

Approved

2-26-92
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative John Solbach at
Chairperson

3:30 ~~am~~/p.m. on February 18, 1992 in room 313-S of the Capitol.

All members were present except:

Representatives Gregory & O'Neal who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research
Jill Wolters, Revisor of Statutes
Judy Goeden, Committee Secretary

Conferees appearing before the committee:

Paul Shelby, Judicial Council
Carol Green, Clerk of the Kansas Appellate Courts
Sheryln Sampson, Clerk of District Court, Lawrence
William Burns, Court Administrator, 29th Judicial District
Rose Coleman, Kansas Association for Court Management

The chairman called the committee meeting to order.

Hearing on HB 2828, relating to the supreme court nominating commission and the district court nominating commissions, was opened.

Paul Shelby, Judicial Council, testified in favor of HB 2828. (Attachment #1) He gave a suggested amendment and answered committee members questions. He said there would be a savings of approximately \$1,300 if this bill were passed.

Carol Green, Clerk of the Kansas Appellate Courts, testified in favor of HB 2828. (Attachment #2) She answered committee members questions.

Hearing on HB 2828 was closed.

Hearing on HB 2829, lien filings; indexed by the clerk, was opened.

Paul Shelby, Judicial Council, testified in favor of HB 2829. (Attachment #3)

Sherlyn Sampson, Clerk of District Court, Douglas County, testified in favor of HB 2829. (Attachment #4)

Representative Smith moved to report HB 2829 favorable for passage. Representative Lawrence seconded the motion. Motion carried.

Hearing on HB 2831, service agents for corporations for service of process, was opened.

Paul Shelby, Judicial Council, testified in favor of HB 2831. (Attachment #5) He proposed to amend HB 2831 on page 2, lines 7 & 8 by striking "of said such county".

Sherlyn Sampson, Clerk of District Court, Douglas County, testified in favor of HB 2831. (Attachment #6)

Representative Smith moved to amend HB 2831 as requested by Shelby Smith, then recommend HB 2831 favorable for passage as amended. Representative Everhart seconded the motion. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 313-S Statehouse, at 3:30 ~~am~~ p.m. on February 18, 1992.

Hearing on HB 2832, creating a judicial branch education fund to educate judicial branch officers and employees, was opened.

Paul Shelby, Judicial Council, testified in favor of HB 2832. (Attachment #7) He proposed amending HB 2832 on page 2, New Section 2, line 8, striking "4.85%" and inserting in lieu thereof, "4.31". He submitted a letter from Kathryn Tisdale, Municipal Court Manager, Arkansas City, in support of HB 2832. (Attachment #8) He answered committee members questions and testified that there are judges who have not been able to attend judge training due to lack of funds.

William Burns, Court Administrator, 29th Judicial District, testified in favor of HB 2832. (Attachment #9)

Rose Coleman, Kansas Association for Court Management, testified in favor of HB 2832. (Attachment #10)

Representative Rock moved to amend HB 2832 as proposed, then report HB 2832 as amended favorably for passage. Representative Carmody seconded the motion. Motion passed. Representative Hamilton requested she be recorded as voting no on the bill.

Hearing was opened on HB 2856, bonds approved by district court judge not clerks.

Paul Shelby, Judicial Council, testified in favor of HB 2856. (Attachment #11) He answered committee members questions.

Sherlyn Sampson, Clerk of District Court, Douglas County, also testified in favor of HB 2856. She said she was not aware of any clerks who had been sued.

Hearing on HB 2856 was closed.

Representative Everhart moved to amend HB 2828 by striking the language "notice by publication" and inserting in lieu thereof, "notice by mail". Representative Garner seconded the motion, and the motion carried.

Representative Everhart moved to recommend HB 2828 as amended favorable for passage. Representative Rock seconded the motion. Motion carried.

Representative Everhart moved the introduction of HCR 5018 as a bill. Representative Douville seconded the motion. Motion carried.

Representative Everhart moved the introduction of a resolution concerning term limitations of legislators. Representative Rock seconded the motion. Motion carried.

Meeting adjourned at 5:00 P.M.

House Bill No. 2828
House Judiciary Committee
February 18, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I thank you for the opportunity to appear today to discuss House Bill No. 2828 which relates to Judicial Nominating Commissions for both the Supreme Court and District Courts.

