prosecution talents. He stated that salaries have to be large enough to retain attorneys in the system, but he does not feel they need to be as high as that of a district judge. He suggested a salary of \$25,000. Committee discussion with him followed. He stated Illinois mandates the district attorney system in counties whose population exceeds 30,000.

Phil Winter, Assistant County Attorney in Lyons County, testified in support of the bill. He related the large turnover that there is among county attorneys and their staffs. Committee discussion with him followed.

Leonard Dix, from Stockton, Kansas, also testified in support of the bill. He related his embarrassment as an inexperienced prosecutor in his first jury trial against a very experienced defense attorney. Committee discussion with him followed.

Howard H. Docker of the Kansas Highway Patrol testified in support of the bill. A copy of his statement is attached.

Tom Haney, an Assistant Attorney General, testified in support of the bill.

Tom Kelly, Director of the Kansas Bureau of Investigation, testified that from the law enforcement point of view, his department certainly supports this concept.

Elaine Esparza, from the Governor's Committee on Criminal Administration, spoke in support of the bill.

Topeka Police Chief Fred Howard, President of the Kansas Peace Officers Association, testified that his association is in full support of the bill.

Bob Tilton, of the Kansas Sheriffs' Association, testified in support of the bill. He related the bad morale problem sheriffs are experiencing, and related that Kansas has lost 22 sheriffs in the last 22 months.

Ken Gormas, of the Fraternal Order of Police, spoke in support of the bill. He stated the passage of the bill would be a morale boost for police officers throughout the state.

Gene Olander testified in support of the bill. He stated it is important that the legislature make a philosophical commitment for the professional prosecutor's office. He stated experienced prosecutors are hard to find.

The meeting adjourned.

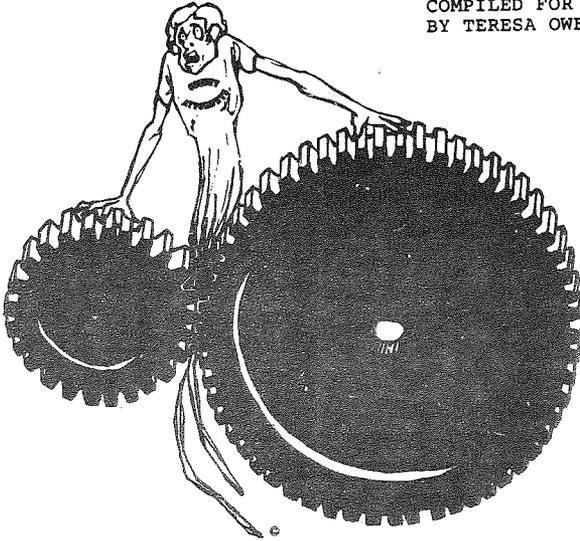
These minutes were read and approved by the committee on _____.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Richard Pellegrino	317 W. 14 th , Topeka	
Peter Rinn	S O B	SRS
Bob Jello	Topeka	K.S.A.
David Day	Lawrence	San Hein
Ken Thomas	Topeka	Topeka Police Dept.
Thomas E. Kelly	Topeka	19 BT
Tom HANEY	Topeka	A. G.
Maeta Hade	"	Dad's Counselor
Fred Howard	Topeka	Topeka P. D.
Elaine Egan	Topeka	BCCA
Max Moss	Topeka	KCDAA
Capt. Howard Hoken	Topeka	K.A.P.
Geary N. Goup	El Dorado	Butler County Attorney
Leonard J. Dix	Stockton	Rooks County
Philip E. Winter	Emporia	Lyon Co. Dist. Co. Atty.
Mike Malone	Lawrence, KS	Douglas County Dist. Atty.
Jim Clark	Topeka	Shawnee City Atty.
A. N. Wilson	Topeka	

COMPILED FOR KCDAA
BY TERESA OWEN (1975)



BY KANSAS LAW, IN ADDITION TO BEING THE COUNTY'S CHIEF LAW ENFORCEMENT OFFICER, A COUNTY ATTORNEY IS:

1. a fertilizer inspector (KSA 2-1208A)
2. an anhydrous ammonia inspector (KSA 2-1219)
3. a weed control supervisor (KSA 2-1316)
4. a legal advisor for district supervisors (KSA 2-1907)
5. an agricultural chemicals advisor (KSA 2-2206)
6. a chemical crop damage counsel (KSA 2-2424)
7. a crop spraying apparatus inspector (KSA 2-2433)
8. an insecticide damage inspector "
9. a chemical storage inspector "
10. a pesticide sampler "
11. an inspector of architect's licenses (KSA 6-217)
12. a legal intern supervisor (S. Ct. RULE 215)
13. a driver's license revoker (KSA 8-286)
14. a franchise and corporation dissolver (KSA 8-605)
15. an anti-freeze inspector (KSA 8-906)
16. a seizer of illegal anti-freeze (KSA 8-907)
17. a corporation inspector (KSA 9-512)
18. a Bank or trust company policeman (KSA 9-1711)
19. an abstract & title examiner (KSA 12-401)

Kansas County & District Attorneys Association



20. a city addition advisor (KSA 12-403)
21. a contract bid authority (KSA 12-651)
22. a Special Law Enforcement fund planner (KSA 12-11A02)
23. a preventer of unlawful allowances (KSA 13-534)
24. a judge (KSA 17-1267)
25. a telegraph line inspector (KSA 17-1911)
26. a corporate tax examiner (KSA 17-7509)
27. a defense attorney (KSA 19-106)
28. a surety bond examiner (KSA 19-214)
29. an appeals notice receiver (KSA 19-224)
30. a recoverer of unauthorized fees (KSA 19-232)
31. a county counselor (KSA 19-247)
32. a tax forecloser (KSA 19-248)
33. a petition filer (KSA 19-255)
34. a protector of the public purse (KSA 19-618)
35. a county auditor's aid (KSA 19-624)
36. a private practitioner (KSA 19-705)
37. an office manager (KSA 19-706B)
38. a receipt giver (KSA 19-712)
39. a grand jury examiner (KSA 19-713)
40. an election examiner (KSA 19-714)
41. a county auditor (KSA 19-716)
42. an autopsy requester (KSA 19-1033)
43. a condemnation agent (KSA 19-1806)
44. a jail inspector (KSA 19-1902)
45. a property finder (KSA 19-2625)
46. a sanitation inspector (KSA 19-3707)
47. a dissolver of industrial land districts (KSA 19-3806)
48. a surety contract approver (KSA 19-4205)
49. a member of the county law enforcement agency (KSA 19-4404)
50. an appointer of the above (KSA 19-4404)
51. a meeting room supervisor for the above (KSA 19-4405)
52. a hirer of stenographers (KSA 20-2018)
53. an exhumers of dead bodies (KSA 21-914A)
54. a remover of Law Enforcement Officers (KSA 21-1801)
55. a counsel to the Attorney General (KSA 21-2504A)
56. a corporate law prosecutor (KSA 21-2804)
57. a statement signer (KSA 22-2202 10)
58. a representative of the state (KSA 22-2202 19)
59. a wire tapper (KSA 22-2515 1)

