

Approved _____ Date 3-14-90

MINUTES OF THE ~~SENATE~~ COMMITTEE ON ~~WAYS AND MEANS~~

The meeting was called to order by ~~SENATOR AUGUST "GUS" BOGINA~~ at
Chairperson

~~11:10~~ a.m./p.m. on ~~FEBRUARY 19~~, 19~~90~~ in room ~~123-S~~ of the Capitol.

All members were present except: Senators Hayden, Gaines and Allen, who were excused

Committee staff present:

Research Department: Diane Duffy, Leah Robinson
Revisor: Norm Furse
Committee Staff: Judy Bromich, Administrative Assistant
Ronda Miller, Committee Secretary
Conferees appearing before the committee:

SB 449 - AN ACT making and concerning appropriations for the fiscal year ending June 30, 1991, for the judicial council, state board of indigents' defense services and judicial branch; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

JUDICIAL COUNCIL

Senator Salisbury reviewed the FY 90 and FY 91 subcommittee report Attachment 1.

BOARD OF INDIGENTS' DEFENSE SERVICES

Senator Salisbury reviewed the FY 90 and FY 91 subcommittee report, Attachment 2. In answer to a question regarding the subcommittee's recommendation for FY 90, she stated that the subcommittee agreed to the deletion of \$23,233 because the cost per case in the Conflicts Office was higher than assigned counsel. She noted that the intention was to provide service at the best cost.

JUDICIAL BRANCH

Senator Harder reviewed the FY 90 and FY 91 subcommittee report, Attachment 3. He stated that the legislation recommended in item 5 of the FY 91 report would address the step movement plus COLA and make it statutory. Discussion was held regarding longevity paid to 4 of 5 unclassified, nonjudicial persons. It was noted by the Committee that it was not Legislative intent to provide longevity for unclassified personnel. Senator Winter moved, Senator Johnston seconded that longevity for unclassified personnel within the Judicial Branch for FY 90 and FY 91 be deleted so as to be consistent with the other agencies. The motion carried, with one legislator voting no.

In answer to a question, Howard Schwartz, Office of Judicial Administration, told the Committee that Comprehensive Automated Eligibility Child Support Enforcement System (CAECSES) is currently receiving 68% federal funding instead of the possible 90% because it does not meet federal requirements. He stated that federal requirements mandate a single set of software and a single computer system, which no state has. Counties have their own operative systems which they do not want to scrap. He told the Committee that all the required information is available. A waiver, which was to have been available at the end of calendar year 1989, was applied for 6 years ago, but the rules and regulations have not yet been written to grant the waiver.

Senator Salisbury moved adoption of the subcommittee report as amended. Senator Harder seconded, and the motion carried.

Senator Winter moved, Senator Johnston seconded, that the minutes from January 30, February 9, and February 12 be approved. The motion carried.

The meeting was adjourned.

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.

SUBCOMMITTEE REPORT

Agency: Judicial Council

Bill No. 558

Bill Sec. --

Analyst: Duffy

Analysis Pg. No. 73

Budget Pg. No. 346

<u>Expenditure Summary</u>	<u>Agency Req. FY 90</u>	<u>Governor's Rec. FY 90</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 233,878	\$ 230,283	\$ 2,481
Grants and Gifts Fund	<u>3,292</u>	<u>3,292</u>	--
TOTAL	<u>\$ 237,170</u>	<u>\$ 233,575</u>	<u>\$ 2,481</u>
 FTE Positions	 4.0	 4.0	 --

Agency Request/Governor's Recommendation

The agency's FY 1990 revised estimate totals \$237,170, of which \$233,878 is from the State General Fund and \$3,292 is from federal funds. The amount requested from the State General Fund is the same amount that was approved by the 1989 Legislature. Recent information obtained from the agency indicates that the federal Bureau of Justice grant in FY 1990 totals \$7,379, an increase of \$4,087 over the agency's original estimate of \$3,292. The Governor's FY 1990 recommendation totals \$233,575, of which \$230,283 is from the State General Fund and \$3,292 is from federal funds. The Governor's FY 1990 recommendation is a reduction of \$3,595 from the agency's revised estimate. The reduction is entirely reflected in salaries and wages and is financed from the State General Fund.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following adjustment:

1. Add \$2,481 from the State General Fund for salaries and wages to eliminate the Governor's recommendation for a 1.5 percent turnover rate. The Subcommittee notes that the agency has 4.0 FTE positions including an additional clerical position added by the 1989 Legislature. Because this position was filled at the beginning of the fiscal year, it is unlikely that the agency will experience any current year turnover savings.