Presently, the Clerk of the Appellate Courts between March 1 and March 15 of any year in which a member of the commission is to be elected by members of the bar, shall send by ordinary first class mail to all members of the bar eligible to vote for the member to be elected a notice that such election is to be held and advising how nominations for such office may be made. Our amendments would in lieu of mailing would require:

a. K.S.A. 20-126 - that in any uncontested election, the nominee shall be declared elected without preparation of a ballot.

b. that in March of any year in which a member of the commission is to be elected by members of the bar, shall publish notice that such election is to be held and advising how nomination for such office may be made. Such notice and information on nominating procedures shall be posted in each office of the clerk of the district court. The Clerk of the Appellate Courts shall provide such notice and information on nominating procedures to groups of members of the bar, including, but not limited to, state and local bar associations and shall publish such notice and information once a week for three consecutive weeks in the Kansas register and in such other newspapers, authorized by law to publish legal notices, as the supreme court may direct. We are recommending that you strike the requirement for first class mailing to all members of the bar and replacing that requirement with the above.

K.S.A. 20-128 amendments relates to filling a vacancy of the office of chairman of the commission and would follow the recommendations set out above for subsequent members of the commission.

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Attach #1
1 of 2

In Section 3 of the bill, K.S.A. 20-2904 which relates to district nominating commissions, we are requesting an amendment that makes explicit the customary exclusion of active judges and justices from holding voting memberships on these commissions.

Also that when in any judicial district in which the number of nominees does not exceed the number of positions to be filled, the clerk shall declare those nominees to be elected without preparation of a ballot.

Finally, we are requesting that the clerk follow the same procedures for election of lawyers to serve as members of the district nominating commission as outlined for the supreme court commission. (Publishing and posting in lieu of mailing).

We urge your favorable consideration on this proposal. The Clerk of the Appellate Courts, Carol Green is also here to testify on these amendments.

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Attach #1
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House Bill No. 2828

Proposed amendments to
K.S.A. 20-126, 20-128, 20-2904 and 20-2906

Testimony offered by:
Carol Gilliam Green
Clerk of the Kansas Appellate Courts

Supreme Court Nominating Commission

Two substantive changes are proposed.

The first change allows a nominee in an uncontested election to be declared elected without preparation of a ballot. In the 1990 election for commission chair, the clerk of the supreme court was required to mail ballots to over 8,000 attorneys although the incumbent chair was running unopposed.

The second change relates to notice of nominating procedures. It is recommended that public notice be given to the legal community as detailed in the amendment. Individual notice is currently mailed first class to 8,858 registered attorneys.

District Court Nominating Commissions

Three substantive changes are proposed.

The first change makes active judges ineligible to serve on district nominating commissions.

The second change allows nominees to be declared elected in uncontested elections without preparation of a ballot. In elections currently being conducted, three of the sixteen judicial districts have uncontested elections. Two hundred attorneys reside in those three judicial districts.

The third change relates to notice of nominating procedures. It is recommended that public notice be given to the legal community as detailed in the amendment. Individual notice is currently mailed first class to each registered attorney residing in a judicial district. In sixteen elections currently being conducted, individual notice was mailed to 4,236 attorneys.

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Attach #2

House Bill No. 2829
House Judiciary Committee
February 18, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I appreciate the opportunity to appear today to discuss with you House Bill No. 2829 which relates to lien filings in the district courts. This is a proposal from the Kansas Association of District Court Clerks and Administrators. This is a recommendation to amend the statutes to reflect the modern filing and recording practices currently being followed in the trial courts.

The statutorily prescribed method requires purchase of large bound volumes which have blank pages overprinted with column headings as set forth at lines 14-16, page 2 of this bill. Such books may be posted by hand or in some instances may be disassembled to permit posting by typewriter. In any event, these books are no longer in wide usage and now approach a cost of \$300 per book.

Passage of this bill will permit mechanics liens to be incorporated only in the general index of a court. Although not stated in the present statutes, mechanics liens are now being indexed in most courts as a service to abstracters and other persons interested in possible encumbrances.

Passage of this bill will save clerks time and district court county operating funds used to purchase the outmoded bound volumes.

We urge your favorable consideration of this bill and Sherlyn Sampson, Clerk of the District Court, Lawrence, Kansas is also here to testify and explain the bill in more detail. She is currently the President of Kansas Association of District Court Clerks and Administrators.

