

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 March 15, 2001 in Room 123-S of the Capitol.

All members were present except: All Present

Committee staff present:

Alan Conroy, Chief Fiscal Analyst, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Amory Lovin, Kansas Legislative Research Department
Carolyn Rampey, Kansas Legislative Research Department
Amy Kramer, Kansas Legislative Research Department
Paul West, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Assistant Revisor, Revisor of Statutes Office
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Diane Lindeman, Associate Director of Fiscal Affairs, Kansas Board of Regents
Dr. Lorne A. Phillips, State Registrar and Director, Center for Health and Environmental Statistics, Kansas Department of Health and Environment
Elwaine Pomeroy, for Kansas Credit Attorneys Association and Kansas Collectors Association, Inc. (Written testimony)

Others attending: See attached guest list

Subcommittee budget reports on:

Judicial Branch (Attachment 1)

Senator Schodorf reported that the subcommittee concurs with the recommendations of the Governor for FY 2001 with exception as listed in the Subcommittee budget report.

Senator Adkins reported that the subcommittee concurs with the recommendations of the Governor for FY 2002 with exceptions as listed in the Subcommittee budget report.

Committee questions and discussion followed.

Senator Kerr moved a two-part motion, with a second by Senator Jordan, to remove from FY 2001 the \$300,000 in Item 1 and from FY 2002 the \$1,212 million dollars; and that the Committee alter the recommendation in Item 5 to say that if SB 85 needs amendment to remove the restriction that expenditures from the nonjudicial salary initiative fund may be used only for the salary upgrade granted in FY 2001 and to allow the fund to be used for salary reclassifications and salary initiative to retain personnel. Motion carried by a voice vote.

State Board of Indigents' Defense Services (Attachment 2)

Senator Adkins reported that the Subcommittee concurs with the recommendations of the Governor for FY 2001 with an exception as listed in the Subcommittee budget report.

Senator Adkins reported that the Subcommittee concurs with the recommendations of the Governor for FY 2002 with exceptions as listed in the Subcommittee budget report.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS on March 15, 2001 in Room 123-S of the Capitol.

Judicial Council (Attachment 3)

Senator Adkins reported that the Subcommittee concurs with the recommendations of the Governor for FY 2001 with an exception as listed in the Subcommittee budget report.

Senator Adkins reported that the Subcommittee concurs with the recommendations of the Governor for FY 2002 with exceptions as listed in the Subcommittee budget report.

Senator Adkins moved, with a second by Senator Schodorf, to adopt the Subcommittee budget reports on the Judicial Branch, State Board of Indigents' Defense Services and the Judicial Council as amended. Motion carried on a voice vote.

Kansas Guardianship Program (Attachment 4)

Senator Huelskamp reported that the Subcommittee concurs with the Governor's recommendation for FY 2001.

Senator Huelskamp reported that the Subcommittee concurs with the Governor's recommendation for FY 2002 with adjustment as listed in the Subcommittee budget report.

Senator Feleciano moved, with a second by Senator Jackson, to adopt the Subcommittee budget report on the Kansas Guardianship Program. Motion carried on a voice vote.

Chairman Morris opened the public hearing on:

HB 2013--State scholarship program, amount of award

Staff briefed the committee on the bill.

Chairman Morris welcomed Diane Lindeman, Associate Director of Fiscal Affairs/Student Financial Aid, Kansas Board of Regents, who spoke in support of **HB 2013** (Attachment 5).

There being no further conferees to come before the Committee, the Chairman closed the public hearing on **HB 2013**.

Chairman Morris opened the public hearing on:

SB 343--Vital statistics maintenance fee fund

Staff briefed the committee on the bill.

Chairman Morris welcomed Dr. Lorne A. Phillips, State Registrar and Director, Center for Health and Environmental Statistics, Kansas Department of Health and Environment, who spoke in support of **SB 343** (Attachment 6).

There being no further conferees to appear before the Committee, the Chairman closed the public hearing on **SB 343**.

Chairman Morris turned the Committee's attention to discussion of:

SB 85--Compensation for certain nonjudicial employees, docket fees

The Committee discussed a proposed **Substitute for SB 85** (Attachment 7). Following some detailed discussion, Chairman Morris mentioned that the Committee will work the bill at the next meeting due to the lack of time.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS on March 15, 2001 in Room 123-S of the Capitol.

Written testimony was received from Elwaine F. Pomeroy, for the Kansas Credit Attorneys Association and Kansas Collectors Association, Inc., who expressed concern with regard to **SB 85** (Attachment 8).

The meeting was adjourned at 12:00 noon. The next meeting is scheduled for March 16, 2001.

SENATE WAYS AND MEANS COMMITTEE

GUEST LIST

DATE March 15, 2001

NAME	REPRESENTING
Bill Bracy	Ks Gov't Consulting
Steve Kessler	Legal Services for Prisoners (BIDS)
Jerry Sloan	Judicial Branch
Kim Fowler	Judicial Branch
Jean Kraka	KOP
TK Shively	Ks LEGAL SERVICES
Mike Huttles	Ks. Gov't Consulting
B. Mariani	DofA, DPS
Carol Reed	SPS
Bill Watts	KDOT
LORNA PHILLIPS	KJHOE
Don M. Rezac	S.E.A.K

2001 JUDICIAL SUBCOMMITTEE

FY 2001 and FY 2002

Judicial Branch

State Board of Indigents' Defense Services

Judicial Council



Senator David Adkins, Chairman



Senator Jean Schodorf



Senator Jim Barone

Senate Ways and Means
3-15-01
Attachment 1

House Budget Report

Agency: Judicial Branch

Bill No. --

Bill Sec. --

Analyst: Rampey

Analysis Pg. No. 1171

Budget Page No. 275

Expenditure Summary	Agency Est. FY 01	Governor's Recommendation FY 01	House Budget Adjustments
All Funds:			
State Operations	\$ 85,996,015	\$ 85,996,015	\$ 300,000
Aid to Local Units	705,481	555,481	0
Other Assistance	996,444	1,146,444	0
Capital Improvements	0	0	0
TOTAL	\$ 87,697,940	\$ 87,697,940	\$ 300,000
State General Fund:			
State Operations	\$ 78,058,920	\$ 78,058,920	\$ 300,000
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Capital Improvements	0	0	0
TOTAL	\$ 78,058,920	\$ 78,058,920	\$ 300,000
FTE Positions	1,815.5	1,815.5	0.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	1,815.5	1,815.5	0.0

Agency Est./Governor's Recommendation

The Judicial Branch estimates expenditures of \$87,697,940 for FY 2001, a net increase of \$208,291 over the approved amount. It also makes an internal shift from salaries and wages to other operating expenditures. The reason is that, a year ago, the Governor reduced the Judicial Branch's request for non-salary operating costs by about \$450,000 and none of the cut was restored by the Legislature. The judicial Branch therefore proposed to use salary money to fund other operating expenditures, such as travel for judges who hold hearings around the state, communications expenses, and other costs.

The difference between the total estimated and the amount approved is accounted for by an increase of \$401,030 from the State General Fund in Kansas Savings Incentive Program (KSIP) expenditures and by a decrease of \$192,739 in various special revenue funds. The Judicial Branch intends to use its KSIP money for computer server and software upgrades and the instillation of an accounting and case management system for the district courts. The Judicial Branch also added one position in the Office of Judicial Administration that was not approved by the 2000 Legislature. However, the Judicial Branch has no position limitation and may add personnel it considers necessary, within available appropriations.

The Governor makes no change to the total amount estimated by the Judicial Branch for FY 2001, but shifts back to salaries \$400,000 that the Judicial Branch had shifted internally to other operating expenditures. The Governor's action was take to ensure that salaries are adequately funded in the current year. Under the Governor's recommendation, other operating expenditures in the current year would total \$3,864,202, which is \$400,000 less than the \$4,264,202 budgeted by the Judicial Branch.

House Budget Committee Recommendations

The House Budget Committee concurs with the recommendations of the Governor, with the following exception:

1. Add \$300,000 from the State General Fund for salaries for nonjudicial personnel. The Judicial Branch currently has imposed a 60-day hiring freeze on all positions because of inadequate funding for salaries. High turnover among nonjudicial personnel is what caused the 2000 Legislature to approve an increase in docket fees in order to provide a one-time salary upgrade. The Judicial Branch reports that the upgrade has had the effect of reducing turnover and appears to be accomplishing the desired effect. Without the supplemental appropriation of \$300,000, the Judicial Branch will have to impose an even greater hiring freeze, thus defeating the purpose of the upgrade.

