

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Steve Morris at 10:35 a.m. on January 16, 2001 in Room 123-S of the Capitol.

All members were present except: Senator David Adkins - excused

Committee staff present:

Alan Conroy, Chief Fiscal Analyst, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Carolyn Rampey, Kansas Legislative Research Department
Michael Corrigan, Assistant Revisor, Revisor of Statutes Office
Bruce Kinzie, Revisor of Statutes Office
Julie Weber, Administrative Assistant to the Chairman
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

The Honorable Kay McFarland, Chief Justice, Kansas Supreme Court
Jerry Sloan, Office of Judicial Administration
The Honorable Judge John White, Iola
Kathy Porter, Office of Judicial Administration
Derl Treff, Director of Investments, Pooled Money Investment Board

Others attending: See attached guest list

Bill Introductions

Senator Feleciano made a motion, with a second by Senator Schodorf, to introduce a bill (1rs0163) concerning motor vehicle fuels relating to tax credits. Motion passed.

Chairman Morris welcomed The Honorable Kay McFarland, Chief Justice, Kansas Supreme Court, who gave an overview of the Kansas Judicial Branch, including budget issues and the Nonjudicial Salary Initiative (NJSI) Plan Implementation and progress. Chief Justice McFarland noted that a problem occurred at the time of court unification because, prior to unification, the Judicial Branch submitted their budget with requests and needs directly to the Legislature. When the greatly-expanded budget requirements came up with unification the Judicial Branch went from a small, relatively simple budget, to a much bigger budget. She noted the Judicial Branch is treated the same as an Executive Branch agency now. To show that effect, they have two budgets coming every year in that they have the Judicial Branch proposed budget and they have the budget that has been altered by the Executive Branch. She noted that it is fine for the Executive Branch to have the Division of the Budget supervise all of the many budgets that are coming in from the executive agencies, but they are a separate branch of the government. Chief Justice McFarland noted that the high priority for the Judicial Branch this year is a statutory change that their budget be sent directly to the Legislature.

Committee questions and discussion followed. Chairman Morris thanked Chief Justice McFarland for appearing before the Committee.

Chairman Morris welcomed Jerry Sloan, Office of Judicial Administration, who distributed the following information to the Committee and explained several attachments:

- Attachments accompanying Chief Justice Kay McFarland's remarks, "Overview of the Kansas Judicial Branch, Including budget issues and Nonjudicial Salary Initiative (NJSI) Plan Implementation and Progress" (Attachment 1)
- Kansas Judicial Branch, State General Fund Overview (Attachment 2)

Committee questions and discussion followed.

CONTINUATION SHEET

Chairman Morris welcomed The Honorable Judge John White, Iola. (No written testimony was submitted). Judge White spoke about what he felt would make the Judicial Branch nonjudicial employee pay plan a little more successful and reviewed what was done last year with regard to the Nonjudicial Salary Initiative Plan (NJSI). The plan was implemented July 23, 2000. The Judicial Branch is now wanting to go into phase two in funding a pay for performance component. Committee questions and discussion followed. Chairman Morris thanked Judge White for speaking before the Committee.

Chairman Morris welcomed Kathy Porter, Office of Judicial Administration. Ms. Porter spoke regarding the implementation of the Nonjudicial Salary Initiative (NJSI) Plan, and Proposed Docket Fee Increases (Attachment 3). Ms. Porter distributed and explained the following information:

- Judicial Council Docket Fee Recommendations (Attachment 4)
- Fee Increase Analysis (Attachment 5)

Ms. Porter noted that the Nonjudicial Salary Initiative Plan was implemented as planned, but there was a difference in that the plan became effective on July 23, 2000 and employees first saw increases from the nonjudicial salary initiative plan in their paychecks on August 18, 2000. That was approximately a six-week delay in implementation because the first day of the first pay period of the fiscal year is in mid-June. The Judicial Branch proposed that delay because the mechanics of the plan took some time in making sure nonjudicial employees were placed in the correct place on the new pay plan and was done correctly. The second point is that the pay plan raised what they think will be about \$4 million dollars per fiscal year. The docket fees that they raise every year will pay for maintenance of that first year salary increase. The delay helped to keep more monies in the fund to insure that the fund won't go in the red and will help them in years to come.

Ms. Porter mentioned that the Judicial Branch requests introduction of a bill to implement the docket fee increases to pay for the performance component of the nonjudicial salary initiative plan. Committee questions and discussion followed. Senator Barone requested information on the Permission to Fill chart regarding if they have the same data going back several years. Mr. Sloan mentioned that he would try to reconstruct data, but he was not sure there is comparable data.

Chairman Morris thanked Chief Justice McFarland and her Staff for their presentations before the Committee.

Chairman Morris opened the public hearing on:

SB 15 – Remittance of state moneys to the state treasurer

Bruce Kinsey, Revisor of Statutes Office, briefed the Committee on the bill.

Chairman Morris mentioned that when the Committee works this bill, if amendments were needed, the Committee could introduce a trailer bill.

Proponent:

Chairman Morris welcomed Derl Treff, Director of Investments, Pooled Money Investment Board, who mentioned that the bill ensures cash flows as quickly as possible into the State treasury so they can be invested in a higher rate of interest than the agencies can invest. Mr. Treff distributed copies of a list of agencies with Special Deposit Allowances (Attachment 6). Committee questions and discussion followed.

Opponent:

Chairman Morris welcomed Kathy Porter, Office of Judicial Administration, who spoke regarding the bill and mentioned that she feels that **SB 15** makes good sense for state government, but feels that the Committee needs to look at the additional cost and the loss in accuracy if the courts were required to do this on a daily basis (Attachment 7). Committee questions and discussion followed.

