

Approved: 3/23/95
Date

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Vice Chairperson Tim Carmody at 12:00 p. m. on March 21, 1995 in Room 514-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department
Jim Wilson, Revisor of Statutes
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Craig Liening, Coordinator, Treasury Analysis, Western Resources, Inc.
Robert North, Staff Attorney, Department of Administration
Jamie Corkhill, Policy Counsel, Child Support Enforcement
Secretary Dean Carlson, Department of Transportation
Roger Rooker, Acting Director of Accounts and Reports

Others attending: See attached list

Subcommittee reports were presented for the Judicial Council, Board of Indigents' Defense Services and Judicial Branch covered under **SB 48**.

SB 48 - Appropriations for FY 96, judicial council, state board of indigents' defense services, judicial branch.

Representative Haulmark presented the FY 95 and FY 96 subcommittee reports for the Judicial Council (Attachment 1).

Representatives Mollenkamp and Nichols presented the FY 95 and FY 96 subcommittee reports for the Board of Indigents' Defense Services (Attachment 1).

The FY 95 and FY 96 subcommittee reports for the Judicial Branch were reported by Representatives Mollenkamp and Nichols (Attachment 1).

A motion was made by Representative Gatlin, seconded by Representative Lowther, to delete Senate subcommittee recommendation item 3 for the Judicial Branch for FY 96 and to delete item 1 of the House subcommittee report for FY 96 for the Judicial Branch and that further review of the need for FTE positions be done at Omnibus time after the fate of HB 2005 has been determined. The motion failed with a count of 9 aye and 10 nay votes.

A motion was made by Representative Helgerson, seconded by Representative Reinhardt, to amend the subcommittee report for FY 96 for the Judicial Branch by striking all but three FTE positions and the additional funding to upgrade one FTE administrative assistant to court reporter. The motion carried with a count of 11 aye votes and 10 nay votes.

A motion was made by Representative Nichols, seconded by Representative Mollenkamp, to pass favorably as amended SB 48. The motion carried.

Representative Jennison took over as Chairperson of the meeting and opened the hearing on **SB 277**.

SB 277 - Collection of debts owed to the state, prompt payment, penalties.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS, Room 514-S Statehouse, at 12:00 p.m. on March 21, 1995.

Craig Liening, Coordinator, Treasury Analysis of Western Resources, Inc., testified in support of **SB 277**. Mr. Liening said the net benefit of assessing interest and passing on collection costs is estimated to be greater than \$1 million annually (Attachment 2).

Robert North, Staff Attorney, Department of Administration, testified in support of **SB 277**. Mr. North said this legislation will allow the state to more efficiently collect debts by authorizing state agencies to share data for debt collection purposes, and by allowing, but not requiring, the assessment of interest penalties and collection fees against those who do not pay their debts (Attachment 3).

Jamie Corkhill, Policy Counsel for Child Support Enforcement, testified in support of **SB 277** and said this bill presents an important opportunity to make efficient use of existing state resources and to encourage responsible debt payment (Attachment 4).

Written testimony in support of **SB 277** was submitted by Cynthia Gallagher, Area Manager for Southwestern Bell Telephone (Attachment 5).

Chairperson Jennison closed the hearing on **SB 277**.

The Chair opened the hearing on **SB 281**.

SB 281 - State officers and employees; claims for certain expenses.

Secretary Dean Carlson, Department of Transportation (KDOT), testified in support of **SB 281**. Secretary Carlson said this proposed legislation would provide state agencies with statutory authorization to reimburse lodging establishments directly for costs incurred by their personnel. KDOT also supports the provision of this bill that would provide more flexibility when interviewing and hiring instate applicants (Attachment 6).

Roger Rooker, Acting Director of Accounts and Reports, testified in support of **SB 281**. He said this bill addressed three distinct aspects of claims made by state employees--direct payment of lodging expenses, reimbursement of moving and recruitment expenses, and penalties for false claims filed by state employees (Attachment 7).

The Chair closed the hearing on **SB 281**.

Representative Nichols requested that Department of Revenue personnel be allowed to present information on **SB 281**.

The meeting adjourned at 2:10 p.m.

The next meeting is scheduled for March 22, 1995.

APPROPRIATIONS COMMITTEE GUEST LIST

DATE: 3/21/95

NAME	REPRESENTING
Linda McGill	KDTA
Bob North	DoA Legal
Craig Liening	Western Resources, Inc.
Trudy Racine	KDOT
Dean Carlson	KDOT
Nancy Bogina	KDOT
Jerry Sloan	OJA
Diane Waterworth	Division of the Budget
Walt Darling	Ks. Division of the Budget
Jamie Corkhill	SRS/CSE
Marlin Reem	KY
Edy M. Hearrell	Judicial Council
Scott B. Rith	BIDS
Karnie Sparks	DOB
Amy Howell	Intern
Paul Shelby	OJA

SUBCOMMITTEE REPORT

House Subcommittee on

1995 S.B. 48

Judicial Council

Board of Indigents Defense Services

Judicial Branch



Representative Gayle Mollenkamp
Subcommittee Chair



Representative Gary Haulmark



Representative Rocky Nichols

3/21/95
Appropriations Ante
Attachment 1

SUBCOMMITTEE REPORT

Agency: Judicial Council

Bill No. --

Bill Sec. --

Analyst: Porter

Analysis Pg. No. 109

Budget Page No. 327

<u>Expenditure Summary</u>	<u>Agency Estimate FY 95</u>	<u>Governor's Recommendation FY 95</u>	<u>Senate Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 223,639	\$ 223,103	\$ 0
Publications Fee Fund	48,383	48,383	0
TOTAL	<u><u>\$ 272,022</u></u>	<u><u>\$ 271,486</u></u>	<u><u>\$ 0</u></u>
FTE Positions	4.0	4.0	0.0
Special Project Appointments	0.0	0.0	0.0
TOTAL	<u><u>4.0</u></u>	<u><u>4.0</u></u>	<u><u>0.0</u></u>

Agency Estimate/Governor's Recommendation

The agency estimates FY 1995 expenditures of \$272,022, as approved by the 1994 Legislature. The approved amount reflects the recommendation of the 1994 Legislature to finance travel and subsistence for 38 Judicial Council Advisory Committee meetings, and to publish and sell the supplements to *Kansas Probate Forms*, *The Kansas Municipal Court Manual*, *PIK-Civil 2d*, and *PIK-Criminal 3d*.

The Governor recommends FY 1995 funding of \$271,486. The recommendation reflects the agency's request with a downward modification of \$536 for the cost of state employee health insurance.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendations.

Senate Committee Recommendation

The Senate Committee concurs with the recommendations of the Senate Subcommittee.

Senate Committee of the Whole Recommendation

The Senate Committee of the Whole concurs with the recommendations of the Senate Committee.

House Subcommittee Recommendation

The House Subcommittee concurs with the recommendations of the Senate Committee of the Whole.

SUBCOMMITTEE REPORT

Agency: Judicial Council

Bill No. 48

Bill Sec. 2

Analyst: Porter

Analysis Pg. No. 109

Budget Page No. 327

Expenditure Summary	Agency Request FY 96	Governor's Recommendation FY 96	Senate Subcommittee Adjustments
State Operations:			
State General Fund	\$ 250,983	\$ 240,219	\$ (7,617)
Publications Fee Fund	32,710	32,710	0
TOTAL	\$ 283,693	\$ 272,929	\$ (7,617)
FTE Positions	4.0	4.0	0.0
Special Project Appointments	0.0	0.0	0.0
TOTAL	4.0	4.0	0.0

Agency Request/Governor's Recommendation

The Judicial Council requests total FY 1996 expenditures of \$283,693, including \$250,983 from the State General Fund and \$32,710 from the Publications Fee Fund. The request is an increase of \$11,671, or 4.3 percent, above the revised current year estimate. Excluding the agency's FY 1996 capital outlay request of \$4,500, the FY 1996 request is an increase of \$7,171, or 2.6 percent, above the FY 1995 estimate. Requested FY 1996 expenditures would fund 44 Judicial Council Advisory Committee meetings and would provide for publication of supplements to *Kansas Probate Forms*, *The Kansas Municipal Court Manual*, *PIK-Civil 2d*, and *PIK-Criminal 3d*.

The Governor recommends FY 1996 funding of \$272,929, a reduction of \$10,764 from the agency request. The recommendation reflects a reduction of \$3,813 from the amount requested for salaries and wages, and a reduction of \$6,951 from the amount requested for other operating expenditures.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor with the following adjustments:

1. Delete \$7,617 from the State General Fund based on the recommendation to delete funding for a 3.5 percent unclassified merit pool (\$5,718); classified step movement (\$0); a one percent base adjustment for classified employees (\$0); and the longevity bonus (\$1,898) from individual agency budgets.
2. The Subcommittee notes that the agency did not request funding for computer equipment to access SHARP (the Statewide Human Resource and Payroll System). The agency has contacted SHARP personnel and estimates that approximately

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\$1,000 would be necessary to purchase equipment necessary for SHARP access. The Subcommittee recommends that the agency determine its precise needs and that the House Subcommittee examine the need for SHARP-related equipment.

3. The Subcommittee commends the agency for its efforts in following through on a recommendation made by the 1994 Legislature. The 1994 Senate Subcommittee recommended that the agency pursue an alternate method of publishing *PIK-Civil 2d* (pattern jury instructions). Lawyers' Cooperative Publishing maintains a copyright on the publication. Lawyers' Cooperative sells approximately 1,200 supplements each year and the Judicial Council receives a 15 percent royalty from the sales. The 1994 Senate Subcommittee concurred with the agency's goal of attempting to obtain control over the publication in order to bring the book up to the standards of other agency publications.

The agency actively pursued this issue and retained the services of an intellectual properties attorney. The copyright owner will not sell the copyright, but will agree to assign the copyright to the Judicial Council. The copyright owner will pay the Judicial Council a percentage of sales to write a new volume of the book, and will also pay the Judicial Council a percentage of the proceeds from supplement and CD Rom sales. Under the terms of the agreement, the Judicial Council will have complete control over the publication of *PIK-Civil 2d* within ten years.

Senate Committee Recommendation

The Senate Committee concurs with the recommendations of the Senate Subcommittee.

Senate Committee of the Whole Recommendation

The Senate Committee of the Whole concurs with the recommendations of the Senate Committee

<u>Expenditure Summary</u>	<u>Senate Adjustments</u>	<u>Senate Rec. FY 96</u>	<u>House Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ (7,617)	\$ 232,602	\$ 0
Publications Fee Fund	0	32,710	0
TOTAL	<u>\$ (7,617)</u>	<u>\$ 265,312</u>	<u>\$ 0</u>
FTE Positions	0.0	4.0	0.0
Special Project Appointments	0.0	0.0	0.0
TOTAL	<u>0.0</u>	<u>4.0</u>	<u>0.0</u>

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House Subcommittee Recommendation

The House Subcommittee concurs with the recommendations of the Senate Committee of the Whole, with the following adjustment:

1. As recommended by the Senate Subcommittee, the House Subcommittee reviewed the agency's request for SHARP (Statewide Human Resource and Payroll System) equipment. Based on the recommendation of SHARP project personnel, the Subcommittee recommends that \$1,170 from the State General Fund be appropriated to the Department of Administration in the 1995 Omnibus bill for this agency.
2. The Subcommittee reviewed the agency's performance indicators included in the agency budget, which are noted below:

Objective: To continuously survey and study the judicial branch of government, recommend to the Legislature and the Supreme Court needed improvement, and take other appropriate action to carry out the mission of the Judicial Council.

