

Approved: _____

2/7/94
Date

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairman Rochelle Chronister at 1:30 p.m. on January 24, 1994 in Room 514-S of the Capitol.

All members were present except: Rep. Del Gross, excused

Committee staff present: Alan Conroy, Legislative Research Department
Leah Robinson, Legislative Research Department
Scott Rothe, Legislative Research Department
Jim Wilson, Revisor of Statutes
Jerry Cole, Committee Secretary
Sharon Schwartz, Administrative Assistant

Conferees appearing before the committee:

Bob Gottschalk, Secretary-Manager, Kansas State Fair
Linda McGill, Kansas District Judges Association
Paul Shelby, Office of the Judicial Administrator

Others attending: See attached list

Chairman Chronister opened the hearing on **HB 2575**. Bob Gottschalk, Kansas State Fair, appeared in favor of the bill and presented testimony to the like. He told the committee the bill would allow his agency to secure funds from benevolent and charitable organizations and categorically allow those contributions to be tax-deductible. (See Attachment 1). Chairman Chronister closed the hearing.

She opened the hearing on **SB 320**. Linda McGill, Kansas District Judges Association, spoke to the committee as the first proponent. She said the proposed legislation would simply allow Kansas judges cost of living adjustments (COLA) like other state classified employees. (See Attachment 2). Scott Rothe, Kansas Legislative Research Department, told the committee that the COLA allowance would generate a 2.5% increase and account for \$269,000 for FY 1995. He also said that the Governor had included the recommendation for that amount in her budget recommendation. Paul Shelby, Office of Judicial Administrator, appeared briefly to tell the committee the judges of the Kansas Supreme Court and Court of Appeals were in favor of the bill. Chairman Chronister closed the hearing.

Rep. George Teagarden moved that **HB 2575** be passed with a favorable recommendation from the committee. Rep. Dean seconded the motion and it was carried by the committee.

Rep. Teagarden made a motion that **SB 320** be passed as it was amended, to include two minor technical adjustments made by the Revisor's office. Rep. Kline seconded the motion and it was carried.

Revisor Jim Wilson submitted a revised version of the balloon amendments presented prior (01/20/94) for **HB 2564**. (See Attachment 3). Rep. Helgerson made a motion to further amend the bill by adding the Department of Administration and the Department of Transportation to section (3) (B) of the proposed balloon amendments. The two agencies would then be required to develop multi-year strategic plans for use in budget estimates beginning with FY 1996. Rep. Glasscock seconded the motion and it carried. Rep. Helgerson then made a motion to pass the bill from the committee with a favorable recommendation. Rep. Pottorff seconded the motion and it carried.

Rep. Jo Ann Pottorff directed Revisor Jim Wilson to present amendments for **HB 2574**. Rep. Pottorff chaired the subcommittee that held hearings for the bill. Revisor Wilson presented said amendments. (See Attachment 4). Changes were made by the committee as noted on page two of the attachment. Rep. Pottorff made a motion to adopt the proposed amendments. Rep. Everhart seconded the motion and it was carried by

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS, Room 514-S of the Capitol, at 1:30 p.m. on January 24, 1994.

the committee. Rep. Pottorff made a second motion to then pass the bill from the committee with a favorable recommendation. Rep. Everhart again seconded the motion and it was carried.

Chairman Chronister adjourned the committee at 2:24 p.m. The next meeting is scheduled for January 25, 1994.

1994 Appropriation Committee Guest List

1	NAME	ORGANIZATION
2	Rep. Mike Owen	
3	Gene McFarland	Overland Park Chamber
4	Arlan Holmes	Div of Budget
5	Thane Waterworth	Division of the Budget
6	Douglas Long	Hugh. Patton, Ks.
7	Jerry Sloan	OJA
8	Paul Shelby	OJA
9	James P. Buchele	Ks. District Judges
10	GARY BAYENS	SNCO YOUTH SERVICES
11	STEPHANIE SMITH	" " "
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Mon, Jan 24, 1994



ROBERT A. GOTTSCHALK, General Manager
ELMER K. DENNING, Assistant General Manager

Starting the first Friday after Labor Day.

January 23, 1994

Representative Rochelle Chronister
Chairperson
House Appropriations Committee
State House
Topeka, KS 66612

Dear Representative Chronister:

HOUSE BILL NO. 2575

The Kansas State Fair Board is requesting support of House Bill No. 2575 that will allow the Agency to secure funds from benevolent and charitable organizations.

It is proposed that such funds would be for designated purposes or specific areas in which the State Fair has operational interests. Projects and areas of expenditures would include the following:

Designated Capital Improvement Projects

Designated Programs

- Advertising
- Educational Programs
- Youth Premium Awards
- Cultural Programs, Performances and Events
- State, Regional and National Shows and Events

Investigation, inquiries and reviews have suggested that it is possibly not legal, or practical for the Kansas State Fair Agency to set up a State Fair Foundation, or to apply for a 501 (C) (3) Tax Status Designation.

