

Approved Feb. 25, 1991

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Senator August "Gus" Bogina, Chairperson at 11:07 a.m. on February 19, 1991, in Room 123-S of the Capitol.

All members were present except:

Committee staff present:

Diane Duffy, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Gordon Self, Revisors' Office
Judy Bromich, Administrative Assistant
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

None

SUBCOMMITTEE REPORT ON SB 69 - Appropriations for FY 92, Judicial Council, State Board of Indigents' Defense Services, Judicial Branch

JUDICIAL COUNCIL

Chairman Bogina reviewed Attachment 1 the FY 91 and FY 92 subcommittee report for the Judicial Council. There was lengthy discussion regarding the Legislative directive that the Judicial Council recodify the criminal code. Senator Parrish noted that it is desirable that the Judicial Council's recommendations coincide with the recommendations of the Sentencing Commission which are scheduled to go into effect by July 1, 1991. She stated that meetings after December were cancelled because of a lack of money. The cost of each meeting was stated to be \$1,000. Senator Gaines moved, Senator Parrish seconded, that \$4,000 be added to the FY 91 appropriation for the purpose of funding Criminal Law Committee meetings in March, April, May and June.

The Chairman noted his opposition to the motion, stating that in order to make ends meet, the FY 91 appropriation must be reduced by \$58. million or 2.3% of the total FY 91 appropriation. He agreed with Senator Gaines that little revenue enhancement would be accomplished this legislative session. Senator Hayden stated that he would support the motion because it is a reflection of the necessity of providing revenue enhancements.

The motion carried on a show of hands.

BOARD OF INDIGENTS' DEFENSE SERVICES

Senator Kerr presented the subcommittee report for FY 91 and FY 92 (Attachment 2). He noted that recommendation 1 for FY 92 is pass-through moneys from Cloud and Shawnee counties rather than SGF monies. Recommendation 2 is a departure from current policy, but is a compromise attempt to realize savings in counties where assigned counsel costs are running out of control.

JUDICIAL BRANCH

Senator Salisbury reviewed the FY 91 subcommittee report for the Judicial Branch (Attachment 3). In answer to a question, Senator Salisbury stated that the Governor is allowing the agency to use the health insurance savings as part of the appropriation for the district courts. In answer to Senator Winter's question, it was noted that if problems do not develop with the costs associated with anticipated retirements, the courts will have sufficient operational money to maintain current staff and programs through June 30, 1991. Chairman Bogina stated that since FY 87, \$15,112,755. has been added to the budget of the Judicial Branch, an increase of 34.9%. It was Senator Gaines' opinion that there is waste in the agency because

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, February 19, 1991.

statute requires one judge per county.

Senator Gaines moved, Senator Allen seconded, that the subcommittee report be amended to include a request for substantive language that will repeal the law that mandates one judge per county and for a statute that would give complete flexibility to the Supreme Court to decide how the money is allocated in judicial districts. Senator Hayden noted his opposition to the motion. The motion carried on a show of hands.

There was discussion regarding the subcommittee recommendation of reducing \$1,792,307 from the SGF, which equates to abolishing 71.7 vacant nonjudicial positions in the district courts (Attachment 3-3). Senator Winter noted his concern that the judicial branch has had to create vacancies, and these vacancies should not continue if efficient operation of the courts is expected. Senator Salisbury reiterated that the subcommittee did not reduce the positions allowed nor did it reduce the budget by 2.3% from the Governor's FY 91 approved budget. She stated that the subcommittee recommendations give the courts full flexibility as to how to manage positions and the budget.

Senator Allen moved, Senator Doyen seconded, adoption of the subcommittee report as amended. The motion carried on a voice vote.

It was moved by Senator Doyen and seconded by Senator Allen that SB 69 as amended be recommended favorable for passage. The motion carried on a roll call vote.

The meeting was adjourned by the Chairman at 12:10 p.m.

SUBCOMMITTEE REPORT

Agency: Judicial Council

Bill No.

Bill Sec.