Measure: Consider the activity of the committees and determine if the Legislature, the Supreme Court, the bench, the bar, the public, and the committee members are bringing matters to the attention of the committees for consideration.

<u>Committee</u>	<u>Allocated</u>	<u>Held</u>	<u>Scheduled</u>	<u>Available</u>
Judicial Council	5	1	3	1
Administrative Procedure	2	0	2	0
Care and Treatment	5	2	2	1
Civil Code	5	2	2	1
Criminal Law	3	0	0	3
Family Law	5	1	2	2
Municipal Court Manual*	*	0	1	*
PIK-Civil	4	1	2	1
PIK-Criminal	4	2	1	1
Probate Law	5	2	1	2
Technology*	*	0	0	*
TOTAL	<u><u>38</u></u>			

* Financed by other than General Revenue Fund.

Measure: Is the work undertaken in the publications area completed, publications distributed, and income accounted for?

Publication Activities

FY 1994 Actual

Sale of 1,031 copies of PIK-Criminal 3d @ \$75	\$7,325
15% Royalty from sale of PIK-Civil 2d 1993 Supplement by Lawyer's Cooperative Publishing Co., 1,400 copies @ \$45	10,748
Sale of 5 copies of Municipal Court Manual @ \$30	150
Sale of 28 copies of 1993 supplement to Municipal Court Manual @ \$15	<u>420</u>
TOTAL FY 1994	<u><u>\$8,643</u></u>

FY 1995 Estimated

Sale of 40 copies of PIK-Criminal 3d @ \$75	\$3,062
Sale of 900 copies of PIK-Criminal 3d 1994 supplement @ \$25	22,965
15% Royalty from sale of PIK-Civil 2d 1994, 1,400 copies @ \$45	10,000
Sale of 10 copies of Kansas Municipal Court Manual @\$30	305
Sale of 30 copies of 1994 supplement to Kansas Municipal Court Manual @ \$15	460
Sale of 900 copies of 1994 supplement to Kansas Probate Forms @ \$25	<u>22,965</u>
TOTAL	<u><u>\$9,757</u></u>

FY 1996 Estimated

Sale of 40 copies of PIK-Criminal 3d @ \$75	\$3,062
Sale of 900 copies of PIK-Criminal 3d 1995 supplement @ \$25	22,965
15% royalty from sale of PIK-Civil 2d 1995 supplement, 1,400 copies @ \$45	10,000
Sale of 10 copies of Kansas Municipal Court Manual @ \$30	305
Sale of 30 copies of 1995 supplement to Kansas Municipal Court Manual @ \$15	460
Sale of 900 copies of 1995 supplement to Kansas Probate Forms @ \$25	<u>22,965</u>
TOTAL	<u><u>\$9,757</u></u>

All amounts noted include sales tax.

SUBCOMMITTEE REPORT

Agency: State Board of Indigents'
Defense Services

Bill No. 236

Bill Sec. 3

Analyst: Porter

Analysis Pg. No. 113

Budget Page No. 305

<u>Expenditure Summary</u>	<u>Agency Estimate FY 95</u>	<u>Governor's Recommendation FY 95</u>	<u>Senate Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 10,188,205	\$ 9,847,542	\$ 330,353
State Budget Stabilization Fund	40,000	65,000	0
Special Revenue Funds	170,000	170,000	0
Subtotal -- Operations	\$ 10,398,205	\$ 10,082,542	\$ 330,353
Other Assistance:			
State General Fund	428,564	428,564	0
TOTAL	\$ 10,826,769	\$ 10,511,106	\$ 330,353
FTE Positions	113.0	113.0	--
Special Project Appointments	0.0	1.0	--
TOTAL	113.0	114.0	--

Agency Estimate/Governor's Recommendation

Approved FY 1995 expenditures for the Board of Indigents' Defense Services total \$9,780,667, of which \$9,542,667 is from the State General Fund, \$173,000 is from the Indigents' Defense Services Fund, and \$65,000 is from the State Budget Stabilization Fund. The Board's revised estimate of expenditures for FY 1995 of \$10,826,769 includes \$10,616,769 from the State General Fund, an increase of \$1,074,102 above the amount approved (\$804,386 for assigned counsel, and \$304,716 for the salaries and other operating expenditures of 11.5 new FTE positions). The revised estimate also includes \$170,000 from the Indigents' Defense Services Fund, a reduction of \$3,000 from the approved amount, and \$40,000 from the State Budget Stabilization Fund, a reduction of \$25,000 from the approved amount.

The Governor recommends FY 1995 funding of \$10,511,106, a reduction of \$315,663 from the agency estimate. The recommendation includes a State General Fund supplemental appropriation of \$733,439, a reduction of \$340,663 from the \$1,074,102 supplemental appropriation requested by the agency. The recommendation includes funding of \$65,000 from the State Budget Stabilization Fund, which is the amount approved by the 1994 Legislature and reflects an increase of \$25,000 above the amount included in the agency estimate. The \$25,000 was authorized by the 1994 Legislature for a special project attorney appointment to audit assigned counsel claims.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor with the following adjustments:

1. Add \$310,746 for assigned counsel payments in the current year. This would increase funding for assigned counsel to a total of \$5,848,386, the amount requested by the agency in its budget submission.

Based on year-to-date assigned counsel payments, the agency submitted a revised request of \$6,188,382 to the Subcommittee. However, the Subcommittee does not recommend this increased amount and recommends that the agency continue its attempts to reduce assigned counsel expenditures. Toward that end, the Subcommittee notes that a September 1994 Legislative Post Audit report, *Reviewing the Operations of the Board of Indigents' Defense Services*, compared the compensation rate for assigned counsel allowed in Kansas (\$50 per hour, for both in-court and out-of-court time) with the rates paid in Colorado (\$50 in-court time, \$40 out-of-court time), Kentucky (\$35 in-court time, \$25 out-of-court time), Ohio (\$50 in-court time, \$40 out-of-court time), and Oregon (\$40 for both in-court and out-of-court time). The Subcommittee notes that the Kansas Supreme Court, in *State ex rel. Stephan v. Smith*, 242 Kan. 336, 383, 747 P.2d 816 (1987), held that the state "has an obligation to pay appointed counsel such sums as will fairly compensate the attorney, not at the top rate an attorney might charge, but at a rate which is not confiscatory, considering overhead and expenses." Although the statewide rate since the *Stephan v. Smith* case has been set at \$50 per hour for both in- and out-of-court time, the Subcommittee questions whether a lesser rate could be considered for out-of-court time, as is the practice in two of the states noted above.

The Subcommittee further notes that the agency is currently conducting an audit of assigned counsel claims, as recommended by the 1994 Legislature. The agency expects the audit to identify standard costs (based on the number of hours billed) for certain types of cases. The agency would use this information to identify significant variances from the standard cost and to determine whether the number of hours billed in certain cases is reasonable.

2. Add \$19,607 from the State General Fund for one-half of the requested partial year salary (\$16,382) and equipment (\$3,225) for the agency's special project appointment Operations Manager. The Subcommittee recommends that the agency fund the remaining half of the salary and equipment costs through achieving savings in other areas of the budget. The Subcommittee recommends that this remain a special project appointment rather than an FTE position. The Subcommittee notes that the Operations Manager would perform many of the management functions found lacking in the agency in a recent Legislative Post Audit report, *Reviewing the Operations of the Board of Indigents' Defense Services*. However, the Subcommittee recommends that the agency demonstrate the effectiveness of this appointment before it is made an FTE position.

3. The Subcommittee notes that the Governor's recommendation for FY 1995 includes \$40,000 from the State Budget Stabilization Fund to finance a management study of the agency, as approved by the 1994 Legislature. The Subcommittee concurs with the agency's plan for the study, which includes a contractual agreement for faculty from the Wichita State University School of Urban and Public Affairs to conduct the study. The 1994 Legislature specified that the study should determine whether additional offices should be opened, what the agency should look like five years from now, and the procedures to be used by judges in determining indigence. The management study is expected to culminate in a strategic plan for the agency. The Subcommittee recommends that the agency be allowed to reappropriate any unexpended funds approved for the study from FY 1995 to FY 1996 and notes that language in 1995 H.B. 2264 (the Department of Administration bill) would allow the reappropriation of any unexpended funds.

Senate Committee Recommendation

The Senate Committee concurs with the recommendations of the Senate Subcommittee.

Senate Committee of the Whole Recommendation

The Senate Committee of the Whole concurs with the recommendations of the Senate Committee.

<u>Expenditure Summary</u>	<u>Senate Adj. FY 95</u>	<u>Senate Rec. FY 95</u>	<u>House Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 330,353	\$ 10,177,895	\$ 19,606
State Budget Stabilization Fund	0	65,000	0
Special Revenue Funds	0	170,000	0
Subtotal -- Operations	<u>\$ 330,353</u>	<u>\$ 10,412,895</u>	<u>\$ 19,606</u>
Other Assistance:			
State General Fund	0	428,564	0
TOTAL	<u><u>\$ 330,353</u></u>	<u><u>\$ 10,841,459</u></u>	<u><u>\$ 19,606</u></u>
FTE Positions	--	113.0	1.0
Special Project Appointments	--	1.0	(1.0)
TOTAL	<u><u>--</u></u>	<u><u>114.0</u></u>	<u><u>0.0</u></u>

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House Subcommittee Recommendation

The House Subcommittee concurs with the recommendations of the Senate Committee of the Whole with the following adjustments:

1. Add \$19,606 from the State General Fund for one-half of the partial year salary and equipment of the agency's special project appointment Operations Manager and make the appointment an FTE position. The agency discussed the duties of this position and noted that retention of this position is among its top priorities in light of the agency's growth and management needs.

2. The Subcommittee reviewed the agency's year-to-date expenditures for assigned counsel and notes that, based on current claims, the agency requested supplemental funding of \$339,996 in addition to the \$310,746 added by the Senate. The requested amounts would allow for total FY 1995 assigned counsel funding of \$5,951,757. Rather than making an adjustment now that may prove to be inaccurate, the Subcommittee recommends that supplemental funding for assigned counsel be addressed as an Omnibus issue. At that time, the agency will have had additional year-to-date claims and will be able to make a more accurate estimate. The Subcommittee also recommends that the agency request a Governor's Budget Amendment to address assigned counsel funding. The Subcommittee notes that the level of funding recommended by the Governor is inadequate and places the Legislature in the difficult position of adding significant amounts of funding.