 Senator Alicia Salisbury
 Subcommittee Chairperson



 Senator Frank Gaines

SUBCOMMITTEE REPORT

Agency: Judicial Council

Bill No. 449

Bill Sec. 2

Analyst: Duffy

Analysis Pg. No. 73

Budget Pg. No. 346

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Governor's Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 269,624	\$ 220,039	\$ --
Grants and Gifts Fund	--	--	--
TOTAL	<u>\$ 269,624</u>	<u>\$ 220,039</u>	<u>\$ --</u>
 FTE Positions	 4.0	 4.0	 --

Agency Request/Governor's Recommendation

The Judicial Council requests total FY 1991 expenditures of \$269,624, all of which is from the State General Fund. The agency's request represents a 13.7 percent increase over the current year estimate. The agency anticipates no expenditures from the Grants and Gifts Fund in FY 1991. The Governor's FY 1991 recommendation is \$220,039, all of which is from the State General Fund. The Governor's recommendation reflects \$49,585 less than the agency's FY 1991 request.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following observation:

1. The Subcommittee notes that the agency requested funds for printing and distribution of a Judicial Council publication including a supplement to the PIK-Criminal 2d (Pattern Instructions of Kansas). Although, the Judicial Council does not anticipate receiving federal funds in FY 1991, the Council did receive \$5,357 in FY 1989 and \$7,379 in FY 1990 for publications. If the Council should receive federal funding in FY 1991, it could be used for the supplement to the PIK-Criminal 2d. The Subcommittee urges the Judicial Council to continue to pursue funding sources other than the State General Fund for the printing and distribution of Judicial Council publications.



 Senator Alicia Salisbury
 Subcommittee Chairperson



 Senator Frank Gaines

SUBCOMMITTEE REPORT

Agency: Board of Indigents'
Defense Services

Bill No. 558

Bill Sec. 6

Analyst: Duffy

Analysis Pg. No. 76

Budget Pg. No. 322

<u>Expenditure Summary</u>	<u>Agency Req. FY 90</u>	<u>Governor's Rec. FY 90</u>	<u>Subcommittee Adjustments</u>
All Funds:			
State Operations	\$ 6,714,064	\$ 6,640,499	\$ (23,233)
Other Assistance	359,589	359,589	--
TOTAL	<u>\$ 7,073,653</u>	<u>\$ 7,000,088</u>	<u>\$ (23,233)</u>
State General Fund:			
State Operations	\$ 6,587,064	\$ 6,513,499	\$ (23,233)
Other Assistance	359,589	359,589	--
TOTAL	<u>\$ 6,946,653</u>	<u>\$ 6,873,088</u>	<u>\$ (23,233)</u>
FTE Positions	73.5	73.5	--

Agency Request/Governor's Recommendation

The Legislature approved total expenditures of \$6,591,895 during FY 1990 to provide legal services to indigent criminal felony defendants by public defenders, assigned counsel, and Legal Services for Prisoners, Inc. (LSP). Of the total approved, \$6,464,895 is from the State General Fund and \$127,000 is from the Indigents' Defense Docket Fee Fund. The Board's revised estimate of total expenditures for FY 1990 is \$7,073,653, an amount which is \$481,758 above that approved for FY 1990. The difference is attributed to the Board's request for a supplemental appropriation in FY 1990 of \$504,312 for unanticipated expenditures in the area of assigned counsel. The Governor recommends total expenditures of \$7,000,088 for FY 1990, a decrease of \$73,565 from the agency's FY 1990 estimate. Of the total recommended for FY 1990, \$6,873,088 is from the State General Fund and \$127,000 is from the Indigents' Defense Docket Fee Fund. The Governor's FY 1990 recommendation includes a State General Fund supplemental appropriation of \$504,312 and the transfer of \$100,000 from other operating expenditures for a shortfall in assigned counsel. Additionally, the FY 1990 recommendation includes reductions from the agency's estimated operating expenditures totaling \$73,565. The Governor recommends that the FY 1990 savings of \$73,565 be reappropriated to finance the FY 1991 budget.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following adjustment:

1. Delete \$23,233 from the State General Fund for salaries and wages from the Conflicts Office. The Subcommittee concurs with the Governor's recommendation in FY 1991 to eliminate the conflicts office;

*SWAM
February 19, 1990
Attachment 2*

therefore, there are salary savings that may be captured in the current fiscal year due to the vacancy of the attorney position.



Senator Alicia Salisbury
Subcommittee Chairperson



Senator Frank Gaines

SUBCOMMITTEE REPORT

Agency: Board of Indigents'
Defense Services

Bill No. 449

Bill Sec. 3

Analyst: Duffy

Analysis Pg. No. 76

Budget Pg. No. 322

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Governor's Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
All Funds:			
State Operations	\$ 7,790,116	\$ 6,327,319	\$ 33,691
Other Assistance	479,604	341,768	--
TOTAL	<u>\$ 8,269,720</u>	<u>\$ 6,669,087</u>	<u>\$ 33,691</u>
State General Fund:			
State Operations	\$ 7,790,116	\$ 6,195,319	\$ 33,691
Other Assistance	479,604	341,768	--
TOTAL	<u>\$ 8,269,720</u>	<u>\$ 6,537,087</u>	<u>\$ 33,691</u>
FTE Positions	95.5	71.5	--

Agency Request/Governor's Recommendation

The Board's request for FY 1991 totals \$8,269,720 (all State General Fund), which is a 16.9 percent increase over the Board's FY 1990 revised request. Most of this increase may be attributed to the agency's request for a regional public defender in Northeastern Kansas composed of two public defender offices to serve Wyandotte and Leavenworth/Atchison counties (\$431,364); 22.0 new FTE positions for the agency (\$289,172); salary increases for the chief attorneys in the urban public defender offices to achieve parity with district attorneys (\$107,452); and other miscellaneous increases across various object codes (\$368,079), including a 10 percent increase in the hourly rate paid to assigned counsel from \$50 per hour to \$55 per hour. The Board proposes no expenditures from the Indigents' Defense Services Docket Fee Fund in FY 1991, and requests that the fund balances be used as a contingency fund. The Governor recommends total expenditures of \$6,669,087, which is a reduction of \$1,600,633 from the agency's FY 1991 request. The Governor's FY 1991 recommendation is financed from the State General Fund (\$6,537,087) and Indigents' Defense Services Docket Fee Fund (\$132,000). The Governor's FY 1991 recommendation does not include funding for the requested northeastern regional public defender office; the requested 22.0 FTE positions; the salary increases for the chief attorneys to achieve parity with district attorneys; and the 10 percent increase in the hourly rate paid to assigned counsel. For FY 1991, the Governor recommends the elimination of the Conflicts Office in Topeka, including the 2.0 FTE positions and associated operating expenditures.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following adjustment:

1. Add \$33,691 from the State General Fund for Legal Services for Prisoners for a total contract amount of \$375,459. The Subcommittee believes that the Governor's recommendation of \$341,768 would result in significant reductions in legal assistance to indigent inmates of Kansas correctional facilities. The 1989 Legislature appropriated additional funding of \$55,120 from the State General Fund for a new office in Hays to serve the Norton, Stockton, Larned, and Ellsworth correctional facilities. The Subcommittee notes that the new office was approved by the 1989 Legislature, in light of the expansion of correctional facilities throughout the state. The new office was viewed as a cost effective means of providing state prison inmates their constitutional rights of meaningful access to the courts. The Subcommittee's recommendation would maintain current funding for LSP including the additional office and provide a 4 percent salary increase for LSP employees.