60. a federal record keeper for wire taps (KSA 22-2519)
61. an inquisitioner (KSA 22-3101)
62. a self incrimination immunity grantor (KSA 22-3102)
63. a testimony filer (KSA 22-3103)
64. a signer of information (KSA 22-3201)
65. a punishment immunity grantor (KSA 22-3415)
66. an informant to Probation & Parole Boards (KSA 22-3432)
67. a nuisance enjoiner (KSA 22-3902)
68. a financial investigator (KSA 22-4504)
69. an assistant to the Attorney General (KSA 22-4513)
70. a marriage law enforcer (KSA 23-111)
71. a drainage advisor (KSA 24-120)
72. a nominee evaluator (KSA 25-308)
73. a contested elections counsel (KSA 25-1415)
74. a fire law enforcer (KSA 31-138)
75. a fire regulation enjoiner (KSA 31-150A)
76. a grain storage inspector (KSA 34-111)
77. a hotel, lodging and restaurant inspector (KSA 36-123)
78. a neglected child protector (KSA 38-807)
79. a juvenile court aid (KSA 38-815E)
80. a parent law enforcer (KSA 38-830)
81. a paternity plaintiff's counsel (KSA 38-1103)
82. a fireman's fund recoverer (KSA 40-1706)
83. a public nuisance preventer (KSA 41-806)
84. a liquor license revoker (KSA 41-901)
85. a night club enjoiner (KSA 41-263)
86. a water drainage protector (KSA 42-3,105)
87. an artesian well authority (KSA 42-427)
88. a labor law enforcer (KSA 44-400)
89. an employment practices enforcer (KSA 44-1011)
90. a protector from discrimination (KSA 44-1022)
91. a commission information receiver (KSA 46-259)
92. a legislative post audit committee witness (KSA 46-1110)
93. a declarer of state emergencies (KSA 48-1801)
94. a mine shaft inspector (KSA 49-234)
95. a recover of civil penalties (KSA 50-636)
96. a gas well inspector (KSA 55-304)
97. a seizer of contraband (KSA 55-517)

98. a corporation commission enforcer (KSA 55-608)
99. an Oil & Mineral Water Law enforcer (KSA 55-1007)
100. a sanity evaluator (KSA 59-2917)
101. a care & treatment aid to the mentally ill (KSA 59-2940)
102. an administerer of oaths (KSA 60-1208)
103. a nursing care fee collector (KSA 65-225)
104. a brand inspector (KSA 65-646)
105. a dead body embalmer (KSA 65-1707)
106. a suspender of medical licenses (KSA 65-2838)
107. an examiner of alcoholics (KSA 65-4036)
108. a train crossing guard (KSA 66-2,120)
109. a road bond approver (KSA 68-521)
110. an engineering contract advisor (KSA 68-521)
111. a contract endorser (KSA 68-1117)
112. a contract examiner (KSA 68-1118)
113. a protector of state property (KSA 70A-104)
114. a school lands appeals counsel (KSA 72-2134)
115. a recoverer of criminal penalties (KSA 72-4935)
116. a Law Enforcement Advisory Commissioner (KSA 74-5606)
117. a defender of county officials (KSA 75-4356)
118. a remover of public officials (KSA 46-243)
119. a tax collector (KSA (KSA 79-320)
120. a remover of public officials (KSA 46-243)
121. a remover of register of deeds (KSA 79-421)
122. an enjoiner of contracts (KSA 79-1010)
123. a property valuation authority (KSA 79-1404)
124. a corrector of fraudulent tax returns (KSA 79-1433)
125. a recoverer of unauthorized tax expenditures (KSA 1703)
126. a real estate salesman (KSA 79-2802)
127. a county road inspector (KSA 80-306)

KANSAS
Ottawa Herald

NOV. 17, 1978

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Friday, November 17, 1978

Editorial

9 A District Plan

A Topeka legislator has announced he plans to introduce in the next session of the Kansas Legislature a bill to create a statewide district attorney system.

Were this accomplished, the county attorney position as we know it would be abolished. Behind the move, according to Sen. Ron Hein, is the desire to give law enforcement stronger tools to combat crime.

"Lack of time, money and expertise to obtain convictions" hurt law enforcement, contends the senator who adds that in some counties inexperience, heavy case loads and lack of specialization have led to too much plea bargaining to the

detriment of the public.

Resistance to such a proposal can be expected in some areas, but from a practical standpoint, Hein's proposal has merit. In many counties, the county attorney is young, just out of school and a sitting duck when confronted with a tough case and a seasoned opposing lawyer. Too, even young county attorneys are reluctant to seek help from the attorney general. The results are often unpleasant.

From a cost standpoint, a district system would dip into the public till. Weighed, though, against too many guilty persons beating the law, the district attorney proposal deserves serious consideration.

NOV 17 1978

OFFICE OF
JERRY G. LARSON
PAWNEE COUNTY ATTORNEY
PAWNEE COUNTY COURTHOUSE
LARNED, KANSAS 67550

February 12, 1979

Members of the
Senate Judiciary Committee
State Capitol
Topeka, Kansas 66612

Dear Senators:

I would like to add my support to the District Attorney Plan which I understand your Committee will be considering on February 16, 1979.

In my judgment, adoption of a Statewide District Attorney Plan would enhance the effectiveness and professionalism of Law Enforcement in general in the State of Kansas.

I was admitted to the Bar in April of 1975 and I have served as County Attorney of Pawnee County for slightly over 3 years.

My first trial to a jury of 12 was a rape case. The Defendant was represented by an experienced criminal trial attorney. I found in that case that an important part of my function was to assist and advise Law Enforcement people in the development of that case. Most Law Enforcement people at that time in our County had not experienced investigating a rape case. It occurred to me that the victim of that rape and the State of Kansas was at a disadvantage because of my lack of experience.

It appears to me that too often the very important function of the prosecution of crimes in our State is left to young, inexperienced attorneys who give their very best effort and hard work but lack that degree of experience that is so essential to the successful operation of a prosecutor's office.

It appears to me that in many of our Counties the Office of County Attorney is a position that the young attorney accepts to gain some experience and contacts and to provide an income until something better comes along.

Career wise, being County Attorney in many Counties is a dead end. My salary as County Attorney as of January 1, 1979 has been raised to \$10,500.00. My duties include matters related to the Larned State Hospital which is in our County. The Attorney General has recently determined that as County Attorney I must

represent Petitioners in Alcoholic and Mental Illness cases where the venue is changed to our County. I receive \$7.50 for Mental Illness cases; however, no compensation is available for Alcoholic cases. The Larned State Hospital has recently employed an attorney on a 3/4 time basis and pays him an annual salary of \$12,000.00. Notwithstanding the hiring of that attorney, I still must represent Petitioners in Mental Illness and Alcoholic cases at the State Hospital.

It is my judgment that the compensation I receive is grossly inadequate for the amount of time I must devote to being County Attorney.

I therefore do not intend to run for the Office again and would anticipate that my predecessor would be an inexperienced attorney much as I was at the time I became County Attorney.