The Subcommittee expresses its strong displeasure with the fiscal position in which this agency has been placed in recent years. Highly summarized, the funding approved for assigned counsel claims has consistently been less than the amount estimated by the agency and has resulted in supplemental appropriations for the agency the following year. A recent Legislative Post Audit report, *Reviewing the Operations of the Board of Indigents' Defense Services*, notes the agency's recent history of assigned counsel funding. The following table is derived from information provided in the report.

Fiscal Year	Agency Est. Cost to Pay All Assigned			Actual Cost of Claims	Supplemental Appropriation	Amount of Claims Held for Payment in Next Fiscal Year
	Counsel Claims	Legislative Appropriation	Projected Shortfall			
1990	\$ 4,007,278	\$ 3,401,122	\$ 606,156	\$ 4,056,043	\$ 604,312	\$ 50,631
1991	3,960,506	3,648,260	312,246	4,227,512	320,731	228,589
1992	4,224,542	4,152,524	72,018	4,660,330	408,434	382,693
1993	4,385,725	4,310,023	75,702	5,399,801	1,205,539	36,814
1994	5,625,641	4,301,417	1,324,224	5,452,940	1,225,703	260,216

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The Post Audit report includes the following statements:

"In three of the five years, the legislative appropriation was less than the Governor's recommendation. In the other two years, it was slightly more, but never enough to pay for all the estimated assigned counsel claims.

Based on our review of the agency's appropriations, it appears the Governor and the Legislature knew the agency would later require a supplemental appropriation to pay for all its assigned counsel claims. As it turned out, to pay for those claims in every year but fiscal year 1994, the Board needed an even greater supplemental appropriation than initially projected because it underestimated the number and amount of assigned counsel claims it would have."

The Post Audit report also includes the following conclusion:

"The Board of Indigents' Defense Services has not been very accurate in forecasting such things as the number and cost of assigned counsel claims it would have each year. On the other hand, given that state resources have been tight in recent years, the Board has not been able to ask for the full amount of funding it estimated would be needed. **Under these circumstances, there will always be a backlog of unpaid claims regardless of how accurate the agency's forecasts are.**" (Emphasis added.)
Legislative Division of Post Audit, *Reviewing the Operations of the Board of Indigents' Defense Service* (September 1994), pp. 39-42.

The Subcommittee received testimony on the practical effect of this situation. Effective March 3, 1995, the Board stopped paying current year vouchers for assigned counsel claims. The Board may find it possible to pay some of these claims later in FY 1995; however, the majority of vouchers filed after March 3 will not be paid until FY 1996. As illustrated the column of the above table entitled "Amount of claims held for payment in next fiscal year," the FY 1995 situation is not unique. BIDS routinely contracts with attorneys in assigned counsel cases when both parties know that payment will be delayed for several months. The Subcommittee received testimony that the agency may soon lose the services of some experienced, cost-effective, and valued attorneys on the assigned counsel panel because the attorneys have grown tired of this situation.

Another practical effect of the funding situation is that the agency is placed in a situation which makes long-range planning difficult, at best. Although for the past two years the Legislature has approved the agency's plan of expanding its regional defense services delivery system (which involves shifting funds from assigned counsel to open new public defender offices when it is cost effective to do so), the agency finds it difficult to shift assigned counsel funds to pay for the start-up costs of additional public defenders, knowing that it will only compound the assigned counsel shortfall. The Legislative Post Audit report also concludes that "public

defender offices have consistently represented clients for about \$205 to \$270 per case less than assigned counsel, or 27% to 39% less." Id. at 10. The Subcommittee received testimony that these savings would be reflected in the second year following a shift to public defender services because of first-year start-up costs. The Subcommittee also recommends that the agency's plans for regional defense delivery system expansion, including start-up costs (and the related projected savings), be considered in Omnibus in conjunction with the request for assigned counsel funding.

SUBCOMMITTEE REPORT

Agency: State Board of Indigents'
Defense Services

Bill No. 48

Bill Sec. 3

Analyst: Porter

Analysis Pg. No. 113

Budget Page No. 305

<u>Expenditure Summary</u>	<u>Agency Request FY 96</u>	<u>Governor's Recommendation FY 96</u>	<u>Senate Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 13,214,225	\$ 9,956,306	\$ 26,123
State Budget Stabilization Fund	0	0	0
Special Revenue Funds	173,000	173,000	0
Subtotal -- Operations	<u>\$ 13,387,225</u>	<u>\$ 10,129,306</u>	<u>\$ 26,123</u>
Other Assistance:			
State General Fund	611,889	438,011	0
TOTAL	<u><u>\$ 13,999,114</u></u>	<u><u>\$ 10,567,317</u></u>	<u><u>\$ 26,123</u></u>
FTE Positions	165.0	113.0	--
Special Project Appointments	0.0	1.0	--
TOTAL	<u><u>165.0</u></u>	<u><u>114.0</u></u>	<u><u>--</u></u>

Agency Request/Governor's Recommendation

The Board's request for FY 1996 totals \$13,999,114, including \$13,387,225 for agency operations and \$611,889 for the grant to Legal Services for Prisoners, Inc. Requested expenditures from the Indigents' Defense Services Fund of \$173,000 are \$3,000 more than the current year estimate. The FY 1996 request reflects a total increase of \$3,172,345 and 52.0 FTE positions above the revised FY 1995 estimate. The 11.5 FTE positions added in FY 1995 in response to caseload increases would be continued in FY 1996. The FY 1996 request includes partial implementation of the Regional Defense Delivery System whereby new offices are established or services are extended initially to the more urban counties while voucher review and the assumption of some high cost cases are offered in rural counties. Beginning in FY 1996, the agency proposes the establishment of a Capital Defender Office in response to the enactment of the death penalty for certain homicides. The Board also requests a total of \$306,301, including benefits, to implement a career ladder for its unclassified attorneys which includes pay range movement comparable to the pay ranges in effect for attorneys in the classified state service.

The Governor recommends FY 1996 total funding of \$10,129,306, a reduction of \$3,257,919 from the agency request. The Governor does not recommend any of the 52.0 new FTE positions requested by the agency. The recommendation would not allow the agency to expand its delivery of services through the Regional Defense Delivery System, would not allow the agency to establish a Capital Defender Office, would not provide funding for reclassification of its attorney positions to a level consistent with attorneys in the classified state service, and would provide \$1,579,047 less for assigned counsel than the level the agency estimates will be necessary without expansion of its Regional Defense Delivery System.

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The Governor's FY 1996 recommendation includes separate State General Fund accounts for Assigned Counsel, Capital Defense Operations, Legal Services for Prisoners, Inc., and Operating Expenditures. The 1993 Legislature merged the Operating Expenditures and Assigned Counsel accounts of the State General Fund into one line item and eliminated the FTE limitation to provide the agency with as much flexibility as possible to manage its responsibilities within limited financial resources. The Governor also imposes an FTE limitation in FY 1996, which would eliminate the agency's flexibility to shift funds from assigned counsel to trial level public defender offices as caseload dictates.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor with the following adjustments:

1. Delete \$125,275 from the State General Fund based on the recommendation to delete funding for a 3.5 percent unclassified merit pool (\$86,163); classified step movement (\$21,785); a one percent base adjustment for classified employees (\$11,005); and the longevity bonus (\$6,322) from individual agency budgets.
2. Merge the Operating Expenditures account and the Assigned Counsel account of the State General Fund into one line item. The Subcommittee also recommends the elimination of the FTE position limitation for the agency. The 1993 Legislature made this same recommendation, and included the following rationale:

“the agency needs as much flexibility as possible to manage its responsibilities within limited financial resources. . . . A single appropriation will not only permit the agency to shift financing to assigned counsel, but will also enable the agency to hire additional attorneys as needed to defend indigent defendants at a cost estimated to be 31 percent less than assigned counsel payments. If the agency is permitted to look at the defense system as a whole it may be more able to address the burgeoning caseload assigned to agency attorneys, . . . and reduce the increasing number of cases assigned to private counsel in counties with public defender offices.”

The 1994 Legislature again reviewed this issue and noted that BIDS "has chosen to utilize the flexibility provided by the 1993 Legislature by adopting and initiating a Regional Defense Delivery System. . . . [T]he Board has taken a very positive step forward in the implementation of a much more cost effective and efficient manner of providing public defense and encourages the Board to move forward."

The Subcommittee further notes that a September 1994 legislative Post Audit report, *Reviewing the Operations of the Board of Indigents' Defense Services*, included the following among its recommendations:

“To ensure that indigents' defense services are provided as cost-effectively as possible and that the State is not paying more than it should for assigned counsel, the Board should do the following: .

..

Continue to expand the use of public defenders by adding staff to existing offices, or establishing new offices when the Board determines it is cost-effective to do so after considering such factors as the number of cases and existing costs for handling cases with private attorneys.”

The Subcommittee believes that the rationale provided by the 1993 Legislature still applies in FY 1996 and recommends that the agency continue to pursue cost savings through the efforts noted above. The Subcommittee's recommendation would allow the agency the flexibility to accomplish this goal.

3. The Subcommittee reviewed the agency request for SHARP (Statewide Human Resource and Payroll System) computers and equipment. The agency did not include a request for SHARP equipment in its FY 1996 budget submission, but has since consulted with SHARP project personnel and has been advised that its equipment needs for SHARP system access for the central, appellate, and regional offices would cost a total of \$15,600. The Subcommittee recommends that this amount be appropriated from the State General Fund to the Department of Administration budget in the 1995 Omnibus bill.
4. Add \$126,014 from the State General Fund and 2.0 FTE positions for a Capital Defender Office. The recommendation includes funding for an Attorney C position (\$45,000 base salary, \$54,083 including fringe benefits) and a Special Investigator II position (\$34,613), and \$37,318 for operating expenditures (including start-up costs for capital outlay, such as computers, desks, chairs, equipment for the investigator, and other items) for the new and existing staff.

The Subcommittee notes that, in response to the 1994 enactment of the death penalty for certain homicides, BIDS established a Capital Defense Coordinator position and transferred its most experienced attorney into the position. The agency proposed the establishment of a Capital Defender Office, which would be staffed by the current Capital Defense Coordinator, two additional attorneys, and 4.0 FTE support staff, including an Investigator III, a Mitigation Specialist, a Secretary III, and an Office Assistant I. It was anticipated that the Capital Defender Office would perform the following duties: represent individuals charged in capital or potentially capital cases; establish and administer a system by which courts could appoint qualified attorneys; plan and present training programs; establish and maintain a resource library and consultation service; collect and maintain statistical records regarding the use of capital punishment; and establish a system for providing trial counsel with competent and cost-effective expert and investigative services. The Governor did not recommend the proposed Capital Defender Office, but did provide funding to continue the existing Capital Defense Coordinator position.

The Subcommittee reviewed the agency's capital defense activities to date and considered the agency's estimated level of activity for FY 1996. The Subcommittee cautions that additional staffing may be necessary in the future depending on the number and complexity of capital cases charged. However, the Subcommittee believes that its recommendation addresses current and reasonably anticipated needs.