Analyst: Duffy

Analysis Pg. No. 81

Budget Page No. 346


<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Gov. Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 224,339	\$ 219,988	\$ --
FTE Positions	4.0	4.0	--

Agency Request/Governor's Recommendation

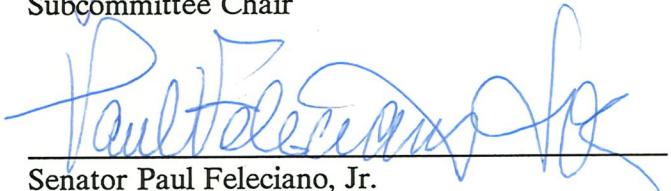
The agency's FY 1991 estimate totals \$224,339, all of which is from the State General Fund. The amount requested from the State General Fund is the same amount that was approved by the 1990 Legislature. The FY 1991 estimate reflects a decrease of \$13,583, or 5.7 percent, from actual FY 1990 expenditures. The Governor's FY 1991 recommendation totals \$219,988, all of which is from the State General Fund. The Governor's recommendation is a reduction of \$4,351 from the agency's FY 1991 estimate. The reductions are reflected in salaries and wages (\$2,160); communications (\$277); and travel and subsistence (\$1,914).

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.



 Senator Jim Allen
 Subcommittee Chair



 Senator Paul Feleciano, Jr.

SUBCOMMITTEE REPORT

Agency: Judicial Council Bill No. 69 Bill Sec. 2
 Analyst: Duffy Analysis Pg. No. 81 Budget Page No. 346

<u>Expenditure Summary</u>	<u>Agency Req. FY 92</u>	<u>Gov. Rec. FY 92*</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 277,069	\$ 219,988	\$ (5,100)
FTE Positions	4.0	4.0	--

* Excludes amounts reserved for employee compensation.

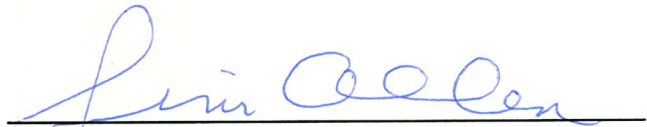
Agency Request/Governor's Recommendation

The Judicial Council requests total FY 1992 expenditures of \$277,169, all of which is from the State General Fund. The agency's request represents a 23.5 percent increase over the current year estimate. The agency's request includes salary and wage funding to support 4.0 FTE positions and per diem for committee members (\$180,462); funding for travel and subsistence for 52 council and advisory committee meetings (\$39,000); and printing and distribution of Judicial Council publications (\$34,862). The Governor's FY 1992 recommendation totals \$219,988, all of which is from the State General Fund. The Governor's recommendation is \$57,181 less than the agency's FY 1992 request. The Governor's FY 1992 recommendation, excluding amounts reserved for employee compensation, is the same as the Governor's recommendation in FY 1991. The Governor's FY 1992 recommendation is 7.5 percent (\$17,933) less than actual FY 1990 expenditures.

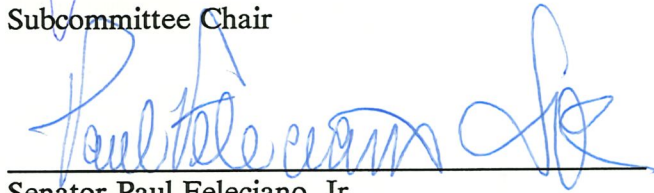
Senate Subcommittee Recommendation

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

1. Delete \$5,100 from the State General Fund (approximately 2.3 percent). Essentially, the reduction eliminates five judicial council meetings from the 42 meetings funded in the Governor's FY 1992 recommendation.
2. The Subcommittee notes that the agency requested funding for various Judicial Council publications. The Subcommittee recommends that the Judicial Council pursue funding sources other than the State General Fund to support these publications. For example, the Subcommittee believes that the Bar Discipline Fee Fund (K.S.A. 20-1a01) may be an appropriate source of funding. It appears that funds would be available to support judicial council publications given the Fund's FY 1991 beginning balance of \$620,599. Actual FY 1990 expenditures from the fund were \$337,751.



Senator Jim Allen
Subcommittee Chair



Senator Paul Feleciano, Jr.