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Attach #3

House Bill No. 2829
House Judiciary Committee
February 18, 1992

Testimony of Sherlyn Sampson
Clerk of District Court, Douglas County
President Kansas Association of District Court Clerks & Administrators

Mr. Chairman:

I appreciate the opportunity to appear before you today to discuss House Bill No. 2829. This bill was requested by the Clerks' Association and is a cleanup bill to bring the statutes into compliance with modern filing practices currently being followed in the courts.

Page 2, Section 2, subsection (b) of the bill indicates the language we wish to delete. This language requires us to keep a lien book and gives specific instructions as to how information from the lien filing should be copied into the book under specified headings.

We wish to eliminate this statutory requirement for maintaining a book for the following reasons:

1. Maintaining docket books are very expensive. They are very heavy to handle; and in many instances require that information be hand written to make entries.
2. The specific information required to be copied from the filing is not used as abstractors are responsible for verifying the information is correct, therefore, refer to the original filing for property descriptions, etc.
3. By indexing these filings in the court's general index instead of in a separate book, it centralizes the listing of court filings.

This bill would also allow for assignments filed to be attached to the applicable lien. This would allow the abstractors to take notice of such an assignment without checking for a handwritten notation in a separate docket book and is in conformity with the current procedures.

This bill would also provide for cancellation of liens in accordance with existing law [K.S.A. 60-1105(a)] without further independent action of the clerk. Since the law clearly sets forth the limitation of liens, it is repetitive to require further action to release the lien. Furthermore, the duties of the clerk are generally ministerial in nature, and clerks who are not law trained should not be required to make a legal determination in regard to when a lien should or should not be released.

Thank you again for allowing me to speak to you on behalf of the clerks in Kansas in regard to this bill. I urge your support of this bill.

I would be happy to answer any questions you might have.

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Attach #4

House Bill No. 2831
House Judiciary Committee
February 18, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I thank you for the opportunity to appear today to discuss with you House Bill No. 2831 which is also a proposal from the Kansas Association of District Court Clerks and Administrators. It relates to the filing of process service agent instruments with the various clerks of the district court in Kansas.

This bill amends civil procedure by transferring the responsibility for keeping a file of agents upon whom civil process may be served from locations scattered about the state to a central location, the Secretary of State.

The Secretary of State performs in a similar fashion for other commercial and legal functions so that adding this function and its increased cost to that office should be more than offset by the service fee the bill directs.

I do want you to know that there will be a very small loss to the State General Fund from this transfer of registration of process service agents to the Secretary of State from clerks of the district court. A \$5 fee is deleted a line 39 on page 2 (and replaced by a higher fee for the Secretary of State). However, we estimate the loss at no more than \$500 (an amount estimated as the fees collected as normal turnover in these agents occur in a year's time in 105 counties of the state).

There is a small amendment we recommend on page 2, lines 7 and 8. We recommend that you strike the following language, of said such county

We urge your favorable consideration of this bill, with the above amendment.

Sherlyn Sampson will also represent the association on this bill.

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Attach #5

House Bill No. 2831
House Judiciary Committee
February 18, 1992

Testimony of Sherlyn Sampson
Clerk of District Court, Douglas County
President Kansas Association of District Court Clerks & Administrators

Mr. Chairman:

I appreciate the opportunity to appear before you today to discuss House Bill No. 2831. This bill was requested by the Clerk's Association in order to eliminate duplicate filings at the state and local level of service of process agents, and to provide a centralized depository for such appointments.

Presently, both the Clerk of the District Court and the Secretary of State are filing these appointments. This proposal would require all appointments be filed with the Secretary of State and eliminate these filings with the (105) Clerks of the District Court.

Filing of process service agent instruments with the Clerk of District Court is optional in most instances pursuant to K.S.A. 60-306.

Persons wanting to locate the name of a service agent would have to check with Clerks in multiple counties if trying to locate the same through the court offices.

Many filings are made at both the state and local level as parties are wary of not covering all bases.

The Clerks' Legislative Committee surveyed all the Clerks in the State to see how many service of process agents were being filed. There were approximately 50 filed in clerk's offices last year in the whole state.

The Secretary of State's Office is well able and willing to handle the few additional filings which may be made in that office that are not being filed there now.