January 23, 1994

House Bill No. 2575 outlines a method that would allow the State Fair to accept, account for and spend any monies secured from those who require recipients to hold a 501 (C) (3) designation. This also would allow us to accept contributions from others without such requirements. The Fair Board feels this system will insure expenditures are fully accounted for to the Agency, its Board, State Government and the donor.

The language in House Bill No 2575 appears to address those issues that would concern all interests.

The Hutchinson Community Foundation appears to have the experience, reputation and capabilities to accommodate the State Fair's needs in securing, spending and carrying out the desires of those donors who make contributions. The Staff and Management and especially the founders of the Hutchinson Community Foundation allows for the needed confidence of all interests.

Your support and endorsement will be appreciated.

Sincerely,



Robert A. Gottschalk
General Manager

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**TESTIMONY
OF
LINDA MCGILL
OF
PETE MCGILL & ASSOCIATES
ON BEHALF OF
KANSAS DISTRICT JUDGES ASSOCIATION
PRESENTED BEFORE
THE HOUSE
APPROPRIATIONS
COMMITTEE**

January 24, 1994

RE: SB 320

Madam Chairman and Members of the Committee:

I appreciate the opportunity to take a few minutes of your time to explain SB 320. I am Linda McGill of Pete McGill and Associates and appear here this afternoon on behalf of the Kansas District Judges Association, one of our clients for the past several years. Also here with me is Judge Buchele of Topeka, who is available to respond to any technical questions that I may not be able to answer.

This bill passed the Senate very late in the session last year and arrived in the House too late to be considered. For some reason, it was assigned to the House Judiciary Committee and carried over to this session.

At the start of the session, I visited with Judiciary Chairman Mike O'Neal regarding SB 320 and he said he was supportive of the bill but thought it more appropriately should be considered by the House Appropriations Committee. We certainly had no objection to that suggestion so I visited with the House leadership and Chairman Chronister and the bill was rereferred to Appropriations.

SB 320 is almost identical to the House version of SB 257 which came out of the Conference Committee and passed the House in 1992 by a vote of 119 to 4 and the Senate by a vote of 37 to 0 and was subsequently vetoed by the Governor. Since the bill passed during the veto session, there was no opportunity to consider an override.

The only change in SB 320 from SB 257 that was sent to the Governor in 1992 is the change of date from 1993 to 1995 on line 33.

This bill would simply bring equity to the Judges of Kansas. If all other classified employees of the State receive a cost of living adjustment, then so would the Judges.

January 24, 1994
Page Two

A few years ago in an attempt to partially remedy this situation, the Legislature adopted K.S.A. 75-3120(1) which was intended to guarantee Judges at least any cost of living increase given to classified State employees. The Legislature has always approved giving the Judges the same COLA increases provided other State employees but it has required additional legislative action. SB 320 will correct that.

SB 320 will permanently cure this problem and avoid requiring the Judges to come to the Legislature each year to seek equity with other State employees in salary increases.

The Judges respectfully ask your approval of SB 320.

HOUSE BILL No. 2564

By Legislative Budget Committee

12-16

AN ACT relating to state finances; concerning budget estimates for certain state agencies; amending K.S.A. 1993 Supp. 75-3717 and repealing the existing section.

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

Section 1. K.S.A. 1993 Supp. 75-3717 is hereby amended to read as follows: 75-3717. (a) As provided in this section, each state agency, not later than October 1 of each year, shall file with the division of the budget its budget estimates for the next fiscal year, and all amendments and revisions thereof, except that, in lieu of such annual filing, each agency listed in subsection (f), not later than October 1, 1994, and every two years thereafter, shall file budget estimates for the next fiscal year and for the ensuing fiscal year thereafter.

Each agency listed in subsection (f) may file adjustments to such agency's budget that was approved by the legislature during a prior fiscal year. All such budget estimates, except as provided for office and storage space reports, shall be in the form provided by the director of the budget. Each agency's budget estimates shall include:

(1) A full explanation of the agency's request for any appropriations for the expansion of present services or the addition of new activities, including an estimate of the anticipated expenditures for the next fiscal year and for each of the three ensuing fiscal years which would be required to support each expansion of present services or addition of new services as requested by the state agency; and

(2) a listing of all programs of the agency that provide services for children and their families and the following information regarding each such program: Of the amount of the agency's request for appropriations to fund the program, that amount which will be spent on services for children or families with children and the number of children or families with children who are served by the program.

(b) On or before July 1 of each year, each state agency shall prepare an office and storage space report as a part of the budget estimate for the next budget period. Each office and storage space report shall be filed with the division of the budget not later than July 1 of each year and shall specify the office and storage space

DRAFT OF AMENDMENTS TO HB 2564

For Consideration By House Appropriations Committee
(1-24-94)

; and

(3) a strategic plan for agency operations for each year included in the budget estimate, except that:

(A) The provisions of this section requiring the inclusion of strategic plans in such budget estimates shall not apply to any agency listed in subsection (f), and

(B) for purposes of the budget estimates which are required to be filed not later than October 1, 1994, the provisions of this section requiring the inclusion of strategic plans in such budget estimates shall apply only to (i) the department of social and rehabilitation services, (ii) each institution as defined by K.S.A. 76-12a01 or 76-12a18, and amendments thereto, under the jurisdiction of the secretary of social and rehabilitation services, (iii) the department of corrections, and (iv) each correctional institution as defined by K.S.A. 75-5202, and amendments thereto, under the jurisdiction of the secretary of corrections.