It is my opinion that the District Attorney Plan would provide some continuity to the prosecutor's offices across the State of Kansas. If the position of prosecutor was adequately compensated, there would be incentive for attorneys to make the prosecution of crime their careers and for them to continue to build experience they gain in this field.

I recognize that a major consideration for the Committee will be the cost of the District Attorney Plan. The salary of a full time prosecutor for a judicial district, I am certain, would have to be considerably higher than the salaries presently paid to the County Attorneys. Compensation would also have to be made available to the assistants but it appears to me that the assistants salaries could, in many cases, be geared to the case load of that particular County. In October of 1978 I had the occasion to learn that one of the Counties in our District had 15 criminal cases filed at which time 232 criminal cases had been filed in Pawnee County. These figures exclude traffic cases, juvenile cases and mental illness and alcoholic cases.

It would seem to me that a full time prosecutor in our District would be able to handle a portion of the responsibilities in the other Counties thereby lessening the expense of assistants.

I am hopeful that your Committee will conclude that the benefits under the District Attorneys Plan in the area of improving the efficiency and professionalism of Law Enforcement in the State of Kansas are sufficient to justify whatever additional cost might be necessary to implement such a Plan.

Very truly yours,

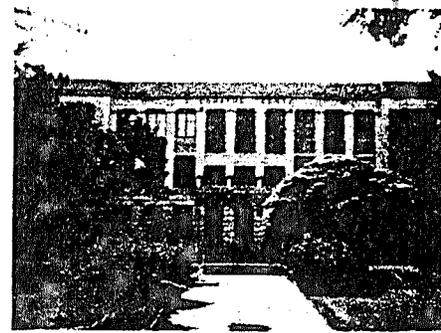

JERRY G. LARSON
Pawnee County Attorney

OFFICE OF
COUNTY ATTORNEY
EDWARDS COUNTY

J. BYRON MEEKS
COUNTY ATTORNEY

BOX 228
CO. OFFICE PH. 659-2171

KINSLEY, KANSAS 67547



February 9, 1979

Hon. Elwaine F. Pomeroy
State Senate
State Capitol
Topeka, Kansas 66612

Re: SEnate Bill 171

Dear Mr. Pomeroy:

I have been informed that the State Judiciary Committee has scheduled hearings on Senate Bill 171 for February 16, 1979. Due to schedule conflicts, I will not be able to be in attendance. However, I did want to take this opportunity to encourage your support for this important legislation.

I am sure that you will hear information submitted by the Kansas County & District Attorney's Association as to the high turnover rate among prosecutors. The turnover rate, along with low salaries and areas of conflict brought about with the mixing of the criminal and civil practices of most rural county attorneys, is not in the best interests of the criminal justice system in our state.

Speaking personally and as president of the Kansas County & District Attorney's Association, I know that the majority of county attorneys are in favor of the District Attorney System.

I have been County Attorney of Edwards County for eight years. Based on that experience, I see a definite need for the District Attorney System, particularly for counties with small populations. Our judicial district, the 24th, is made up of six counties. This area would have a population of approximately 30,000. The case load in that area would enable a full time professional prosecutor to function at a high level of competency.

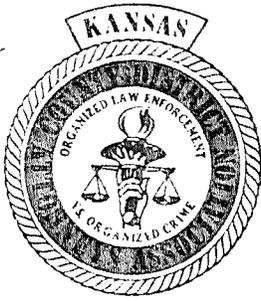
I encourage your assistance in gaining committee approval of Senate Bill 171.

Very truly yours,

A handwritten signature in cursive script that reads "J. Byron Meeks". The signature is written in dark ink and is positioned above the typed name.

J. Byron Meeks
Edwards County Attorney

JBM/hjt



Kansas County & District Attorneys Association

Townsite Office Plaza #3 • Suite 240 • 200 E. 6th St. • Topeka, Kansas 66603 • (913) 357-6351

EXECUTIVE DIRECTOR • MAX G. MOSES

PRESIDENT
JIM W. RYAN
Clay Center, Kansas

February 16, 1979

VICE-PRESIDENT
J. BYRON MEEKS
Kinsley, Kansas

TO: SENATOR ELWAINE POMEROY, Chairman, Senate Judiciary Committee

SEC. TREAS.
MICHAEL F. McCURDY
Pittsburg, Kansas

RE: Senate Bill 171 - District Attorney Plan.

PAST PRESIDENT
JAMES G. KAHLER
Lyons, Kansas

Senate Bill 171 constitutes the District Attorney Plan as developed by Senators Ron Hein and Paul Hess after much discussion and consultation with the Kansas County and District Attorneys Association and other related law enforcement agencies and their representatives.

DIRECTORS
SHELLEY BLOOMER
Osborne, Kansas
MICHAEL FRANCIS
Junction City, Kansas
NICK A. TOMASIC
Kansas City, Kansas
JAMES CLARK
Ottawa, Kansas
LARRY McCLAIN
Olathe, Kansas

The Bill provides for the implementation of a district attorney in each judicial district on a local (district) option basis. The fact that the proposed bill does not mandate a district attorney in each district does not indicate that a statewide district attorney plan on a mandatory basis is not needed, but rather reflects local concerns that should be taken into account.

LEGISLATIVE COMMITTEE
GENE OLANDER, CHAIRMAN

Geary N. Gorup
William Ellis
Dennis Moore
Kenneth A. Heer
Steven Hill
Kenneth W. McClintock
Edwin Bideau III
Michael Hines
Don Knappenberger
Bill Baldock
J. Patrick Hyland

Basically the Bill calls for an election on a judicial district basis to allow the people to determine the type of prosecution they feel is best in their locale.

LAW ENFORCEMENT COMMITTEE
VERN MILLER, CHAIRMAN

Edwin Bideau III
Leonard Dix
Daniel F. Meara

For those districts which vote to adopt the district attorney plan, a district attorney would be elected in the general election held in November, 1980 and would assume his or her duties in January, 1981.

CONTINUING EDUCATION COMMITTEE

DENNIS MOORE, CHAIRMAN

Geary N. Gorup
Tim Karstetter
Randy Baird
Larry Kirby
James Reardon
Wm. Rex Lorson

The bill requires the DA, an assistant or a deputy to reside in each county of the district to guarantee easy access to the proper authority by the people in that county.

PUBLIC RELATIONS COMMITTEE

JOSEPH PIERRON, CHAIRMAN

B. A. Lightfoot
Craig Kershner
Samuel L. Schuetz
Phillip M. Fromme
Robert G. Suelter
Joseph P. O'Sullivan

The DA would appoint assistant district attorneys who would be employed as full time prosecutors and who would be prohibited from engaging in the private practice of law. Deputies would be appointed in those counties within the judicial district in which the case load would not justify a full time prosecutor. The deputy would be allowed to assume county counseling duties, provided no conflict of interest would be present, and could engage in the private practice of law.

Funding for the DA, his assistants and deputies would be initially provided jointly by the state and the counties. A phase out of county funding is provided for with county funding for the professional positions to expire in 1985.