We have worked with John Wine Jr., General Counsel for the Secretary of State in the drafting of this bill and that office has agreed to this change and supports this proposal. I believe Mr. Wine is planning to address you today in regard to this bill.

Thank you again for allowing me to speak to you on behalf of the Clerks in Kansas in regard to this bill. I urge your support of this bill.

I would be happy to answer any questions you may have.

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House Bill No. 2832
House Judiciary Committee
February 18, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I appreciate the opportunity to appear today on House Bill No. 2832 which creates a judicial branch education fund in the State Treasury. This fund would be expended for purposes associated with the improvement of education for all judicial branch employees and including municipal court judges and their court staff. This proposal will also comply with statutory directives. For example, training, testing, and education of district magistrate judges (K.S.A. 20-337) is mandated as well as the required training of municipal judges (K.S.A. 12-4114).

This new fund would incorporate the present municipal judge education fund, pick up assessments made by municipal courts and raise district court traffic, fish and game docket fees and appearance bond amounts by \$2 to finance the fund.

The Supreme Court remains strongly committed to insuring that the citizens of Kansas are well served by the employees of the Judicial Branch by providing training and educational opportunities to all employees. However, over the past few years we have received inadequate funding to fully operate an efficient and effective educational program. This inadequate funding has resulted in the cancellation of some very important training programs such as regional training for clerks of the district court, court administrators, court services officers, and district magistrate judges.

The court also eliminated orientation training for clerks, official court reporters, court administrators, and court services officers. Quarterly management meetings with court administrators, chief and urban clerks, court trustees, and chief court service officers were also reduced. Productivity Reviews of the trial court operations and advisory groups were placed on hold. Two years ago the supreme court cancelled the mandated fall judicial conference due to lack of education funds. Because of the restricted education budget we are unable to fully fund new judge training at the National Judicial College which is a priority of the court.

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It is important to note that not only has our reduced education budget resulted in the elimination of some of our established education and training programs, but it has prohibited the court from offering new training programs that are necessary to maintain and advance the professional competency of not only judges, but of all nonjudicial employees.

On Page 2, New Section 2 of the bill, allots a percentage of clerks fee collections to the fund. This is similar to other funds that are based on a percentage of clerks fees collections. We have found it to be a more efficient method to have the State Treasurer separate these funds than in 110 clerks locations.

If this bill had been in effect in FY1991 with municipal court assessments set at \$.50 as they now are, there would have been about \$144,812 collected from that source.

Assuming that a full years collections had been made from the additional \$2 docket and appearance bond amounts in the district courts, about \$494,804 additional would have been forwarded to the State Treasurer.

Allocation of 4.85% of clerks fees would have resulted in a transfer of \$555,776 to the judicial branch education fund. When our fiscal department estimated the revenue, they made a drafting error and that percentage should be 4.31% of clerks fees. So on Page 2, New Section 2, line 8, we request that you amend 4.85% to 4.31%. The 4.31% will transfer \$493,896 to the judicial branch education fund, a difference of about \$61,880. The drafting error was caused by using FY91 collections and FY90 cases and the percentage came out too high.

An increase in docket fees will only bring in 11 months of a full years revenue in the first year of operation. This is because there is a time lag on one month before collections are forwarded to the state treasurer.

We urge the committee to favorably consider this proposal.

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Arkansas City Municipal Court
Box 778
Arkansas City, Ks. 67005
1-316-442-0280

February 17, 1992

House Judiciary Committee
Kansas State House Building
Topeka, Kansas. 66612

Dear Representative John Solbach:

I understand that House Bill # 2832 dealing with financing education for municipal court clerks and managers is scheduled for hearing on February 18, 1992. I am extremely interested in this bill and wanted to relate to you and to the House my concerns for the municipal court personnel and for my support of the bill.

I have been the Municipal Court Manager for the Arkansas City Municipal Court for 11 years. I am also the Municipal Judge for two very small courts, Geuda Springs and Cedar Vale. I have been active in the statewide organization of Kansas Association for Court Management since its formation in 1986, and I have held most offices in that organization. Yearly since 1987 I have trained court members on materials pertaining to forms and other court related matters. During these conference and training sessions, I have had extensive contact with clerks from all classes of cities and from over the entire state of Kansas.