ATTACHMENT 3

ATTACHMENT 3

1 requirements of the state agency for the next budget period and for
2 each of the four ensuing fiscal years.

3 (c) At the same time as each state agency submits to the division
4 of the budget a copy of its budget estimate or its office and storage
5 space report, and all amendments and revisions thereof, each such
6 state agency shall submit a copy of such estimate or such office and
7 storage space report, and all amendments and revisions thereof,
8 directly to the legislative research department for legislative use.

9 (d) The director of the budget shall require the agencies to submit
10 a sufficient number of copies of their budget estimates, and all
11 amendments and revisions thereof, including the office and storage
12 space reports, to the director's office to satisfy the requirements of
13 such office and one additional copy for legislative use which shall
14 be retained in the division of the budget until the budget of the
15 governor is submitted to the legislature. On or before the day that
16 such budget is submitted to the legislature such legislative use copy,
17 posted to reflect the governor's budget recommendations, shall be
18 submitted to the legislative research department for use by the ways
19 and means committee of the senate and the committee on appro-
20 priations of the house of representatives. Following presentation of
21 the governor's budget report to the legislature, the legislative re-
22 search department may request and shall receive detailed information
23 from the division of the budget on the governor's budget recom-
24 mendations.

25 (e) The director of the budget may prepare budget estimates for
26 any state agency failing to file a request.

27 (f) As used in this section, "services for children and their fam-
28 ilies" includes but is not limited to any of the following services;
29 whether provided directly or made accessible through subsidies or
30 other payments:

31 (1) Financial support for children and families with children or
32 enforcement of the obligation to support a child or a family with
33 one or more children;

34 (2) prenatal care, health care for children or immunizations for
35 children;

36 (3) mental health or retardation services for children;

37 (4) nutrition for children or families with children or nutritional
38 counseling or supplements for pregnant or nursing women;

39 (5) child care, early childhood education or parenting education;

40 (6) licensure or regulation of child care or early childhood ed-
41 ucation programs;

42 (7) treatment, counseling or other services to preserve families;

43 (8) care, treatment, placement or adoption of children without

3-2

ATT 3-2

1 functioning families;

2 (9) services to prevent child abuse and to treat and protect child
3 abuse victims;

4 (10) services for children who are pregnant, substance abusers
5 or otherwise involved in high risk behavior;

6 (11) services related to court proceedings involving children; and

7 (12) youth employment services.

8 (f) *On a biennial basis, the following state agencies shall file*
9 *budget estimates under the provisions of subsection (a): Abstracters'*
10 *board of examiners, adjutant general, attorney general—Kansas bu-*
11 *reau of investigation, attorney general, behavioral sciences regula-*
12 *tory board, board of accountancy, board of examiners in optometry,*
13 *board of nursing, consumer credit commissioner, corporation for*
14 *change, citizen's utility ratepayer board, council on vocational ed-*
15 *ucation, department of civil air patrol, department of human re-*
16 *sources, department of revenue—homestead property tax refunds,*
17 *division of post audit, emergency medical services board, governor's*
18 *department, insurance department, Kansas animal health depart-*
19 *ment, Kansas arts commission, Kansas board of barbering, Kansas*
20 *board of examiners in fitting and dispensing of hearing aids, Kansas*
21 *commission on governmental standards and conduct, Kansas com-*
22 *mission on interstate cooperation, Kansas commission on veterans*
23 *affairs, Kansas dental board, Kansas development finance authority,*
24 *Kansas healthy kids corporation, Kansas human rights commission,*
25 *Kansas parole board, Kansas real estate commission, Kansas sen-*
26 *tencing commission, Kansas state board of cosmetology, Kansas state*
27 *grain inspection department, Kansas wheat commission, legislative*
28 *coordinating council, legislative research department, legislature,*
29 *lieutenant governor, ombudsman of corrections, office of revisor of*
30 *statutes, office of the securities commissioner of Kansas, real estate*
31 *appraisal board, secretary of state, state bank commissioner, state*
32 *board of healing arts, state board of mortuary arts, state board of*
33 *pharmacy, state board of technical professions, state board of vet-*
34 *erinary examiners, state department of credit unions and state treas-*
35 *urer.*

36 Sec. 2. K.S.A. 1993 Supp. 75-3717 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after
38 its publication in the statute book.