CONTINUATION SHEET

Chairman Morris closed the public hearing on **SB 15** and thanked the conferees for appearing before the Committee. The meeting was adjourned at 12:05 p.m. The next meeting is scheduled for January 17, 2001.

**SENATE WAYS AND MEANS COMMITTEE
GUEST LIST**

DATE January 16, 2001

NAME	REPRESENTATIVE
St. J. Chubb	SOS
Rick Fowler	KS Sup Ct
Daphne White	KS legal Sves
Ray Dalton	SRS
Dale Branton	DOA
Jim Conak	KDDR
Doug Smith	Pinegar-Smith Company
Don Conway	DOB
Bill Watts	KDOT
Barb Conrad	KS Trial Lawyers Assoc
Betsy Base	KS State Board of Technical Professions
Derrick Sontag	State Treasurer's Office
Julie Thomas	DOB
Gandy Shampersy	Federal Consulting
Kin Fowler	Judicial Branch
Jerry Sloan	Judicial Branch
Howard Schwartz	Judicial Branch
John W. White	Judicial Branch
Kathy Porter	Judicial Branch
Tommy Humphrey	KS Trial Lawyers Assn.

Attachments Accompanying Chief Justice Kay McFarland's Remarks
Overview of the Kansas Judicial Branch, Including Budget Issues and
Nonjudicial Salary Initiative (NJSI) Plan Implementation and Progress

Senate Ways and Means

Tuesday, January 16, 2001

Senate Ways and Means
1-16-01
Attachment 1

Attachment A

Attachment A shows the history of statutory provisions regarding submitting the Judicial Branch budget to the Governor.

Attachment B

Attachment B shows a seven-year history of Judicial Branch State General Fund expenditures for other operating expenditures (OOE). Although it is frequently noted that approximately 97% of the Judicial Branch budget is expended for salaries and wages, this shows the actual State General Fund amounts that are expended for OOE.

Attachment C

Attachment C shows the number of nonjudicial personnel in the district courts from FY 1991 to FY 2001. The actual net increase in FTE positions from FY 1991 to FY 2001 has been 30.0 FTE positions.

Attachment D

Attachment D shows the number of days vacant nonjudicial positions were held open from FY 1993 to FY 2001. Some years noted as "60 days or more" had 90-day hiring freezes.

Attachment E

Attachment E shows a five-year history of the amount requested from the State General Fund, the Governor's recommendation, the dollar difference between those two amounts, the total State General Fund expenditures recommended, and the difference expressed as a percentage of total recommended State General Fund expenditures.

**Judicial Branch Budget Submission to Governor Issue
History of Statutory Provisions**

L.1976, Ch. 146, §42

New Sec. 42. The chief justice of the supreme court shall be responsible for the preparation of the budget for the judicial branch of state government, with such assistance as the chief justice may require from the judicial administrator and shall submit to the director of the budget, at the time prescribed by law, the annual budget request for the judicial branch of state government for inclusion in the annual budget document for appropriations for the judiciary.

L. 1978, Ch. 108, §5

Sec. 5. K.S.A. 1977 Supp. 20-158 is hereby amended to read as follows: 20-158. The chief justice of the supreme court shall be responsible for the preparation of the budget for the judicial branch of state government, with such assistance as the chief justice may require for the judicial administrator ~~and~~, *the chief judge of the court of appeals and the administrative judge of each judicial district. Each district court and the court of appeals shall submit their budget requests to the chief justice in such form and at such time as the chief justice may require. The chief justice shall submit to the director of the budget, at the time prescribed by law, the annual budget request for the judicial branch of state government for inclusion, without any changes therein, in the annual budget document for appropriations for the judiciary. Such budget shall be prepared and submitted in the manner provided by K.S.A. 75-3716 and 75-3717.*

L. 1979, Ch. 290, §1

Section 1. K.S.A. 1978 supp. 20-158 is hereby amended to read as follows: 20-158. The chief justice of the supreme court shall be responsible for the preparation of the budget for the judicial branch of state government, with such assistance as the chief justice may require from the judicial administrator, the chief judge of the court of appeals and the administrative judge of each judicial district. Each district court and the court of appeals shall submit their budget requests to the chief justice in such form and at such time as the chief justice may require. The chief justice shall submit to the director of the budget the annual budget request for the judicial branch of state government for inclusion, ~~without any changes therein~~, in the annual budget document for appropriations for the judiciary. Such budget shall be prepared and submitted in the manner provided by K.S.A. 75-3716 and K.S.A. 1978 Supp. 75-3717. *The director of the budget shall review and may make such recommendations to the legislature for proposed changes in such budget as the director deems necessary and appropriate.*

Attachment A

Kansas Judicial Branch

State General Fund OOE Expenditures

Fiscal Year	Expenditures	
1996	\$1,727,051	
1997	\$1,572,815	
1998	\$1,951,482	
1999	\$2,406,082	
2000	\$1,663,915	
2001 (est.)	\$1,708,626	
2002	Judicial Branch Request	Governor's Recommendation
	\$1,744,141	\$1,419,317

Kansas Judicial Branch

District Court Nonjudicial Personnel

Fiscal Year	FTE
1991	1,404.0
1992	1,349.5
1993	1,348.5
1994	1,367.0
1995	1,380.0
1996	1,387.0
1997	1,389.0
1998	1,404.0
1999	1,419.0
2000	1,434.0
2001	1,434.0