5. Add \$25,384 from the State General Fund to finance half of the salaries and benefits of the agency Operations Manager in FY 1996. As in FY 1995, the agency should attempt to fund the remaining half of the salary costs through savings in other areas of the budget.
6. The Subcommittee recommends that the agency establish a public defender office in Wyandotte County. The Post Audit report noted above, *Reviewing the Operations of the Board of Indigents' Defense Services*, stated that the Wyandotte County legal community has adamantly opposed the opening of a public defender office in that county. The Post Audit report concluded that the state could have saved at least \$245,000 in FY 1993 if a public defender office had been opened in Wyandotte County. The report further notes that, fearing the establishment of a public defender office, the Wyandotte County legal community took steps to reduce assigned counsel expenditures, including changing sentencing procedures and reducing attorneys' in-court time. Even though costs dropped as a result of these measures, the Post Audit report estimates that costs were still \$135,000 higher than they would have been if a public defender office had been established in Wyandotte County.

Senate Committee Recommendation

The Senate Committee concurs with the recommendations of the Senate Subcommittee with the following adjustments:

1. Add a proviso to the appropriations bill to limit funding for assigned counsel in Wyandotte County to no more than 15 percent of total operating expenditures in Wyandotte County. The Committee concurs with the Subcommittee's recommendation to open a public defender office in Wyandotte County and concludes that the recommended proviso would insure that the recommendation is carried out.

Senate Committee of the Whole Recommendation

The Senate Committee of the Whole refers S.B. 48 back to the Senate Committee for further consideration.

Senate Committee Recommendation (Upon Re-referral)

The Senate Committee concurs with its previous recommendations with the following adjustment:

1. Delete the proviso limiting expenditures for assigned counsel in Wyandotte County to no more than 15 percent of total operating costs in Wyandotte County. The Committee recommends that the Wyandotte legal community be given until December 31, 1995, to implement additional reforms and attempt to lower expenditures for assigned counsel in Wyandotte to the rate or expenditures which would be made for public defender services. The Committee further notes that, if

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the required cost reductions are not met, the Wyandotte County Administrative Judge will support establishing a public defender office in Wyandotte County.

Senate Committee of the Whole Recommendation

The Senate Committee of the Whole concurs with the recommendations of the Senate Committee.

Expenditure Summary	Senate Adj. FY 96	Senate Rec. FY 96	House Subcommittee Adjustments
State Operations:			
State General Fund	\$ 26,123	\$ 9,982,429	\$ 25,384
Special Revenue Funds	0	173,000	0
Subtotal -- Operations	\$ 26,123	\$ 10,155,429	\$ 25,384
Other Assistance:			
State General Fund	0	438,011	0
TOTAL	<u>\$ 26,123</u>	<u>\$ 10,593,440</u>	<u>\$ 25,384</u>
FTE Positions	--	113.0	1.0
Special Project Appointments	--	1.0	(1.0)
TOTAL	<u>--</u>	<u>114.0</u>	<u>0.0</u>

House Subcommittee Recommendation

The House Subcommittee concurs with the recommendations of the Senate Committee of the Whole with the following adjustments:

1. Make a technical adjustment to the bill to reflect the recommendations of the Senate.
2. Add \$25,384 for the remaining half of the salary and benefits of the agency's Operations Manager. As noted in its FY 1995 report, the Subcommittee recommends that this special project appointment be made an FTE position.
3. The Subcommittee notes that the agency requested an additional \$557,670 for assigned counsel payments in FY 1996. As noted in the FY 1995 report, the Subcommittee recommends that the agency seek a Governor's Budget Amendment on this item and that this issue be considered as an Omnibus item. As noted in the FY 1995 report, the agency should submit for legislative review a revised estimate of FY 1996 assigned counsel expenditures based on caseload increases, the enactment of new legislation, and other factors.
4. The Subcommittee recommends that the agency's plan for expansion of the regional defense services delivery system be reviewed in the Omnibus session. As noted in

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the preceding recommendation, caseload increases, the enactment of new legislation, and other factors should be considered.

5. The Subcommittee notes that BIDS seeks recoupment of legal fees, particularly from those persons determined to be indigent at the time of BIDS representation who subsequently find employment. Amounts recovered by the agency were \$704,095 in FY 1993 and \$759,664 in FY 1994, and are estimated to be \$820,437 in FY 1995 and \$886,072 in FY 1996. The Subcommittee received testimony that this represents the highest rate of recoupment in the nation for state public defender agencies. The Subcommittee recommends that the agency's recoupment efforts be considered in Omnibus in light of the agency request for expansion of the regional public defender system, assigned counsel expenditures. The amounts recovered by the agency could be considered as offsetting any State General Fund amounts recommended in the Omnibus bill to fund the agency's FY 1996 estimates for assigned counsel, the regional public defender system, and other items.
6. The Subcommittee notes that the agency budget includes the following performance indicators:

	Actual FY 1994	Estimate FY 1995	Agency Request FY 1996
Administration:			
Cases	8,485	9,503	9,190
Assigned Counsel Claims Paid	10,518	11,815	11,346
Claims Held to July 1	595	0	0
No. of Personnel/Payroll Transactions	358	418	611
Office Manager Meetings	1	3	6
Office Visits	13	20	25
Public Defender Offices	7	8	15
Recoupment	\$759,664	\$820,437	\$886,072
Contract Receipts into Docket Fund	\$163,756	\$170,000	\$173,000

In addition, the agency notes that it intends to develop a management information system for evaluating caseload, costs, and qualitative aspects of indigents' defense on a county, district, and regional basis, which the agency states will allow for a more accurate prediction of caseload and costs.

SUBCOMMITTEE REPORT

Agency: Judicial Branch

Bill No. --

Bill Sec. --

Analyst: Porter

Analysis Pg. No. 91

Budget Page No. 329

<u>Expenditure Summary</u>	<u>Agency Estimate FY 95</u>	<u>Governor's Recommendation FY 95</u>	<u>Senate Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 63,063,566	\$ 62,841,224	\$ 0
Judicial Technology Fund	672,818	563,152	0
Judicial Branch Educ. Fund	1,037,397	950,013	0
Other Special Revenue Funds	1,758,102	1,757,307	0
Subtotal -- State Operations	<u>\$ 66,531,883</u>	<u>\$ 66,111,696</u>	<u>\$ 0</u>
Aid to Local Units:			
State General Fund	<u>\$ 1,420,131</u>	<u>\$ 1,420,131</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 67,952,014</u></u>	<u><u>\$ 67,531,827</u></u>	<u><u>\$ 0</u></u>
FTE Positions:			
Appellate Court Judges & Justices	17.0	17.0	--
District Court Judges	221.0	221.0	--
Nonjudicial Personnel	1,494.0	1,494.0	--
Subtotal FTE	<u>1,732.0</u>	<u>1,732.0</u>	<u>--</u>
Special Project Appointments	<u>0.0</u>	<u>0.0</u>	<u>--</u>
TOTAL	<u><u>1,732.0</u></u>	<u><u>1,732.0</u></u>	<u><u>--</u></u>

Agency Estimate/Governor's Recommendation

The Judicial Branch estimates FY 1995 expenditures of \$66,531,883 for state operations, of which \$63,063,566 is from the State General Fund and \$3,468,317 is from special revenue funds. The estimate of expenditures from the State General Fund is as approved by the 1994 Legislature. Estimated expenditures from special revenue funds, which are appropriated without expenditure limitation, are \$183,906 above the amount estimated by the 1994 Legislature. Increased expenditures from the Judicial Branch Education Fund (\$108,100) and the Judiciary Technology Fund (\$86,039) are offset by a reduction of \$10,233 from other special revenue funds. Expenditures of \$1,500,000 are estimated for the Juvenile Intake and Assessment Program, as approved by the 1994 Legislature to initiate the 24-hour uniform Juvenile Intake and Assessment Program for juvenile offenders and children in need of care.

The FY 1995 estimate includes funding for a total of 1,732.0 FTE positions. This total includes the 1,712.5 FTE positions included in the Governor's recommendation to the 1994 Legislature, with several adjustments. The 1994 Legislature added 3.0 FTE Judge and 3.0 FTE Administrative Assistant positions. The 1994 Legislature also added 10.0 FTE positions because of the enactment of ten crime bills, but did not specify the specific positions to be added. The Judicial Branch added 1.0 FTE Court Services

Specialist position and 10.0 FTE Trial Court Clerk positions. In response to other legislation enacted by the 1994 Legislature, the Judicial Branch added an Alternative Dispute Resolution Coordinator position, a Court Services Specialist position to administer court services officers statewide, and a position to administer the Juvenile Intake and Assessment Program. In addition, a Trial Court Clerk position was reduced to a 0.5 FTE position. The FY 1995 estimate includes a turnover rate of approximately 1.4 percent in FY 1995. Actual turnover in FY 1994 was 2.9 percent (\$1,815,462).

The Governor recommends \$66,111,696 for state operations in FY 1995, a reduction of \$420,187 from the Judicial Branch request. Reductions are recommended from the amounts requested for salaries and wages (\$223,583), contractual services (\$167,223), and capital outlay (\$29,381). The reduction from salaries and wages reflects a reduction of \$7,700 from the amount requested for temporary help and a downward adjustment based on revised state employee health insurance rates. Reductions are recommended from the amounts estimated from the State General Fund (\$222,342), the Judicial Technology Fund (\$109,666), the Judicial Branch Education Fund (\$87,384), and other special revenue funds (\$795). The Governor concurs with the 1,732.0 FTE positions included in the FY 1995 estimate.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor.

Senate Committee Recommendation

The Senate Committee concurs with the recommendations of the Senate Subcommittee.

Senate Committee of the Whole Recommendation

The Senate Committee of the Whole concurs with the recommendations of the Senate Committee.

House Subcommittee Recommendation

The House Subcommittee concurs with the recommendations of the Senate Committee of the Whole.