House Committee Recommendations

The House Committee concurs with the recommendations of the Budget Committee, with the following exception:

1. Delete Item 1, thereby deleting \$300,000 from the State General Fund for nonjudicial personnel salaries. The Committee recommends that the issue of additional funding for salaries be aggressively pursued in the Omnibus Bill and notes that 98 percent of the Judicial Branch's funding from the State General Fund is for salaries. As a result, any shortfall in State General Fund money almost always has an adverse effect on salaries.
2. The Committee recommends that an effort be made in the Omnibus Bill to address constraints imposed on Judicial Branch salary expenditures by KSA 2000 Supp. 20-1a14. That legislation, enacted by the 2000 Legislature, created the Judicial Branch Nonjudicial Salary Initiative Fund and provides that money in the Fund generated by docket fees can be used only for the maintenance of the one-time salary upgrade approved for nonjudicial employees in FY 2001 and not for routine expenditures for salaries. The Committee notes that, under the Governor's recommendation, there would be a balance of \$411,417 remaining in the Fund at the end of FY 2002 that could be used to reduce shrinkage, were it not for the constraints imposed by the statute.

House Committee of the Whole Recommendations

The House Committee of the Whole has not considered this budget.

Senate Subcommittee Report

Agency: Judicial Branch

Bill No. --

Bill Sec. --

Analyst: Rampey

Analysis Pg. No. 1171 Budget Page No. 275

Expenditure Summary	Agency Est. FY 01	Governor's Recommendation FY 01	Senate Subcommittee Adjustments
All Funds:			
State Operations	\$ 85,996,015	\$ 85,996,015	\$ 300,000
Aid to Local Units	705,481	555,481	0
Other Assistance	996,444	1,146,444	0
Capital Improvements	0	0	0
TOTAL	\$ 87,697,940	\$ 87,697,940	\$ 300,000
State General Fund:			
State Operations	\$ 78,058,920	\$ 78,058,920	\$ 300,000
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Capital Improvements	0	0	0
TOTAL	\$ 78,058,920	\$ 78,058,920	\$ 300,000
FTE Positions	1,815.5	1,815.5	0.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	1,815.5	1,815.5	0.0

Senate Subcommittee Recommendations

The Senate Subcommittee concurs with the recommendations of the Governor, with the following exception:

1. Add \$300,000 from the State General Fund for salaries for nonjudicial personnel. The Judicial Branch currently has imposed a 60-day hiring freeze on all positions because of inadequate funding for salaries. High turnover among nonjudicial personnel is what caused the 2000 Legislature to approve an increase in docket fees in order to provide a one-time salary upgrade. The Judicial Branch reports

that the upgrade has had the effect of reducing turnover and appears to be accomplishing the desired effect. Without the supplemental appropriation of \$300,000, the Judicial Branch will have to impose an even greater hiring freeze, thus defeating the purpose of the upgrade.

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House Budget Report

Agency: Judicial Branch

Bill No. – 2557

Bill Sec. – 36

Analyst: Rampey

Analysis Pg. No. 1171

Budget Page No. 275

<u>Expenditure Summary</u>	<u>Agency Req. FY 02</u>	<u>Governor's Recommendation FY 02</u>	<u>House Budget Adjustments</u>
All Funds:			
State Operations	\$ 93,377,272	\$ 88,282,377	\$ 1,212,197
Aid to Local Units	956,664	806,664	0
Other Assistance	935,740	1,085,740	0
Capital Improvements	0	0	0
TOTAL	<u>\$ 95,269,676</u>	<u>\$ 90,174,781</u>	<u>\$ 1,212,197</u>
State General Fund:			
State Operations	\$ 84,724,338	\$ 79,630,787	\$ 1,212,197
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Capital Improvements	0	0	0
TOTAL	<u>\$ 84,724,338</u>	<u>\$ 79,630,787</u>	<u>\$ 1,212,197</u>
FTE Positions	1,858.3	1,815.5	0.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	<u>1,858.3</u>	<u>1,815.5</u>	<u>0.0</u>

Agency Req./Governor's Recommendation

The Judicial Branch requests a total of \$90,174,781, of which \$79,630,787 would be from the State General Fund. The total is an increase of \$2,476,841 over the current year. Major items in the request include:

The Governor recommends a total of \$90,174,781 for FY 2002, of which \$79,630,787 would be from the State General Fund. The total is an increase of \$2,476,841 (2.8 percent) over the current year and a reduction of \$5,094,895 from the Judicial Branch's request.

- The Governor recommends a total of \$1,697,449 for an unclassified merit pool equivalent to a 3.0 percent annualized classified base salary adjustment, not the requested 4.0 percent cost-of-living-adjustment.
- The Governor recommends a shrinkage rate of 2.74 percent in FY 2001 and 4.25 percent in FY 2002. Actual shrinkage in FY 2000 was 2.64 percent. The Judicial

Branch budgeted a shrinkage rate of 2.9 percent for FY 2001 and 1.3 percent for FY 2002. It is the Judicial Branch's position that the salary upgrade for nonjudicial personnel implemented in FY 2001 will reduce turnover among nonjudicial personnel.

- The Governor recommends expenditures of \$4,237,899 from the Nonjudicial Salary Initiatives Fund, an increase of \$87,655 over the expenditure estimated by the Judicial Branch. The additional \$87,655 is being used to fund part of the Governor's recommended unclassified merit pool.
- The Governor recommends continuation of the implementation of the accounting and case management system for the district courts, budgeted at \$817,000.
- The Governor recommends none of the requested enhancements.

House Budget Committee Recommendations

The House Budget Committee concurs with the recommendations of the Governor, with the following exceptions:

1. Add \$1,212,197 from the State General Fund. The total is comprised of \$887,373 to reduce turnover for judges from 4.25 percent to 1.0 percent and \$324,824 for other operating expenses. The imposition of a 4.25 percent turnover rate will work hardships for nonjudicial personnel, but is attainable through hiring freezes. Imposing that rate on judges is unrealistic because there are few vacancies and a judge cannot be laid off. The Governor's recommendation for other operating expenses is a reduction from actual spending levels over the last six years and would impact necessary expenditures, primarily judicial travel. For example, the 12th, 17th, and 24th Judicial Districts each have six counties, but just one district judge who must travel within the district. District magistrate judges must travel to population centers, judges must travel when they are reassigned to replace a judge who is ill, and the Court of Appeals travels in panels of three around the state to conduct its business. The combination of a high shrinkage rate and reduced other operating expenditures would give the Judicial Branch no flexibility to shift funds to cover necessary expenditures and necessitates the additional funding recommended by the Budget Committee. Failure to restore the funding would defeat the purpose of the salary upgrade approved by the 2000 Legislature, which was intended to enable the Judicial Branch to hire and retain qualified nonjudicial employees. The Budget Committee sees no rationale in forcing an extended hiring freeze following the year docket fees were raised to help eliminate turnover.
2. Consider other items in the Omnibus Bill if additional resources become available. The Budget Committee calls attention to the attached list of enhancements, which are considered worthy of funding, but which are not recommended at this time because of fiscal constraints. In the Budget Committee's opinion, the items should be revisited at the end of the Session for possible funding. The items are listed in order of the Judicial Branch's priorities.

3. The Budget Committee calls attention to legislation that would expand the Court of Appeals from ten to 14 members over a four-year period (HB 2297). In the Budget Committee's opinion, the workload of the Court of Appeals justifies the addition of more judges. In a report to the Kansas Justice Initiative Commission made in 1998, the Court of Appeals quoted findings of the Kansas Judicial Study Advisory Committee that were made in 1974 and are as pertinent today as they were then:

The backlog of cases in the Kansas Court of Appeals means that decisions in the cases are delayed. If the courts are unable to decide issues in a reasonable time, loss of respect for the judicial system will eventually result. The toll of appellate backlog is measured in many ways; children whose custody or severance is an issue will have unsettled futures, at a time in their lives when stability may be essential; persons guilty of crimes may be on the street and persons improperly convicted of crimes may be spending unjustified time in jail; titles to real estate may be clouded, so owners cannot make desired use of the lands; and deserving plaintiffs may be denied use of needed money while defendants must live with uncertainty as to what may or may not happen in their case. In some cases appellate delay may affect persons not involved in the litigation who are in similar circumstances or in an affected business. Some of the judges of the Kansas Court of Appeals have experienced health problems which may be related to the heavy workload of the court.

House Committee Recommendations

The House Committee concurs with the recommendation of the Budget Committee, with the following exception:

1. Delete Item 1, thereby deleting \$1,212,197 from the State General Fund to reduce turnover for judges (from 4.25 percent to 1.0 percent) and for other operating expenditures (\$324,824). The Committee recommends that additional funding for the Judicial Branch, particularly for money to reduce shrinkage for judges, be aggressively pursued in the Omnibus Bill.

House Committee of the Whole Recommendation

The House Committee of the Whole has not yet considered this budget.