Kansas Judicial Branch

Hiring Freeze History 1993 - Present

Fiscal Year	Freeze
1993	60 days or more
1994	60 days or more
1995	60 days or more
1996	60 days or more
1997	60 days or more
1998	45 days
1999	
2000	
2001	60 days

Judicial Branch SGF Request History

Judicial Branch SGF Request	Governor's Recommended SGF	Difference	Total Governor's Recommendation for SGF Expenditures*	Difference as a Percentage of SGF Recommended Expenditures
FY 2001 \$82,415,555**	\$77,502,339	\$4,913,216	\$4,425,900,000	0.11% (eleven one-hundredths of one percent)
FY 2000 \$79,189,087	\$76,404,385	\$2,784,702	\$4,419,200,000	0.06% (six one-hundredths of one percent)
FY 1999 \$74,838,457	\$73,645,877	\$1,192,580	\$4,082,200,000	0.03% (three one-hundredths of one percent)
FY 1998 \$70,245,773	\$69,508,739	\$737,034	\$3,753,100,000	0.02% (two one-hundredths of one percent)
FY 1997 \$69,672,067	\$66,913,844	\$2,758,223	\$3,521,800,000	0.08% (eight one-hundredths of one percent)

*Amounts rounded to the nearest million as noted in *The Governor's Budget Report*.

**FY 2001 requested expenditures exclude funding of \$2,364,646 requested for the Nonjudicial Salary Initiative, which later was amended as a request from docket fees.

This table shows a five-year history of the amount requested from the State General Fund, the Governor's recommendation, the dollar difference between those two amounts, the total State General Fund expenditures recommended, and the difference expressed as a percentage of total recommended State General Fund expenditures.

Kansas Judicial Branch

State General Fund

Overview

	FY 01 Budget	FY 02 Current Services	FY 02 Governor's Recommendation (includes COLA Rec.)
	<u>Amount/Turnover %</u>	<u>Amount/Turnover %</u>	<u>Amount/Turnover %</u>
Salary and Wages			
Appellate Courts	7,405,301 2.00%	7,750,358 0.78%	7,592,937 4.25%
Judges of the Dist. Ct.	24,155,570 1.05%	24,258,993 1.00%	23,878,957 4.25%
Nonjudicial Personnel	44,385,102 4.00%	47,248,085 1.50%	46,736,307 4.25%
Other Operating Exp.	1,708,626	1,744,141	1,419,317

Senate Ways and means
1-16-01
Attachment 2



State of Kansas
Office of Judicial Administration
Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

Senate Ways and Means Committee

January 16, 2001

Kathy Porter and Jerry Sloan, Office of Judicial Administration

**Implementation of the Nonjudicial Salary Initiative (NJSI) Plan,
and Proposed Docket Fee Increases**

The NJSI plan was implemented to give salary increases to Judicial Branch nonjudicial employees in exactly the manner explained to the 2000 Legislature.

The nonjudicial salary increases contemplated by 2000 Senate Substitute for House Bill 2027 became effective on July 23, 2000, and were seen by Judicial Branch employees in their August 18 paychecks. In anticipation of the pay plan's enactment, Office of Judicial Administration staff began preparing for conversion to the new pay plan prior to the end of the 2000 Legislative Session. Conversion to the new plan was somewhat labor-intensive, because some of the work could not be done through Department of Administration Division of Personnel Services computer programming and had to be done on an employee by employee basis.

The July 23 implementation date was beneficial to the NJSI Fund, in that the 2000 Legislature made clear that revenue generated from the docket fee increases included in 2000 Senate Substitute for House Bill 2027 was to finance the future ongoing cost of the pay increases implemented this year. The delay in implementation meant that less money was drawn from the fund to implement the plan's first year.

The plan's impact can be seen by noting the increase in starting salaries. Trial Court Clerk II positions make up the largest class of Judicial Branch employees, with 464.5 FTE positions. The starting salary for this job class went from \$8.47 per hour (\$17,618 annually) to \$9.12 per hour (\$18,970 annually).

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Attachment 3

As explained to the 2000 Legislature, court services officers were first upgraded one salary grade to give them parity with Department of Corrections parole officers. They were then placed on the NJSI pay plan.

**Has the plan helped to attract qualified new employees
and to retain valued, experienced employees?**

Judicial Branch managers statewide have commented on their ability to attract qualified applicants, and have related numerous anecdotes about their ability to now attract an adequate number of applicants, most of whom are qualified, for job openings that one year ago had attracted few or no qualified applicants.

Although many positive results have been achieved statewide, including Johnson County, there is still some concern as to whether starting salaries have increased sufficiently to allow the courts to attract and retain qualified applicants in the Johnson County job market.

The approximate five-month time period since the implementation date has not been a sufficient period of time to provide meaningful data about employee retention. Employees leave jobs for a variety of reasons other than pay, and Judicial Branch employees are no exception. While fewer Judicial Branch employees have left in the past five months than had been the norm in recent years, the five-month time period is again an insufficient period of time from which to draw any major conclusions. However, the Judicial Branch salaries and wages turnover rate for the current year is significantly lower than the budgeted rate.

One measure of the plan's success is the number of "permission to fill" requests that have been made in the current year compared with the number in previous years. A permission to fill request must be completed before all Judicial Branch nonjudicial positions can be filled. The attachment entitled "Permission to fill requests" shows the number of requests going from a high of approximately 250 for clerk positions in FY 2000 to a projected total of approximately 170 in the current year.

What is left to be done on the NJSI plan?