SUBCOMMITTEE REPORT

Agency: Board of Indigents' Defense Services

Bill No. --

Bill Sec. --

Analyst: Duffy

Analysis Pg. No. 108

Budget Page No. 326

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Gov. Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 6,760,009	\$ 6,705,627	\$ --
Special Revenue Fund	132,000	132,000	--
Subtotal	<u>\$ 6,892,009</u>	<u>\$ 6,837,627</u>	<u>\$ --</u>
Other Assistance:			
State General Fund	368,888	368,888	--
	<u><u>\$ 7,260,897</u></u>	<u><u>\$ 7,206,515</u></u>	<u><u>\$</u></u>
FTE Positions	75.5	75.5	

Agency Request/Governor's Recommendation

The Legislature approved total expenditures of \$6,898,563 during FY 1991 to provide legal services to indigent criminal felony defendants by public defenders, assigned counsel, and Legal Services for Prisoners, Inc. (LSP). The Board's revised estimate of total expenditures from the State General Fund for FY 1991 is \$7,128,897, an amount which is \$362,334 above that approved for FY 1991. The difference is attributed to the Board's request for a supplemental appropriation in FY 1991 of \$375,113. The supplemental request is greater than the difference between the amount approved by the 1990 Legislature and the agency's revised request because the Board expended in FY 1990 \$12,779 of a reappropriated balance of \$72,278. According to the agency, the FY 1990 expenditures and the FY 1991 supplemental are necessary to fund expenditures for assigned counsel. The Governor recommends total expenditures of \$7,206,515 for FY 1991, a decrease of \$54,382 (entirely reflected in salaries and wages) from the Board's FY 1991 revised estimate. The Governor's recommendation reflects reductions in revised employee health insurance rates (\$28,096) and an increase in the shrinkage rate from 4.3 percent to 5.3 percent (\$26,286). The Governor's FY 1991 recommendation of expenditures from the State General Fund is \$307,952 above that approved for FY 1991. The difference is attributable to the Governor's recommendation for a State General Fund supplemental appropriation in FY 1991 of \$320,731 for a shortfall in assigned counsel.

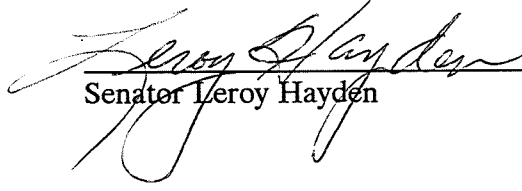
Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

*SWAM
February 19, 1991
Attachment 2*



Senator Dave Kerr
Subcommittee Chair



Senator Leroy Hayden

SUBCOMMITTEE REPORT

Agency: Board of Indigents' Defense Services

Bill No. 69

Bill Sec. 3

Analyst: Duffy

Analysis Pg. No. 108

Budget Page No. 326

<u>Expenditure Summary</u>	<u>Agency Req. FY 92</u>	<u>Gov. Rec. FY 92*</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 9,037,442	\$ 6,973,718	\$ (51,477)
Special Revenue Fund	0	134,640	165,000
Subtotal	<u>\$ 9,037,442</u>	<u>\$ 7,108,358</u>	<u>\$ 113,523</u>
Other Assistance:			
State General Fund	567,578	368,888	25,000
Total	<u><u>\$ 9,605,020</u></u>	<u><u>\$ 7,477,246</u></u>	<u><u>\$ 138,523</u></u>
FTE Positions	166.0	75.5	--

* Excludes amounts reserved for employee compensation.

Agency Request/Governor's Recommendation

The Board's request for FY 1992 totals \$9,605,020 (all State General Fund), which is composed of \$9,037,442 for agency operations and \$567,578 for a grant to Legal Services for Prisoners, Inc. The Board proposes no expenditures from the Indigents' Defense Services Fund in FY 1992, and requests that the fund balances be used as a contingency fund. The FY 1992 request reflects a total increase of \$2,344,123 over the revised FY 1991 request. Most of the increase may be attributed to the agency's request for a Regional Defense Delivery Plan (\$2,320,319), including 77.0 new FTE positions; and 13.5 requested new FTE positions for existing agency operations (\$367,587). The agency requests a reduction in expenditures for assigned counsel of \$851,146 in FY 1992, assuming implementation of the Regional Defense Delivery Plan. The Governor recommends total expenditures of \$7,477,246 for FY 1992, which is composed of \$7,108,358 for agency operations and \$368,888 for the grant to LSP. The Governor recommends expenditures of \$134,640 from the Indigents' Defense Services Fund in FY 1992 and the balance from the State General Fund. The Governor's recommendation does not include funding for the Regional Defense Delivery Plan or the requested 13.5 FTE positions for existing offices. The Governor's FY 1992 recommendation for LSP of \$368,888 from the State General Fund is the same as the FY 1991 recommendation.

