

Approved March 27, 1986  
Date

MINUTES OF THE Senate COMMITTEE ON Local Government

The meeting was called to order by Senator Don Montgomery at  
Chairperson

9:00 a.m./~~p.m.~~ on March 25, 1986 in room 531-N of the Capitol.

All members were present except: Senators: Bogina, Gaines, Mulich and Winter who were excused.

Committee staff present: Theresa Kiernan, Emalene Correll, Mike Heim, Lila McClafllin

Conferees appearing before the committee:

Representative Clint Acheson, 52nd District, Topeka  
Doug Wright, Mayor, City of Topeka, KS.  
Kim Dewey, Sedgwick County Board of Commissioners  
Chip Wheelan, Kansas Legislative Policy Group  
Marjorie Van Buren, Office of Judicial Administration, Topeka

H.B. 2784 - amends statutes dealing with the Metropolitan Topeka Transit Authority and Washburn University. The bill allows the Mayor of Topeka to make the appointments for members of the governing boards of the Authority and the University with the approval of the city governing body.

Rep. Clint Acheson presented the bill to the Committee. The bill was requested by the City of Topeka to clarify appointment powers of the city in regard to the governing bodies of the transit authority and the University due to a change in Topeka's City Government.

Mayor Doug Wright spoke in support of H.B. 2784. Topeka has four statutory boards this bill would bring them all in to compliance. The mayor offers a name and the council receives it or rejects it. This question arose because of the change in city government. In response to a question, he stated this would not apply to any other cities with transit authorities as Topeka's was organized under this statute, and he wasn't aware of any other city that was organized under it.

S.B. 738 - concerning tax levies exempt from aggregate limitations; concerning expenses incurred by counties for district court operations.

Kim Dewey presented written testimony in support of S.B. 738. Included with his testimony is a letter from David Prager, Chairman of Kansas Judicial Council, address to the Legislative Coordinating Council and a copy of the report on court unification which was requested by the Legislative Coordinating Council. Mr. Dewey stated the Court Unification Advisory Committee consisting of district court judges, court administrators, legislators and others interested in the Kansas Court System, including Sedgwick County Administrator Tim Witsman and some of the original members of the 1973 Judicial Study Advisory Committee group met for nearly two years. Primary among their recommendations is one calling for gradual State assumption of the operating cost of the district courts. (Attachment I)

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Local Government,  
room 531-N, Statehouse, at 9:00 a.m./~~p.m.~~ on March 25, 1986

Chip Wheelan, Kansas Legislative Policy Group, stated he represented an organization which is primarily county commissioners from rural areas of the State. Their group urges the Legislature to adopt budgetary policies which will finance full costs of the judicial branch from state funds. They would prefer enactment of H.B. 2817, but they support S.B. 738 as a temporary measure.  
(Attachment II)

The Committee discussed this bill at length, some of the concerns of the Committee are: could H.B. 2817 be amended into S.B. 738; the fiscal note on H.B. 2817 is approximately 12 million dollars; could this change be phased in over a period of 3 or 4 years; could the jury cost be picked up first and the rest phased in at a later date; what coice do county commissioners have in adopting the court budgets.

Marjorie Van Buren, Office of Judicial Administration, Topeka, stated it is very hard with 105 counties to break out court cost from county budgets because of the way their local budgets are setup. Courthouse cost for phoning, data processing, mailing and utilities many of these items are lumped as one item for the whole courthouse and not broke out according to agencies. Your administrative judge could request this, each district judge basically has to do this any-way.

It was the consensus of the Committee that the sponsors of the bill do some research on the concerns expressed by the Committee and report back to the Committee the first of next week.

H.B. 2784 - Senator Allen moved to pass the bill. Senator Steineger seconded the motion. The motion carried.


H.B. 2794 heard in committee on March 21, 1986, concerning the Finney County fire district. Staff stated they had checked with Finney County Clerk and was unable to find out what statute their fire district was organized under, so they did not make this apply statewide at this time.

Senator Allen moved to pass the bill. Senator Daniels seconded the motion. The motion carried.

S.B. 503 that was heard in committee on February 14, 1986 was referred to, Senator Daniels moved to amend the bill to localize it to Sedgwick County. Senator Ehrlich seconded the motion. The motion carried. Senator Daniels moved to pass the bill as amended. Senator Allen seconded the motion. The motion carried.