For the first year of operation, the Director of Personnel Services would be responsible for both a pay plan and for budget requests to pay salaries of the professional staff. This agency is currently set up to establish and review pay scales and is in the best position to determine comparative salaries and needs. He would work closely with the KCDAA and the county attorneys in setting up a workable pay plan. His office would make the initial budget requests. For those years beginning with the fiscal year starting July 1, 1981, each District Attorney would prepare and request his own budget for professional staff and salaries.

Kansas has had a modified District Attorney Plan for several years. Notably in the largest five of the seven single county judicial districts, the prosecution functions have been handled by an elected full time District Attorney and a full time staff. As a result, turnover in those positions has been negligible, despite intense competition for the position by several qualified and dedicated individuals.

However in the remaining one hundred counties which still operate under the county attorney system, the position of prosecutor has been handed to the newest attorney in the county with rare exceptions. These prosecutors are then faced with a perhaps insurmountable task of handling major felony cases, a tremendous caseload, and county counseling responsibilities, all with very little actual experience or initial training before taking office. The defense attorneys they face in their initial outings are generally the more experienced attorneys in the area, many of whom received their baptism under fire as a county attorney several years earlier.

Are the people of the State of Kansas receiving the kind of service they deserve when a relatively young and inexperienced prosecutor is required to prosecute a major felony case, handle his daily criminal caseload and advise the various county officials without the benefit of the training, staff, time or experience to do so? I suggest the people of Kansas could be severely short changed.

I do not mean to suggest that the county attorneys are incompetent by any means. I merely content that the system of criminal justice places the county attorney in a very untenable position of trying to best serve the people of his county but not being given the resources to do so.

Based upon preliminary salary survey results as conducted by the KCDA, the following statistical information is available:

Average County Attorney Salary: (Includes Benefits; 100 C.A.s)	\$ 11,000.
Ave. Asst. County Att. Salary : (Includes Benefits, 30 A.C.A.s)	8,000.
Average District Att. Salary : (Includes Benefits, 5 D.A.s)	35,000.
Average Asst. Dist. Att. Sal.: (Includes Benefits, 70 D.A.s)	17,000.

TOTAL EXP. (Salaries, Benefits,
for County and District Att.
and Assistants for one year) \$2,705,000.

Compare this figure to the requested budget for the aid to indigent defendants fund for the next fiscal year. The amount requested and recommended by the Division of Budget is \$2,866,457.

It is further interesting to note the caseload in District Court that prosecutors in Kansas must deal with. For the Yearling ending June 30, 1978, 25,211 criminal cases were filed, consisting of 10,303 felonies and 14,908 misdemeanors.

In addition, 264,024 traffic cases were filed in district court as well as 15,653 formal juvenile actions. Further 13,434 informal juvenile cases were filed and 1,929 treatment proceedings.

Thus for the year, prosecutors were involved in 320,251 different cases. This of course is in addition to the nearly 8,000 cases that were pending at the end of the year of June 30, 1977.

None of this takes into account the county counseling functions most county attorneys must handle.

Clearly appointed counsel as funded by the Aid to Indigent Defendant Funds do not handle the county counseling duties and certainly most are not appointed to handle the traffic matters.

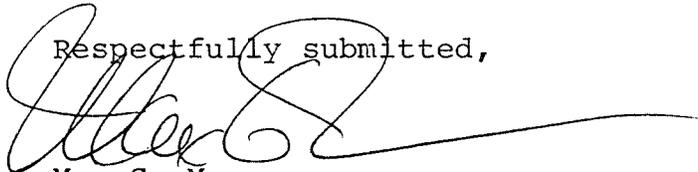
Figures are not readily available as to the number of cases handled by appointed counsel or public defenders as they are appointed on the state, county and municipal level. It is significant however, that these appointments are made only for indigent defendants and not all defendants.

It is further significant to note that the amount of money requested for the Aid to Indigents as noted above represents only the state portion of funding. Additional funding is provided on the county and municipal level.

It is apparant that there are some glaring inequities in the priorities of handling matters in the criminal justice system. Further, it is evident that a district attorney plan is needed to guarantee proper prosecution in the future.

We would urge adoption of a District Attorney Plan.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Max G. Moses', with a long horizontal flourish extending to the right.

Max G. Moses
Executive Director

Article 7.—COUNTY ATTORNEY

19-701. County attorney; election, term, bond; qualifications. Except as otherwise provided by law, beginning with the general election in 1976, a county attorney shall be elected in each county who shall hold office for a term of four (4) years. Such county attorney shall, before entering upon the duties of the office, execute a good and sufficient corporate surety bond to the state of Kansas issued by a company authorized to do business in this state in an amount fixed by the board of county commissioners of not less than two thousand dollars (\$2,000). Such bond shall be conditioned on the faithful performance of the duties of such office, and that such county attorney will pay over to the county treasurer, in the manner prescribed by law, all moneys received by virtue of such office. Such bond shall be deposited in the office of the county clerk. No person shall be eligible for the nomination or election to the office of county attorney of any county unless such person shall have been regularly admitted to practice law within the state of Kansas, and is at the time of nomination and election a regularly qualified practicing attorney of this state.

History: K.S.A. 19-701; L. 1976, ch. 123, § 3; April 30.

19-702. Duties generally. It shall be the duty of the county attorney to appear in the several courts of their respective counties and prosecute or defend on behalf of the people all suits, applications or motions, civil or criminal, arising under the laws of this state, in which the state or their county is a party or interested. [G. S. 1868, ch. 25, § 136; Oct. 31; R. S. 1923, 19-702.]

19-703. Same; appearances before a judge of the district court. Each county attorney shall, when requested by any judge of the district court of his or her county, appear on behalf of the state before any such judge, and prosecute all complaints made in behalf of the state of which such judge shall have jurisdiction; and upon the like request shall appear before such judge and conduct any criminal examination which may be had before such judge, and shall also prosecute all civil suits before such judge in which the county is a party or interested.

History: K.S.A. 19-703; L. 1976, ch. 145, § 57; Jan. 10, 1977.

19-704. Opinions and advice to county officers. The county attorney shall without fee or reward, give opinions and advice to the board of county commissioners and other civil officers of their respective counties, when requested by such board or officers, upon all matters in which the county is interested, or relating to the duties of such board or officers, in which the state or county may have an interest. [G. S. 1868, ch. 25, §138; Oct. 31; R. S. 1923, 19-704.]

19-705. Fees, when; representation of adverse interests; holding other office. No county attorney shall receive any fee or reward from or on behalf of any prosecutor or other individuals, except such as are allowed by law for services in any prosecution or business to which it shall be his official duty to attend, nor be concerned as attorney or counsel for either party, other than the state or county, in any

civil action depending upon the same state of facts upon which any criminal prosecution, commenced but undetermined, shall depend; nor shall any county attorney while in office be eligible to or hold any judicial or other county office whatsoever. [G. S. 1868, ch. 25, § 140; Oct. 31; R. S. 1923, 19-705.]