**Insert attached New and Amendatory Sections and renumber sections
accordingly
Make corresponding Title and Repealer amendments**

ATT-3-3

New Sec. 2. (a) The director of the budget and the director of the legislative research department shall prepare, on or before each September 4 and at such other times as conditions require as jointly determined by such directors, a joint estimate of major federal funding source revenues, as jointly selected by such directors, for the current fiscal year, the ensuing fiscal year and the second ensuing fiscal year. The joint estimates shall include separate estimates based on projections of:

(1) Major federal funding source revenues under the current provisions of law, regulations and policies; and

(2) major federal funding source revenues under significant potential changes in the current laws, regulations and policies, which are being actively proposed or considered by federal officials and which may be reasonably anticipated to take effect for one or more of such fiscal years, including projected funding allocations and changes in the proportions of mixed funding sources for state agency programs and activities, as jointly determined by such directors.

(b) The secretary of social and rehabilitation services, the director of the budget and the director of the legislative research department shall prepare, on or before each September 4 and at such other times as conditions require as jointly determined by the secretary and such directors, joint estimates of caseload rates for the department of social and rehabilitation services for the current fiscal year, the ensuing fiscal year and the second ensuing fiscal year.

(c) Upon request by the director of the budget and the director of the legislative research department, each state agency for which a joint estimate of major federal source revenues is being prepared under this section, shall provide such information and other assistance as may be required to prepare such joint estimate.

Sec. 3. K.S.A. 1993 Supp. 75-3721 is hereby amended to read

as follows: 75-3721. (a) On or before the eighth calendar day of each regular legislative session, the governor shall submit the budget report to the legislature, except that in the case of the regular legislative session immediately following the election of a governor who was elected to the office of governor for the first time, that governor shall submit the budget report to the legislature on or before the 21st calendar day of that regular legislative session.

(b) The budget report of the governor shall be set up in three parts, the nature and contents of which shall include the following:

(1) Part one shall consist of a budget message by such governor, including the governor's recommendations with reference to the fiscal policy of the state government for the ~~ensuing budget--period~~ current fiscal year and the ensuing fiscal year, describing the important features of the budget plan for each of the fiscal years included, embracing a general budget summary setting forth the aggregate figures of the budget plan so as to show the balanced relation between the total proposed expenditures and the total anticipated income for the current fiscal year and the ensuing fiscal year, with the basis and factors upon which the estimates were made, and the means of financing the budget plan ~~for the-ensuing-budget-period~~ each of the fiscal years included, compared with the corresponding figures for at least the last completed fiscal year ~~and--the current--year~~, and the director of the budget shall prepare the figures for the governor for such comparisons.

(A) The budget plan shall not include ~~(A)~~ (i) any proposed expenditures of anticipated income attributable to proposed legislation that would provide additional revenues from either current or new sources of revenue, ~~(B)~~ (ii) any proposed expenditures of moneys in the ending balance in the state general fund required by K.S.A. 1993 Supp. 75-6702, and amendments thereto, or ~~(C)~~ (iii) any proposed expenditures of the moneys required to be transferred to the state cash operating reserve

fund under K.S.A. 1993 Supp. 75-6703 and amendments thereto.

(B) The budget message shall include a report with recommendations regarding office and storage space requirements of state agencies for the ensuing budget period. This report of office and storage space requirements shall include the cost estimates of the governor's recommendations therefor, including any moving expenses associated with such recommendations, and the recommended method of funding the governor's recommendations.

(C) Commencing with the budget report submitted during calendar 1996, the budget message shall include (i) the most recent joint estimates of revenue to the state general fund under K.S.A. 1993 Supp. 75-6701, and amendments thereto, or the estimates of the director of the budget in the event of a disagreement or failure to agree on joint estimates under that statute, (ii) a summation of the strategic plans of the state agencies, and (iii) the governor's priorities for the state.

(D) The general budget summary may be supported by explanatory schedules or statements, classifying the expenditures contained therein by state agencies, objects, and funds, and the income by state agencies, funds, sources and types. The general budget summary shall include all special or fee funds as well as the state general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(2) Part two shall embrace the detailed budget estimates for each of the fiscal years included, both of expenditures and revenues, showing the requests of the state agencies, if any, and the incoming governor's recommendations thereon. It shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the last completed fiscal year, and the estimated amount for the current fiscal year and for each of the next-budget-period ensuing fiscal years included, the debt authorized and unissued, and the condition of the sinking funds.

(3) Part three shall consist of a draft of a legislative

measure or measures reflecting the incoming governor's budget for all of the fiscal years included in the budget report.

(c) The division of the budget shall compile a children's budget document consisting of the information contained in agency budget estimates regarding programs that provide services for children and their families. Such document shall be provided to the joint committee on children and families; the Kansas commission on children, youth and families, established by the governor's executive order number 91-145; and other persons or entities on request.

(d) The division of the budget, upon request, shall furnish the governor or the legislature with any further information required concerning the budget.

(e) Nothing in this section shall be construed to restrict or limit the privilege of the governor to present supplemental budget messages or amendments to previous budget messages, which may include proposals for expenditure of new or increased sources of revenue derived from proposed legislation.

Sec. 4. K.S.A. 1993 Supp. 75-6701 is hereby amended to read as follows: 75-6701. (a) On or before each December 4 and on or before each April 4, the director of the budget and the director of the legislative research department shall prepare a joint estimate of revenue to the state general fund for the current fiscal year and the for each of the two ensuing fiscal year years.