SUBCOMMITTEE REPORT

Agency: Judicial Branch

Bill No. 48

Bill Sec. 4

Analyst: Porter

Analysis Pg. No. 91

Budget Page No. 329

<u>Expenditure Summary</u>	<u>Agency Request FY 96</u>	<u>Governor's Recommendation FY 96</u>	<u>Senate Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 67,542,844	\$ 65,462,511	\$ (1,801,605)
Judicial Technology Fund	718,690	466,525	0
Judicial Branch Educ. Fund	619,231	619,024	0
Other Special Revenue Funds	1,852,883	1,823,348	(60,896)
Subtotal -- State Operations	<u>\$ 70,733,648</u>	<u>\$ 68,371,408</u>	<u>\$ (1,862,501)</u>
Aid to Local Units:			
State General Fund	<u>\$ 1,900,000</u>	<u>\$ 1,420,131</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 72,633,648</u></u>	<u><u>\$ 69,791,539</u></u>	<u><u>\$ (1,862,501)</u></u>
FTE Positions:			
Appellate Court Judges & Justices	17.0	17.0	0.0
District Court Judges	225.0	221.0	3.0
Nonjudicial Personnel	<u>1,530.5</u>	<u>1,494.0</u>	<u>3.0</u>
Subtotal FTE	1,772.5	1,732.0	6.0
Special Project Appointments	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
TOTAL	<u><u>1,772.5</u></u>	<u><u>1,732.0</u></u>	<u><u>6.0</u></u>

Agency Request/Governor's Recommendation

The Judicial Branch requests a total of \$72,633,648 for FY 1996, of which \$67,426,126 is for salaries and wages (92.8 percent of the total request), and \$3,307,522 is for other operating expenditures. A total of \$1,900,000 is requested for Juvenile Intake and Assessment Program grants. Excluding those grants, the total requested for state operations is \$70,733,648. The FY 1996 funding request of \$63,390,695 for the district courts accounts for 87.3 percent of the total request. The FY 1996 salaries and wages request is an increase of \$3,723,886, or 5.8 percent, above the FY 1995 estimate. The FY 1996 salaries and wages request includes the continuation of the 19.0 FTE positions added in FY 1995 with the addition of 40.5 new FTE positions, including 4.0 FTE new district court judges. The salaries and wages request also includes longevity payments for eligible personnel (\$506,800), funding for temporary employees (\$441,781), a 2.5 percent salary increase for judicial personnel (\$392,176), step movement salary increases for other unclassified nonjudicial personnel, and an FY 1996 turnover rate of 1.3 percent, which is a reduction of \$879,346 from the gross salaries and wages request. The FY 1996 request of \$3,307,522 for other operating expenses includes travel and subsistence (\$817,058), books and materials for the law library (\$513,129), final year costs of replacing the Judicial Center computer system (\$321,141), first-year cost of the district court automation project (\$472,274), printing and advertising (\$321,009), communications (\$199,071), and all other expenditures (\$663,840).

The Governor recommends FY 1996 total expenditures of \$69,791,539, a reduction of \$2,842,109 from the agency request. Of the reduction, \$2,362,240 is from the amount requested for state operations and \$479,869 is from the amount requested for other assistance (Juvenile Intake and Assessment Program grants). Reductions are recommended from the amounts requested for salaries and wages (\$1,755,819), contractual services (\$431,179), commodities (\$3,673), and capital outlay (\$171,569). The reduction from salaries and wages reflects the net effect of the deletion of the 40.5 new FTE positions requested for FY 1996 (\$1,409,437); an increased reduction of \$599,382 in the salaries and wages turnover rate, from the 1.3 percent included in the request (\$879,346) to 2.2 percent (\$1,478,728); the addition of a 1.0 percent base salary increase for all classified employees and a 3.5 percent merit pool for unclassified employees; a downward adjustment for revised state employee health insurance rates; and other fringe benefits adjustments.

Recommended state operations financing for FY 1996 includes \$65,462,511 from the State General Fund, a reduction of \$2,080,233 from the FY 1996 request. The Governor recommends expenditures of \$466,525 from the Judicial Technology Fund, a reduction of \$252,165 from the amount requested. Reductions are also recommended from the amounts requested from the Judicial Branch Education Fund (\$207) and other special revenue funds (\$29,535).

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor with the following adjustments:

1. Delete \$2,255,393 (including \$2,194,497 from the State General Fund) based on the recommendation to delete funding for a 3.5 percent unclassified merit pool (\$647,096); classified step movement (\$636,967); a one percent base adjustment for classified employees (\$636,967); and the longevity bonus (\$560,035) from individual agency budgets.
2. Add \$32,419 from the State General Fund for the salaries and benefits of 1.0 FTE court Reporter position. This position would be assigned to the Eighth Judicial District (Dickinson, Geary, Marion, and Morris Counties), which currently is staffed with only one court reporter for the five district court judges and two district magistrate judges assigned to the district. The Subcommittee notes that the district has attempted to manage this situation through the use of tape recording, borrowing court reporters from other districts, and other management means. The Subcommittee concludes, however, that one court reporter simply cannot provide court reporting services for the seven judges assigned to the district.
3. Add \$314,339 from the State General Fund for 3.0 new District Court Judge positions and 1.0 FTE new Administrative Assistant position. The new FTE positions would be assigned as follows:

25th Judicial District (Finney, Greeley, Hamilton, Kearny, Scott, and Wichita Counties)	1.0 FTE District Court Judge	\$ 96,500
	1.0 FTE Administrative Assistant	24,839
18th Judicial District (Sedgwick County)	1.0 FTE District Court Judge	96,500
16th Judicial District (Clark, Comanche, Ford, Gray, Kiowa, and Meade Counties)	1.0 FTE District Court Judge	96,500
TOTAL		<u>\$ 314,339</u>

The Subcommittee heard testimony from judges from each of the three judicial districts and reviewed caseloads in those districts since 1984 (shown in the following table). The Subcommittee believes that the caseload increases and other factors noted by the judges, such as the increasing complexity of cases, justify these additional positions. The Subcommittee notes that both Ford and Finney Counties have had a dramatic increase in population in recent years, including many non-English speaking residents. The district courts in these counties cite an increasing need to provide interpreters in criminal cases, which further taxes the courts' time and contributes to the complexity of the proceedings. The 18th Judicial District (Sedgwick County) has historically borne eight to nine percent of the state's criminal caseload. The district has not had a new judge since 1987. It is anticipated that the death penalty and the sexual predator law will generate additional caseload increases.

The Subcommittee further notes that an Administrative Assistant position and a Court Reporter position were requested for each of the District Judge positions and that an additional District Court Judge position was requested for Johnson County. Although the Subcommittee found the Judicial Branch's reasons for requesting these positions to be compelling, the Subcommittee regrets that fiscal constraints do not allow the Subcommittee to add further positions at this time. The Subcommittee does recommend an Administrative Assistant position for the 25th Judicial District, which currently has no administrative assistant for any of the three district court judges and five magistrate judges assigned to the district.

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	Filings	FY 1984	FY 1987	FY 1990	FY 1993	FY 1994	Percent Change FY 84-94
Statewide	Criminal -Felonies	11,397	11,500	12,197	13,229	14,423	26.6
	Criminal-Misdemeanors	10,432	13,369	15,362	16,386	17,762	70.3
	Subtotal-Criminal	21,829	24,869	27,559	29,615	32,185	47.4
	Civil-Regular	19,864	26,385	25,733	22,347	23,287	17.2
	Civil-Domestic Relations	23,152	23,497	29,486	33,124	36,469	57.5
	Civil-Limited Actions	43,661	54,526	68,525	80,404	90,044	106.2
	Subtotal-Civil	86,677	104,408	123,744	135,875	149,800	72.8
	TOTAL	108,506	129,277	151,303	165,490	181,985	67.7
16th Judicial District (Clark, Comanche, Ford Gray, Kiowa, and Meade Counties)	Criminal-Felonies	271	284	221	254	326	20.3
	Criminal-Misdemeanors	282	293	420	409	490	73.8
	Subtotal-Criminal	553	577	641	663	816	47.6
	Civil-Regular	426	578	449	437	382	(10.3)
	Civil-Domestic Relations	456	367	404	502	563	23.5
	Civil-Limited Actions	796	680	1,146	1,808	2,119	166.2
	Subtotal-Civil	1,678	1,625	1,999	2,747	3,064	82.6
	TOTAL	2,231	2,202	2,640	3,410	3,880	73.9
18th Judicial District (Sedgwick Co.)	Criminal-Felonies	1,877	1,859	2,110	2,140	1,866	(0.6)
	Criminal-Misdemeanors	205	388	436	436	408	99.0
	Subtotal-Criminal	2,082	2,247	2,546	2,576	2,274	9.2
	Civil-Regular	3,604	4,732	5,558	4,582	5,247	45.6
	Civil-Domestic Relations	4,296	4,377	5,076	5,441	6,070	41.3
	Civil-Limited Actions	10,774	12,455	15,349	19,796	19,169	77.9
	Subtotal-Civil	18,674	21,564	25,983	29,819	30,486	63.3
	TOTAL	20,756	23,811	28,529	32,395	32,760	57.8
25th Judicial District (Finney, Greeley, Hamilton, Kearny, Scott, and Wichita Counties)	Criminal-Felonies	407	391	369	330	271	(33.4)
	Criminal-Misdemeanors	366	448	405	333	414	13.1
	Subtotal-Criminal	773	839	774	663	685	(11.4)
	Civil-Regular	459	560	533	404	411	(10.5)
	Civil-Domestic Relations	485	505	673	1,044	905	86.6
	Civil-Limited Actions	1,223	1,305	2,609	3,404	4,969	306.3
	Subtotal-Civil	2,167	2,370	3,815	4,852	6,285	190.0
	TOTAL	2,940	3,209	4,589	5,515	6,970	137.1

4. Add \$46,134 from the State General Fund for the salaries and wages (including fringe benefits) of 1.0 FTE Research Staff Attorney II position. According to the Court, an experienced attorney would be hired to analyze petitions for review, motions, original actions, and to perform assigned research. The Court reports that petitions for review by the Supreme Court have increased 221 percent over the past 12 years. A total of 441 petitions for review were filed with the Supreme Court in

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calendar year 1993. The Court cited the enactment of the death penalty and sexual predator laws as an additional reason for the request. Capital cases are complex in nature and, according to the Court's research, can require 250 motions or more per capital case.

5. The Subcommittee notes that the Governor's recommendation includes \$44,904 from the Judicial Technology Fund for SHARP (Statewide Human Resource and Payroll Project) equipment. The Subcommittee recommends that the agency continue to work with SHARP Project personnel in determining the Judicial Branch's needs for SHARP system access.
6. The Subcommittee received testimony on the status of the case load within the Appellate Court system, particularly the Kansas Court of Appeals. In 1977, the first year the Court of Appeals was in existence, 760 cases were filed with the court. With gradual increases and some sudden spurts, the number of cases filed had increased to 1,400 cases by 1992. In 1994, over 2,000 appeals were filed in the Court of Appeals. The Court of Appeals increased from its original size of seven judges to ten judges in 1987 and has not increased in size since that time.

The Subcommittee notes that legislative changes, including the Sentencing Guidelines Act and workers compensation legislation, have had a great impact on the number of appeals filed with the Court of Appeals.

The Subcommittee recommends that the Judicial Branch study this issue, possibly with assistance from the National Center for State Courts, and determine whether the Legislature should consider limiting the kinds of issues or cases that can be appealed. The Subcommittee notes that this would be a movement away from allowing an appeal in every case and, arguably, toward "closing the courthouse door." The Subcommittee recommends an interim study on the issue of Kansas Appellate Court caseloads. The Judicial Branch could submit its conclusions and recommendations, together with input from the National Center for State Courts, at that time. An interim study could provide the in-depth review that this issue warrants.

Senate Committee Recommendation

The Senate Committee concurs with the recommendations of the Senate Subcommittee.

Senate Committee of the Whole Recommendation

The Senate Committee of the Whole refers S.B. 48 back to the Senate Committee for further consideration.

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Senate Committee Recommendation (Upon Re-referral)

The Senate Committee concurs with the recommendations of the Senate Subcommittee with the following adjustments:

1. Add \$153,758 from the State General Fund for 1.0 FTE District Court Judge position (\$96,500), 1.0 FTE Court Reporter position (\$32,419), and 1.0 FTE Administrative Assistant position (\$24,839).