Municipal court is often known as "The People's Court" because that is the court where most people appear and see the judicial branch at work. The court clerk is the person with whom most of our citizens have contact. For the clerk to represent the judicial system professionally, he/she must be able to handle varied situations involving the public, as well as attorneys, judges and state personnel. In addition, the clerk generates all paperwork to the Judicial Administration, the Motor Vehicle Division, and the Kansas Bureau of Investigation. The clerk also maintains all records of court proceedings and court matters. The Municipal Court Clerk is therefore a valuable asset to the court he/she serves and to the judicial system.

I assure you that the most urgent of concerns for clerks is that of continuing education. Often the clerk is not advised of changes in the law, updated with materials or new forms, instructed as to what is legal and illegal to handle, and how

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to best handle the many irate defendants seen on a regular basis. Clerks are often frustrated and unsure of their actions. Continuing education is needed and after training sessions, I have seen many relieved and more competent clerks.

Unfortunately, very small towns with part-time clerks or part-time judge/clerks can not afford to send their court personnel to these training sessions. Therefore, paperwork is often improperly completed, or not completed at all. Violations are often not reported to either the Motor Vehicle Department or the Kansas Bureau of Investigation, because of a lack of knowledge.

I have found that the clerks truly want to do their job correctly and professionally, but some do not have the knowledge due to a lack of proper training. The majority of clerks are eager and willing to learn their proper role in the court system. They want to administer the laws that the State Legislators adopt, but a great concern for many is causing problems because they fear they and/or their court are doing something incorrectly. They also fear not being fair to the defendant in the paperwork, because they do not know the proper procedures to follow. They would like to help the citizens they serve, but do not know how, or where, to refer the defendants.

One dangerous problem is that often clerks are not knowledgeable about the laws and correct procedures. Clerks often express frustration that the judge and prosecutor do not relay information from their training conferences. Later they find that incorrect procedures have been used simply because of lack of knowledge. I realize that many judges and prosecutors are conscientious and advise their clerks of new or updated laws, but what of those clerks who are not so fortunate?

Fear and frustration are common feelings for a clerk, especially in the smaller courts. I can personally relate an illustration explaining the panic often felt by clerks and clerk/judges in small towns. In January, when I took over the judgeship in Cedar Vale, I faced frantic clerk and Chief of Police. The former judge had not filled out a form mandated by law, which was required to be filed with the Judicial Administration. The city had received a letter advising them to complete the form and return it or action could be taken. These two people, as well as the prosecutor, had no idea what to do; or where to gain the information needed to complete the form. They only knew that their City failed to comply with the law. Continued education and training could have prevented this situation and I am certain that other small communities and towns have the same problems and concerns.

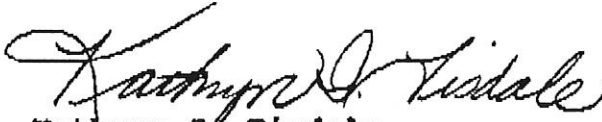
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The Kansas Association for Court Management has made giant strides in the education of clerks and clerk/judges, but due to the lack of funding by the cities, there are many that we can not reach. I am proud of the organization and of the success in training we have had to date, but am painfully aware of those we have not been able to reach.

Within the judicial system, I think it would be hard to find a more dedicated and serving profession. Clerks are sincerely interested in furthering their education and this is needed to continue to serve our cities and our state. Clerks deserve to get the training needed to perform their duty. I strongly urge the adoption of House Bill # 2832.

On behalf of the clerks of the municipal courts in Kansas I thank you for your consideration.

Sincerely,



Kathryn I. Tisdale
Municipal Court Manager

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February 18, 1992

**TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE
REGARDING HB NO. 2832 - JUDICIAL BRANCH EDUCATION FUND**

Thank you for the opportunity to appear before you today concerning HB No. 2832 and the importance of the judicial branch education fund.

No one can deny the benefits continuing education has for our judicial branch. Regardless of educational background or years of experience in the system, one should always be open to learning more.

This should also hold true for non-judicial employees as well. These employees make the system work efficiently or hinder the process.

Budget reductions the last three years have stalled the continuing education of our 13 trial court administrators, 105 district court clerks and their support staffs. Regional clerk conferences held quarterly in three different locations statewide have temporarily been cancelled because of lack of funding.

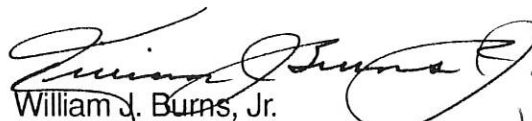
Since 1990 approximately 20 or more district court clerks have retired or resigned. It is not fair to their successors to blindly assume these important positions without proper training and education.