(b) If prior to final adjournment of any regular session of the legislature any law is enacted providing for additional or less revenues to be deposited in the state treasury to the credit of the state general fund, the director of the budget and the director of the legislative research department shall prepare a joint estimate of such revenues for such fiscal years.

(c) In the event of a disagreement or failure to agree upon a joint estimate of revenue pursuant to subsection (a) or (b), the legislature shall utilize the estimates for such fiscal years of the director of the legislative research department and the governor shall utilize the estimates for such fiscal years of the director of the budget.

HOUSE BILL No. 2574

By Committee on Appropriations

12-22

Draft Subcommittee Report of PROPOSED AMENDMENTS TO HB 2574

For Consideration By House Appropriations Committee
(1-24-94)

ATTACHMENT 4

8 AN ACT concerning dispute resolution; establishing the office of
9 dispute resolution; providing for the establishment and adminis-
10 tration of dispute resolution centers; prescribing certain require-
11 ments and providing for certain grants; prescribing confidentiality
and immunity under certain circumstances

; creating the dispute resolution fund; amending K.S.A. 1993 Supp. 20-362, 20-367, 60-2001, 61-2501 and 61-2704 and repealing the existing sections

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

15 Section 1. (a) Sections 1 through 16 and amendments thereto
16 shall be known and may be cited as the dispute resolution act.

17 (b) The dispute resolution act shall apply only to approved cen-
18 ters, including the governing board members and the mediators and
19 other personnel of approved centers, whether or not such persons
20 are compensated, and to the parties to disputes accepted for dispute
21 resolution at approved centers.

22 Sec. 2. As used in the dispute resolution act:

23 (a) "Approved center" means a center that has applied for and
24 received approval from the director under section 7 and amendments
25 thereto;

26 (b) "center" means ~~a not-for-profit organization under section~~
27 ~~501(c)(3) of the federal internal revenue code of 1986 or a court-~~
28 ~~established~~ program which makes dispute resolution procedures
29 available

any entity or

, other than a dispute resolution program operated within
the judicial branch

30 (c) "council" means the advisory council on dispute resolution;

31 (d) "director" means the director of the office of dispute reso-
32 lution;

33 (e) "dispute resolution process" means a process by which the
34 parties involved in a dispute voluntarily agree or are referred by a
35 court to enter into informal discussion and negotiation with the
36 assistance of a mediator;

37 (f) "mediation" means the intervention into a dispute by a third
38 party who has no decision making authority and is impartial to the
39 issues being discussed; and

40 (g) "mediator" means a person trained in the process of mediation
41 who assists parties in dispute to reach a mutually acceptable reso-
lution of their conflict.

Sec. 3. The office of dispute resolution is hereby established in

ATT 4

the office of the judicial administrator. The director of the office shall be in the unclassified service under the Kansas civil service act and shall be appointed by the ~~chief justice of the supreme court~~. The director may be but is not required to be an attorney and shall be selected for appointment on the basis of the individual's training and experience in mediation. The director shall administer the dispute resolution act and shall provide administrative and clerical assistance to the council. If the person appointed as director is an attorney, such person shall devote full time to the duties of the office of director and shall not engage in the private practice of law during the period such person serves as director.

judicial administrator

Sec. 4. (a) The advisory council on dispute resolution is hereby created. The council shall be comprised of individuals from a variety of disciplines who are trained and knowledgeable in mediation and shall be selected to be representative of the geographical and cultural diversity of the state and to reflect balanced gender representation. The council shall consist of 11 voting members appointed by the chief justice of the supreme court. The voting members shall include

~~a representative from the Kansas district judges association, the Kansas district magistrate judges association and the Kansas bar association.~~

The council shall be appointed by the chief justice of the supreme court in accordance with this section. The chief justice shall

~~solicit nominations from the Kansas district judges association, Kansas district magistrate judges association, Kansas bar association, Kansas committee for community mediation, Kansas children's service league, heartland mediators association, Kansas legal services, Inc.,~~

state and local government agencies, business organizations, consumer organizations, court service officers, social workers, mental health professionals, educators and other interested groups or individuals. The chief justice is not restricted to the solicited lists of nominees in making such appointments. Two nonvoting, ex-officio members of the council shall be appointed by the council from among representatives of the approved centers.

(b) The initial members of the council shall be appointed for terms of one, two or three years so that the terms of not more than four voting members shall expire during the same calendar year. All successor appointments shall be made for terms of three years. Any vacancy on the council shall be filled in the same manner in which the original appointment was made and for the duration of the term vacated. Appointments to the council shall be made within 90 days after July 1, 1994.