19-706b. Deputies and assistants in counties of not more than 100,000; powers, duties and compensation; expenses and automobile purchase, lease, expenses and allowances. The board of county commissioners of any county having a population of not more than one hundred thousand (100,000) may allow to the office of the county attorney of such county such reasonable sums for salaries and compensation which will permit said county attorney to appoint such deputies and assistants as are necessary to properly expedite the business of his office. Said deputies and assistants shall have such powers and duties within the scope of the office of county attorney as are prescribed by the county attorney, and within the limits of the sums made available by the board of county commissioners, each such deputy and assistant shall receive an annual salary in an amount prescribed by the county attorney. Said board of county commissioners may authorize by resolution the expenditure of an amount sufficient to pay the actual and necessary expenses incurred by any such deputy or assistant in the performance of his official duties, whether performed within or without such county. Such resolution may authorize an expenditure for the purchase or leasing of an automobile for the use of any such deputy or assistant, or said board may authorize the use of a privately owned vehicle by any such deputy or assistant and provide compensation therefor by establishing a monthly car allowance, or by the payment of mileage as provided by K. S. A. 75-3203. [L. 1971, ch. 85, § 1; July 1.]

19-711. Absence or disability; appointment by court. In the absence, sickness or disability of both the county attorney and his deputy, any court before whom it is his duty to appear and in which there may be business for him, may appoint an attorney to act as county attorney, by order to be entered upon the minutes of the court. [G. S. 1868, ch. 25, § 142; Oct. 31; R. S. 1923, 19-711.]

19-713. Duties in connection with grand jury. Whenever required by the grand jury of any court sitting within his county, it shall be the duty of the county attorney to attend them, for the purpose of examining witnesses in their presence, or of giving them advice in any legal matter, and to issue subpoenas and other process to bring up witnesses, and to draw up bills of indictment. [G. S. 1868, ch. 25, § 144; Oct. 31; R. S. 1923, 19-713.]

19-714. Measures for conviction of election or license offenders. It shall be the duty of each county attorney, upon information being given him that any person has violated any of the provisions of the election laws, or license laws, to adopt effectual measures for the conviction of such person. [G. S. 1868, ch. 25, § 145; Oct. 31; R. S. 1923, 19-714.]

19-715. Same; vacancy in office. In case of vacancy in the office of county attorney, by death, resignation or otherwise, the district judge shall appoint a county attorney, who shall give bonds, take the oath, and perform the same duties as the regular county attorney, and shall hold his or her office for the remainder of the unexpired term and until a successor shall be duly elected and qualifies.

History: K.S.A. 19-715; L. 1976, ch. 145, § 58; Jan. 10. 1977.

19-716. Claims and accounts; duties of county attorney or assistant in certain counties under 70,000. It shall be the duty of the county attorney, or one of his assistants, of each county of the state of Kansas which does not have a county auditor and which has a population of less than seventy thousand (70,000) to meet with the board of county commissioners of such county at each session when bills and accounts are presented for allowance and examine such bills and accounts and ascertain, as far as possible, the correctness of such accounts and give his opinion to the board of county commissioners as to the liability of the county thereon: *Provided*, That no bill shall be allowed by the board of county commissioners until the county attorney has passed upon same. [L. 1913, ch. 156, § 1; R. S. 1923, 19-716; L. 1968, ch. 254, § 2; L. 1972, ch. 74, § 1; July 1.]

19-723. County commissioners authorized to hire additional counsel; when. That when, in the judgment of the board of county commissioners of any county in this state, it becomes necessary or expedient, the said board of county commissioners may employ an additional attorney at law to assist the county attorney of its county in any specific investigation, prosecution or any civil or criminal matter involving the duties of said county attorney, and the said board of county commissioners may pay such attorney so employed reasonable compensation for his services, the same to be charged to the general fund of said county. [L. 1925, ch. 139, § 1; March 4.]

22-3612. Criminal appeals from district court; attorney general to invoke county or district attorney's assistance; costs. In representing the interests of the state in appeals from criminal actions in the district courts of this state to the supreme court or court of appeals or in other post-conviction actions arising from criminal prosecutions, the attorney general shall invoke the assistance of the county or district attorney of the county in which the action originally commenced. The reasonable costs of such assistance shall be allowed and paid by the boards of county commissioners from the county general fund for any services rendered by such county's county or district attorney pursuant to this section.

History: L. 1977, ch. 119, § 1; July 1.

22a-108. Election of district attorney in certain judicial district; term; oath; bond; abolition of office of county attorney in said district; application of certain laws. (a) There is hereby established the office of district attorney in the seventh judicial district. The person holding the office of county attorney on the effective date of this act shall become the district attorney and the office of county attorney in such judicial district shall be and is hereby abolished on such date. Commencing with the general election in 1980, and at the general election every four (4) years thereafter, a district attorney shall be elected in said judicial district for a four-year term, commencing on the second Monday in January next following the election. The district attorney authorized by this section is hereby declared to be an executive officer of the judicial district in which such attorney is elected, with said office constituting a separate entity within said district for administrative purposes, and in no event shall said district attorney be deemed an officer of any county. Before entering upon the duties of the office, the district attorney shall take the oath of office required by law for public officers and shall execute a good and sufficient surety bond in the manner prescribed by K.S.A. 75-4101 *et seq.* and acts amendatory thereof.

(b) The provisions of K.S.A. 22a-102, 22a-104, 22a-106 and K.S.A. 1978 Supp. 22a-103, 22a-105 and 22a-107, and any amendments thereto, shall be applicable to the office of district attorney established by this section.

History: L. 1978, ch. 133, § 1; July 1.

SENATE BILL No. 171

By Senators Hein and Hess

1-30

0016 AN ACT ~~establishing~~ the office of district attorney in each
 0017 judicial district; prescribing the powers, duties and functions
 0018 of such office; providing for the appointment and compensa-
 0019 tion of assistants, deputies and other personnel of such office;
 0020 abolishing the office of county attorney; providing for the
 0021 continuation of the powers, duties and functions of the office
 0022 of county attorney through the office of district attorney;
 0023 providing certain duties for the attorney general with regard to
 0024 personnel in the offices of district attorney; amending K.S.A.
 0025 22a-101, 22a-102, 22a-104 and 22a-106 and K.S.A. 1978 Supp.
 0026 22a-103, 22a-105 and 22a-107 and repealing the existing sec-
 0027 tions; also repealing K.S.A. 19-702, 19-704, 19-705, 19-706b,
 0028 19-711, 19-713, 19-714, 19-716 and 19-723 and K.S.A. 1978
 0029 Supp. 19-701, 19-703, 19-715, 22-3612 and 22a-108.