Attachment I
Judicial Branch Enhancements
Requested for FY 2002

- \$120,235 from the State General Fund for 2.0 FTE new district magistrate judges. One is requested for the 8th Judicial District (Dickinson, Geary, Marion, and Morris counties), which currently has five district judges and two district magistrate judges. The second position is requested for the 9th Judicial District (Harvey and McPherson counties) which currently has three district judges and no district magistrate judges. In both cases, the reasons cited for the request are already heavy and growing caseloads.
- \$127,358 from the State General Fund for 2.0 FTE Research Attorneys for the Supreme Court (for a total of 13 Research Attorneys.) The Judicial Branch cites several reasons for the need for the new positions, including an increase in the number of cases appealed to the Supreme Court from the Court of Appeals, but the main reason is the additional workload resulting from capital cases. The Supreme Court has been involved in its first death penalty appeal and there are three more appeals pending.
- \$1,063,000 from the State General Fund for 35.8 FTE nonjudicial personnel, of which the top priority is \$417,004 for 14.0 FTE Court Services Officers I. In addition to the Court Services Officers, the positions consist of 13.3 FTE Trial Court Clerks II, 3.5 FTE Secretaries I, 2.0 FTE Records Clerks II, 2.0 FTE Transcriptionist, and 1.0 Clerk Typist. The requested positions are shown, by judicial district, on the table that follows.
- \$373,790 from the State General Fund is requested for an additional judge for the Court of Appeals (for a total of 11 judges). The additional judge was recommended by the Kansas Citizens Justice Initiative. The request is prompted by the heavy caseload for each judge (currently 184 new cases per year), which grows approximately 3 percent each year. The Court of Appeals often sits in panels of three judges that travel extensively around the state to hear oral arguments. In addition to the judge, the Judicial Branch is requesting 2.0 FTE supporting positions and proposes to renovate a portion of the Judicial Center that was vacated by the Office of the Attorney General to serve as offices for the new judge and staff. The total request consists of \$138,050 for the salary and fringe benefits of an Appellate Court Judge, \$36,309 for the salary and fringe benefits of 1.0 FTE Judicial Executive Assistant, \$50,861 for the salary and fringe benefits of 1.0 FTE Research Attorney, \$34,170 for operating costs associated with the new positions, and \$114,400 to renovate space for one judicial suite.
- \$4,413 from the State General Fund for per diem compensation and other operating costs of the Judicial Nominating Commission for activities associated with appointing a new Appellate Court Judge. (The Nominating Commission would be required to meet and select three names to submit to the Governor to fill the newly-created position.)
- \$2,121,274, of which \$2,030,676 would be from the State General Fund, is requested for a 4.0 percent inflationary salary adjustment for nonjudicial employees. The increase is tied to the Employment Cost Index reported by the United States Bureau of Labor Statistics, which increased 4.0 percent in FY 2000. (The Consumer Price Index All Urban Consumers (CPI-U) is the index generally used for state revenue and expenditure profiles prepared by the Legislative Research Department and the Division of the Budget. The CPI-U increased by 2.9 percent in FY 2000 and is estimated to increase by 3.1 percent in FY 2001 and by 2.6 percent in FY 2002.)

New District Court Positions Requested				
<u>Judicial District</u>	<u>Classification</u>	<u>Number of Positions</u>	<u>Base Salary</u>	<u>Gov. Rec.</u>
1 st –Leavenworth	Trial Court Clerk II	1.0	\$ 19,198	\$ 0
2 nd –Jackson	Court Services Officer I	1.0	29,786	0
3 rd –Shawnee	Court Services Officer I	1.0	29,786	0
	Trial Court Clerk II	2.0	38,396	0
4 th –Franklin	Secretary I	1.0	19,198	0
5 th –Lyon	Court Services Officer I	2.0	59,572	0
6 th –Bourbon	Records Clerk II	1.0	17,399	0
7 th –Douglas	Court Services Officer I	1.0	29,786	0
8 th –Dickinson/Geary	Trial Court Clerk II	1.0	19,198	0
9 th –McPherson	Court Services Officer I	1.0	29,786	0
10 th –Johnson	Court Services Officer I	1.0	29,786	0
	Trial Court Clerk II	1.0	19,198	0
11 th –Cherokee/Crawford	Trial Court Clerk II	1.0	19,198	0
12 th –Cloud	Court Services Officer I	1.0	29,786	0
13 th –Butler	Court Services Officer I	1.0	29,786	0
	Trial Court Clerk II	1.0	19,198	0
15 th –Sherman	Trial Court Clerk II	0.3	6,399	0
16 th –Ford	Court Services Officer I	1.0	29,786	0
18 th –Sedgwick	Court Services Officer I	1.0	29,786	0
	Transcriptionist	1.0	22,204	0
	Trial Court Clerk II	1.0	19,198	0
19 th –Cowley	Trial court Clerk II	1.0	19,198	0
20 th –Barton	Secretary I	0.5	9,599	0
21 st –Riley	Trial Court Clerk II	1.0	19,198	0
22 nd –Brown	Secretary	1.0	19,198	0
23 rd –Ellis	Secretary	1.0	19,198	0
25 th –Finney	Clerk Typist	1.0	17,399	0
	Trial Court Clerk II	0.5	9,599	0
26 th –Seward	Trial Court Clerk II	1.0	19,198	0
27 th –Reno	Court Services Officer I	1.0	29,786	0
28 th –Saline	Court Services Officer I	1.0	29,786	0
	Transcriptionist	1.0	22,204	0
29 th –Wyandotte	Court Services Officer I	1.0	29,786	0
	Trial Court Clerk II	1.0	19,198	0
30 th –Pratt	Trial Court Clerk II	0.5	9,599	0
31 st –Neosho	Records Clerk II	1.0	17,399	0

Senate Subcommittee Report

Agency: Judicial Branch

Bill No. – 348

Bill Sec. – 36

Analyst: Rampey

Analysis Pg. No. 1171

Budget Page No. 275

Expenditure Summary	Agency Req. FY 02	Governor's Recommendation FY 02	Senate Subcommittee Adjustments
All Funds:			
State Operations	\$ 93,377,272	\$ 88,282,377	\$ 1,332,432
Aid to Local Units	956,664	806,664	0
Other Assistance	935,740	1,085,740	0
Capital Improvements	0	0	0
TOTAL	\$ 95,269,676	\$ 90,174,781	\$ 1,332,432
State General Fund:			
State Operations	\$ 84,724,338	\$ 79,630,787	\$ 1,332,432
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Capital Improvements	0	0	0
TOTAL	\$ 84,724,338	\$ 79,630,787	\$ 1,332,432
FTE Positions	1,858.3	1,815.5	2.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	1,858.3	1,815.5	2.0

Agency Req./Governor's Recommendation

The Judicial Branch requests a total of \$90,174,781, of which \$79,630,787 would be from the State General Fund. The total is an increase of \$2,476,841 over the current year. Major items in the request include:

The Governor recommends a total of \$90,174,781 for FY 2002, of which \$79,630,787 would be from the State General Fund. The total is an increase of \$2,476,841 (2.8 percent) over the current year and a reduction of \$5,094,895 from the Judicial Branch's request.

- The Governor recommends a total of \$1,697,449 for an unclassified merit pool equivalent to a 3.0 percent annualized classified base salary adjustment, not the requested 4.0 percent cost-of-living-adjustment.

- The Governor recommends a shrinkage rate of 2.74 percent in FY 2001 and 4.25 percent in FY 2002. Actual shrinkage in FY 2000 was 2.64 percent. The Judicial Branch budgeted a shrinkage rate of 2.9 percent for FY 2001 and 1.3 percent for FY 2002. It is the Judicial Branch's position that the salary upgrade for nonjudicial personnel implemented in FY 2001 will reduce turnover among nonjudicial personnel.
- The Governor recommends expenditures of \$4,237,899 from the Nonjudicial Salary Initiatives Fund, an increase of \$87,655 over the expenditure estimated by the Judicial Branch. The additional \$87,655 is being used to fund part of the Governor's recommended unclassified merit pool.
- The Governor recommends continuation of the implementation of the accounting and case management system for the district courts, budgeted at \$817,000.
- The Governor recommends none of the requested enhancements.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor, with the following exceptions:

1. Add \$1,212,197 from the State General Fund, comprised of \$887,373 to reduce turnover for judges from 4.25 percent to 1.0 percent and \$324,824 for other operating expenses. The Subcommittee points out that almost 98 percent of the State General Fund appropriation to the Judicial Branch is for salaries and that, for all practical purposes, any cut in funding impacts personnel. The salary upgrade that was made possible by increased docket fees apparently is having the desired effect and turnover of nonjudicial personnel has been reduced. The effect of the 4.25 percent shrinkage rate recommended by the Governor is impossible to achieve for judges because turnover among judges simply is not that high. That rate applied to nonjudicial personnel will require the continuation of a 60-day hiring freeze and will be exacerbated without the Subcommittee's recommended addition because the shrinkage for judges and money to pay for necessary operating expenses also will have to come from nonjudicial salaries. In ten years, the number of case filings has increased by almost 40 percent but the number of employees by only 2.2 percent. The funding recommended by the Subcommittee is not an enhancement—it is what is necessary to prevent even longer delays in filling vacant positions and to allow the Judicial Branch to conduct its business.
2. Add \$120,235 from the State General Fund for 2.0 FTE new district magistrate judges. One is for the 8th Judicial District (Dickinson, Geary, Marion, and Morris counties), which currently has five district judges and two district magistrate judges. The 8th Judicial District has had a caseload increase (excluding traffic cases) of almost 82 percent over the last decade and constantly ranks among the districts with the largest caseload per judge (1,602 in FY 2000, excluding traffic,

compared to 1,196 statewide). The district currently is using a district court judge to help with its workload. The addition of a magistrate judge would help the district better manage its workload, particularly in the area of juvenile cases.