Many new laws have been created recently to meet the needs of the people when they turn to the courts for resolution. If our non-judicial employees are not aware of changing legislation or not adequately trained to carry out their duties, the judicial system fails those we are hired to serve.

I am confident the Supreme Court with the able assistance of the Office of Judicial Administration would provide equitable and competent training for the non-judicial employees through passage of this bill.

Judges and lawyers are now required to obtain continuing legal education annually. With proper funding the non-judicial employees of this state would serve the people in a more capable manner. The people who depend on the courts deserve no less.

Thank you for your kind consideration.


William J. Burns, Jr.
Court Administrator
29th Judicial District

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2-18-92
Attach #9

316-266-4272

I am Rose M. Coleman. I am presently the Assistant Clerk of Wichita Municipal Court. I am also the founding President of the Kansas Association for Court Management.

Prior to 1986 there was no state association in which Municipal Court Clerks could belong. In 1986, nine (9) Municipal Court Clerks/Administrator met to discuss the need of an organization that could be devoted to enhancing the knowledge of its members and thereby providing professional court administration within the State of Kansas. Since our conception we have grown from nine (9) to over one hundred and twenty (120) members. KACM membership includes cities of all sizes ranging from Kechi (population of 340) to Wichita (population of 300,000); which includes 1st, 2nd and 3rd class cities.

Regardless of the size of the city, procedures and processes are similar in all courts. The Association conducts two conferences each year (one in the spring and one in the fall). Conferences are held all over the state in order to make them accessible to all courts. The conferences not only includes an education agenda, but also hospitality time, which involves one on one exchange of ideas. The networking and exchange of ideas within the membership is an important part of the conference as well as the Association as a whole.

Our Association has been recognized by many agencies and we are anticipating formal recognition by the League of Kansas Municipalities in the fall of this year. The League has volunteered to work with KACM to create a certification program for membership.

Education has been a vital part of KACM from it's inception. We view the use of this money for the training for court staff as a logical return of monies presently collected by the Courts because it would further enhance the effectiveness of Municipal Courts state wide. This funding would especially benefit small courts who have insufficient resources to send staff to regular training sessions that are already conducted by KACM. Thru cooperation with the Supreme Court we feel that these funds can improve the quantity and quality of training provided to all Municipal Courts in the state.

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Attach #10
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Since education has been the backbone of our Association, we would find it very difficult to question the passing of this bill, which would provide monies for education and training for Municipal Court staff. However, we are concerned that the provision of such money might come at the price of our organization's independence. We feel it is vital for KACM to have very strong input into the process of this training.

We have worked very hard and long to establish this organization as a source of information and pride for the Municipal Court Clerks of Kansas. We would welcome monies for educational and training purposes for the reasons outlined above as long as we can maintain our organization as a separate entity working in cooperation with the state.

Thank you.

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Attach #10
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House Bill No. 2856
House Judiciary Committee
February 18, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I appreciate the opportunity to appear today to discuss House Bill No. 2856 which relates to the approval of bonds in the district courts. This is a proposal from the Kansas Association of District Court Clerks and Administrators.

This bill transfers the responsibility for approving certain statutorily required bonds to judges from clerks of the district court. The clerk of the district court is a ministerial officer of the court; that is, clerks perform duties required by a court order, by rule, or by statute. Normally the clerk does not exercise discretion in the performance of ministerial duties, but follows clearly established guidelines.

K.S.A. 20-3133 clearly states that clerks of the district court and their deputies are forbidden to practice law. Often discretion, legal knowledge, and application of legal principles are necessary in judging whether a bond is legally sufficient and in accordance with the requirements set out in these statutes.

Judges have the necessary legal skills to assess whether bonds submitted are sufficient. The state and the judge are protected by the doctrine of judicial immunity if a judge were to make an error in making a judicial decision which causes injury to an entity. On the other hand, clerks who are negligent in performing ministerial acts cause the state to be liable under the Tort Claims Act.

The passage of this bill would relieve clerks of a responsibility for which ministerial officers are not suited.

We urge your favorable consideration of this bill. Sherlyn Sampson appears on behalf of the Kansas Association of District Court Clerks and Administrators.

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Attach #11