The NJSI committee continues its work of designing a new employee evaluation process that will provide each employee with a clear statement of what is expected for that employee to perform required job duties in a successful manner. New performance evaluations that are compatible with pay for performance have been developed. These evaluation tools will be used in a pay for performance pilot program that we plan to begin with Judicial Branch managerial employees.

Pay for performance is intended to reward those employees who perform in an exceptional manner, to provide an incentive and a climate for change to those employees who are capable of exceptional performance, and to identify those employees not performing as required. The evaluation tool is intended to provide, to the extent possible, objective and specific evaluation criteria that will be helpful to both the supervisor evaluating the employee and to the employee. Training on the employee evaluations was presented at the December 8, 2000, chief judges meeting.

Another area on which the NJSI Committee is focusing is the need to reclassify some existing positions. With the increasing use of technology, a number of positions and classifications have evolved in the state system. The NJSI is currently working to ensure that the Judicial Branch's current classifications are appropriate, and to ensure that its classifications are internally consistent. Once this is completed, other employers will be surveyed to see if Judicial Branch salaries are appropriate or whether they need to be modified.

The cornerstone of the NJSI pay plan is a meaningful annual cost of living increase. As you have heard throughout the presentations today, without an annual meaningful COLA, the pay plan will not reflect the cost of hiring, and the pay plan will again slip behind.

Would the docket fee increases recommended by the Judicial Council be easily implemented and collected?

The Judicial Council's proposed fee increases were distributed to court administrators and clerks of the district court for comment. The comments from clerks and administrators state repeatedly that a simple fee schedule is best for the clerks, and it is their feeling that litigants would agree.

The current Kansas docket fee schedule fits easily on one sheet of paper, with one additional sheet for other costs and fees (the lien filing fees). Earlier this summer, the Office of Judicial Administration collected docket fee schedules from other states. Compared to many, the current Kansas docket fee schedule is elegant in its simplicity.

All of the Judicial Council's recommended fee increases could be implemented. Implementation would require training for clerks and attorneys, but the increases could be accommodated.

How much revenue would be generated by the Judicial Council's proposed docket fee increases?

A separate document entitled "Fee Increase Analysis" provides detailed information on both revenue increase estimates and the method in which the estimates were calculated.

The revenue generated from docket fee increases included in 2000 Senate Substitute for House Bill 2027 could be easily calculated by multiplying the amount of the increase by the number of cases historically filed in each of the major docket fee categories. The fee increases recommended here cannot, in most instances, be estimated with much certainty. They include items for which the Judicial Branch's statistics system is not capable of keeping statistics, such as motions filed within cases, the number of garnishments filed, some types of probate filings, and other items.

Are there other docket fees that could be increased?

One docket fee that was not increased last year was the fee for appeals from other courts. That fee is listed in K.S.A. 1999 Supp. 28-172a, and the current docket fee is \$62.50. One

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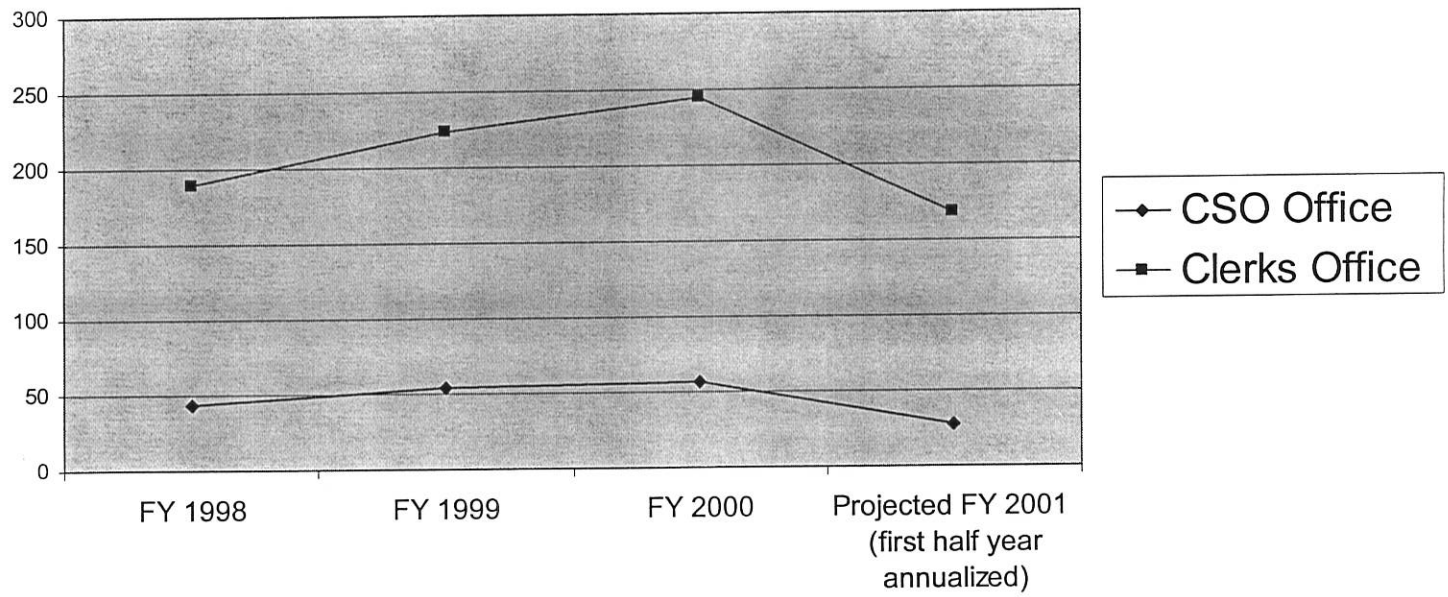
example of when this fee would be charged is for appeals from municipal court to the district court.