2. The Senate Committee recommends deleting its previous recommendations which designate the judicial districts to which all district court positions recommended (district court judges, administrative assistants, and court reporters) will be assigned. Rather than designating the judicial districts to which these positions will be assigned, the Senate Committee recommends that the Judicial Branch be given the discretion to assign these positions as need dictates. In summary, the following positions were added by the Senate Committee:

4.0 FTE District Court Judges	\$96,500 each, for a total of \$386,000
2.0 FTE Court Reporters	\$32,419 each, for a total of \$64,838
2.0 FTE Administrative Assistants	\$24,839 each, for a total of 49,678
1.0 FTE Research Staff Attorney II	\$46,134
TOTAL	\$546,650

The Senate does not designate the judicial districts to which these positions will be assigned.

Senate Committee of the Whole Recommendation

The Senate Committee of the Whole concurs with the recommendations of the Senate Committee.

Expenditure Summary	Senate Adj. FY 96	Senate Rec. FY 96	House Subc. Adj.
State Operations:			
State General Fund	\$ (1,647,847)	\$ 63,814,664	\$ 81,759
Judicial Technology Fund	0	466,525	0
Judicial Branch Educ. Fund	0	619,024	0
Other Special Revenue Funds	(60,896)	1,762,452	0
Subtotal -- State Operations	<u>\$ (1,708,743)</u>	<u>\$ 66,662,665</u>	<u>\$ 81,759</u>
Aid to Local Units:			
State General Fund	\$ 0	\$ 1,420,131	\$ 0
TOTAL	<u><u>\$ (1,708,743)</u></u>	<u><u>\$ 68,082,796</u></u>	<u><u>\$ 81,759</u></u>
FTE Positions:			
Appellate Court Judges & Justices	0.0	17.0	0.0
District Court Judges	4.0	225.0	0.0
Nonjudicial Personnel	5.0	1,499.0	3.0
Subtotal FTE	<u>9.0</u>	<u>1,741.0</u>	<u>3.0</u>
Special Project Appointments	0.0	0.0	0.0
TOTAL	<u><u>9.0</u></u>	<u><u>1,741.0</u></u>	<u><u>3.0</u></u>

House Subcommittee Recommendation

The House Subcommittee concurs with the recommendations of the Senate Committee of the Whole with the following adjustments:

1. Add \$81,759 to fund 1.0 FTE Court Reporter position (\$32,419); 2.0 FTE Trial Court Clerk II positions (\$20,880 each, for a total of \$41,760); and a Court Reporter position rather than an Administrative Assistant (\$7,580), as recommended by the Senate. The Subcommittee notes that, based on its review of the testimony from the Judicial Branch, including five district court judges, it is counterproductive to add judicial positions without also adding some support staff for the judicial positions. The Subcommittee heard testimony that, in some judicial districts, there is not sufficient support staff for existing judicial positions and that judges must perform their own clerical work. Also based on the testimony from the Judicial Branch and district court judges, the Subcommittee finds it appropriate to designate the judicial districts to which the positions added by both the Senate and the House will be added. The following table reflects the Subcommittee's recommended judicial district designations:

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<u>Judicial District</u>	<u>County or Counties</u>	<u>Positions</u>	<u>Cost</u>
3rd	Shawnee	1.0 FTE Court Reporter	\$ 32,419
8th	Dickinson, Geary, Marion, and Morris	1.0 FTE Court Reporter	32,419
10th	Johnson	1.0 FTE District Court Judge	96,500
		2.0 FTE Trial Court Clerks	41,760 * (20,880 each)
16th	Clark, Comanche, Ford, Gray, Kiowa, and Meade	1.0 FTE District Court Judge	96,500
		1.0 FTE Court Reporter	32,419*
18th	Sedgwick County	1.0 FTE District Court Judge	96,500
25th	Finney, Greeley, Hamilton, Kearny, Scott, and Wichita	1.0 FTE District Court Judge	96,500
		1.0 FTE Court Reporter	32,419*
		1.0 FTE Administrative Assistant	24,839
Supreme Court		1.0 FTE Research Staff Attorney II	46,134
	TOTALS	12.0 FTE	<u><u>\$ 628,409</u></u>

* Bolded items denote House additions. One of the Court Reporters recommended by the House had been recommended as an Administrative Assistant by the Senate.

The Subcommittee cites the factors noted by the Senate Subcommittee in designating the judicial districts to which these positions are to be assigned.

2. The Subcommittee discussed the issue of determining the custody and residence of children in domestic relations proceedings and reviewed the role of the Judicial Branch, including court services officers. The Subcommittee received testimony from a member of the public as well as from the Judicial Branch. The Subcommittee notes that the foremost and overriding concern in determining child custody and residence should be the best interests of the child. The Subcommittee recommends an interim study of this issue, possibly by the Special Committee on Judiciary. The issues to be addressed could include the following:

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- whether orders relating to the custody or residence of children are being considered in accordance with the best interests of the children at issue;
- whether parental gender unfairly plays a role in determining the custody or residence of a child;
- whether factors such as parental drug and alcohol abuse, the ability to provide the best educational opportunities, maladjustment of a child to a school or a community, evidence that a parent is a victim of domestic violence, or other factors, should be specifically considered in determining custody or residence of a child;
- whether the factors noted above, if found to be present, would constitute a change of circumstances sufficient to support modification of an existing custody order;
- whether all parties involved in a domestic relations proceeding should have access to an investigator's report when it is ordered with regard to child custody in a divorce;
- whether current Kansas penalties for interference with parental custody on visitation are sufficient, or whether the Legislature should examine increasing the penalties for interference with parental custody or visitation rights;
- the need for and the role of court services officers in domestic relations cases;
- and other related issues.

Testimony of Craig R. Liening
Before the House Appropriations Committee
Senate Bill No. 277
Presented March 21, 1995

Thank you. Mr. Chairman, Mr. Vice-Chairman and honorable members of the House Appropriations Committee.

My name is Craig R. Liening. I am employed as Coordinator, Treasury Analysis of Western Resources, Inc., reporting directly to the Treasurer. I have been with the Company for 6 1/2 years.

During the period from May through September last year, my boss, Tom Shea, the Treasurer of Western Resources, was the leader of a Phase II Reinventing Kansas Government team formed to examine the existing collection/offset of accounts receivable process. Because of my association with Tom, I served as a facilitator for the team by focusing ideas, helping team members develop recommendations and writing the team's report. For any committee member interested, I will leave with the committee secretary copies of the final report on Collections/Offset of Accounts Receivable. You will note that presidents and/or CEOs from Southwestern Bell, Security Benefit Group, Western Resources, Bank IV and Boeing served on the Steering Committee. The study reviewed the State's accounts receivable operations and made specific recommendations.

Having become quite familiar with the State's accounts receivable process, it is clear to me that the State of Kansas can better manage its existing sources of revenue, a belief that has become more important in light of increasing budgetary constraints and demands for services. I commend all of you for the ability to balance both.

The vision for the State's collection/offset of accounts receivable process should be to achieve a quality process where:

- The financial burden is shifted from the tax-paying public to responsible parties
- Accounts receivable are reduced and collection amounts are increased
- A proactive role is taken in collecting amounts owed
- There exists accountability of state agencies to collect accounts receivable
- State agencies share data with other state agencies in an organized manner for assisting in the collection process

I believe this vision is sound and it is achievable. Currently, your constituents pay taxes to support both the outstanding debts owed to the State and the direct and indirect costs of collecting those debts. One of the beliefs central to the vision just outlined is that it makes sense to shift costs from honest, hard-working citizens who

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pay their bills on time to those who create the uncollected debt burden in the first place.

Senate Bill No. 277 was written to address several of the vision's key performance measures. It benefits those citizens who pay their bills and provides incentives for payment to those who don't. I am here today to express my strong support for this legislation.

Specifically, the bill provides for the following:

- Passing the costs incurred in collecting debts on to the actual debtors
- Assessment of an interest penalty at each agency's option on delinquent accounts
- Data sharing between state agencies for the sole purpose of debt collection

I will briefly discuss the core beliefs inherent in this legislation:

1. Delinquent debtors should pay the cost of collection

This provision would allow costs incurred in debt collection, such as outside collection agency fees and setoff fees, to be passed on to individual debtors. Thus, it would give state agencies another tool to assist in debt collection. The opportunity to recover all or part of the cost to collect debts (which would positively impact budgets) should encourage state agencies to do so. Further, this would provide an additional incentive for debtors to pay promptly. In a nutshell, this provision shifts the cost of debt collection from taxpayers to debtors -- those responsible for originating the collection cost in the first place.

2. Delinquent debtors should pay interest

In effect, trade credit is an interest-free loan. Therefore, past due accounts may be regarded as interest-free loans for periods of longer than 30 days and impose an opportunity cost -- loss of the use of the money or a return on the money -- on the creditor. Most non-government entities extending trade credit assess late charges or interest assessments on accounts that are past due. I regard this as a common business practice and as such, it should be adopted by the State. (Note, certain state agencies are allowed to assess interest currently, but some do not.) When debtors do not incur a financial penalty for late payments, there is little incentive for them to pay promptly. Frankly, there is no reason that state agencies should not have the option of assessing interest on past due accounts, and that is precisely what this provision does. It imposes an interest penalty on past due accounts of 1% per month, but gives state

agencies the option of compromising or waiving the penalty. This provision should result in higher, more timely collections.

3. State agencies should share data

State agency databases, especially those of the Kansas Department of Human Resources and the Kansas Department of Revenue, have, without question, the best, most current information available to assist in locating debtors. Historically, however, this information has not been shared between these departments, nor with other state agencies due to a perceived restriction against doing so. This bill provides that all such information, unless specifically prohibited by federal law, may be shared among state agencies for the sole purpose of debt collection. This provision would allow for greater sharing of this valuable collection information by imposing a definitive standard. We would expect better data to impact the collection process, resulting in both a higher volume of collections and a shorter collection period.

The net benefit of assessing interest and passing on collection costs is estimated to be greater than \$1 million annually.

These provisions make sense. They save taxpayers money by shifting the financial burden to debtors that pay their bills late or do not pay them at all. They allow government to work better and, they allow government to work more like private enterprise.

I would like to thank the House Appropriations Committee members for allowing me to be here today to express my strong support for Senate Bill No. 277. I now invite your questions of myself or any other team member. Again, thank you.