(c) The council annually shall elect a chairperson, a vice-chairperson and such other officers as deemed necessary by the council.

not more than *and not more than*
not more than one district judge, one district magistrate judge¹ or one other person who is licensed to practice law in Kansas

Kansas judges, mediation organization organizations, legal and mental health professional organizations, social and legal services agencies, domestic violence advocacy groups

4-2

4-2

Sec. 5. (a) The council shall:

(1) Advise the director on the administration of the dispute resolution act and on policy development therefor;

(2) assist the director in providing technical assistance to centers and other entities requesting the study and development of dispute resolution programs;

(3) consult with appropriate and necessary state agencies and offices to promote a cooperative and comprehensive implementation of this act;

(4) advise the director with respect to the awarding of grants to approved centers or any other financial assistance program which is administered under this act;

(5) advise the director with respect to applications submitted by centers and other entities for approval under section 7 and amendments thereto as approved centers;

(6) assist the director with the review, supervision and evaluation of dispute resolution programs of approved centers; and

(7) make recommendations to the director pertaining to legislation affecting dispute resolution.

(b) The council shall meet at least four times per year and at other times deemed necessary to perform its functions. Members of the council attending meetings of the council or attending a subcommittee meeting thereof authorized by the council shall receive amounts provided for in subsection (c) of K.S.A. 75-3223 and amendments thereto.

(c) The council may appoint subcommittees of the council to carry out its work. Subcommittee members shall have knowledge of, responsibility for, or interest in an area related to the duties of the council assigned to the subcommittee.

Sec. 6. (a) Consistent with provisions of the dispute resolution act and the rules of the supreme court adopted pursuant to section 16 and amendments thereto, and in consultation with the council, the director shall:

(1) Make information on the formation of centers available throughout the state and encourage the formation of centers;

(2) approve centers which meet requirements and guidelines for approval which are prescribed by this act or by rules of the supreme court adopted pursuant to section 16 and amendments thereto;

(3) develop and administer a uniform system of reporting and collecting statistical data from approved centers;

(4) develop and administer a uniform system of evaluating approved centers for compliance with the requirements of the dispute resolution act and the rules of the supreme court adopted pursuant

the dispute resolution act

to ~~section 16 and amendments thereto;~~

the dispute resolution act

(5) prepare an annual budget for the implementation and administration of the dispute resolution act and disburse funds to approved centers;

(6) develop guidelines for a sliding scale of fees that may be charged by approved centers;

(7) develop and approve curricula and initiate training sessions for mediators and staff of approved centers and of courts, including continuing education programs;

(8) establish and approve volunteer training and continuing education programs;

(9) promote public awareness of the dispute resolution process; and

(10) apply for and receive funds from public and private sources for carrying out the purposes and objectives of the dispute resolution act.

(b) The director shall report annually to the supreme court, the governor and the legislature on the implementation of the dispute resolution act. The report shall include the number and types of disputes received, the disposition of the disputes, any problems encountered, any recommendations to address problems and a comparison of the cost of mediation and litigation.

Sec. 7. (a) A center or an entity proposing to establish a center may apply to the director for approval to participate in the dispute resolution process under the dispute resolution act by submitting an application which includes:

(1) A plan for the operation of the center;

(2) the center's objectives;

(3) the areas of population to be served;

(4) the administrative organization of the center;

(5) recordkeeping procedures;

(6) the procedures for client intake and for scheduling, conducting and terminating dispute resolution sessions;

(7) qualifications for mediators for the center;

(8) an annual budget for the center;

(9) ~~proof of not-for-profit status under section 501(c)(3) of the federal internal revenue code of 1986 or proof of establishment by a court; and~~

and

~~(10) such additional criteria for approval or for grants which are prescribed by the director in accordance with the dispute resolution act or by rules of the supreme court pursuant to section 16 and amendments thereto~~

adopted pursuant to the dispute resolution act

(b) The director shall approve or disapprove each application

submitted for approval under this section by the end of the second meeting of the advisory council occurring after the date the application was submitted.

(c) Each approved center shall submit an annual report to the director. The reports shall include the number and types of cases handled in the year and a showing of continued compliance with the dispute resolution act.

(d) Any entities providing mediation programs and existing on July 1, 1994, shall not be included as approved centers under the dispute resolution act unless such entities apply and are approved under this section.

Sec. 8. An approved center may use sources of funds, both public and private, in addition to funds appropriated by the legislature. An approved center may require each party to pay a fee to help defray costs based upon ability to pay. A person shall not be denied mediation services solely because of an inability to pay the applicable fee.

Sec. 9. (a) The following types of cases may be accepted for dispute resolution at an approved center:

(1) Civil claims and disputes, including, but not limited to, consumer and commercial complaints, disputes involving allegations of shoplifting, disputes between neighbors, disputes between business associates, disputes between landlords and tenants, disputes involving matters under the small claims procedure act, and disputes within communities;

(2) disputes concerning child custody and visitation rights and other areas of domestic relations;

(3) juvenile offenses and disputes involving juveniles;

(4) disputes between victims and offenders;

(5) disputes involving allegations of unlawful discrimination under state or federal laws;

(6) disputes referred by county attorneys or district attorneys;

~~and~~

(7) disputes involving employer and employee relations under K.S.A. 72-5413 through 72-5432 and amendments thereto or K.S.A. 75-4321 through 75-4337 and amendments thereto;

(b) ~~An approved center may accept cases referred by a court, an attorney, a law enforcement officer, a social service agency, a school or any other interested person or agency or may accept cases upon the request of the parties involved.~~ A case may be referred prior

to the commencement of formal judicial proceedings or may be referred as a pending court case. If a court refers a case to an approved center, the center shall provide information to the court

, in which the victims voluntarily agree to participate in mediation

; and

(8) disputes referred by a court, an attorney, a law enforcement officer, a social service agency, a school or any other interested person or agency, including the request of the parties involved

as to whether an agreement was reached and, if the court requests a copy of the agreement, the center shall provide such copy.