Historically, this fee had been level with the Chapter 60 docket fee in some years, but it appeared to have been overlooked in recent years when the Chapter 60 docket fee increased. Making this fee consistent with the \$101 Chapter 60 docket fee would both provide some additional revenue and would provide some uniformity for the clerks.

There are, of course, other possibilities. Revenue estimates for any recommendations the committee might make could be generated for your consideration.

Kansas Judicial Branch

Permission to Fill Requests



JUDICIAL COUNCIL DOCKET FEE RECOMMENDATIONS

CIVIL

<u>Description</u>	<u>Current Fee</u>	<u>Judicial Council Recommendation</u>
<p>In Chapter 60, at the time plaintiff files a response to a request for statement of damages, or at the pretrial conference, whichever first occurs, and if plaintiff seeks a specific amount in excess of \$75,000, then the clerk will assess an additional filing fee based on the following schedule:</p>		
\$75,000 or less: No additional fee	\$101.00	\$101.00
\$75,001 - \$500,000: Additional fee of \$49	\$101.00	\$150.00
\$500,001 - \$1 million: Additional fee of \$99	\$101.00	\$200.00
\$1,000,001 - \$5 million: Additional fee of \$199	\$101.00	\$300.00
Excess of \$5 million: Additional fee of \$299	\$101.00	\$400.00
<p>This graduated scale could be adjusted based on an analysis of the number of cases in each category, and the likely revenue to be derived therefrom. However, the logic is to make the bigger, more complex cases pay for themselves.</p>		
Fee for registration of foreign judgments	\$0.00	\$101.00
In the alternative: that the filing fee for Limited Actions cases (\$500 or less) be increased to the amount the Judicial Branch recommended to the 2000 Legislature	\$26.00	\$45.00
OR		
a fee be imposed for garnishments:		
Regular	\$0.00	\$10.00
Continuing	\$0.00	\$25.00
Fee for hearings in aid of execution	\$0.00	\$10.00

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CRIMINAL

<u>Description</u>	<u>Current Fee</u>	<u>Judicial Council Recommendation</u>
Adopt a fee for expungements equal to the amount of the general civil filing fee	\$0.00	\$101.00
Adopt a monthly criminal probation fee of \$20.00 per month for felonies and \$10.00 for misdemeanors		
Felony	\$50.00/one time	\$20.00/month
Misdemeanor	\$25.00/one time	\$10.00/month

Provided: The fee be subject to constitutional limitations and judges' discretion and a cap amount shall be determined at sentencing.

DOMESTIC

<u>Description</u>	<u>Current Fee</u>	<u>Judicial Council Recommendation</u>
Post Divorce Motion	\$20.00	\$40.00
Modification on agreed order	\$0.00	\$40.00

PROBATE

<u>Description</u>	<u>Current Fee</u>	<u>Judicial Council Recommendation</u>
Treatment of Mentally Ill	\$24.50	\$30.00
Treatment of Alcohol or Drug Abuse	\$24.50	\$30.00
Determination of Descent of Property	\$39.50	\$150.00
Terminate Life Estate	\$39.50	\$50.00
Terminate Joint Tenancy	\$39.50	\$50.00

Refusal to Grant Letters of Administration	\$39.50	\$50.00
Adoption		
Step Parent Adoption	\$39.50	\$50.00
Adult Adoption	\$39.50	\$50.00
SRS Adoption	\$39.50	\$50.00
Agency Adoption	\$39.50	\$250.00
Independent Adoption	\$39.50	\$250.00
International Adoption (59-2144)	\$39.50	\$250.00
Filing a Will And Affidavit under KSA 59-618a	\$39.50	\$50.00
Guardianship	\$59.50	\$75.00
Conservatorship	\$59.50	\$75.00
Guardianship and Conservatorship	\$59.50	\$150.00
Annual Reports	\$0.00	\$10.00
Annual Accounting of Conservatorship Minor or Adult under \$10,000 (may be waived)	\$0.00	\$10.00
Annual Accounting of Conservatorship Minor or Adult over \$10,000 (may be waived)	\$0.00	\$50.00
Termination of Guardianship of Minor Attaining the Age of 18	\$0.00	\$0.00
Termination of Adult Guardianship by Restoration or Death	\$0.00	\$0.00
Closing Conservatorship of Minor or Adult under \$10,000	\$0.00	\$10.00
Closing Conservatorship of Minor or Adult over \$10,000	\$0.00	\$50.00
Trusteeship	\$59.50	\$100.00
Certified Probate Proceedings under KSA 59-213	\$14.50	\$15.00

Decrees in Probate from another State	\$99.50	\$100.00
Probate of an Estate or a Will	\$99.50	\$150.00
Civil Commitment under KSA 59-29a01 et. seq.	\$24.50	\$30.00

OTHER COSTS AND FEES

<u>Description</u>	<u>Current Fee</u>	<u>Judicial Council Recommendation</u>
Copying and Certifying (K.S.A. 28-1)	Set by Local Rule	No recommendation
Performance Bonds (Contractors, etc.) (K.S.A. 16-113, 60-305, 60-306, 60-1110, 60-1111, and 28-170)	\$5.00	\$20.00
Employment Security Tax Warrant (K.S.A. 28-170)	\$15.00	\$20.00
Sales and Compensating Tax Warrant (K.S.A. 28-170)	\$15.00	\$20.00
State Tax Warrant (K.S.A. 28-170)	\$15.00	\$20.00
Delinquent Personal Property Tax Judgment (K.S.A. 28-170)	\$5.00	\$20.00
Hospital Lien (K.S.A. 65-409)	\$5.00	\$20.00
Intent to Perform (K.S.A. 60-1103[b] and 28-170)	\$5.00	\$20.00
Mechanic's Lien (K.S.A. 28-170)	\$5.00	\$20.00
Oil and Gas Mechanic's Lien (K.S.A. 28-170)	\$5.00	\$20.00
Motor Carrier Tax Lien (K.S.A. 28-170)	\$15.00	\$20.00