Senator Ehrlich moved to adopt the minutes of March 21 and March 24. Senator Langworthy seconded the motion. The motion carried.

The meeting adjourned until 9:00 a.m., Wednesday, March 26, 1986.

  
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Senator Don Montgomery





(AI)

## SEDGWICK COUNTY, KANSAS

### BOARD OF COUNTY COMMISSIONERS

BUD HENTZEN  
CHAIRMAN  
THIRD DISTRICT

DONALD E. GRAGG  
CHAIRMAN PRO-TEM  
FIRST DISTRICT

TOM SCOTT  
COMMISSIONER  
SECOND DISTRICT

COUNTY COURTHOUSE • SUITE 320 • WICHITA, KANSAS 67203-3759 • TELEPHONE (316) 268-7411

Testimony of Kim C. Dewey  
Senate Local Government Committee  
SB 738  
March 25, 1986

A careful, deliberative review of the Kansas Unified Court System, including the financing system, has been quietly taking place over the last three years. Beginning in 1981, Sedgwick County submitted requests to the Legislative Coordinating Council to authorize or request an in depth review of the implementation of the recommendations of the Judicial Study Advisory Committee (JSAC) given to the Kansas Legislature in 1973. Primary among our concerns was a review of the dual financing structure which had evolved contrary to the JSAC recommendation for a single financing source for Court operations. The Coordinating Council approved the request of Sedgwick County in 1983 and asked the Judicial Council to conduct the review of court unification. After a preliminary review and survey, the Judicial Council appointed a special Court Unification Advisory Committee consisting of district court judges, court administrators, legislators and others interested in the Kansas Court System, including Sedgwick County Administrator Tim Witsman and some of the original members of the 1973 JSAC group.

Although the CUAC reviewed all aspects of the unification of the district courts, financing was a major focus of their study. The CUAC met monthly for nearly two years and completed and submitted their report and recommendations to the Judicial Council in January of this year. Primary among their many recommendations is one calling for gradual State assumption of the operating costs of the district courts. Currently, all personnel costs are paid by the State of Kansas, while all operating expenses are the liability of the individual counties in each district.

While Sedgwick County is very supportive of this recommendation, we are not so naive as to believe there is any real chance of this taking place in the foreseeable future. We do believe, however, that there are alternatives which could ease the burden of the district court operating expenditures on county budgets, alternatives which cost the State of Kansas nothing.

(Attachment I) S. LG  
3/25/86

Sedgwick County has argued for years that levies made by counties to support district court operating needs should not be subject to the aggregate levy limitation (tax lid) since the levies are made on behalf of another government and since the expenditure of the revenue raised by the levies cannot be controlled by the board of county commissioners. A review of the history of the tax lid and the exemptions which have been granted by statute will reveal a clear intent on the part of the Legislature that the tax lid apply only to those levies made for purposes of the political subdivision and to those levies which support expenditures which can be controlled by the political subdivision. For example, levies made by counties for out-district junior college tuition are not subject to the tax lid, since they are made on behalf of another political subdivision and certainly cannot be controlled by the county.

By requiring district court operating levies to be subject to the tax lid, court operations are put into direct competition with other vital county services subject to the lid. This often has negative implications for both the level and quality of court services as well as other county funded operations and services. Additionally, county commissioners have little discretion regarding the level funding for district court operations. There are many statutes which require commissioners to approve without question requests for funding from the district courts and limit the amount by which district court operating budgets may be reduced. Does it make sense for the State of Kansas on one hand to require a certain level of operating support for the district courts from the counties, and on the other hand to limit and restrict the counties' ability to raise the revenue needed to meet these obligations?

We think it makes little sense at all. SB 738 simply provides that the operating expenses of the district courts, payable by counties, are not subject to the aggregate levy limitations. We urge you to act favorably on this legislation and correct this contradiction in purpose.