Senator Alicia Salisbury
Subcommittee Chairperson



Senator Frank Gaines

SUBCOMMITTEE REPORT

Agency: Judicial Branch

Bill No. 558

Bill Sec. 7

Analyst: Duffy

Analysis Pg. No. 85

Budget Pg. No. 348

<u>Expenditure Summary</u>	<u>Agency Req. FY 90</u>	<u>Governor's Rec. FY 90</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 55,310,061	\$ 54,130,562	\$ --
Special Revenue Funds	<u>3,666,130</u>	<u>3,363,388</u>	--
Subtotal	<u>\$ 58,976,191</u>	<u>\$ 57,493,950</u>	<u>\$ --</u>
Capital Improvements:			
State General Fund	\$ --	\$ --	\$ --
TOTAL	<u>\$ 58,976,191</u>	<u>\$ 57,493,950</u>	<u>\$ --</u>
FTE Positions			
Appellate Court Judges and Justices	17.0	17.0	--
District Court Judges	218.0	218.0	--
Nonjudicial Personnel	<u>1,508.5</u>	<u>1,508.5</u>	--
TOTAL	<u>1,743.5</u>	<u>1,743.5</u>	<u>--</u>

Agency Request/Governor's Recommendation

The FY 1990 approved budget for the Judicial Branch is \$58,460,604, of which \$55,167,893 is from the State General Fund and \$3,292,711 is from special revenue funds. The agency's revised estimate for FY 1990 totals \$58,976,191, an amount which is \$515,587 over the approved FY 1990 budget. The agency's revised request includes \$55,310,061 from the State General Fund, an increase of \$142,168 over the amount approved by the 1989 Legislature. The agency's revised request from special revenue funds totals \$3,666,130, an increase of \$383,419 over the approved FY 1990 estimate for special revenue funds. The supplemental request from the State General Fund of \$142,168 is for salaries and wages in Appellate Operations (\$26,221) and District Court Operations (\$115,947). According to the budget submission, the supplemental salary and wage request is necessary to fund salary plan adjustments and the longevity program approved by the 1989 Legislature. The Governor recommends \$57,493,950 for the Judicial Branch in FY 1990, a reduction of \$1,482,241 from the agency's FY 1990 estimate. The Governor's FY 1990 recommendation is \$966,654 less than the FY 1990 approved budget. The Governor's FY 1990 recommendation for expenditures is supported by financing from the State General Fund (\$54,130,562), Child Support Enforcement Contract Fund (\$3,022,444), and other special revenue funds (\$340,944). The Governor's FY 1990 recommendation reflects an increase of 8.1 percent over actual FY 1989 expenditures.

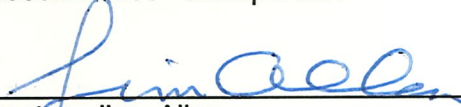
Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendations.

SWAM
February 19, 1990
Attachment 3



Senator Joseph C. Harder
Subcommittee Chairperson



Senator Jim Allen



Senator Leroy Hayden

SUBCOMMITTEE REPORT

Agency: Judicial Branch

Bill No. 449

Bill Sec. 4

Analyst: Duffy

Analysis Pg. No. 85

Budget Pg. No. 348

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Governor's Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 59,179,664	\$ 55,805,636	\$ 38,000
Special Revenue Funds	<u>4,308,441</u>	<u>3,396,109</u>	<u>--</u>
Subtotal	<u>\$ 63,488,105</u>	<u>\$ 59,201,745</u>	<u>\$ 38,000</u>
Aid to Local Units:			
State General Fund	\$ 50,000	\$ 50,000	\$ --
Federal Funds	<u>--</u>	<u>--</u>	<u>--</u>
Subtotal	<u>\$ 50,000</u>	<u>\$ 50,000</u>	<u>\$ --</u>
Capital Improvements:			
State General Fund	\$ 251,113	\$ --	\$ --
TOTAL	<u>\$ 63,789,218</u>	<u>\$ 59,251,745</u>	<u>\$ 38,000</u>
FTE Positions			
Appellate Court Judges and Justices	17.0	17.0	--
District Court Judges	218.0	218.0	--
Nonjudicial Personnel	<u>1,540.0</u>	<u>1,508.5</u>	<u>--</u>
TOTAL	<u>1,775.0</u>	<u>1,743.5</u>	<u>--</u>