Pending Action Lien (K.S.A. 60-2203[a])	\$5.00	\$20.00
Transcriptionist fees		
Electronic Recordings (Supreme Court Rule 366: for each additional page)	\$2.75	No recommendation
For each copied page	\$.50	No recommendation

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Fee Increase Analysis

Civil

Chapter 60:

There were 22,040 regular civil case filings in FY00.
This translates into the following breakdown:

9,257 cases at the recommended \$101.00 fee
7,273 cases at the recommended \$150.00 fee
4,188 cases at the recommended \$200.00 fee
1,102 cases at the recommended \$300.00 fee
220 cases at the recommended \$400.00 fee

An estimated 25% of the increase will be collected the first year of implementation.
This results in a first year increase of **\$264,039**. The estimated increase for FY02 is \$1,056,067.

Registration of foreign judgments: No change

Limited Action:

There were 125,531 limited action case filings in FY00. Approximately 55% of these filings would experience an increase to the proposed \$45 filing fee. Applying a collection rate of 98% results in an increase of **\$1,285,563**.

OR

Maintain the \$26 fee and establish a fee schedule on garnishments as follows:
Assume 60% of limited action cases filed eventually lead to garnishment, with 60% of these being continuing garnishments.

Regular garnishment	30,127 cases at \$10.00 = \$301,270
Continuing garnishment	45,191 cases at \$25.00 = \$1,129,775

When the estimated collection rate of 98% is applied, the increase is **\$1,402,436**.

Fee for hearings in aid of execution:

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Estimate 5% of limited action judgments result in hearing. This generates an increase of **\$43,940**.

Criminal

Expungements: Estimate 500 statewide at \$101 fee generates an increase of **\$50,500**.

Criminal probation fee:

Due to the effective date of this increase, **no additional fees** are expected the first year.

The increase after the first year is as follows:

Estimate 13,000 felony probation fees at \$20.00/mo and collection rate of 20% = \$624,000.

Subtracting the \$130,000 collected under the \$50 one-time fee nets an increase of \$494,000.

Estimate 14,500 misdemeanor probation fees at \$10.00/mo and collection rate of 35% = \$609,000.

Subtracting the \$126,875 collected under the \$25 one-time fee nets an increase of \$482,125.

Domestic

Post Decree Motion:

Estimate 1.0 motion per decree applied to a caseload of 11,732 generates an increase of **\$234,640**.

Probate:

Treatment of Mentally Ill

Treatment of Alcohol or Drug Abuse:

Estimate collection on 25% of the combined 2,068 FY00 cases. The increase is **\$2,844**.

Determination of Descent of Property

Terminate Life Estate

Terminate Joint Tenancy

Refusal to Grant Letters of Administration:

Estimate collection on 98% of these cases. The increase on 1,373 cases is **\$148,682**.

Probate:

Adoption:

Estimate 91% of the 2,024 adoption filings in FY00 are step parent, adult, or SRS adoptions.

The collection rate for these types will vary generating an estimated increase of **\$13,070**.

Estimate 9% of adoption filings are agency, independent or international adoptions.

The estimated increase for these types of adoptions is **\$38,344**.

Filing a Will and Affidavit: A modest increase in both case filings and fees collected is expected.

Guardianship

Conservatorship

Guardianship and Conservatorship:

The fee increase is determined by taking the number of filings for these three case types and applying collection rate factors of 40% for guardianship cases, 60% for conservatorships, and 50% for guardianship and conservatorship cases. The resultant increase is **\$58,017**.

Annual Reports:

Estimate fee increase based upon 7,800 total requests to be **\$78,000**.

Annual Accounting of Conservatorship

under \$10,000

over \$10,000

These annual accounting requests are estimated to number 3,500. A collection rate of 30% is applied resulting in a fee increase of **\$52,500**.

Termination of Guardianship of Minor Attaining the Age of 18: No change, \$0.00.

Termination of Adult Guardianship by Restoration or Death: No change, \$0,00.

Closing Conservatorship
under \$10,000
over \$10,000:

There are an estimated 2,000 closings per year. This will result in an increase of **\$60,000**.

Probate:

Trusteeship:

The collection rate is estimated at 98% on the 146 cases. The increase is **\$5,795**.

Certified Probate Proceedings: No significant change.

Decrees in Probate from another State: modest increase.

Probate of an Estate or a Will:

This fee increase of \$50.50 applied to 4,187 cases results in an increase of **\$211,444**.

Civil Commitment: modest increase.

Other Costs and Fees:

Fees changing from \$5.00 to \$20.00:

Estimate that the \$20 fee will be collected 3,435 times resulting in an increase of **\$51,525**.

Fees changing from \$15.00 to \$20.00:

Estimate that the \$20 fee will be collected 4,812 times resulting in an increase of **\$24,060**.

Total Fee Increase:

The total increase in fee collection will be between **\$2,622,963** and **\$2,739,836** the first year.

The higher total uses limited actions garnishments.