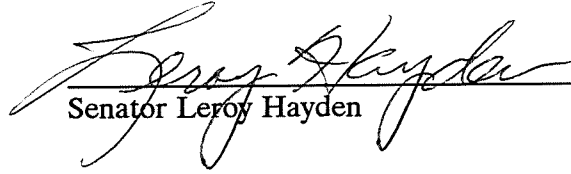
Senate Subcommittee Recommendations

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

1. Increase the expenditure limitation on the Indigents' Defense Services Fund from \$134,640 to \$299,640 for contracts with Cloud and Shawnee counties to provide legal services to indigent misdemeanor defendants. The increase of \$165,000 would allow the Board to expend funds for public defenders or private attorneys to provide these services. These are the first misdemeanor contracts implemented by the Board. The \$134,640 is from docket fees and the \$165,000 would be from the contracting counties.
2. Reduce a total of \$82,735 from the State General Fund in assigned counsel expenditures. The reduction is based upon the implementation of contracts with private attorneys in Finney, Wyandotte, and Leavenworth counties. It is assumed that the Board will negotiate contracts based on costs less than the rates currently paid for assigned counsel. The Subcommittee's recommendation is based on costs approximately 10 percent less than actual assigned counsel expenditures in these counties in FY 1990. The Subcommittee anticipates that second-year savings (FY 1993) should exceed 15 percent.
3. Add \$30,000 from the State General Fund for one-time costs associated with the start-up of the contracts to provide indigent felony defense services.
4. Add \$25,000 from the State General Fund for Legal Services for Prisoners (LSP) to allow LSP to provide services to the new El Dorado correctional facility.
5. Add \$1,258 from the State General Fund and shift \$2,500 from the Appellate Defender's Office for a total of \$3,758 for a new Zenith Z-386 microcomputer for the administration office for the recoupment program. The recoupment law provides that certain defendants, after conviction, are ordered to repay to the state part of all of the amount expended by the state in providing legal representation for the defendant. The Subcommittee notes that FY 1990 receipts to the State General Fund were \$399,674, an increase of \$84,104 over FY 1989 collections.
6. The Subcommittee notes that the Governor's FY 1992 recommendation for the LSP contract makes no provision for increased fringe benefit rates or salary increases. The Subcommittee recommends that the second house review this issue when additional information may be available pertaining to employee salaries.
7. The Subcommittee notes that the Board currently purchases professional liability insurance (FY 1991 -- \$30,153). It has been suggested that public defenders would be covered under the Tort Claims Act and, therefore, it may not be necessary to purchase separate professional liability insurance. The Subcommittee received conflicting information on this issue and suggests that the second house hold hearings on this issue during their review.



Senator Dave Kerr
Subcommittee Chair



Senator Leroy Hayden

SUBCOMMITTEE REPORT

Agency: Judicial Branch

Bill No.

Bill Sec.

Analyst: Duffy

Analysis Pg. No. 86

Budget Page No. 348

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Gov. Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 55,883,209	\$ 54,806,017	\$ --
Special Revenue Funds	3,712,334	3,667,987	--
Total	<u>\$ 59,595,543</u>	<u>\$ 58,474,004</u>	<u>\$ --</u>
FTE Positions			
Appellate Court Judges and Justices	17.0	17.0	--
District Court Judges	218.0	218.0	--
Nonjudicial Personnel	1,510.5	1,510.5	--
Total	<u>1,745.5</u>	<u>1,745.5</u>	<u>--</u>