The second position would be for the 9th Judicial District (Harvey and McPherson counties) which currently has three district judges and no district magistrate judges. The 9th Judicial District has experienced a 78 percent increase in caseload in the last five years and has had no increase in the number of judges or staff in many years. This is the second year the Supreme Court has made a request for an additional judge and the Subcommittee agrees that the heavy workload in this district justifies the addition of a district magistrate position.

3. The Subcommittee notes that, from 1991 to 2000, civil and criminal cases filed in the district courts have increased by 38.7 percent. The heavy workload in the 8th and 9th Judicial Districts already has been pointed out, but other districts consistently rank above the state average in number of cases per judge. For example, of the districts that have no district magistrate judges, the 3rd Judicial District (Shawnee), 7th (Douglas), 18th (Sedgwick), and 27th (Reno), in addition to the 9th, all have caseloads that exceed the statewide average of 2,501 cases per judge. In those districts where there are district magistrate judges, the caseload-per-judge exceeds the statewide average of 1,814 in 14 districts, the most noteworthy being the 5th (Chase and Lyon counties), the 6th (Bourbon, Linn, and Miami counties), the 23rd (Ellis, Gove, Rooks, and Trego counties), and the 28th (Saline and Ottawa counties), in addition to the 8th.
4. The Subcommittee expresses its support for HB 2297, which would expand the Court of Appeals from ten to 14 judges over a four-year-period beginning July 1, 2002. This legislation would implement the 1999 recommendation of the *Kansas Citizens Justice Initiative* that the Court of Appeals be expanded.

The peak workload experienced in the mid-1990s as a result of new sentencing guidelines necessitated a "blitz docket" whereby district court judges were enlisted to help handle the number of new cases filed each year. Although the number of new cases filed has decreased somewhat, in 2000 there were 172 new cases filed per judge and it continues to be necessary to use district court judges to help with the workload. The Chief Judge of the Court of Appeals informed the Subcommittee that, as of the end of January 2001, there was a backlog of 1,643 cases pending.

The Subcommittee commends the more than 30 district court judges who supplement the panels of judges on the Court of Appeals, but recognizes that a permanent solution must be found to the persistent need for an expanded Court of Appeals. Failure to give the Court the positions it needs could result in the delay and possibly the denial of justice. New legislation, recent court decisions, and continuing cases related to Kansas sentencing guidelines reinforce the notion that additional judges to handle the Court of Appeals' workload are justified.

5. Recommend the introduction of Substitute for SB 85, which would raise docket fees to fund Phase 2 of the Judicial Branch's salary upgrade for nonjudicial employees. The Subcommittee prefaces its explanation of this recommendation by stating that it believes salaries of Judicial Branch employees should be funded from the State General Fund and not from "user fees." If operations of the courts are supported by money assessed those people who have matters before the courts, then access to the judicial system could be denied those persons who do not have the money to pay the fees. However, the Subcommittee bows to the reality of a situation brought about by limited State General Fund revenues and contends that people also are denied access to the judicial system when the increasing workload of the court, coupled with the inability to add new positions and hiring freezes because of excessive shrinkage, results in delays in cases being heard and backlogs in paperwork.

The 2000 Legislature raised some docket fees to generate enough additional revenue to implement and maintain Phase 1 of the proposed salary initiative, which was the increase in entry-level salaries of most nonjudicial personnel. That increase generated approximately \$4.1 million in FY 2001 and was used to fund a one-time upgrade costing approximately \$3.5 million. The initiative was undertaken to help recruit and retain qualified nonjudicial employees.

Substitute for SB 85 would increase other docket fees to generate an estimated \$1,485,630 in FY 2002, growing to an estimated \$2,461,755 in FY 2003 when the increase is fully implemented. Most of these fees have not been raised in years and have failed to keep up with any measure of inflation. For example, fees for filings relating to probate last were changed in 1984. The money would be used to fund the second and final phase of the 1999 proposal of the Nonjudicial Salary Initiative. Phase 2 involves reclassification of some positions, the development and implementation of a performance-based salary plan for supervisory employees, and possible cost-of-living increases. Specific details of how the increased docket fee revenues would be used in FY 2002 would be presented to the Legislature for consideration in the Omnibus Bill if Substitute for SB 85 is enacted. Based on estimates of the amount of revenue that would be generated, it is not expected that additional increases in docket fees would have to be imposed in the near future.

Substitute for SB 85 also would amend KSA 2000 Supp. 20-1a14, the docket fee bill from the 2000 Session, to remove the restriction that docket fees can only be used for the one-time salary upgrade approved for FY 2001. The restriction still would apply that revenues from docket fees cannot be used for compensation of judges or justices of the Judicial Branch.

PROPOSED DOCKET FEE INCREASES

Listed below are the docket fees that would be changed by proposed Substitute for SB 85. The fees are listed in the order in which they appear in the bill.

Type of Fee	Current Fee	Proposed
Fee assessed person placed on probation Felony Misdemeanor	One-time \$50 fee One-time \$25 fee	Monthly \$20 fee* Monthly \$10 fee*
Fee assessed petition for expungement	\$0	\$150
Filing, entering, and releasing a bond, mechanic's lien, notice of intent to perform, or judgment on which execution process cannot be issued	\$5	\$20*
Filing, entering, and releasing a judgment of a court on which execution or other process can be issued	\$15	\$20*
Probate—Treatment of mentally ill	\$24.50	\$30*
Probate—Treatment of alcoholism or drug abuse	\$24.50	\$30*
Probate—Determination of descent of property	\$39.50	\$150*
Probate—Termination of life estate	\$39.50	\$50*
Probate—Termination of joint tenancy	\$39.50	\$50*
Probate—Refusal to grant letters of administration	\$39.50	\$50*
Step parent adoption	\$39.50	\$50*
Adult adoption	\$39.50	\$50*
SRS Adoption	\$39.50	\$10
Agency adoption	\$39.50	\$100*
Independent adoption	\$39.50	\$100*
International adoption	\$39.50	\$100*
Filing a will	\$39.50	\$50*
Guardianship	\$59.50	\$75*
Conservatorship	\$59.50	\$75*
Trusteeship	\$59.50	\$150

Type of Fee	Current Fee	Proposed
Combined guardianship and conservatorship	\$59.50	\$150*
Certified probate proceedings under KSA 59-213	\$14.50	\$15*
Annual accounting of conservatorship Under \$10,000	\$0	\$10*
Over \$10,000	\$0	\$50*
Closing conservatorship Under \$10,000	\$0	\$10*
Over \$10,000	\$0	\$50*
Post-divorce motion and modification of agreed-upon order	\$20	\$40*
Fee assessed any case filed or docketed in the district court	\$101	\$150
Fee for registration of foreign judgments	\$0	\$150
Docket fee under Code of Civil Procedure for limited actions Under \$500	\$26**	\$26
Under \$5,000-over \$500	\$46**	\$50
Over \$5,000	\$76**	\$80
* Judicial Council Recommendation.		
** Approved by 2000 Legislature, but amendment needed to reconcile conflicting statutes.		