JUDICIAL MEMBERS  
JUSTICE DAVID PRAGER, CHAIRMAN,  
TOPEKA  
JUDGE MARY BECK BRISCOE, TOPEKA  
JUDGE JAMES J. NOONE, WICHITA  
JUDGE HERBERT W. WALTON, OLATHE

LEGISLATIVE MEMBERS  
SENATOR ROBERT G. FREY, LIBERAL  
REPRESENTATIVE JOSEPH A. KNOPP, MANHATTAN

LAWYER MEMBERS  
JAMES D. WAUGH, SECRETARY,  
TOPEKA  
ROBERT H. COBEAN, WELLINGTON  
JACK E. DALTON, DODGE CITY  
MARVIN E. THOMPSON, RUSSELL

## KANSAS JUDICIAL COUNCIL

KANSAS JUDICIAL CENTER  
301 West Tenth Street  
Topeka, Kansas 66612-1507

COUNCIL STAFF  
RANDY M. HEARRELL  
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FISCAL OFFICER &  
ADMINISTRATIVE ASSISTANT

(913) 296-2498

January 23, 1986

TO THE MEMBERS OF THE LEGISLATIVE COORDINATING COUNCIL

Gentlemen:

Enclosed is a copy of the report on court unification which was requested by the Legislative Coordinating Council and was prepared by the Judicial Council Court Unification Advisory Committee. A copy of the appendix has been filed is on file with the Office of Legislative Services and Facilities.

At its meeting held January 9, 1986, the Judicial Council received and discussed the report. It was agreed by the Judicial Council that it would forward the report to the LCC in the form it was submitted to the Judicial Council by the Court Unification Advisory Committee.

The thinking of the Judicial Council was that the Court Unification Committee was an excellent committee which had spent a great deal of time studying the subject and the Council was of the opinion that the LCC should have the benefit of the advisory committee's findings.

It was agreed, however, that while the Judicial Council would not change the report of the advisory committee it would make certain comments and observations in a cover letter to accompany the report. Those comments follow.

It is recognized that the recommendations contained in section III.B.1.a, III.B.1.b, and III.B.1.c, relating to financial matters are legislative policy issues. The Judicial Council recommends serious consideration of the advisory committee's recommendations.

As to the recommendation contained in section III.B.1.e, relating to submission of the Court's budget directly to the legislature, the Judicial Council agrees with the position of the Committee and the Supreme Court that the budget of the judicial

(Attachment I)

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branch of state government should not be treated as an executive branch budget. The Judicial Council agrees that the judicial branch is entitled to submit its proposed budget directly to the legislature without modification by the executive branch.

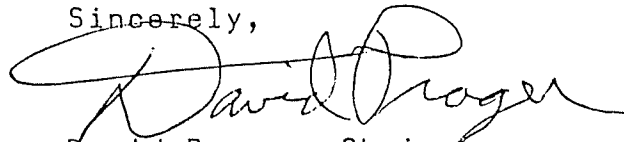
As to the recommendation contained in section III.B.2, relating to the authority of the administrative judge, the Judicial Council agrees with the recommendation of the advisory committee that the authority of the administrative judge be clarified by the adoption of Senate Bill 298. The Council received the proposal of the advisory committee relating to proposed Supreme Court Rule No. 107 and has forwarded that proposal to the Civil Code Advisory Committee for its consideration and report.

As to the recommendation contained in section III.B.C, relating to establishment of a permanent independent commission to review and set judicial salaries, the Judicial Council agrees with the recommendation of the Committee. The Judicial Council is concerned that judicial salaries in Kansas consistently remain lower than the national average. This has discouraged many qualified lawyers from seeking judicial office.

As to the the recommendation contained in section III.B.4, relating to expansion of the Court of Appeals, the Judicial Council agrees with the recommendation of the Committee. The Judicial Council has long sought expansion of the Court of Appeals and prior to the submission of this report had determined it would be propose such legislation this legislative session.

As to the recommendation contained in section III.B.5, relating to training and certification of nonlawyer municipal judges, the Judicial Council endorses the concept.

Sincerely,



David Prager, Chairman  
Kansas Judicial Council

DP:ng

Enclosure

cc: Legislative Services and Facilities

The following section of this report deals with issues on which the Committee makes recommendations. The reason this section of the report is larger than the section dealing with accomplishments under unification, is not because the problems found to exist are greater than what has been accomplished. That is not the case. It is the position of the Committee that the accomplishments which have come from court unification far exceed the areas in which work remains to be done. However, the nature of a report such as this is to focus on areas of possible improvement.

B. RECOMMENDATIONS

1. Court Finance

a. Costs

The Judicial Council Court Unification Advisory Committee recommends that the accurate combined costs (county and state) of funding the Kansas Unified Court System be obtained as soon as possible.