(c) Before the dispute resolution process begins, an approved center shall provide the parties with a written statement setting forth the procedures to be followed.

Sec. 10. (a) ~~Mediators of approved centers shall have completed at least 30 hours of training approved by the director in conflict resolution techniques, neutrality, agreement writing and ethics. For disputes involving marital dissolution, mediators of approved centers shall have an additional 30 hours in family mediation training approved by the director. An initial apprenticeship with an experienced mediator of at least three sessions shall be required for all mediators without prior mediation experience.~~

After reviewing the recommendations of the advisory council on dispute resolution, the supreme court shall adopt rules which establish standards for training and qualifications for mediators of approved centers and which prescribe procedures for the approval by the director of training for mediators in accordance with such standards. Training for mediators shall include the study of

All mediators of approved centers shall satisfy the standard for training and qualifications established by rules of the supreme court

(b) Mediators of approved centers shall comply with the ethics requirements and standards and the annual continuing education requirements which are prescribed by the director in accordance with the dispute resolution act or by rules of the supreme court adopted pursuant to ~~section 16 and amendments thereto.~~

the dispute resolution act

(c) An approved center may provide dispute resolution by utilizing mediators who are compensated by the approved center, by utilizing the services of volunteer mediators, or by utilizing both compensated and volunteer mediators.

Sec. 11. (a) Each mediator of an approved center shall assist the parties in reaching a mutually acceptable resolution of their dispute through discussion and negotiation. The mediator shall be impartial, neutral and unbiased and shall make no decisions for the parties. The mediator shall act in accordance with the ethics requirements and standards prescribed by rules adopted by the supreme court pursuant to ~~section 16 and amendments thereto.~~

the dispute resolution act

(b) The mediator shall officially terminate the process if the parties are unable to agree. The termination shall be without prejudice to either party in any other proceeding.

(c) The mediator has no authority to make or impose any adjudicatory sanction or penalty upon the parties.

(d) The mediator shall ~~be aware of and~~ recommend outside resources to the parties whenever appropriate. The mediator shall advise participants to obtain legal review of agreements as necessary.

Sec. 12. (a) All verbal or written information ~~relating to the subject matter of an agreement and~~ transmitted between any party to a dispute and a mediator or the staff of an approved center shall be confidential communications. Mediation proceedings shall be regarded as settlement negotiations, and no admission, representation or statement made in mediation ~~which is not otherwise discoverable~~

1 ~~[or obtainable]~~ shall be admissible as evidence or subject to discovery.

2 A mediator shall not be subject to process requiring the disclosure
3 of any matter discussed during mediation proceedings unless all the
4 parties consent to a waiver.

5 (b) The confidentiality requirements of this section shall not apply
6 to:

7 (1) Information that is reasonably necessary to establish a defense
8 for the mediator or center in the case of an action against the
9 mediator or the center that is filed by a party to the mediation;

10 (2) any information that the mediator is required to report under
11 K.S.A. 38-1522 and amendments thereto;

12 (3) any information that is reasonably necessary to stop the com-
13 mission of an ongoing crime or fraud or to prevent the commission
14 of a crime or fraud in the future for which there was an expressed
15 intent to commit such crime or fraud; or

16 (4) any information that the mediator is required to report or
17 communicate under the specific provisions of any statute or in order
18 to comply with orders of a court.

19 Sec. 13. No mediator, staff member, or member of a governing
20 board of an approved center may be held liable for civil damages
21 for any statement or decision made in the process of dispute reso-
22 lution unless such person acts, or fails to act, in a manner constituting
23 gross negligence with malicious purpose or in a manner exhibiting
24 willful disregard of the rights, safety or property of any party to the
25 process of dispute resolution.

26 Sec. 14. If the parties involved in the dispute reach an agree-
27 ment, the agreement may be reduced to writing and signed by the
28 parties. The agreement shall set forth the settlement of the issues
29 and the future responsibilities of each party. If a court referred the
30 case, the agreement as signed and approved by the parties may be
31 presented to the court as a stipulation and, if approved by the court,
32 such agreement shall be enforceable as an order of the court.

33 Sec. 15. During the period of the dispute resolution process,
34 any applicable statute of limitations shall be tolled as to the parties.
35 The tolling shall commence on the date that the parties jointly agree
36 in writing to participate in mediation under the dispute resolution
37 act and shall end on the date mediation is officially terminated by
38 the mediator. This period shall be no longer than 60 days without
39 consent of all the parties.