House Budget Report

Agency: Board of Indigents' Defense Services **Bill No. --**

Bill Sec. --

Analyst: Rampey

Analysis Pg. No. 1195

Budget Page No. 255

Expenditure Summary	Agency Est. FY 01	Governor's Rec. FY 01	House Budget Adjustments
All Funds:			
State Operations	\$ 15,020,405	\$ 14,556,650	\$ 0
Aid to Local Units	0	0	0
Other Assistance	497,218	497,218	0
TOTAL	\$ 15,517,623	\$ 15,053,868	\$ 0
State General Fund:			
State Operations	\$ 14,693,256	\$ 14,274,650	\$ 0
Aid to Local Units	0	0	0
Other Assistance	497,218	497,218	0
TOTAL	\$ 15,190,474	\$ 14,771,868	\$ 0
FTE Positions	164.0	164.0	0.0
Unclassified Temp. Positions	1.0	1.0	0.0
TOTAL	165.0	165.0	0.0

Agency Est./Governor's Recommendation

The Board of Indigents' Defense Services estimates expenditures from all funds of \$15,517,623. The total exceeds the amount approved by the 2000 Legislature by \$1,284,190. Of that amount, \$1,239,041 would be from the State General Fund and \$45,149 would be from fee funds. Part of the State General Fund amount is reappropriated balances from FY 2000 totaling \$70,435, which the Board has authority to spend. However, \$1,168,606 is requested as a supplemental appropriation for assigned counsel. According to the Board, of the requested supplemental appropriation, \$923,606 is necessary due to general underfunding of the Board's original FY 2001 request and \$245,000 is due to new legislation and a court case that will have an effect on the agency's workload.

The Governor recommends a total of \$15,053,868, of which \$14,771,868 would be from the State General Fund. The total is an increase of \$820,435 from the State General Fund over the approved amount and consists of \$70,435 in reappropriated balances budgeted by the agency and a supplemental appropriation of \$750,000. The supplemental appropriation is \$418,606 less than requested by the Board. The Governor's recommendation also would reduce planned expenditures from the Indigents' Defense Fee Fund from \$318,167 to \$275,000 in order to use \$43,167 in reappropriated balances to help finance FY 2002. In all, the Governor's recommendation is \$463,755 less than the Board's revised estimate.

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House Budget Committee Recommendations

The House Budget Committee concurs with the Governor, with the following exception:

1. The Budget Committee calls attention to the fact that four new capital murder cases arising from two quadruple homicides in Sedgwick County now are proceeding to trial, which brings the total of cases the Board's death penalty defense unit is involved in to nine. Because the additional costs of the Wichita homicides were not known at the time the budget was submitted and still are uncertain, the Executive Director of the Board asked for permission to present more information later in the Session. The Budget Committee's recommendation is that any request for additional funding be considered in the Omnibus Bill.

House Committee Recommendations

The House Committee concurs with the recommendations of the Budget Committee.

House Committee of the Whole Recommendations

The House Committee of the Whole has not acted on this budget.

Senate Subcommittee

Agency: Board of Indigents' Defense Services **Bill No. --** **Bill Sec. --**

Analyst: Rampey **Analysis Pg. No. 1195** **Budget Page No. 255**

Expenditure Summary	Agency Est. FY 01	Governor's Rec. FY 01	Senate Subcommittee Adjustments
All Funds:			
State Operations	\$ 15,020,405	\$ 14,556,650	\$ 0
Aid to Local Units	0	0	0
Other Assistance	497,218	497,218	0
TOTAL	\$ 15,517,623	\$ 15,053,868	\$ 0
State General Fund:			
State Operations	\$ 14,693,256	\$ 14,274,650	\$ 0
Aid to Local Units	0	0	0
Other Assistance	497,218	497,218	0
TOTAL	\$ 15,190,474	\$ 14,771,868	\$ 0
FTE Positions	164.0	164.0	0.0
Unclassified Temp. Positions	1.0	1.0	0.0
TOTAL	165.0	165.0	0.0

Senate Subcommittee Recommendations

The Senate Subcommittee concurs with the Governor, with the following exception:

1. The Senate Subcommittee calls attention to the fact that four new capital murder cases arising from two quadruple homicides in Sedgwick County now are proceeding to trial, which brings the total of cases the Board's death penalty defense unit is involved in to nine. Because the additional costs of the Wichita homicides were not known at the time the budget was submitted and still are uncertain, the Executive Director of the Board asked for permission to present more information later in the Session. The Subcommittee's recommendation is that any request for additional funding be considered in the Omnibus Bill.

House Budget Report

Agency: Board of Indigents' Defense Services **Bill No. –** HB 2557

Bill Sec. – 35

Analyst: Rampey

Analysis Pg. No. 1195

Budget Page No. 55

Expenditure Summary	Agency Req. FY 02	Governor's Recommendation FY 02	House Budget Adjustments
All Funds:			
State Operations	\$ 15,396,384	\$ 14,776,706	\$ 0
Aid to Local Units	0	0	0
Other Assistance	572,010	286,005	211,213
TOTAL	\$ 15,968,394	\$ 15,062,711	\$ 211,213
State General Fund:			
State Operations	\$ 15,067,384	\$ 14,417,706	\$ 0
Aid to Local Units	0	0	0
Other Assistance	572,010	286,005	211,213
TOTAL	\$ 15,639,394	\$ 14,703,711	\$ 211,213
FTE Positions	164.0	164.0	0.0
Unclassified Temp. Positions	1.0	1.0	0.0
TOTAL	165.0	165.0	0.0

Agency Req./Governor's Recommendation

For FY 2002, the Board requests a total of \$15,968,394, an increase of \$450,771 over its revised request, which includes a supplemental appropriation. As in FY 2001, the Board is concerned about rising costs for assigned counsel and includes in its request an enhancement of \$993,333 for the assigned counsel program, which accounts for the largest part of the increase over the current year.

The Board also requests a \$72,792 increase from the State General Fund for Kansas Legal Services for Prisoners, Inc. The Board has no programmatic responsibility for Kansas Legal Services for Prisoners, Inc., and serves as a flow-through agency for funding purposes. Kansas Legal Services for Prisoners, Inc., provides legal assistance to indigent inmates in Kansas correctional institutions.

The Governor recommends expenditures of \$15,062,711, an increase of \$8,843 over his recommendations for the current year and a decrease of \$905,683 from the Board's request. Funding from the State General Fund would decrease by \$68,157 from the Governor's current year recommendations, to be partially offset by increased expenditures from fee funds that the Board had intended to use in the current year.

Under the Governor's recommendation, expenditures for assigned counsel would increase by \$17,432 over FY 2002 (from \$6,019,032 to \$6,036,464) and expenditures for Kansas Legal Services for Prisoners, Inc., would be reduced from \$497,218 in the current year to \$286,005, exactly half of the amount requested.

Budget Committee Recommendations

1. The Budget Committee calls attention to funding for assigned counsel, which, under the Governor's recommendation is only \$17,432 more than the Governor's recommendation for the current year. (For the current year, the Governor recommends a supplemental appropriation of \$750,000.) The recommended amount is \$743,333 less than requested by the Board and could result in a shortfall in FY 2002, particularly in view of increasing costs for expert witnesses and a rising caseload. It is the Budget Committee's recommendation that, if additional funding is needed, the Board should seek a supplemental appropriation during the 2002 Session when it will be possible to make more precise estimates of expenditures.
2. Add \$211,213 from the State General Fund for Kansas Legal Services for Prisoners, Inc., for a total of \$497,218, the same as the current year. Kansas Legal Services for Prisoners, Inc., is a non-profit corporation organized to provide legal assistance to indigent inmates of Kansas correctional institutions. The Board of Indigents' Defense Services serves as a pass-through agency for the corporation's funding.

For FY 2002, the Governor cut the request in half, resulting in an appropriation of \$286,005. The Budget Committee is aware that inmates have a constitutional right to access to the legal system and is concerned that the Governor's recommendation could jeopardize that right. Further, alternatives to providing the service, such as having the Board of Indigents' Defense Services represent inmates, would cost the state more. In addition, the state faces the risk of expensive litigation if a suit were to be filed. The Budget Committee recommends that funding be restored to its current level and that, in order to make informed decisions in the future, the Judicial Council should be requested to undertake a study and report back to the 2002 Legislature on the constitutional obligation the state has to provide legal services to inmates of Kansas correctional institutions.

House Committee Recommendations

The House Committee concurs with the recommendations of the Budget Committee, with the following exception:

1. Delete the recommendation that \$211,213 from the State General Fund be added for Kansas Legal Services for Prisoners, Inc., but approve the recommendation that the Judicial Council undertake a study and report back to the 2002 Legislature on the constitutional obligation of the state to provide legal services to inmates of Kansas correctional institutions. Depending upon the findings of the Judicial Council study, the 2002 Legislature would have the opportunity to consider a supplemental appropriation for Kansas Legal Services for Prisoners, Inc.

House Committee of the Whole Recommendations

The House Committee of the Whole has not acted on this budget.