In 1984, the Legislative Coordinating Council assigned Proposal No. 48, District Court Financing, to the Special Committee on Ways and Means. The Committee was directed to review the financing of the state judicial system since unification, and to consider the feasibility of increased state support of district court operations. The Committee looked into the background of the unified court system, reviewed the JSAC



recommendations, and referred to the preliminary report of the Judicial Council which was prepared prior to establishing this Committee.<sup>24</sup>

The report of that committee states:

"Examination of the detail of district court expenditures for FY 1983 reveals the difficulty of making generalizations. First, the district courts, despite using a common budget form and set of instructions, do not construct their budgets uniformly. Some budgets include actual, estimated, and requested amounts for each object of expenditure. Other budgets aggregate various levels of detail and do not reflect all objects of expenditure. Second, some objects of expenditure are frequently absent from the court budget. Expenditures for postage, telephones and utilities are in some cases not budgeted for the courts, nor reported as expenditures. In addition, amounts budgeted for staff travel and professional association dues are frequently not shown in the budgets.

The conclusion of the legislative interim committee was as follows:

"The Committee concluded that the quality of the data available about the district court operating expenditures does not permit determination of the actual costs of state assumption of those expenditures. For that reason and because of the current fiscal status of the state, the Committee does not recommend immediate state assumption of additional district court operating expenditures. The Committee also concluded that any court expenditures replaced by increased state expenditures should result in an equal reduction of county budgets and expenditures.

The Committee recommends that the state consider assumption of additional court costs now paid by the counties, except facilities, when a uniform accounting and reporting system is perfected that accurately identifies the costs of operating the district courts."

This Committee had similar misgivings about the available data relating to the costs of operating the district courts. It is the opinion of the Committee that the data utilized by the

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<sup>24</sup> Report on Kansas Legislative Interim Studies to the 1985 Legislature, p. 707, Dec. 1984. Appendix, p. 490.

legislative interim committee contained significant omissions of costs. Using data which was described by the legislative committee itself as making it "difficult to make generalizations" that committee concluded that the state paid 70% of the district court costs in FY 1983. Additional information obtained by this Committee from Sedgwick County indicates that 7.3 million dollars reported as county expenditure for court operations<sup>25</sup> omits approximately two million dollars, if all costs were reported.<sup>26</sup> A similar discrepancy occurs with the 10.4 million dollar figure which included the costs of the juvenile detention facilities. The figures suggest to this Committee that county spending for the unified court system may be significantly underestimated.

The information gathering problem encountered by the legislative interim committee has continued. Despite the best efforts of the Court Unification Advisory Committee and extraordinary efforts by Senator Feleciano and former Senator Pomeroy, this Committee was unable to obtain a survey by Legislative Post Audit of the district courts which would have provided accurate costs of operating the courts in Kansas. Senator Feleciano chaired a subcommittee of this Committee which worked with the staff of Legislative Post Audit, prepared a proposed scope of study and presented it to the Legislative Post Audit Committee. Chairman Pomeroy testified before the Legislative Post Audit

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<sup>25</sup> Sedgwick County Department of Administration, Actual Costs of Support of 18th Judicial District and Youth Facilities for 1983 and 1984 and Budgeted Costs for 1985, Feb. 21, 1985. Appendix, p. 494.

<sup>26</sup> Ibid.

Committee and emphasized the need for the information and the fact that the information is not otherwise available. Despite the efforts on behalf of this Committee the request was turned down.

This Committee then turned to the National Center for State Courts and requested an estimate for performing a similar audit.<sup>27</sup> Unfortunately, the estimate of \$30,000 was beyond the ability of the Judicial Council to finance and the Judicial Administrator indicated that funding above what the Judicial Council could provide was not available from his office.

The action by the Legislative Post Audit Committee in failing to approve the audit and the inability of the Judicial Council to finance or arrange financing for an outside study made the gathering of accurate information about the cost of running the state courts impossible.

b. State Finance

The Committee believes that the original Judicial Study Advisory Committee's discussion of the benefits of state finance are still valid<sup>28</sup> and the Committee recommends that the state assume all costs, except facilities, of the Kansas Unified Court System, when feasible.