Agency Request/Governor's Recommendation

The Judicial Branch requests a total of \$63,789,218 for FY 1991, of which \$59,560,827 is from the State General Fund and \$4,308,441 is from special revenue funds. The total request represents an increase of 8.2 percent over the agency's estimate for FY 1990. The FY 1991 request is composed of \$63,488,105 for state operations, \$50,000 for aid to local units of government for an anti-drug abuse project, and \$251,113 for a capital improvement project which involves renovation of the Judicial Center. Of the total operating expenditures requested for FY 1991, \$58,677,075 is for salaries and wages (92.4 percent of total expenditures) and \$4,811,030 is for other operating expenditures (7.6 percent of total expenditures). The FY 1991 salary and wage request includes funding for a 7 percent judicial salary increase (\$983,557); 31.5 new FTE nonjudicial positions (\$694,576); and a FY 1991 turnover rate of 1.1 percent for a reduction in gross salaries and wages of \$676,468. The FY 1991 request for other operating expenditures totals \$4,811,030. The Governor recommends FY 1991 operating expenditures for the Judicial Branch of \$59,251,745, a reduction of \$4,286,360 from the agency's FY 1991 request. The FY 1991 Governor's recommendation includes \$59,201,745 for state operations and concurs with the agency's FY 1991 request of \$50,000 for aid to local units of government for an anti-drug abuse project. Although the Governor recommends \$251,113 for capital improvements from the State General Fund for interior renovations at the Judicial Center, the Governor recommends that the appropriation for this project be included in the appropriation for the Department of Administration. The Governor's recommendation for the salary and wage budget in FY

1991 includes no funding for the 31.5 requested new positions. The Governor's recommendation includes the 1.5 percent across the board salary increase for judicial personnel (\$205,073) and a 3.3 percent turnover rate or a reduction in gross salaries and wages of \$1,906,115. The FY 1991 Governor's recommendation for other operating expenditures totals \$3,573,933.

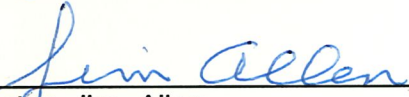
Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendations with the following adjustments:

1. Add \$75,000 from the State General Fund for travel and training costs associated with child support enforcement.
2. Delete \$50,000 from the State General Fund for an anti-drug abuse project in the district courts. It is the Subcommittee's understanding that the Governor's recommendation of \$50,000 would potentially be used as match for federal drug and alcohol abuse funds. The Subcommittee suggests that this issue be revisited when additional information is available, including the anticipated special report to the Legislature from the Governor concerning a proposal for a statewide strategy to combat alcohol and drug abuse in Kansas.
3. Add \$13,000 from the State General Fund for judicial education. This level of funding will restore this activity to the level expended in FY 1989 (\$200,393).
4. Introduce legislation to amend K.S.A. 20-361 which would strike a current payback provision for nonjudicial employees. When nonjudicial employees were transferred to the state payroll as part of court unification, nonjudicial employees received a full paycheck for the month ending January 17, 1979, despite the fact that employees did not work for the state for ten working days during that period. The current law states that when a nonjudicial employee terminates, the employee must pay back the state out of the employee's last paycheck.
5. Introduce legislation to amend K.S.A. 75-3120L which provides for the indexing of judicial salaries to the average of the percentage increase of each monthly step of the state pay plan for the classified service. The Subcommittee believes that this proposal for judicial compensation is an issue for the entire Senate Committee's consideration.



Senator Joseph C. Harder
Subcommittee Chairperson



Senator Jim Allen



Senator Leroy Hayden