Senate Subcommittee

Agency: Board of Indigents' Defense Services **Bill No. 348**

Bill Sec. 35

Analyst: Rampey

Analysis Pg. No. 1195

Budget Page No. 55

Expenditure Summary	Agency Req. FY 02	Governor's Recommendation FY 02	Senate Subcommittee Adjustments
All Funds:			
State Operations	\$ 15,396,384	\$ 14,776,706	\$ 0
Aid to Local Units	0	0	0
Other Assistance	572,010	286,005	211,213
TOTAL	\$ 15,968,394	\$ 15,062,711	\$ 211,213
State General Fund:			
State Operations	\$ 15,067,384	\$ 14,417,706	\$ 0
Aid to Local Units	0	0	0
Other Assistance	572,010	286,005	211,213
TOTAL	\$ 15,639,394	\$ 14,703,711	\$ 211,213
FTE Positions	164.0	164.0	0.0
Unclassified Temp. Positions	1.0	1.0	0.0
TOTAL	165.0	165.0	0.0

Senate Subcommittee Recommendations

1. Add \$211,213 from the State General Fund for Kansas Legal Services for Prisoners, Inc., for a total of \$497,218, the same as the current year. Kansas Legal Services for Prisoners, Inc., is a non-profit corporation organized to provide legal assistance to indigent inmates of Kansas correctional institutions. The Board of Indigents' Defense Services serves as a pass-through agency for the corporation's funding. For FY 2002, the Governor cut the request in half, resulting in an appropriation of \$286,005.

Legal Services for Prisoners, Inc., has an office in Topeka and offices in the correctional facilities located in Lansing, Hutchinson, and El Dorado. These offices also provide assistance to inmates at correctional facilities located in Toronto, Winfield, Larned, Wichita, and Osawatomie. The

number of cases handled totaled 5,590 in FY 1999 and 5,914 in FY 2000. An Attorney General's Opinion issued in 1997 opined that if a trial court determines that appointment of counsel is necessary to represent a convicted felon who files a petition for writ of habeas corpus challenging conditions of confinement, the appointed attorney is entitled to compensation paid by the Board of Indigents' Defense Services. The Executive Director of the Board told the Subcommittee that paying for defense costs of indigent inmates would be more expensive for BIDS than the present arrangement because the agency does not have public defender offices in all areas where correctional facilities are located.

The Subcommittee fails to understand why the Governor recommends a drastic reduction in funding for Legal Services for Prisoners, Inc., in view of the fact that the entity performs a constitutionally-mandated service for less than it would take to expand the operations of a state agency. One way or another, the state must pay for legal services to indigent inmates and the Subcommittee sees no rationale for jeopardizing an arrangement that is working.

2. Although the Board did not request additional funding for FY 2002, the Subcommittee calls attention to the fact that costs for assigned counsel could rise, both because the number of cases is increasing and because of the expense of experts and scientific criminology techniques, such as DNA testing. Workload increases also are expected to occur due to increased prosecutions for the manufacture and possession of methamphetamines, especially in rural areas. In addition, a recent United State Supreme Court decision, *Apprendi v. New Jersey*, found unconstitutional a sentence handed down by a trial court that was harsher than the statutory standard, ruling that an "upward departure from the sentencing guidelines" is an unconstitutional denial of due process. According to the Board, the effect of that case could be that upward departures from sentencing guidelines in Kansas would have to be resentenced, a situation that would have an impact on the workload of the Board.
3. The Subcommittee wishes to commend the Executive Director of the Board and the Board's staff for their efforts to operate within constraints imposed by scarce resources. It is the Subcommittee's opinion that the operations of the Board are well managed and that the staff is sharply focused on the Board's mission. The Subcommittee expresses its appreciation for the leadership the Executive Director has shown and the staff's willingness to continue to do more with less.

House Budget Committee Report

Agency: Judicial Council

Bill No. --

Bill Sec. --

Analyst: Rampey

Analysis Pg. No. 1185

Budget Page No. 273

Expenditure Summary	Agency Estimated FY 01	Governor's Recommendation FY 01	House Budget Adjustments
All Funds:			
State Operations	\$ 331,245	\$ 331,245	\$ 5,000
Aid to Local Units	0	0	0
Other Assistance	0	0	0
TOTAL	\$ 331,245	\$ 331,245	\$ 5,000
State General Fund:			
State Operations	\$ 214,575	\$ 211,930	\$ 5,000
Aid to Local Units	0	0	0
Other Assistance	0	0	0
TOTAL	\$ 214,575	\$ 211,930	\$ 5,000
FTE Positions	4.0	4.0	0.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	4.0	4.0	0.0

Agency Estimate/Governor's Recommendation

Expenditures are estimated to be \$331,245 in the current year, a slight reduction (\$175) from the approved total. Advisory committees to the Council are expected to hold 50 meetings during the year, a greater number than usually is the case. (Advisory councils held 40 meetings in FY 2000. The Council considers 45 meetings to be a normal year.)

The Governor concurs with the Council's estimated expenditures of \$331,245, the only adjustment being a shift in expenditures of \$2,465 from the State General Fund to the Publications Fee Fund.

House Budget Committee Recommendations

The House Budget Committee concurs with the recommendations of the Governor, with the following exception:

1. Add \$5,000 from the State General Fund for a study of guardians *ad litem* requested by the SRS Transition Oversight Committee. The request necessitated

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additional meetings of an advisory committee, which had not been budgeted. The study will be presented to the Legislature in early March.

House Committee Recommendation

The House Committee concurs with the recommendations of the Budget Committee.

House Committee of the Whole Recommendation

The House Committee of the Whole has not addressed this agency.

Senate Subcommittee Report

Agency: Judicial Council

Bill No. --

Bill Sec. --

Analyst: Rampey

Analysis Pg. No. 1185 Budget Page No. 273

<u>Expenditure Summary</u>	<u>Agency Estimated FY 01</u>	<u>Governor's Recommendation FY 01</u>	<u>Senate Subcommittee Adjustments</u>
All Funds:			
State Operations	\$ 331,245	\$ 331,245	\$ 5,000
Aid to Local Units	0	0	0
Other Assistance	0	0	0
TOTAL	<u>\$ 331,245</u>	<u>\$ 331,245</u>	<u>\$ 5,000</u>
State General Fund:			
State Operations	\$ 214,575	\$ 211,930	\$ 5,000
Aid to Local Units	0	0	0
Other Assistance	0	0	0
TOTAL	<u>\$ 214,575</u>	<u>\$ 211,930</u>	<u>\$ 5,000</u>
FTE Positions	4.0	4.0	0.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	<u>4.0</u>	<u>4.0</u>	<u>0.0</u>

Senate Subcommittee Recommendations

The Senate Subcommittee concurs with the recommendations of the Governor, with the following exception:

1. Add \$5,000 from the State General Fund for a study of guardians *ad litem* requested by the SRS Transition Oversight Committee. The request necessitated additional meetings of an advisory committee, which had not been budgeted. The study will be presented to the Legislature in early March.

House Budget Committee Report

Agency: Judicial Council

Bill No. HB 2557

Bill Sec. 34

Analyst: Rampey

Analysis Pg. No. 1185

Budget Page No. 273

Expenditure Summary	Agency Request FY 02	Governor's Recommendation FY 02	House Budget Committee Adjustments
All Funds:			
State Operations	\$ 321,634	\$ 319,515	\$ 0
Aid to Local Units	0	0	0
Other Assistance	0	0	0
TOTAL	\$ 321,634	\$ 319,515	\$ 0
State General Fund:			
State Operations	\$ 235,727	\$ 204,528	\$ 29,080
Aid to Local Units	0	0	0
Other Assistance	0	0	0
TOTAL	\$ 235,727	\$ 204,528	\$ 29,080
FTE Positions	4.0	4.0	0.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	4.0	4.0	0.0

Agency Request/Governor's Recommendation

The Judicial Council requests a total of \$321,634 in FY 2002, a reduction of \$9,611 from the current year. The reduction primarily is the consequence of budgeting for 45 meetings of advisory councils, not the 50 meetings estimated for FY 2001. The request includes as an enhancement a shift of \$29,080 in expenditures from the Publications Fee Fund to the State General Fund.

The Governor recommends total expenditures of \$319,515, \$2,119 less than the Council's request. The amount would fund 45 advisory council meetings, as requested. The Governor does not recommend shifting expenditures from fee funds to the State General Fund and increases expenditures from the Publications Fee Fund from the \$85,907 budgeted by the Council to \$114,987. Based on the Council's estimates of the costs of its publications, the Governor's recommendation would use \$29,080 from the Publications Fee Fund for operating expenses not related to publications.

House Budget Committee Recommendations

The House Budget Committee concurs with the recommendations of the Governor, with the following exceptions:

1. Shift \$29,080 from the Publications Fee Fund to the State General Fund. Legislation enacted by the 2000 Legislature specifies that expenditures from the Publications Fee Fund are to be used only for activities related to the Council's publications. The Governor uses \$29,080 from the fee fund for activities not

related to publications, which the Budget Committee shifts to the State General Fund in order to conform to the statute.