The following background is of interest in considering state financing of the courts. After the report of the Judicial Study Advisory Committee there was other activity relating to court unification. In 1974, the special committee on the judiciary

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<sup>27</sup> National Center for State Courts, Kansas Court Finance Proposal, November 18, 1985. Appendix, p. 501.

<sup>28</sup> JSAC Report, Appendix, p. 9.

reviewed the JSAC recommendations and prepared legislation to implement most of them. The bill that passed the legislature in 1975, included only the provisions creating the Court of Appeals.<sup>29</sup>

In 1975, a legislative interim study committee met, held hearings, and submitted a bill that was a duplicate of the previous year's bill (without the provision for creating the Court of Appeals). This proposal was passed by the legislature and left the responsibility for financing the courts with the counties.<sup>30</sup>

In 1976, the interim study committee on legislative budget reviewed judicial compensation. The committee recommended that the legislature work toward a goal of phasing out local supplements of district court judges and associate district court judges.<sup>31</sup>

In 1977, the Citizens' Committee on Judicial Compensation reported and recommended the elimination of salary supplements and proposed that the legislature look to the county retained share of court revenue as a means of financing judicial and nonjudicial salaries.<sup>32</sup>

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<sup>29</sup> L. 1975, ch. 178.

<sup>30</sup> L. 1976, ch. 145.

<sup>31</sup> Kansas Report on Legislative Interim Studies to the 1977 Legislature, Nov. 1976, pp. 51-55. Appendix, p. 505.

<sup>32</sup> Kansas Report on Legislative Interim Studies to the 1978 Legislature, Dec. 1977, p. 1319. Appendix, p. 509.

In 1977, the legislature also considered the cost of financing a unified court system and a district court personnel plan prepared by an outside consulting firm.<sup>33</sup> As a result of that firm's work and Attorney General's opinion 76-289,<sup>34</sup> legislation was passed requiring counties to provide district court employees, whose salary is paid by the county, with benefits equal to those provided to other state employees. The legislature also passed legislation requiring the Supreme Court to develop a pay plan for its personnel and statutorily established the salary of research attorneys. Also, House Bill 2642<sup>35</sup> appropriated \$1,725,000 in federal revenue sharing funds to help defray costs of court unification. H. B. 2642 gave county commissions final authority to determine and approve the budget for district court operations payable by the counties, the bill also prohibited counties from reducing the budget under the 1976 level.

In 1979, Chief Justice Alfred G. Schroeder requested the Legislative Coordinating Council to reestablish the Citizens' Committee on Judicial Compensation. The Committee was reestablished as an advisory committee to the LCC and reported in

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<sup>33</sup> Resource Planning Corporation, Cost of Assuming nonJudicial Salaries of Kansas Court System, October, 1977.

<sup>34</sup> Attorney General's Opinion 76-289, September 17, 1976. Appendix, p. 523.

<sup>35</sup> L. 1977, ch. 110.

December of 1979. The Committee recommended increased judicial salaries and establishment of a permanent independent citizens' judicial compensation commission.<sup>36</sup>

In 1979, the Special Committee on Ways and Means conducted an interim study of the organization and operations of the judicial branch. The study focused on the court personnel system, data processing, judicial compensation, compensation of court reporters, compensation of law clerks, nonpartisan method of selection of judges, and nonjudicial personnel compensation. In 1979 the probation supervision function was moved from the Department of Corrections to the judicial branch.<sup>37</sup>

In 1984, the Legislative Coordinating Council assigned Proposal No. 48, District Court Financing, to the Special Committee on Ways and Means. The Committee was directed to review the financing of the state judicial system, since unification, and to consider the feasibility of increased state support of district court operations.<sup>38</sup> The report was discussed earlier in this report.

In considering whether or not there should be increased state funding of the Kansas court system the Committee looked at other states. The most comprehensive article on court finance in other states appears to be "State Funding of Court Systems"

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<sup>36</sup> Report on Kansas Legislative Interim Studies to the 1980 Legislature, p. 1048, Dec. 1979. Appendix, p. 527.

<sup>37</sup> Report on Kansas Legislative Interim Studies to the 1985 Legislature, p. 880, Dec. 1979, Appendix, p. 534.

<sup>38</sup> Report on Kansas Legislative Interim Studies to the 1985 Legislature, p. 707, Dec. 1984. Appendix, p. 490.