Agency Request/Governor's Recommendation

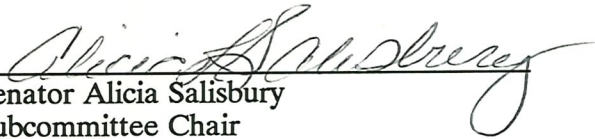
The 1990 Legislature approved total FY 1991 expenditures for the Judicial Branch of \$58,704,811, of which \$55,308,702 is from the State General Fund and \$3,396,109 is from special revenue funds. The Judicial Branch's revised estimate of total expenditures for FY 1991 is \$59,595,543, of which \$55,883,209 is from the State General Fund. The revised estimate of expenditures from the State General Fund is \$574,507 above that approved for FY 1991. The difference is attributed to the Judicial Branch's request for a State General Fund supplemental appropriation in FY 1991 of \$1,000,000. The supplemental request is greater than the difference between the amount approved by the 1990 Legislature and the Judiciary's revised request because the Judicial Branch expended \$425,493 in FY 1990 of an anticipated reappropriated balance of \$1,108,601 in the district courts. According to the budget submission, the FY 1990 expenditures and FY 1991 supplemental appropriation are necessary to fund the district courts. The FY 1991 revised budget includes a shrinkage rate of 3.1 percent or a reduction in the gross salary and wage budget of \$1,796,729. Actual shrinkage in FY 1990 was 1.8 percent (\$1,018,634). The FY 1991 revised request from special revenue funds totals \$3,712,334, an increase of \$316,225 over the approved FY 1991 estimate for special revenue funds. The requested increase in special revenue funds is attributed to an unanticipated increase of \$283,496 in the federal Child Support Enforcement Funds and increases in various other special revenue funds (\$32,729). The Governor recommends \$58,474,004 in FY 1991, a decrease of \$1,121,539 from the amount requested by the Court. The reductions are reflected in salaries and wages (\$1,102,997) and OOE (\$18,542). The Governor recommends \$54,806,017 from the State General Fund, a decrease of \$1,077,192 from the agency's FY 1991 request. The Governor does not recommend the supplemental funding requested by the Judicial Branch. The Governor recommends expenditures of \$3,667,987 from special revenue funds, a decrease of \$44,347 from the agency's FY 1991 estimate.

SWAM
February 19, 1991
Attachment 3

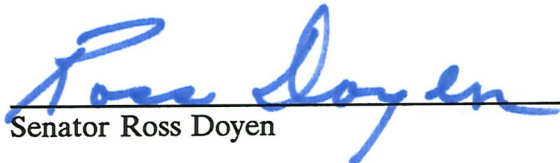
Senate Subcommittee Recommendation

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

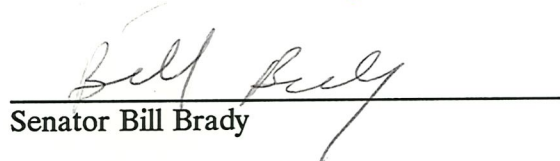
1. In the budget submission, the Court requested a \$1,000,000 State General Fund supplemental appropriation for the district courts. Later in the fiscal year, the court revised the figure to \$800,000. The Governor recommends that savings of \$642,138 resulting from revised employee health insurance rates be used in FY 1991 to minimize this shortfall. Additionally, Supreme Court Order No. 56, effective May 25, 1990 restricts expenditures within the Judicial Branch including a provision that all vacancies of nonjudicial personnel are not to be filled and no new employees are to be hired, except upon order of the Supreme Court. Based on year to date salary and wage expenditures, it appears that the shortfall in the district courts is less than \$35,000; however, the Subcommittee notes that this figure does not reflect costs associated with anticipated retirements. The Subcommittee recommends that the second house review the supplemental request when additional months of expenditure are available



Senator Alicia Salisbury
Subcommittee Chair



Senator Ross Doyen



Senator Bill Brady

SUBCOMMITTEE REPORT

Agency: Judicial Branch

Bill No. 69

Bill Sec. 4

Analyst: Duffy

Analysis Pg. No. 86

Budget Page No. 348

<u>Expenditure Summary</u>	<u>Agency Req. FY 92</u>	<u>Gov. Rec. FY 92*</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 62,303,984	\$ 56,417,035	\$ (1,792,307)
Special Revenue Funds	4,001,848	3,837,584	--
Total	<u>\$ 66,305,832</u>	<u>\$ 60,254,619</u>	<u>\$ (1,792,307)</u>
FTE Positions			
Appellate Justices and Judges	17.0	17.0	
District Court Judges	218.0	218.0	
Nonjudicial Personnel	<u>1,539.5</u>	<u>1,510.5</u>	
Total	<u>1,774.5</u>	<u>1,745.5</u>	<u>**</u>

* Excludes amounts reserved for employee compensation.