AGENCIES WITH SPECIAL DEPOSIT ALLOWANCES

Agency #	Agency Name		Special Allowances	Date of Allowance	Active Fee Acct	Request from Agcy	Approved By
028	Board of Accountancy	(Topeka)	Weekly or \$1,000	3-16-98		05-77	PMIB
082	Attorney General's Office	(Topeka)	Weekly or \$1,000	01-21-98		09-10-80	PMIB
094	Bank Commissioner's Ofc.	(Topeka)	Weekly or \$1,000	01-21-98		08-08-90	PMIB
100	Bd. of Barber Examiners	(Topeka)	Weekly or \$1,000	01-21-98		11-08-79	PMIB
204	Board of Mortuary Arts	(Topeka)	Weekly or \$1,000	03-16-98		11-07-84	PMIB
206	Emergency Medical Serv. Bd.	(Topeka)	Weekly or \$1,000	01-21-98		09-01-97	PMIB
276	KS Dept. of Transportation	(Topeka)	Weekly or \$1,000	01-21-98		09-25-96	PMIB
280	Kansas Highway Patrol	(Topeka)	Weekly or \$1,000	01-21-98	Yes	02-09-82	PMIB
300	Dept. of Commerce & Housing	(Topeka)	Weekly or \$1,000	01-21-98	Yes	12-30-76	PMIB
349	Kansas Judicial Center	(Topeka)	Weekly or \$1,000	03-16-98		06-06-95	PMIB
363	Kansas Neurological Inst.	(Topeka)	Weekly or \$1,000	01-21-98		08-21-87	PMIB
391	Wheat Commission	(Manhattan)	Weekly or \$1,000	01-21-98	Yes	09-21-88	PMIB
410	Larned State Hospital	(Larned)	Weekly or \$1,000	01-21-98	Yes		PMIB
422	Legislative Admin. Serv.	(Topeka)	Weekly or \$1,000	03-16-98		12-10-91	PMIB
507	Parsons State Hospital	(Parsons)	Weekly or \$1,000	01-21-98	Yes		PMIB

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AGENCIES WITH SPECIAL DEPOSIT ALLOWANCES

Agency #	Agency Name		Special Allowances	Date of Allowance	Active Fee Acct	Request from Agcy	Approved By
521 (581)	Dept. of Corrections re: Wichita Work Release Center <i>note: agency became part of Winfield Correctional Facility on 9-1-96</i>	(Wichita)	Weekly or \$1,000	01-21-98	Yes	04-07-81	PMIB
531	Board of Pharmacy	(Topeka)	Weekly or \$1,000	01-21-98		03-13-85	PMIB
543	KS Real Estate Appraisal Board	(Topeka)	Weekly or \$1,000	11-17-99		10-15-99	PMIB
549	Real Estate Commission	(Topeka)	Weekly or \$1,000	01-21-98		03-15-85	PMIB
562	Board of Tax Appeals	(Topeka)	Weekly or \$1,000	01-21-98		04-18-85	PMIB
628	SRS	(Topeka)	Weekly or \$1,000	01-21-98	Yes	05-30-80	PMIB
660	Topeka Correctional Facility	(Topeka)	Weekly or \$1,000	03-16-98		09-18-80	PMIB
710	Dept. of Wildlife and Parks	(Pratt)	Weekly	02-04-81	Yes	01-22-81	PMIB

Prepared by: Marla Goodrich, Public Service Admin., PMIB staff, 11-18-99



State of Kansas
Office of Judicial Administration
Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

Testimony to Senate Ways and Means Committee on Senate Bill 15

Kathy Porter, Office of Judicial Administration

Tuesday, January 16, 2001

The intent of SB 15 is clear, and it makes good budget sense. Requiring funds to be remitted to the State Treasurer on a daily basis would allow the state to take advantage of the more favorable interest rates available to the Pooled Money Investment Board, and would result in more funds available to the State General Fund.

The Judicial Branch was not requested to submit a fiscal note on this bill. However, the cost of remitting moneys to the State Treasurer on a daily basis, rather than a monthly basis, must be considered together with the merits of the bill.

Clerks statewide collect a variety of fees and payments on a daily basis, including docket fees, fines, restitution for the victims of crimes, probation supervision fees, marriage license fees, bond forfeitures, attorney fees for the Board of Indigents Defense Services, lien fees, drivers' license reinstatement fees, judgments ordered to be paid into the court, and other fees and payments. Those fees and payments are balanced by the clerks of the district court in 105 counties on a daily basis. The daily balancing assures that the cash balance collected by the clerks corresponds with the filings and collections of that office.

The process becomes more complex in the larger counties. In Sedgwick County, for example, approximately 50 clerks in six departments process case transactions on a daily basis. Each clerk must balance individually, and then the amounts collected by individual clerks are balanced by a supervisor. Accounting staff then balance the funds for the entire office, but that process generally cannot be completed until the following day. If the entire accounting process is to be completed at the close of business each day, the courts must either not allow filings after a certain point in the day or the accounting for one day's transactions must be balanced the following day. In larger counties, this could mean that the books would have to be closed by noon or earlier.

If funds are required to be remitted to the state on a daily basis, the month-end accounting process completed by each clerk would have to be added to the daily process. Current law places the funds collected by clerks into different categories, and these are broken out in different ways and remitted to different entities. Attached is the current monthly report to the State Treasurer that must be completed by each clerk. Funds collected must be correctly noted by category

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because statutes specify those entities that receive percentages of the fines, penalties, and forfeitures collected (including the Crime Victims Compensation Fund, the Crime Victims Assistance Fund, and the State General Fund); those entities that receive percentages of the clerk's fees collected (including the Access to Justice Fund, the Juvenile Detention Facilities Fund, the Judicial Branch Education Fund, the Protection from Abuse Fund, the Protection from Abuse Trust Fund, the Crime Victims Assistance Fund, the Judiciary Technology Fund, the Dispute Resolution Fund, the Kansas Endowment for Youth Trust Fund, the Family and Children Investment Fund, the Nonjudicial Salary Initiative Fund, the Trauma Fund, and the State General Fund). Similarly, marriage license fees and drivers license fees are distributed to a variety of funds.