Written by Harry O. Lawson of the University of Colorado<sup>39</sup> which categorizes states' as to the amount of funding, funding system used, and the method of budget preparation. In addition to considering Professor Lawson's article the staff of the Committee contacted him and inquired if the contents of the article were still accurate (because the article was written in 1979). Professor Lawson stated that Iowa, New Hampshire, North Dakota, Oregon, Utah and Wyoming have moved "to or toward" state funding of the court since his article was written. He also stated that due to financial problems Michigan has delayed its state funding plan. Professor Lawson stated that several other states are presently considering moving toward state funding of their court systems.

The Committee found Trial Court Financing in Kansas<sup>40</sup> written by Mary K. Galligan to be the most comprehensive work in the area of Kansas Court Financing. The paper contains a discussion of ways to move toward state funding of the trial courts.

c. Tax Lid

If for some period of time counties continue to make levies to support the operating expenses of the State District Courts, the Committee recommends a statutory exemption for these levies from the aggregate levy limitations. The Committee does not

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<sup>39</sup> Lawson, Harry O., State Funding of Court Systems: An Initial Examination, (1979). Appendix, p. 541.

<sup>40</sup> Galligan, Mary K., Trial Court Financing in Kansas, (Unpublished paper prepared in partial fulfillment of Masters in Public Administration Degree, [1984]). Appendix, p. 574.

believe it is logical for the law to require certain levels of expenditures by the counties for the State District Courts while imposing limits on the counties restricting their ability to raise revenues to meet the courts obligations.

K.S.A. 79-5001 et. seq.<sup>41</sup> imposes an aggregate levy limitation on all taxing subdivisions except school districts and junior colleges. This is commonly referred to as the "tax lid". The intent of the limitation is to regulate those levies which support operations and services under the control of the political subdivision. The statutes provide several exceptions for levies which support operations and services which cannot be controlled by the taxing subdivision. Examples include levies for the payment of out-district junior college tuition or levies to pay judgments against the taxing subdivision.

K.S.A. 79-5015 provides that "Whenever any taxing subdivision of this state shall be required by law to levy taxes for the financing of the budget of any political or governmental subdivision of this state which is not authorized by law to levy taxes on its own behalf . . . the tax levies . . . shall not be included in or considered in computing the aggregate limitations upon the property tax levies . . ." K.S.A. 79-5002 states "The phrase 'taxes levied for the base year' shall refer to taxes . . . which were levied . . . for the use of and expenditure by the taxing subdivision."

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<sup>41</sup> Appendix, p. 656.



Several counties have used these statutes to argue that levies for State District Court expenditures should not be subject to the tax lid. The Attorney General has disagreed in opinion No. 81-134.<sup>42</sup> Notwithstanding this opinion, it does appear that there was intent on the part of the Legislature that levies made on behalf of other government entities or levies made for purposes outside of the direct control of the taxing subdivision, not be subject to the tax lid.

The following amendment to K.S.A. 79-5011 would exclude the expenses incurred by the counties for district court operations from the tax lid:

75-5011. The provisions of K.S.A. 79-5001 to 79-5016, inclusive, shall not apply to or limit the levy of taxes for the payment of:

(a) Principal and interest upon bonds and temporary notes;

(b) no-fund warrants issued prior to April 3, 1970, and no-fund warrants issued after such date but prior to April 30, 1973, with the approval of the state board of tax appeals upon the basis of a finding of extreme emergency;

(c) no-fund warrants issued after April 30, 1973, when authorized by the state board of tax appeals subject to the conditions and requirements of K.S.A. 79-2938, 79-2939, 79-2941 and 79-2951 and where said board in addition specifically finds that an extreme emergency exists;

(d) judgments rendered against taxing subdivisions;

(e) rent due under any lease with a public building commission authorized by K.S.A. 12-1757 to 12-1768, inclusive, and acts amendatory thereof, which rent is for a facility specified in a resolution adopted prior to April 3, 1970, pursuant to K.S.A. 12-1767, and is pledged to retire bonds issued under the authority of such act; ee

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<sup>42</sup> Attorney General's Opinion 81-134, June 18, 1981, Appendix, p. 662.

(f) special assessments, and as used in article 50 of chapter 79 of Kansas Statutes Annotated the term "special assessments" shall include amounts assessed either specifically as special assessments or using other terminology but being in the nature of special assessments; or

(g) expenses incurred by counties for district court operations under the provisions of K.S.A. 20-348 and 20-349 and any amendments thereto.