** The Subcommittee recommends the limitation on FTE positions be eliminated.

Agency Request/Governor's Recommendation

The Judicial Branch requests a total of \$66,305,832 for FY 1992, of which \$62,303,984 is from the State General Fund and \$4,001,848 is from special revenue funds. The FY 1992 funding request for the district courts account for 88.4 percent of total requested FY 1992 expenditures for the Judicial Branch. Of the total expenditures requested for FY 1992, \$61,336,040 is for salaries and wages (92.5 percent of total expenditures) and \$4,969,792 is for other operating expenditures (7.5 percent of total expenditures.) The FY 1992 salary and wage request includes funding for a 7 percent judicial salary increase (\$1,040,049); 29.0 new FTE for nonjudicial positions (\$764,596); longevity payments for eligible nonjudicial personnel (\$486,475); funding for temporary employees (\$660,234); step movement salary increases (\$985,338); nonjudicial personnel actions (\$143,410); and an FY 1992 turnover rate of 1.2 percent or a reduction in gross salaries and wages of \$751,195. The Governor recommends \$60,254,619 in FY 1992, a decrease of \$6,051,213 from the Court's FY 1992 request. The Governor's recommendation for salaries and wages totals \$56,214,695 (excluding amounts reserved for employee compensation), an increase of 2.7 percent (\$1,493,141) over the Governor's FY 1991 recommendation. The Governor's FY 1992 recommendation does not include funding for the 7 percent judicial salary increases, requested new positions or position allocations.

Senate Subcommittee Recommendations

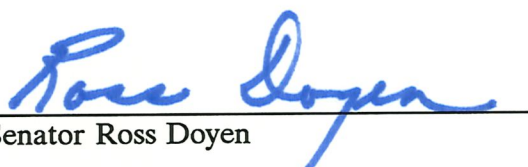
The Senate Subcommittee concurs with the Governor's recommendation with the following adjustment:

1. Reduce \$1,792,307 from the State General Fund for a total of \$54,624,728. The reduction is reflected in salaries and wages and equates to abolishing 71.7 vacant

nonjudicial positions in the district courts. The Subcommittee recommends that the FTE limitation for the Courts be eliminated. The subcommittee believes that the Court needs authority to manage the reduction in salaries and wages. The Subcommittee strongly supports legislation to clarify the Supreme Court's authority to shift positions within and between judicial districts.

2. As a technical adjustment to the appropriation bill, shift \$45,000 for travel and subsistence from the district courts operations to appellate court operations.
3. 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 (statewide salary adjustment -- COLA) for the classified service. The recommended amendment would expand the basis for indexing to include the estimated average percentage of step movement salary increases carried under the state pay plan for the classified service.
4. Introduce legislation to require that the annual salary paid to magistrate judges be an amount equal to 47.22 percent of the salary of a district judge. The 47.22 percent is the current relationship between the salary of a district court judge (\$67,856) and a magistrate judge (\$32,038).
5. Introduce legislation to amend several sections of the law pertaining to the number of judges in various judicial districts to reflect the current status of the judicial districts.
6. The Subcommittee requests a Governor's Budget Amendment to address two technical items. First, the Governor's FY 1992 salary and wage recommendation is understated by \$31,302 because the additional costs of fringe benefits were not included for FY 1991 annualized step movement. Secondly, the federal Omnibus Budget Reconciliation Act removed the maximum salary subject to the Medicare portion of FICA requiring an additional \$24,608 from the State General Fund.
7. The Subcommittee notes the Court's request to upgrade the salaries of attorneys and law librarians (\$108,479). The Subcommittee recognizes that these employees are paid at a lower salary range than comparable employees in the Executive Branch. The Subcommittee believes that this salary inequity should be addressed if additional resources become available.


 Senator Alicia Salisbury
 Subcommittee Chair


 Senator Ross Doyen


 Senator Bill Brady