2. Request that the Judicial Council undertake a study and report back to the 2002 Legislature on the constitutional obligation the state has to provide legal services to inmates of Kansas correctional institutions. The issue arises in connection with funding for Legal Services for Prisoners, Inc., a corporation funded through the budget of the State Board of Indigents' Defense Services. The Budget Committee is aware that inmates must have access to legal services, but believes both the Legislature and the Governor need to know the level of services that is constitutionally required in order to make informed funding decisions.

House Committee Recommendation

The House Committee concurs with the recommendation of the Budget Committee.

House Committee of the Whole Recommendation

The House Committee of the Whole has not addressed this agency.

Senate Subcommittee Report

Agency: Judicial Council

Bill No. 348

Bill Sec. 34

Analyst: Rampey

Analysis Pg. No. 1185

Budget Page No. 273

Expenditure Summary	Agency Request FY 02	Governor's Recommendation FY 02	Senate Subcommittee Adjustments
All Funds:			
State Operations	\$ 321,634	\$ 319,515	\$ 0
Aid to Local Units	0	0	0
Other Assistance	0	0	0
TOTAL	\$ 321,634	\$ 319,515	\$ 0
State General Fund:			
State Operations	\$ 235,727	\$ 204,528	\$ 29,080
Aid to Local Units	0	0	0
Other Assistance	0	0	0
TOTAL	\$ 235,727	\$ 204,528	\$ 29,080
FTE Positions	4.0	4.0	0.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	4.0	4.0	0.0

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor, with the following exceptions.

1. Shift \$29,080 from the Publications Fee Fund to the State General Fund. Legislation enacted by the 2000 Legislature specifies that expenditures from the Publications Fee Fund are to be used only for activities related to the Council's publications. The Governor uses \$29,080 from the fee fund for activities not related to publications, which the Subcommittee shifts to the State General Fund in order to conform to the statute.

The Subcommittee notes that receipts to the Publications Fee Fund from the sale of the Council's legal publications have amounted to between \$90,000 and \$110,000 in recent years, depending upon which publications are distributed. Beginning in FY 1999, greater use was made of the Fund to pay for expenses not directly related to publications. In FY 2002, balances in the Fund were considered excessive, causing the Legislature to attach a proviso directing that any balances in excess of \$175,000 should be transferred to the State General Fund. Under the Subcommittee's recommendation, expenditures from the Fund in FY 2002 would be \$85,907, resulting in a balance forward of \$162,383.

According to the Executive Director of the Council, there are several reasons why it is important to ensure adequate balances in the Fund. One is that, in the 1950s, a contract was negotiated with West Publishing Company which gives the company primary ownership of the copyright of the publication, *PIK-Civil 3d*. As a result, the Judicial Council receives only 15 percent of royalties from sales, does not have editorial and quality control, and experiences a time delay in getting the book from the publisher for sale. It is likely in the next few years that the contract can be renegotiated, at which time the intention of the Council is to obtain full ownership. For that reason, balances in the Publications Fee Fund must be adequate to make the purchase.

Another reason the Subcommittee believes adequate balances must be maintained in the Fund is that technological advances that allow publications to be available on the Internet have implications for revenue sources that depend upon the publication and sale of traditional books and printed material. As the Judicial Council explores the possibility that its publications in the future may be available on the Internet, stability must be maintained in the Fund that supports the Council's activities related to the preparation of those materials.


**JUDICIAL COUNCIL PUBLICATIONS FEE FUND ANALYSIS
 BASED ON SENATE SUBCOMMITTEE RECOMMENDATIONS**

	FY 2000	FY 2001	FY 2002
	<u>Actual</u>	<u>Estimated</u>	<u>Estimated</u>
Resource Estimate			
Beginning Balance	\$ 187,961	\$ 175,000	\$ 147,031
Projected Receipts	110,479	91,346	101,259
Total Available	\$ 298,440	\$ 266,346	\$ 248,290
Less: Transfer to State General Fund*	18,079	0	0
Less: Nonreportable Expenditures	3,153	0	0
Less Expenditures	<u>102,208</u>	<u>119,315</u>	<u>85,907</u>
Ending Balance	<u>\$ 175,000</u>	<u>\$ 147,031</u>	<u>\$ 162,383</u>


* By proviso to the FY 2000 appropriation, any balance in excess of \$175,000 had to be transferred to the State General Fund.

**2001 KANSAS GUARDIANSHIP
PROGRAM SUBCOMMITTEE**

Kansas Guardianship Program



Senator Tim Huelskamp, Chairman



Senator Paul Feleciano, Jr.

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House Budget Committee Report

Agency: Kansas Guardianship Program

Bill No. --

Bill Sec. --

Analyst: Kramer

Analysis Pg. No. 360

Budget Page No. 177

<u>Expenditure Summary</u>	<u>Agency Est. FY 01</u>	<u>Gov. Rec. FY 01</u>	<u>Budget Committee Adjustments</u>
State Operations:			
State General Fund	\$ 1,113,421	\$ 1,098,421	\$ 0
Employee Positions*	13.0	13.0	0.0

* Employees of the Kansas Guardianship Program are not state employees, but are listed for informational purposes.

Agency Estimate/Governor's Recommendation

The agency estimates expenditures for FY 2001 of \$1,113,421 which is an increase of \$37,032 (3.4 percent) from the FY 2000 actual amount. The request includes \$482,828 for salaries and wages, \$616,609 for contractual services, and \$13,984 for commodities.

The Governor recommends expenditures for FY 2001 of \$1,098,421 which is an increase of \$22,032 (2.0 percent) from the FY 2001 actual amount. The recommendation includes \$482,828 for salaries and wages, \$571,720 for contractual services, \$13,984 for commodities, and \$29,889 for capital outlay.

House Budget Committee Recommendation

The House Budget Committee concurs with the Governor's recommendation.

House Committee Recommendation

The House Committee concurs with the Budget Committee's recommendation.

House Committee of the Whole Recommendation

The House has not yet considered this budget.

Senate Subcommittee Report

Agency: Kansas Guardianship Program

Bill No. --

Bill Sec. --

Analyst: Kramer

Analysis Pg. No. 360 Budget Page No. 177

<u>Expenditure Summary</u>	<u>Agency Est. FY 01</u>	<u>Governor's Recommendation FY 01</u>	<u>Senate Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 1,113,421	\$ 1,181,959	0
Employee Positions*	13.0	13.0	0.0

* Employees of the Kansas Guardianship Program are not state employees, but are listed for informational purposes.

Agency Est./Governor's Recommendation

The agency estimates expenditures for FY 2001 of \$1,113,421 which is an increase of \$37,032 (3.4 percent) from the FY 2000 estimate. The request includes \$482,828 for salaries and wages, \$616,609 for contractual services, and \$13,984 for commodities.

The Governor recommends expenditures for FY 2001 of \$1,098,421 which is an increase of \$22,032 (2.0 percent) from the FY 2001 estimate. The recommendation includes \$482,828 for salaries and wages, \$571,720 for contractual services, \$13,984 for commodities, and \$29,889 for capital outlay.

Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation.

House Budget Committee Report

Agency: Kansas Guardianship Program

Bill No. 2557

Bill Sec. 54

Analyst: Kramer

Analysis Pg. No. 360

Budget Page No. 177

<u>Expenditure Summary</u>	<u>Agency Req. FY 02</u>	<u>Gov. Rec. FY 02</u>	<u>Budget Committee Adjustments</u>
State Operations:			
State General Fund	\$ 1,181,959	\$ 1,084,217	\$ 0
Employee Positions*	15.0	13.0	0.0

* Employees of the Kansas Guardianship Program are not state employees, but are listed for informational purposes.

Agency Request/Governor's Recommendation

The agency requests expenditures for FY 2002 of \$1,181,959 which is an increase of \$68,538 (6.2 percent) from the FY 2001 estimate. The request includes \$543,814 for salaries and wages, \$614,030 for contractual services, \$16,515 for commodities, and \$7,600 for capital outlay. The request includes an enhancement package of \$90,097 for two recruiter/facilitator positions (\$63,897) and related operating expenses (\$26,200).

The Governor recommends expenditures for FY 2002 of \$1,084,217 which is a decrease of \$14,204 (1.3 percent) from the FY 2001 estimate. The recommendation includes \$489,272 for salaries and wages, \$580,430 for contractual services, and \$14,515 for commodities. The Governor does not recommend the enhancement.