0030 *Be it enacted by the Legislature of the State of Kansas:*

0031 Section 1. K.S.A. 22a-101 is hereby amended to read as fol-
 0032 lows: 22a-101. (a) From and after January 8, 1973, there shall be
 0033 established in judicial districts 3, 10, 18 and 29 of the state the
 0034 office of district attorney and from and after January 12, 1981,
 0035 there shall be established the office of district attorney in every
 0036 other judicial district, whose title and style of office shall be
 0037 district attorney of the (————) (district number)
 0038 judicial district. Commencing with the general election in 1978
 0039 1980, and at the general election every four (4) years thereafter, a
 0040 district attorney shall be elected in each judicial district for a term
 0041 of four (4) years, commencing on the second Monday in January
 0042 next following his the election. Said district attorney is hereby
 0043 declared to be an executive officer of the judicial district in which
 0044 he or she is elected, with said office constituting a separate entity
 0045 within said district for administrative purposes, and in no event
 0046 shall said district attorney be deemed an officer of any county.

relating to county and district attorneys; providing for the establishment of

certain judicial districts; providing for a proposition to be submitted to the electors of certain judicial districts concerning the adoption of a district attorney plan

in certain judicial districts

requiring certain counties to assist in paying certain personnel costs

director of personnel services

that has adopted the district attorney plan pursuant to section 9

such

0047 Before entering upon the duties of his office, each district attorney
0048 shall take the oath of office required by law for public
0049 officers and shall execute a good and sufficient surety bond in the
0050 manner prescribed by K.S.A. 75-4101 *et seq.*, and acts amendatory
0051 thereof.

0052 (b) From and after ~~January 8, 1973~~ *January 12, 1981*, the
0053 office of county attorney in each county contained in judicial
0054 districts 3, 10, 18 and 20 shall be and is hereby abolished, and
0055 there shall not be a county attorney elected for any such county at
0056 the general election in ~~1973~~ *November of 1980*: *Provided, except*
0057 that each county attorney in office in any such county on the
0058 effective date of this act, or any successor to such county attorney,
0059 shall remain in office until a district attorney has been elected for
0060 the judicial district wherein such county is located and is qualified
0061 to take office. Immediately thereafter, each such county
0062 attorney shall surrender his *or her* office to said district attorney,
0063 along with all of the books, papers, records, property and funds in
0064 his *or her* hands by virtue of his *or her* office.

0065 (c) *Nothing herein shall be construed as affecting the term of*
0066 *office of any district attorney in judicial district 3, 7, 10, 18 or 29.*

0067 Sec. 2. K.S.A. 22a-102 is hereby amended to read as follows:
0068 22a-102. No person shall be eligible for nomination to the office
0069 of district attorney unless such person shall have been regularly
0070 admitted to practice law in the state of Kansas for five (5) years
0071 next preceding his *or her* nomination for such office: *Provided,*
0072 *except* that an attorney who shall have been a county attorney,
0073 assistant *or deputy* county attorney or assistant *or deputy* district
0074 attorney for the three (3) years immediately preceding his nomi-
0075 nation as district attorney shall be eligible for nomination. A
0076 person so qualified may become a candidate for election to the
0077 office of district attorney by either one of the following methods:

0078 (a) Any person who is a qualified elector of any judicial
0079 district in which a district attorney is to be elected and who is
0080 otherwise qualified under this act may petition to be a candidate
0081 for district attorney of such judicial district by filing in the office
0082 of the secretary of state a petition for his *or her* candidacy, signed
0083 by not less than five percent (5%) of the qualified electors of such

in judicial districts that have adopted the district attorney plan
pursuant to section 9

0084 judicial district who voted for the office of secretary of state at the
0085 last preceding general election; or

0086 (b) Any person who is a qualified elector of any judicial
0087 district in which a district attorney is to be elected and who is
0088 otherwise qualified under this act may become a candidate for
0089 district attorney of such judicial district by filing in the office of
0090 the secretary of state a declaration of intent to be such a candidate
0091 and payment therewith of a filing fee in an amount equal to one
0092 percent (1%) of the annual salary for such office.

0093 Any such petition or declaration of intent must be filed at the
0094 time and in the manner and form provided in K.S.A. ~~1971~~ 1978
0095 Supp. 25-205, to the extent the provisions thereof are not in
0096 conflict with this act, and all laws applicable to the election of
0097 other state officers shall apply to elections of district attorneys to
0098 the extent the same are not in conflict with this act.

0099 Sec. 3. K.S.A. 1978 Supp. 22a-103 is hereby amended to read
0100 as follows: 22a-103. (a) Whenever a vacancy shall occur in the
0101 office of the district attorney, the district *judge or district* judges
0102 of the district in which the vacancy occurs shall appoint a
0103 successor to fill the vacancy for the remainder of the unexpired
0104 term. Any person so appointed shall be an elector of the same
0105 political party as that of the district attorney vacating such posi-
0106 tion, and shall be otherwise qualified as a person elected to such
0107 office.

0108 (b) In the event that any district attorney changes his or her
0109 residence outside of the judicial district from which he or she was
0110 elected, such person shall promptly resign from such office as
0111 district attorney, and if such person fails to resign such person
0112 shall be subject to removal from office as provided by law. Any
0113 redistricting of judicial districts which results in a district attor-
0114 ney residing outside of his or her district shall not be grounds for
0115 removal and shall not disqualify said district attorney from serv-
0116 ing the remainder of the term for which he or she was elected or
0117 appointed.

0118 Sec. 4. K.S.A. 22a-104 is hereby amended to read as follows:
0119 22a-104. It shall be the duty of the district attorney to *see that the*
0120 *laws of this state are executed and enforced faithfully, in order to*

0121 preserve and maintain the rule of law and it shall be the duty of
 0122 the district attorney to appear in the several courts of the judicial
 0123 district in which he is elected in this state in which the state or any
 0124 county in the judicial district may have an interest, and to prose-
 0125 cute or defend, on behalf of the people therein, all criminal
 0126 matters arising under the laws of this state, and such civil matters
 0127 as are instituted by, the district attorney, in which the state or any
 0128 county in such judicial district is a party or has an interest therein.
 0129 Any power or duty now conferred or imposed by law upon all
 0130 county attorneys within their respective counties pertaining to the
 0131 enforcement of criminal laws shall be exercised or performed by
 0132 district attorneys within their respective districts, or by any of
 0133 their assistants or deputies provided for in this act. All actions
 0134 and proceedings pending in any court on ~~January 8, 1973~~ January
 0135 12, 1981, in which a county attorney ~~for~~ any of the counties
 0136 contained in judicial districts 2, 10, 18 and 20 is a party or the
 0137 attorney of record for one of the parties to any such action or
 0138 proceedings shall be prosecuted by the successor district attorney
 0139 in the same manner as if said district attorney was the original
 0140 attorney of record. All such courts are hereby directed to allow
 0141 such substitution of counsel, and no objection to the substitution
 0142 by any other party to any such action or proceeding shall be
 0143 permitted.

0144 Sec. 5. K.S.A. 1978 Supp. 22a-105 is hereby amended to read
 0145 as follows: 22a-105. (a) Each of the district attorneys elected
 0146 under this act shall receive an annual salary equal to the state
 0147 salary provided for district judges in K.S.A. 1978 Supp. 75-3120g,
 0148 and any amendments thereto. The salary of each district attorney
 0149 shall be paid by the county comprising the judicial district in
 0150 which he or she is elected in equal monthly installments and in
 0151 the manner county officers and employees are paid. The district
 0152 attorneys and their deputies and assistants shall be reimbursed for
 0153 their actual travel and subsistence expenses incurred while in the
 0154 performance of their official duties within or without the district
 0155 in the same manner as other state officials are reimbursed. A
 0156 county may continue to supplement a district attorney's salary
 0157 only until expiration of such district attorney's present term of

of any county contained within a judicial district which has adopted
 the district attorney plan

0158 office.