The provisions of article 50 of chapter 79 of Kansas Statutes Annotated do not apply to the tax levies authorized or required under K.S.A. 40-2305, 72-4424, 74-496, 12-11a01, 12-1617h, 13-14,100, 19-262, and K.S.A. 1977 Supp. 13-14a02, 19-4004, 19-4011, 19-4102, 19-4443, 71-301 and 72-707 or to tax levies required for the payment of employer contributions to any other employee pension and retirement program not hereinbefore specifically designated which was in existence on July 1, 1970.

Amounts produced from any levy specified in this section shall not be used in computing any aggregate limitation under article 50 of chapter 79 of Kansas Statutes Annotated.

The dual funding system for the district courts has raised questions regarding the responsibility of board of county commissioners to control county expenditures. K.S.A. 19-229 provides that: "The boards of county commissioners. . . shall have exclusive control of all. . . county expenditures." K.S.A. 20-348 assigns responsibility to the board of county commissioners for all operating expenses of the district courts. K.S.A. 20-349, in contradiction to K.S.A. 19-229, states "After the amount of the district court budget is established, the expenditures under said budget. . . shall be under the control and supervision of the administrative judge. . . and the board of county commissioners shall approve all claims submitted by the administrative judge within the limits of said district court

udget." This is clearly a limitation on the authority of the board of county commissioners to control expenditures of the county.

Constitutional considerations probably would prevent the board of county commissioners from being granted any real control over the actual expenditures from the approved district court operating budget. However, recognition of the inability of the board of county commissioners to control district court expenditures in the tax lid law by exempting such expenditures from the tax lid, would alleviate the concern county commissioners have with the apparent contradiction of their fiscal responsibility. Most exceptions to the tax lid are expenditures which cannot be directly controlled by the county commission or expenditures which are made on behalf of another governmental unit. Expenditures by the county on behalf of the district court meet both of these criteria.

d. Juvenile Detention Facilities

The Committee recommends that the operation of the juvenile detention facilities<sup>43</sup> be removed from the authority of the district courts, and placed with either the State Department of Social and Rehabilitation Services or county correctional agencies. In either case, the entity which is responsible for operating the facilities should be responsible for funding them.

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<sup>43</sup> The Juvenile Detention Facilities affected are the Sedgwick County Youth Residence Hall; Judge James E. Riddell Boys Ranch in Sedgwick County; Johnson County Juvenile Hall; and Kaw View Detention Home in Wyandotte County. The Shawnee County Youth Center is administered by the Shawnee County Department of Corrections.



## Kansas Legislative Policy Group

301 Capitol Tower, 400 West Eighth, Topeka, Kansas 66603, 913-233-2227

TIMOTHY N. HAGEMANN, Executive Director

March 25, 1986

### TESTIMONY

to

### SENATE LOCAL GOVERNMENT COMMITTEE

Senate Bill 738

Mr. Chairman and members of the Committee, I am Chip Wheelen of Pete McGill and Associates. We represent the Kansas Legislative Policy Group which is an organization of County Commissioners from primarily rural areas of the State. We appear today in support of Senate Bill 738.

On January 18, 1984 the KLPG Board of Directors adopted a policy resolution which concludes by stating "The Kansas Legislative Policy Group urges the Legislature to adopt budgetary policies which will finance full costs of the Judicial Branch from state funds." This is and will remain our position in regard to financing the courts system.

If given the choice, we would prefer enactment of 1986 HB 2817 rather than SB 738. House Bill 2817 would provide for state funding of the district courts beginning July 1, 1988. Counties would still be required to provide suitable facilities for the courts and to finance costs associated with provision of those facilities.

We contend that state fiscal year 1989 would be appropriate timing for state assumption of the balance of district court operating expenses. This would provide approximately \$12 million in indirect property tax relief at precisely the same time that county officials will make their 1989 budget decisions. That is the year that reappraised values of real estate will be listed on the tax rolls.

Because we were unsuccessful in convincing the House Local Government Committee to recommend passage of HB 2817, we respectfully request this Committee to recommend passage of SB 738 as a temporary measure. We would, however, ask for the privilege of again addressing the issue of courts funding during the 1987 Legislative Session.

Thank you for your time and consideration.

(Attachment II) S. LG

3/25/86