**Summary of the Testimony of Craig R. Liening
Before the House Appropriations Committee
Senate Bill No. 277
Presented March 21, 1995**

Background

- Coordinator, Treasury Analysis for Western Resources, Inc. since 1988
- Company employee for 6 1/2 years
- Facilitator of Phase II Reinventing Kansas Government team formed to examine the existing collection/offset of accounts receivable process

Vision

The vision for the State's collection/offset of accounts receivable process should be to achieve a quality process where:

- The financial burden is shifted from the tax-paying public to responsible parties
- Accounts receivable are reduced and collection amounts are increased
- A proactive role is taken in collecting amounts owed
- There exists accountability of state agencies to collect accounts receivable
- State agencies share data with other state agencies in an organized manner for assisting in the collection process

Justification

- Constituents pay taxes to support the outstanding debts owed to the State and the direct and indirect costs of collecting those debts
- It makes sense to shift costs from honest, hard-working citizens who pay their bills on time to those who create the uncollected debt burden in the first place

Provisions of the Bill

- Passing the costs incurred in collecting debts on to the actual debtors
- Assessment of an interest penalty at each agency's option on delinquent accounts
- Data sharing between state agencies for the sole purpose of debt collection

Core Beliefs Inherent in this Legislation

1. Delinquent debtors should pay the cost of collection
2. Delinquent debtors should pay interest
3. State agencies should share data

Benefits of the Legislation

The net benefit of assessing interest and passing on collection costs is estimated to be greater than \$1 million annually

TESTIMONY REGARDING SB 277
HOUSE APPROPRIATIONS COMMITTEE
MARCH 21, 1995

Presented by Robert E. North
Staff Attorney with the Department of Administration

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill No. 277, an act which will allow the state to more efficiently collect debts by authorizing state agencies to share data for debt collection purposes, and by allowing, but not requiring, the assessment of interest penalties and collection fees against those who do not pay their debts.

The proposed legislation is in response to issues which arose during the Reinventing Kansas Government (R.K.G.) process. Each of the proposals outlined in this bill is the direct result of the R.K.G. goal to shift the burden of collecting debts from the general taxpayers to the party who is responsible for the debt. These efforts are an attempt to manage the state's debt collection effort in a professional, business-like manner.

1. Providing for the Sharing of Data Between State Agencies for Debt Collection

New Section 1 allows state agencies to share confidential data solely for the purpose of debt collection efforts. One of the primary problems inherent in collecting debts is obtaining valid address information for a debtor or a current place of employment. If the debtor cannot be personally contacted, there is no meaningful opportunity to collect the debt. By authorizing state agencies to share address, employment and other relevant information with each other, collection rates and enhanced revenues will result. This bill simply authorizes the sharing of such information among state agencies and does not make such sharing mandatory. This will allow all state agencies to more efficiently collect their own debts and give the Setoff Program a significant collection tool by providing automated and current debtor information.

2. Assessment of Interest Penalty and Collection Costs

New Section 3 allows state agencies to assess an interest penalty of 1% per month on the amount of unpaid obligations owed the agency.

It is important to be aware the bill authorizes the assessment of an interest penalty, but it is not mandatory, which allows the creditor agency flexibility in dealing with the debtor. The effect of the bill is clear. If a debtor has two debts, one of which accrues interest, and one which does not, the obvious choice for the debtor is to pay the bill which does not accrue interest. The state should not be in the business of making interest-free loans to debtors. The legislation will result in an additional tool which will directly lead to more efficient and effective collection efforts.

The passing of collection costs to the responsible party allows agencies to assess an additional penalty to be added to any delinquent debt owed a state agency. The provision allows the

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agency to "shift" its collection costs to the responsible party. The bill places a cap of 27% on the amount of the collection costs which can be assessed to the debtor. The costs of collecting debts should be passed to the debtor to avoid requiring general taxpayers to subsidize those debtors who do not meet their obligations.

3. Prompt Payment - Amends K.S.A. 75-6403

This bill reduces from 1.5% to 1%, the interest penalty on the amount of unpaid obligations owed vendors. It requires state agencies to make prompt payment and sets the interest penalty rate at the same level as state agencies may charge under section 3.

Thank you for this opportunity to speak with you. I will be happy to address any questions that you have at this time.

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Department of Social and Rehabilitation Services
Child Support Enforcement Program

Before the House Appropriations Committee
March 21, 1995

Senate Bill 277
Related to state debt collection

Mr. Chairman and members of the committee, thank you for this opportunity to testify on behalf of Secretary Schalansky concerning Senate Bill 277.

The primary responsibility of the SRS Child Support Enforcement Program is to help children by establishing regular and adequate support payments and by enforcing past due support obligations. From that perspective, SRS supports enactment of this measure to improve the collection of debts by state agencies.

CSE has a long history of collecting support debts owed to our children and our taxpayers -- a summary of our program and its recent achievements is attached -- but we are always looking for ways to improve. We have particularly admired the success of states able to match CSE data with data collected by revenue agencies. Massachusetts, for example, is at the forefront in matching parents whose assets generate reportable income against their list of IV-D parents who have unpaid support debts. Each match reveals resources to help support the parent's own child and prevent the need for additional public assistance.

Next autumn the federal government will begin sending our agency IRS-1099 information about support debtors. The federal "catch," however, is that 1099 information must be verified before disclosure to a third party. For example, if 1099 information showed interest income from a bank, CSE would have to verify that the parent is a customer at that bank before using the information to file a garnishment. Under current conditions and laws, CSE will be forced to depend on time-consuming individual contacts and voluntary cooperation to verify 1099 information, even if the verifying information is already sitting in another agency's computer.

Section 1 of SB 277 is an important step toward bringing Massachusetts' successful technique to Kansas. The measure makes it clear that public policy favors interagency cooperation as a means for insuring responsible payment of debts involving the state. It also recognizes that agencies need to safeguard sensitive information or information which federally-funded programs must keep confidential. It encourages agencies to establish mutually satisfactory ways to balance their needs and serve the taxpayers' best interests.

To illustrate just how beneficial enactment of SB 277 could be, CSE prepared a fiscal note analyzing the cost-benefits of verifying 1099 information against Department of Revenue records using automation. Based on the 72,000 support orders in CSE's caseload of 120,000 IV-D cases, and conservatively assuming an average collection of only \$50 per verification, the gross increase in support collections would be **\$1,215,000** per year. The state's share, plus fees and federal incentive payments, would be \$208,266; the net addition to the SRS fee fund would be \$177,891.

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Costs for this matching process would include the initial programming, at an estimated cost of \$5,000 (state cost \$3,300). Annual costs for running the match would be minimal and would be eligible for CSE's 66% FFP. The major cost of this 1099 initiative would be the value of CSE staff time for processing several thousand garnishments per year. The increased activity, however, is expected to average less than one garnishment per week per person and is part of existing job responsibilities; additional staff should not be necessary. The value of CSE staff time used would be \$196,611 (state cost \$66,847) per year.

CSE also favors the other features of SB 277, although the interest and late payment penalties are not likely to generate significant revenues for CSE without federal policy changes. Federal regulations require CSE to postpone such fees until all child support debts are fully paid, significantly delaying collection and complicating the accounting. CSE is also required to allot 66% of the proceeds to the federal government. Lastly, reducing late payment penalties paid by CSE would be beneficial but is unlikely to produce a material fiscal impact.

Senate Bill 277 presents an important opportunity to make efficient use of existing state resources and to encourage responsible debt payment. Thank you for considering its potential benefits to SRS' Child Support Program and to the children and families we serve.

Respectfully submitted,

Jamie L. Corkhill
Policy Counsel
Child Support Enforcement
296-3237

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CHILD SUPPORT ENFORCEMENT PROGRAM (CSE)

In 1975 the Congress enacted Title IV-D of the Social Security Act to counter the ballooning tax burden of public assistance for children left unsupported by one or both parents, and to improve the lives of the one in five children living in poverty. Federal law requires each state to establish an effective statewide child support program: (1) to improve the quality of life for children; (2) to reduce the costs for Aid to Families with Dependent Children (AFDC), foster care, and medical assistance; (3) to help families become independent of public assistance; and (4) to return the responsibility of supporting children to parents whenever possible.

The Kansas CSE Program is a joint federal, state, and county operation which must satisfy numerous specific federal requirements concerning all phases of operation. CSE must provide a full range of support services, from establishing orders through modifying and enforcing them, in two basic types of cases:

- 1) Public Assistance (PA) - When a child's custodian applies for public assistance, the family's child and medical support rights are assigned to the State. If CSE collects support in an AFDC case, the first \$50 of current support is passed on directly to the family. The rest, and any collection of past due support, is used to reimburse the state and federal governments for the public assistance provided to the child's family. All support collections in excess of the claim for reimbursement go to the family.
- 2) Non-PA - As required by federal law, the same child and medical support services are available to anyone, regardless of income, who applies for support enforcement services. The idea is to prevent the need for public assistance by insuring reliable support payments, and also to provide equal treatment for all children. It is important to note that approximately 60% of Non-PA cases have received AFDC in the past.

By operating a program in compliance with federal requirements, Kansas qualifies for three types of federal IV-D funding:

- 1) Kansas is entitled to keep 41% of support collected to reimburse AFDC expenses;
- 2) Kansas is reimbursed for 66% of eligible IV-D administrative costs; and
- 3) Kansas earns incentives, ranging from 6 to 10% of support collections. The incentive for Non-PA work is limited to 115% of the PA incentive.

By using available funding mechanisms, the Kansas CSE Program has always been a cost effective, revenue producing program.

The Department of Social and Rehabilitation Services (SRS) is the designated Title IV-D agency for the State of Kansas. The current CSE caseload consists of approximately 120,000 IV-D cases serving at least a quarter million individuals.

SRS provides IV-D services in all areas of the state through 487 full time and 26 part time staff and through contracts with several county and district attorneys; the Office of Judicial Administration, for the services of 17 district court trustees; and private contractors, such as collection agencies, credit bureaus, and process servers.

Over the past eight years Kansas IV-D collections have grown by 460%, from \$20 million in

FY87 to over \$92 million in FY94. Kansas has been recognized as one of the top ten states nationally in terms of percentage increases in collections. Enactment of beneficial state legislation, enhancement of program and legal staff, and implementation of the KAECSES computer system were major factors in this impressive growth. In FY94 alone, over \$27 million in public assistance grants were reimbursed due to IV-D actions.

Cost avoidance, another fiscal benefit, results when CSE's monthly support collections exceed the AFDC grant and trigger closure of the AFDC case. To reduce the family's risk of returning to AFDC dependence, CSE services automatically continue. IV-D collection efforts during FY94 resulted in the closure of over 4000 AFDC cases.

The Title IV-D program also establishes thousands of medical support (health insurance) orders each year and shares health insurance information with the Medicaid Program. This allows medicaid costs to be billed to the responsible insurer, instead of to taxpayers.

Paternity establishment plays a vital role in SRS' mission by enhancing the child's financial and social resources and by allowing recovery of state-paid birth expenses. Paternity establishment and educational outreach also positively affect the teen pregnancy problem by highlighting parental responsibility. Many children benefit each year from having their parentage clearly established, giving them access to cash and medical support as well as to family medical information and potential inheritance or other rights. In FY94 CSE established paternity for nearly 8000 children, up from 835 in FY87.