0159 ~~(b) The attorney general shall establish a pay plan for com-~~
 0160 ~~pen- sation of deputy and assistant district attorneys, and the~~
 0161 ~~director of personnel services shall provide such assistance~~
 0162 ~~therewith as the attorney general may request, in establishing~~
 0163 ~~compensation for assistant and deputy district attorneys, the~~
 0164 ~~attorney general shall designate the pay step and pay grade for~~
 0165 ~~each assistant and deputy assistant district attorney position.~~
 0166 ~~Such designation may provide different pay steps and pay grades~~
 0167 ~~for positions in the various counties so as to be commensurate~~
 0168 ~~with the duties and responsibilities of such assistants and depu-~~
 0169 ~~ties and the workload in the county in which they perform their~~
 0170 ~~principle duties. The attorney general in establishing the pay plan~~
 0171 ~~shall take into consideration (1) the compensation of prosecutors~~
 0172 ~~prior to January 12, 1981, (2) the compensation of personnel in the~~
 0173 ~~executive branch of state government who have comparable~~
 0174 ~~duties and responsibilities; and (3) the compensation of prosecu-~~
 0175 ~~tors in other states of comparable size, population and charac-~~
 0176 ~~teristics.~~

0177 On or before December 1, 1979, the ~~attorney general shall~~
 0178 ~~submit to the legislative coordinating council the pay plan and the~~
 0179 ~~designation of assignment positions to pay steps and pay grades.~~
 0180 ~~The plan shall detail each proposed individual position by county~~
 0181 ~~and showing proposed classifications of pay grades and pay steps~~
 0182 ~~and shall show comparisons to present compensation of county~~
 0183 ~~and district attorneys in the various counties.~~

0184 (c) For the fiscal period commencing on July 1, 1980, the
 0185 ~~attorney general shall include within the budget for the operation~~
 0186 ~~of the office of attorney general expenditures to commence on~~
 0187 ~~January 12, 1981 for compensation of district attorneys and their~~
 0188 ~~assistants and deputies and for travel and subsistence allowances~~
 0189 ~~to be paid by the state. The budget shall also contain necessary~~
 0190 ~~employer expenditures for health insurance coverage afforded for~~
 0191 ~~other state officers and employees and shall also contain recom-~~
 0192 ~~mendations for expenditures the attorney general deems neces-~~
 0193 ~~sary for specialis annual training for district attorneys and their~~
 0194 ~~assistants and deputies.~~

director of personnel services

director

director

director

director of personnel services shall prepare a budget for

other employer contributions required by law

Insert C attached

Insert C.

SB171m1

(d) For the fiscal period commencing July 1, 1981, each district attorney shall prepare and submit a budget for expenditures payable in the judicial district by the state as provided in subsection (c). Such budget shall be prepared and submitted by each district attorney in the manner provided by K.S.A. 75-3716 and K.S.A. 1978 Supp. 75-3717.

(e) The supreme court and the attorney general may recommend specialized annual training for district attorneys and their deputies and assistants.

0195 Sec. 6. K.S.A. 22a-106 is hereby amended to read as follows:
0196 22a-106. (a) ~~Within the limits of appropriations therefor, Upon~~
0197 *taking office, the district attorney of each judicial district shall*
0198 *appoint such assistant district attorneys, deputy district attorneys*
0199 *and other stenographic, investigative and clerical hire as may be*
0200 *necessary to carry out the functions of the district attorney's*
0201 *office in such judicial district; and he shall determine the annual*
0202 *compensation of each assistant district attorney and other persons*
0203 *appointed pursuant to this subsection subject to budget limita-*
0204 *tions therefor. The district attorney shall have at least one assist-*
0205 *ant or deputy district attorney or the district attorney residing in*
0206 *each county within the judicial district. Each assistant or deputy*
0207 *district attorney shall serve at the pleasure of the appointing*
0208 *district attorney. The county commissioners of each county in the*
0209 *judicial district shall determine and allow such reasonable sums*
0210 *from funds of the county for the compensation of assistants;*
0211 *deputies and other stenographic, investigative and clerical hire*
0212 *and for other expenses of such office in such county as may be*
0213 *necessary to carry out the function of such office; the district*
0214 *attorney shall be responsible for the preparation of a budget to be*
0215 *submitted to each board of county commissioners.*

0216 (b) Each assistant and deputy district attorney shall have been
0217 regularly admitted to practice law within the state of Kansas prior
0218 to his *or her* appointment. Each district attorney and his *or her*
0219 assistant district attorneys shall devote fulltime to official duties
0220 and shall not engage in the civil practice of law, except as
0221 required in performing his *or her* official duties while serving as
0222 district attorney or assistant district attorney, and shall not refer
0223 any client or other person or any matter to any designated attor-
0224 ney or firm of attorneys. *A deputy district attorney may engage in*
0225 *the private practice of law and may hold the office of county*
0226 *counselor of the county in which such deputy resides or to which*
0227 *such deputy is assigned, so long as such practice or office does*
0228 *not conflict with the performance of said deputies' official duties.*

0229 (c) The board of county commissioners of each county con-
0230 tained in judicial districts 3; 10; 18 and 20 shall provide suitable
0231 office space within such county for the district attorney, his *or her*

0232 assistants, deputies, office personnel and equipment.
0233 (d) Notwithstanding any of the provisions of this act the
0234 district attorney, with the approval of the board of county com-
0235 missioners, may appoint and employ special counsel when nec-
0236 essary to assist the district attorney in the discharge of his duties,
0237 such special counsel not to be subject to the restrictions contained
0238 in paragraph (b) herein.

0239 (e) Any county contained in judicial districts 3, 10, 18 or 20
0240 may receive and expend for the operation of the office of district
0241 attorney any federal moneys made available therefor.

0242 Sec. 7. K.S.A. 1978 Supp. 22a-107 is hereby amended to read
0243 as follows: 22a-107. Whenever in any of the statutes of this state
0244 the term "county attorney" is used, it shall be construed to
0245 include district attorneys provided for by K.S.A. 1978 Supp.
0246 22a-108 and K.S.A. 22a-101, and amendments thereto, unless the
0247 context otherwise requires.

0248 Sec. 8. On and after January 12, 1981, ~~K.S.A. 19-702, 19-704,~~
0249 ~~19-705, 19-706b, 19-711, 19-713, 19-714, 19-716 and 19-723 and~~
0250 ~~K.S.A. 1978 Supp. 19-701, 19-703, 19-715, 22-3612 and 22a-108~~
0251 shall be and are hereby repealed.

0252 Sec. 9. K.S.A. 22a-101, 22a-102, 22a-104 and 22a-106 and
0253 K.S.A. 1978 Supp. 22a-103, 22a-105 and 22a-107 are hereby
0254 repealed.