40 Sec. 16. The supreme court, upon recommendation by the di-
41 rector in consultation with the council, shall adopt rules for the
42 administration of the dispute resolution act and to prescribe ethics
43 requirements and standards for mediators of approved centers.

2 Sec. 17. This act shall take effect and be in force from and after
its publication in the statute book.

Insert attached New and Amendatory Sections and renumber sections
accordingly

8-4

8-4

PROPOSED AMENDMENT TO HB 2574

On page 8, preceding line 1, by inserting the following sections:

New Sec. 17. There is hereby created the dispute resolution fund in the state treasury which shall be administered by the judicial administrator. All expenditures from the dispute resolution fund shall be for the operating expenses of the office of dispute resolution in the office of the judicial administrator, the advisory council on dispute resolution, or other activities or grants authorized or provided for under the dispute resolution act. All expenditures from the dispute resolution fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the judicial administrator or by the judicial administrator's designee.

Sec. 18. K.S.A. 1993 Supp. 20-362 is hereby amended to read as follows: 20-362. The clerk of the district court shall remit at least monthly all revenues received from docket fees as follows:

(a) To the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments thereto, during the preceding calendar month;

(2) a sum equal to \$10 for each ~~\$36.50~~ \$37 or ~~\$61.50~~ \$62 docket fee paid pursuant to K.S.A. 61-2501, 61-2704 or 61-2709, and amendments thereto; and

(3) a sum equal to \$5 for each ~~\$16.50~~ \$17 docket fee paid pursuant to K.S.A. 61-2501 or 61-2704, and amendments thereto, during the preceding calendar month.

(b) To the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) To the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to \$1 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month for cases filed in the county and for each fee paid pursuant to subsection (c) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month for cases filed in the county.

(d) To the state treasurer, for deposit in the state treasury and credit to the indigents' defense services fund, a sum equal to \$.50 for each docket fee paid pursuant to K.S.A. 28-172a and subsection (d) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month.

(e) To the state treasurer, for deposit in the state treasury and credit to the law enforcement training center fund, a sum equal to \$5 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month.

(f) To the state treasurer, for deposit in the state treasury and distribution according to K.S.A. 1993 Supp. 20-367, and amendments thereto, a sum equal to the balance which remains from all docket fees paid during the preceding calendar month after deduction of the amounts specified in subsections (a), (b), (c), (d) and (e).

Sec. 19. K.S.A. 1993 Supp. 20-367 is hereby amended to read as follows: 20-367. (a) Of the remittance of the balance of docket fees received monthly by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit:

(1) To the juvenile detention facilities fund, a sum equal to 5.12% of the remittances of docket fees;

(2) to the judicial branch education fund, ~~the--state treasurer-shall-deposit-and-credit~~ a sum equal to 3.93% of the remittances of docket fees;

(3) to the emergency medical services operating fund, the ~~state-treasurer-shall-deposit-and-credit~~ a sum equal to 2.95% of the remittances of docket fees; and

(4) to the judiciary technology fund, ~~the-state-treasurer shall-deposit-and-credit~~ a sum equal to 5.66% of the remittances of docket fees; and

(5) to the dispute resolution fund, a sum equal to .65% of the remittances of docket fees.

(b) The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

Sec. 20. K.S.A. 1993 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) Docket fee. Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of ~~\$61.50~~ \$62 to the clerk of the district court.

(b) Poverty affidavit in lieu of docket fee. (1) Effect. In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required.

(2) Form of affidavit. The affidavit provided for in this subsection shall be in the following form and attached to the petition:

State of Kansas, _____ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) Disposition of docket fee. The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

(d) Additional court costs. Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall

include, but not be limited to, witness fees, appraisers' fees, fees for service of process outside the state, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorneys' fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 21. K.S.A. 1993 Supp. 61-2501 is hereby amended to read as follows: 61-2501. (a) Docket fee. No case shall be filed or docketed pursuant to this chapter without the payment of a docket fee in the amount of ~~\$16.50~~ \$17, if the amount in controversy or claimed does not exceed \$500, or ~~\$36.50~~ \$37, if the amount in controversy or claimed exceeds \$500 but does not exceed \$5,000, or ~~\$61.50~~ \$62, if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(b) Poverty affidavit; additional court costs. The provisions of subsections (b), (c) and (d) of K.S.A. 60-2001 and amendments thereto shall be applicable to actions pursuant to this chapter.

Sec. 22. K.S.A. 1993 Supp. 61-2704 is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed, service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service.

(b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of

~~\$16.50~~ \$17, if the claim does not exceed \$500, or ~~\$36.50~~ \$37, if the claim exceeds \$500, unless for good cause shown the judge waives the fee. The docket fee shall be the only costs required in an action seeking recovery of a small claim. No person may file more than 10 small claims under this act in the same court during any calendar year.

Sec. 23. K.S.A. 1993 Supp. 20-362, 20-367, 60-2001, 61-2501 and 61-2704 are hereby repealed.";

And by renumbering section 17 as section 24;