All amounts paid in must, of course, be credited to the correct case, but judgments, restitution, and other fees that are not paid into the state must be both credited to the correct case and paid out to the correct parties. Not noted on the form are those amounts that remain local, such as the law library fund, restitution to victims of crime, the portion of civil docket fees that go to the county to offset service of process costs, copy charges, and the prosecuting attorneys trust fund. Those amounts must also be balanced, but are not remitted to the state.

Unfortunately, mistakes are sometimes made in the way payments are categorized. Adjustments are made as mistakes are discovered, but a major check is completed at month's end when the daily balance totals are checked against the bank statement. The current system is not perfect, but the majority of errors are caught and corrected through the month-end balancing process. The amount of staff time required to complete this monthly "break-out" of funds varies from county to county depending upon the volume of transactions, with some smaller counties requiring as little as half a day to perform the month-end accounting. Sedgwick County reports that the month-end accounting requires around three days to perform.

Clerks of the district court throughout the state are not accountants, and most clerks probably have little or no accounting or bookkeeping experience outside of their district court training and experience. However, day after day and year after year they do a wonderful job of remitting accurately millions of dollars to the state and countless other persons and entities. Requiring them to perform on a daily basis the tasks they currently perform on a monthly basis, without the additional check of a bank statement, invites error. Moreover, other problems are created. One problem is that the clerks sometimes receive bad checks, which obviously are not discovered until at least several days after they are deposited. Currently, bad checks are adjusted out of the total collected as soon as they are discovered. If remittances are made on a daily basis, many smaller and mid-size courts will not have the daily cash flow needed to balance out the bank account. In essence, the clerks will have written an insufficient funds check to the State Treasurer, a crime victim, or any one of the other entities listed above and could incur bank fees in the process. Requiring the clerks to do on a daily basis the accounting steps they perform on a monthly basis would require, at a minimum, an additional 13 accounting technicians at an annual cost of \$363,685, including fringe benefits.

An additional problem is that, as noted above, not all funds collected are paid out to the state. If all funds went to the state, any error subsequently discovered would require only an accounting entry to correct it. When funds must be paid out to different entities, however, payment to the wrong person or entity would mean that the funds must first be recovered from the party to whom they were paid in error, then the error must be corrected.

Currently, although much of the accounting procedure is not a computerized process, the clerks' offices do use the Judicial Branch's accounting system to reconcile their accounts and

make monthly remittances to the various county and state accounts. At a minimum, the system would require some reprogramming costs which cannot be estimated accurately at this time. However, the cost of the reprogramming, implementing, and training the clerks is roughly and conservatively estimated at \$50,000. Complicating this situation is that fact that, although all counties are required to interface with the Judicial Branch's accounting system, many have individual computer systems that would require reprogramming costs that would have to be borne by the counties.

On an annual basis, the clerks collect in excess of \$30 million for the state treasury, including funds that go to the State General Fund and other funds, and that is remitted to the state on a monthly basis. Included in that amount is interest from the funds earned in clerks' local accounts, which totaled \$302,425 in FY 2000. What the state would gain by including the Judicial Branch in SB 15 is the difference between that \$302,425 and what the state could earn from the daily deposits. However, the additional costs and the greatly increased potential for serious error must also be considered.

While SB 15 makes sense for most of government and would generate additional revenue, I respectfully request that the provisions of the bill not apply to funds collected and disbursed by the Judicial Branch.

REPORT AND PAYMENT OF DISTRICT COURT REVENUE

as required by K.S.A. 1998 Supp. 8-2107; 1998 Supp. 8-2110; 1998 Supp. 20-350; 1998 Supp. 20-362; 1998 Supp. 20-367; 20-2801; 21-4610a; 1998 Supp. 22-4529; 1998 Supp. 28-172a; and 1998 Supp. 59-104

A. FINES, PENALTIES AND FORFEITURES: \$ _____

B. INTEREST ON INVESTMENT OF IDLE FUNDS: \$ _____

C. CLERKS'S FEES: \$ _____

D. LAW ENFORCEMENT TRAINING CENTER FUND: \$ _____

E. INDIGENT DEFENSE SERVICE FUND
DEDUCTIONS FROM DOCKET FEES: \$ _____

F. MARRIAGE LICENSE FEES: (\$50 each) \$ _____

G. DRIVERS LICENSE REINSTATEMENT FEES: (\$50) \$ _____

TOTAL REMITTANCE \$ _____

I hereby certify the above to be a true, complete and accurate report and payment of district court revenue as required to be remitted to the State Treasurer by K.S.A. 1998 Supp. 8-2107; 1998 Supp. 8-2110; 1998 Supp. 20-350; 1998 Supp. 20-362; 1998 Supp. 20-367; 21-4610a; 1998 Supp. 22-4529; 1998 Supp. 28-172a; and 1998 Supp. 59-104.

For the Month of _____ District Court of _____

Authorized Signature _____ Date: _____

Treasurer's Use Only
Check # _____
Date _____

Please remit to:

Tim Shallenburger, State Treasurer
900 SW Jackson Suite 201
Topeka KS 66612-1235