Initiatives currently being pursued include:

- **Enhanced computerization** -- establishing a federally certified, statewide child support computer system by October 1, 1995.
- **Privatization** -- using private sector resources whenever appropriate functions can be performed more efficiently or effectively through a contractual arrangement.
- **Implementation of Welfare Reform** -- expanding CSE services for recipients of medical, food stamps, or child care assistance to help them achieve financial independence.
- **Implementation of cost-recovery fee** -- establishing a modest cost recovery fee in non public assistance cases, including incoming interstate cases, to insure compliance with federal requirements.
- **In-hospital paternity establishment** -- encouraging hospitals to seek voluntary acknowledgements of paternity at the time of birth for children born out of wedlock.
- **Medical support enforcement** -- requiring absent parents to actually provide coverage for their children when group insurance coverage is available at an affordable cost.

Testimony of Cynthia D. Gallagher
Before the House Appropriations Committee
Senate Bill No. 277
March 21, 1995

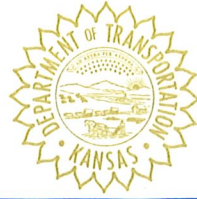
Mr. Chairman and honorable members of the House Appropriations Committee:

My name is Cynthia D. Gallagher. I am employed as an Area Manager for Southwestern Bell Telephone and have been with this company for 16 years. I served as Co-Leader of the Phase II Reinventing Kansas Government team which examined the collections/offset of accounts receivable process. I would like to voice my support of Senate Bill No. 277.

As a member of the Reinventing Government team, we looked at various aspects of the State's debt collection process. I was surprised to learn that debtors were not incurring the costs of debt collection and that I, as a tax paying citizen, was subsidizing the cost of collection efforts. I feel it is very important that the State implement policies that shift these burdens to those people who are creating the costs. I also feel it is important that the State's collection efforts be on equal footing with other companies who extend credit. Senate Bill No. 277 achieves these previously mentioned objectives by giving the State the ability to charge interest on past due accounts.

I would like to thank the House Appropriations Committees members for allowing me to express my support for Senate Bill No. 277.

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KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson
Secretary of Transportation

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Bill Graves
Governor of Kansas

**TESTIMONY BEFORE THE
HOUSE APPROPRIATIONS COMMITTEE
REGARDING S.B. 281**

March 21, 1995

Mr. Chairman and Committee Members:

I appreciate the opportunity to appear before you today on behalf of the Kansas Department of Transportation to provide testimony in support of S.B. 281.

The proposed legislation would provide state agencies with statutory authorization to reimburse lodging establishments directly for costs incurred by their personnel. Because of job-related responsibilities such as surveying or traffic counting, some of our employees are in travel status on a regular basis or for extended periods of time. In response to those employees' concerns about the financial demands of that travel, we have been involved in a pilot program with the Department of Administration to test direct payment procedures for lodging reimbursement. This test has demonstrated that providing direct reimbursement for lodging is both administratively feasible and very helpful to our employees. We appreciate the Department of Administration's cooperation in carrying out the pilot program, and we strongly support that portion of the proposed legislation.

We also support the provision of S.B. 281 that would provide more flexibility when interviewing and hiring instate applicants, and we think that provision could be helpful in obtaining the best person for some positions.

As amended by the Senate Committee on Ways and Means, New Section 4(d) of this bill would be deleted. The Department of Transportation originally suggested that deletion in S.B. 357. Deleting this section would reverse changes that were made near the end of the 1994 Legislative Session, when portions of S.B. 840 were amended into S.B. 534 by a conference committee. Those changes amended existing statutes to prohibit state agencies from reimbursing state employees for moving expenses which are not considered "qualified moving expenses" under the federal Internal Revenue Service code, thereby limiting the

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state's reimbursement to nontaxable items. Full restoration of the previous reimbursement policies would be based on Department of Administration regulations.

Before the statutory changes that were enacted last year, reimbursement of state employees' moving expenses was governed both by statute and regulation. The regulations, which were superseded by the language that was added to the statutes by last year's legislation, limited reimbursement of moving expenses to those cases where the new duty station was more than 25 miles from the old duty station. Those former regulations also allowed, but did not limit reimbursement to, the following items:

- moving and storage of household goods;
- mileage reimbursement for moving a private vehicle;
- subsistence expenses for the employee while in transit between the employee's old and new official station;
- expenses for one round trip to seek permanent quarters at the new duty station; and
- subsistence expenses for 30 days in temporary lodgings at the new duty station

Addition of the IRS-related language during the last legislative session effectively eliminated reimbursement of most of the items that were previously allowed. Under section 132 of the federal internal revenue code of 1986, moving expenses that are not considered "qualified" include meals while moving to a new residence; travel expenses, meals, and lodging for pre-moving house-hunting trips; and meals and lodging while occupying temporary quarters in the area of the new workplace. In other words, the only items previously allowed that can still be reimbursed are the moving and transport of household goods. In addition, in order to claim qualified moving expenses under the IRS code, an employee's new workplace must be at least 50 miles farther from the employee's old home than the employee's old home was from the employee's old workplace. As a result, fewer employees are now eligible for any reimbursement.

The Department of Transportation often has occasion to encourage employees to move, in order to fill vacancies across the state with experienced, qualified workers. We require certain employees to live in close proximity to their offices so that they can respond quickly to weather conditions and other emergencies. The current requirements, in combination with the way our area and subarea maintenance offices are arranged geographically, mean that the most obvious candidates for promotion are the ones affected by the new restrictions on the distance moved.

We believe the changes that were made in 1994 have a negative effect on the Department's efforts to maintain an efficient operation that is staffed with the most qualified people. It is necessary for newly appointed employees to move to their new job location immediately after their promotion is approved. In most cases this does not allow sufficient time to dispose of their house, make arrangements to move their household goods, acquire another house, and make the official move. Some of the costs associated with a move, such as the sale and purchase of houses (which have not been and are not proposed to be reimbursed) impose a direct cost to the employee who is moving. Depending on market conditions at the time of the move, those real estate expenses can be substantial. For these reasons we believe it is not only appropriate, but necessary to reimburse employees for other reasonable expenses associated with the move.

Under the new reimbursement rules, in many cases the annual salary increase received for a promotion would not be adequate to cover the costs of moving. Although those costs are significant for the employees involved, they do not represent an unreasonably large expense for the agency. For the 28 employees KDOT moved in 1993, the average moving expense for household goods was \$2,216 and based on a sample, the average amount paid for transition subsistence was \$1,253. (Under the changes that were made last year, five of those employees would not have received reimbursement for moving their household goods and none of them would have received transition subsistence.)

Reimbursement of expenses that are not considered "qualified moving expenses" under IRS rules would be taxable. However, in the Department's view, a taxable benefit is preferable to no benefit. We respectfully request that this Committee support S.B. 281, including the Senate committee's amendment, which would make possible the restoration of reimbursement authority for the full range of moving expenses that was previously allowed.

TESTIMONY REGARDING SENATE BILL 281
HOUSE APPROPRIATIONS COMMITTEE
March 21, 1995

Presented by Roger C. Rooker
Acting Director of Accounts and Reports

Mr. Chairman, Members of the Committee:

I am testifying today on behalf of the Department of Administration in support of SB 281. Senate Bill 281 addresses three distinct aspects of claims made by state employees -- direct payment of lodging expenses, reimbursement of moving and recruitment expenses, and penalties for false claims filed by state employees.

Lodging Expenses.

Section 2 of SB 281 amends K.S.A. 75-3207a to permit the Secretary of Administration to provide for direct payment of actual costs incurred for lodging expenses to the lodging establishment. State agencies would continue to reimburse employees for other subsistence expenses (such as meal allowances). Addition of the option for direct payment of lodging will help alleviate some of the financial hardship on certain employee groups that must travel on official state business.

--Under current law, state employees who must travel on official state business must pay all subsistence related travel costs and then submit claims for these expenses upon their return. This method can cause financial hardship for certain state employees, particularly if the travel is for extended periods or the employee is not highly compensated. Many employees either choose not to use credit cards or are unable to qualify for a credit card, thereby increasing the financial burden of paying travel expenses and waiting for reimbursement vouchers to be processed. Direct payment of lodging expenses to the hotel or motel eliminates the largest element of out-of-pocket travel expenses for those state employees.

--When employees personally pay for lodging expenses and are then reimbursed, the lodging establishment charges sales tax to the employees. Therefore, the sales tax is part of the lodging expense reimbursed by the State. However, with direct payment of lodging expenses, the State is the "customer," and no sales tax would be charged as the State is exempt from paying such taxes. Assuming that all employee lodging expenses were paid directly to the lodging establishment, which is very unlikely, avoiding the sales tax would reduce agency expenditures by approximately \$350,000 annually, thereby allowing state agencies to stretch limited resources for necessary travel on official state business. However, sales tax revenues to the state would be reduced by an estimated \$250,000 and tax revenues to local units of government would be reduced by an estimated \$105,000.

New Section 4, relating to moving expenses, also permits direct payment to a firm providing moving services. As costs of moving can be substantial, this provision would provide similar benefits.

Recruitment and Moving Expenses.

SB 281 amends or repeals several statutes related to interview and moving expenses in order to eliminate disparities in the treatment of in-state and out-of-state applicants for professional, technical, and managerial positions. Current law permits payment of interview and moving expenses for out-of-state applicants only. As a result, a state agency may not offer reimbursement of interview and moving expenses to an applicant who is a Kansas resident. State agencies may, however, pay such expenses for any applicant who resides outside of Kansas. SB 281 provides greater flexibility to state agencies in recruiting qualified Kansas residents, particularly for cabinet level and other professional positions, and eliminates inequities of recruitment based on residence.

It should be noted that the existing requirement for approval by the Governor of interview and moving expense reimbursement for out-of-state employees is retained. In addition, SB 281 removes the current 12,000-pound limit on movement of household goods. The amount to be paid for moving expenses is limited to the amount of the actual moving expenses, as verified by receipts. Finally, it should also be noted that separate provisions regarding payment of interview and moving expenses for employees of Regents institutions and the Board of Regents are retained.

The Senate amended SB 281 to strike New Section 4(d) related to "qualified moving expense reimbursements" as defined by the Internal Revenue Code. Elimination of this language will allow state agencies to reimburse employees for additional types of expenses not authorized under current law, although such reimbursements will be taxable income to the employee. Taxable payments will require the withholding of employee state and federal taxes and the additional cost of employer payroll contributions. However, state agencies will be allowed to pay for previously disallowed expenses such as meals while en route to the new location, costs of house hunting trips and temporary lodging at the new location and the reasonable expenses of moves generally less than 50 miles.

Penalties for False Claims Against the State.

SB 281 repeals K.S.A. 75-3202 in order to eliminate a disparity between state employees and the general public in the severity of penalties for false claims. This statute, which was originally enacted in 1931, provides penalties for presenting a false claim by state employees. Under the statute, a false claim is considered a misdemeanor, regardless of amount, and can result in a fine not to exceed \$1,000 or imprisonment in the county jail for no more than six months or both.

Under K.S.A. 1994 Supp. 21-3904, which applies to the general public, presentment of a false claim of at least \$500 is a nonperson felony, while a false claim of less than \$500 is a class A misdemeanor. Repeal of K.S.A. 75-3202 would eliminate this disparity and provide the same penalties for state employees as are provided for other individuals.

Thank you for the opportunity to appear on behalf of Senate Bill 281. I would be happy to answer any questions the Committee may have.