0255 Sec. 10. This act shall take effect and be in force from and
0256 after its publication in the statute book.

15

Sec. 9 and 10 attached

11

12

New Sec. 9. (a) Except in judicial districts that have a district attorney on the effective date of this act, at the election held on the first Tuesday of April in 1980 the proposition of adopting the district attorney plan shall be submitted to the electors in each judicial district for adoption or rejection. The secretary of state shall cause such proposition to appear on the ballot as a question submitted at such election, and the formal proposition shall be as follows: "The present method of electing a county attorney in each county shall be discontinued, and there is hereby adopted in this judicial district the district attorney plan which provides that a district attorney shall be elected by the electors of the judicial district and that either the district attorney or an appointed assistant or deputy district attorney will reside in each county of the judicial district."

(b) If a majority of the votes cast and counted on such proposition in any judicial district shall be in favor thereof as such proposition is submitted pursuant to subsection (a) the provisions of sections 1 to 8 of this act shall be applicable in such judicial district, notwithstanding any other law providing for the election of county attorneys. If a majority of the votes

cast and counted on such proposition in any judicial district are against its adoption, a county attorney in each county of the judicial district shall continue to be elected in the manner provided by law.

(c) It shall be the duty of the state board of canvassers to canvass the votes in each judicial district voting on the proposition of the district attorney plan in the manner prescribed by K.S.A. 25-3206. Upon completion of the final canvass and certification of the results, the secretary of state shall transmit a copy of the results for each such judicial district to the county election officer of each county therein. In any county that will vote on the district attorney plan pursuant to subsection (a), and no nomination petitions or declarations of intention to be a candidate for the office of county attorney shall be accepted by a county election officer until after the results of the proposition have been received by such officer in accordance with such section and such results provided for the rejection of the district attorney plan. In giving the notice pursuant to K.S.A. 25-204 of offices for which candidates are to be nominated at the statewide primary election, the secretary of state shall include the office of county attorney in each county having such an office on the effective date of this act; however, if any such county is within

10
a judicial district that adopts the district attorney plan pursuant to this section, then candidates for the office of district attorney, rather than county attorney, shall be nominated at such primary election.

New Sec. 10. (a) Each county in judicial districts 3, 7, 10, 18 and 29 or within a judicial district that has adopted the district attorney plan pursuant to section 9 shall assist in paying the personnel costs assumed by the state pursuant to this act by paying to the state the amounts prescribed by this section. Such payments shall be made in substantially equal quarterly payments each year, the first payment commencing on March 31, 1981.

(b) The base year costs for each county shall be an amount equal to that portion of the calendar year 1980 expenditures paid by the county for compensation and employer's contributions for county or district attorneys and their deputy or assistant attorneys. As used in this subsection, employer's contributions shall mean the amount paid by the county to provide for unemployment compensation coverage, employer contributions for retirement, workmen's compensation coverage, health insurance and surety bond coverage.

11
(c) In calendar year 1981, counties shall pay one hundred percent (100%) of such base year costs.

(d) In calendar year 1982, counties shall pay eighty percent (80%) of such base year costs.

(e) In calendar year 1983, counties shall pay sixty percent (60%) of such base year costs.

(f) In calendar year 1984, counties shall pay forty percent (40%) of such base year costs.

(g) In calendar year 1985, counties shall pay twenty percent (20%) of such costs.

SUMMARY OF TESTIMONY
BEHIND THE SENATE JUDICIARY COMMITTEE

SENATE BILL NO. 171

BY SENATORS HEIN AND HERR

BY CAPTAIN HOWARD H. DOCKER

KANSAS HIGHWAY PATROL

February 16, 1979

APPEARED IN SUPPORT OF SB 171

Senate Bill No. 171. An act expanding the office of district attorney from the present four judicial districts to all the judicial districts in the state.

We support this proposal as being in the best interest of professionalism for prosecutors.

Our experiences in the four judicial districts, having established district attorney positions since 1973 have been excellent. This concept provides a full time, professional prosecutor able to provide guidance and training in the prosecution of criminal cases for his assistant and deputy district attorneys. From our position as a traffic law enforcement agency, the professional prosecutors position is very attractive in that prosecution skills related specifically to traffic matters are developed and retained. Many times in the past these skills are developed, then lost as the county attorney leaves office or interns used for traffic cases are replaced or moved to other positions.

We see this proposal as a practical step toward providing these prosecuting skills statewide.

The Honorable Elwaine Pomeroy, Chairperson
Committee on the Judiciary
Senate Chamber
Third Floor, Statehouse

Dear Senator Pomeroy:

SUBJECT: Fiscal Note for Senate Bill No. 171 by
Senators Hein and Hess

In accordance with K.S.A. 75-3715a, the following fiscal note concerning Senate Bill No. 171 is respectfully submitted to your committee.

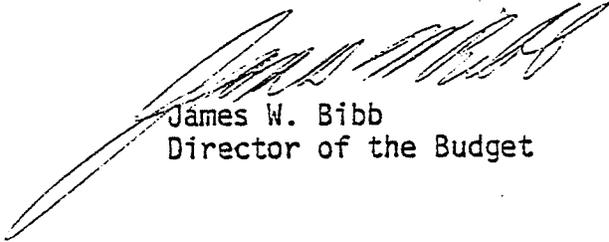
Senate Bill No. 171 establishes the office of district attorney in every judicial district not now having such office beginning January 12, 1981. At the same time, the office of county attorney would be abolished and all statutory duties and responsibilities of the county attorney would become the obligation of the office of district attorney. Each district attorney would receive an annual salary equal to that provided for the district judges.

With the assistance of the Director of Personnel Services, the Attorney General must establish and submit a pay plan for compensation of deputy and assistant district attorneys to the Legislative Coordinating Council on or before December 1, 1979. Effective January 12, 1981, the state would assume salary and wage, fringe benefit, travel and subsistence and training costs for the district attorneys and their appointed assistants and deputies. The counties would remain responsible for funding stenographic, investigative and clerical employees and for other operating expenses including office space.

Passage of Senate Bill No. 171 will result in significant additional fiscal liabilities to the state; presumably, to the State General Fund, and substantially reduce the fiscal burden upon counties for support of county attorneys and county counselors. In FY 1981 state liabilities for annual salaries and fringe benefits for a district attorney in each of the twenty-nine judicial districts would total an estimated \$540,000. Fiscal year 1982 would represent the first full year of state fiscal obligation and these expenses would increase to approximately \$1,100,000. In addition, the act requires that at least one assistant or deputy district attorney reside in each county within a judicial district. These positions will also be a state fiscal responsibility; however, a reliable estimate of fiscal liability cannot be projected as salaries for these positions are to be established by the Attorney General. While no reliable estimates can be made at this time, it does appear reasonable to assume that these costs will exceed \$2.0 million for a full fiscal year. Based on the above, the state could anticipate minimum additional fiscal liabilities of approximately \$1.5 million in FY 1981 and \$3.1 million in FY 1982 and each year thereafter.

With the abolishment of the office of county attorney, each of the 105 counties would realize related salary and wage savings. Additionally, those counties currently having an assistant or deputy county attorney(s) or county counselor(s) would realize further savings. As these positions do not, in general, currently receive a salary at levels established by or anticipated

subsequent to passage of the act, savings to counties, although substantial, will likely not be the same as additional costs to the state.



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