House Budget Committee Recommendation

The Budget Committee concurs with the Governor's recommendation with the following notations:

1. The Budget Committee notes that liability protection is a concern for many of the agency's volunteers, and liability issues may hinder the agency's volunteer recruitment effort. The Budget Committee recommends the introduction of legislation to amend the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), to provide liability protection to Kansas Guardianship Program volunteers.
2. The Budget Committee notes that agency volunteers are required to be bonded, and the Department of Social and Rehabilitation Services holds the surety on the bond. The Judicial Council is reviewing the statutes related to the agency, and

legislation may be introduced to transfer the surety on the bond from SRS to the Kansas Guardianship Program. The transfer of the bond would have a fiscal impact on the agency. Estimated costs for bondedness through the Kansas Guardianship Program is \$130,000. The Budget Committee notes that this issue may require further review.

3. The Budget Committee calls attention to the following enhancement requests:

FY 2002 Enhancements						
Enhancement	Agency Request			Governor's Recommendation		
	SGF	All Funds	FTE	SGF	All Funds	FTE
Salaries and Wages for two additional Recruiter/Facilitator positions	\$ 63,897	\$ 63,897	2.0	\$ 0	0	0.0
Travel and Communication expenses related to new positions	18,600	18,600	0.0	0	0	0.0
Office furniture and computer equipment for new positions	7,600	7,600	0.0	0	0	0.0
TOTAL—FY 2002 Enhancement Request	\$ 90,097	\$ 90,097	2.0	\$ 0	0	0.0

The Budget Committee does not recommend the enhancement requests, but recommends further review during the omnibus session.

4. The Budget Committee notes that approximately 200 individuals are on a waiting list to receive services from the agency. The Budget Committee notes the following performance measures.

Waiting List Statistics	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000
New Referrals at end of fiscal year*	194	172	198	210	183
Successorship referrals at end of fiscal year**	121	106	96	96	84
TOTAL	315	278	294	306	267

* New referrals are possible wards and/or conservatees who were referred to the agency, but a proposed guardian and/or conservator has not been nominated.
 ** Successorships Referrals are wards and/or conservatees already served through the agency, but the guardian and/or conservator is unable to continue, or, the ward and/or conservatee has moved to a new community.

Service Statistics	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000
Total Wards and/or Conservatees Served throughout the fiscal year	1662	1633	1676	1672	1692
Total Guardians and/or Conservators Serving at the end of the fiscal year	722	732	776	794	800

House Committee Recommendation

The House Committee concurs with the Budget Committee's recommendation.

House Committee of the Whole Recommendation

The House has not yet considered this budget.

Senate Subcommittee Report

Agency: Kansas Guardianship Program

Bill No. 348

Bill Sec. 54

Analyst: Kramer

Analysis Pg. No. 360 **Budget Page No.** 177

Expenditure Summary	Agency Est. FY 02	Governor's Recommendation FY 02	Senate Subcommittee Adjustments*
State Operations:			
State General Fund	\$ 1,181,959	\$ 1,084,217	\$ (9,775)
Employee Positions**	15.0	15.0	0.0

* Entire amount reflects deletion of the Governor's recommended pay plan adjustments.

** Employees of the Kansas Guardianship Program are not state employees, but are listed for informational purposes.

Agency Est./Governor's Recommendation

The agency requests expenditures for FY 2002 of \$1,181,959 which is an increase of \$68,538 (6.2 percent) from the FY 2001 estimate. The request includes \$543,814 for salaries and wages, \$614,030 for contractual services, \$16,515 for commodities, and \$7,600 for capital outlay. The request includes an enhancement package of \$90,097 for two recruiter/facilitator positions (\$63,897) and related operating expenses (\$26,200).

The Governor recommends expenditures for FY 2002 of \$1,084,217 which is a decrease of \$14,204 (1.3 percent) from the FY 2001 estimate. The recommendation includes \$489,272 for salaries and wages, \$580,430 for contractual services, and \$14,515 for commodities. The Governor does not recommend the enhancement.

Subcommittee Recommendation

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

1. Delete \$9,775 from the State General Fund expenditures for the Governor's recommended pay plan. The entire allocation is for unclassified merit pool.

Statement to the Senate Ways and Means Committee

HB 2013

Diane Lindeman
Associate Director of Fiscal Affairs/Student Financial Aid

March 15, 2001

Good morning, Chairman Morris and members of the Committee. My name is Diane Lindeman, and I am the Associate Director of Fiscal Affairs/Student Financial Aid, with the Kansas Board of Regents. I am here today to testify in support of HB 2013.

In 1963, the Kansas Legislature created the State Scholarship Program to provide financial assistance for students with a demonstrated financial need, and who were academically outstanding Kansas students who had attended Kansas postsecondary institutions.

This program continues to be the flagship of our academic scholarship programs. The amount of the award is currently \$1,000. This amount has remained the same since 1985. As tuition and fees increase, this amount no longer conveys the message that students are feeling rewarded for their academic efforts in high school. This is particularly true, as since 1993, we have required that students complete the Regent's Recommended Curriculum in order to be eligible to receive the scholarship (this includes 4 years of English 4 years of Math; 3 years of Natural/Physical Science – Biology, Chemistry or Physics; 3 years of Social Studies; 2 years of Foreign Language; and 1 year of Computer Technology).

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During the 2000 Legislative session, SB 380 was passed which increased the monetary value of the Kansas Ethnic Minority Scholarship to the level of 75% of the cost of tuition and fees for Kansas resident students. This bill would have the same effect and would make the Kansas State Scholarship Program consistent with the Kansas Ethnic Minority Scholarship Program.

I hope that you offer serious consideration of this proposal and pass it favorably out of the Committee. I would be pleased to answer any questions that you may have.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony on Senate Bill No. 343
to
Senate Committee on Ways and Means
Presented by Dr. Lorne A. Phillips
State Registrar and Director
Center for Health and Environmental Statistics
March 16, 2001
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Senate Bill No. 343, through establishment of the Vital Statistics Maintenance Fee Fund, is a progressive approach toward partial resolution of a long standing problem faced by the Department of Health and Environment and its Office of Vital Statistics (OVS). To analyze and describe this many faceted problem and document its impact, the services of a consulting firm were secured. In the "Situational Analysis" section of Vital Statistics Integrated Information System Needs Analysis Final Report, the consultants stated:

"The current systems utilized by CHES to support core vital statistics functions are obsolete. Vendor technical support is being discontinued or becoming prohibitively expensive, and the central vital statistics application and database cannot be reliably modified to respond to internal and external business processes and reporting changes. These systems require immediate attention to ensure the reliable production of CHES work. CHES's reliance on information and the underlying system has created issues related to adapting business processes, quickly responding to new opportunities, and remaining in compliance with external regulations."

Registration, certification and issuance of vital records is a statutory responsibility of KDHE. To date, we have captured and stored nearly 10 million birth, death, fetal death, marriage and divorce records, including more than 3,800,000 which are stored on our FileNet imaging optical disk system. If system goes down, we will be unable to generate and issue certified copies of the vital records (averaging 350,000 copies annually). For example, if we cannot issue birth certificates, numerous Kansas residents will be unable to: prove citizenship; enroll children in school; claim Social Security benefits; obtain a driver's license, passport or visa; or, even play little league baseball. If we cannot issue death certificates, funeral directors cannot dispose of bodies, bank accounts cannot be reopened and insurance and Social Security benefits will not be paid. Also, we will not be able to continue to annually generate revenue (\$2,030,565 for the State General Fund, \$398,935 for the Family and

Children Investment Fund and \$261,061 for the District Coroners Fund during FY 2000).

FileNet corporation upgraded and changed to a new software system nearly five years ago and has been phasing out support for the old workflow software, which will no longer be supported as of December 31, 2001. Without vendor support, if the system went down, certified copies of certificates could not be issued electronically.

Revision of national standard certificates of birth, death and fetal death records must be completed by December 31, 2002. These revisions will require major changes to the vital statistics database. Current database operations, which use aged and unsupported Genexus code generator technology cannot be modified to implement revisions of standardized certificates. In addition to affecting database operations, these revisions will also require major changes to the current Electronic Birth Certificate (EBC) system. The existing EBC system uses old, DOS-based workstation technology (no longer offered by any vendors) which cannot be modified to collect the new information which will be included in the revised standard birth certificate. Consequently, Kansas would not be able to fulfill contractual obligations with the National Center for Health Statistics for submission of Kansas data to the national database and to exchange vital record information with other states. The Federal contracts generate about \$215,000 annually.

Another component of the Vital System which must be upgraded is the Point of Sale (POS) system, which provides customer receipt information for the audit trail and coordinates processes for issuance of all certified copies of certificates. This system will not be upgraded or supported by the vendor as of December 31, 2002. A replacement system must be developed and implemented by that time.

The revised death certificate standards call for reducing the amount of time for the Social Security Administration (SSA) to receive fact-of-death information from the OVS. Currently, recording and managing death information involves manual processes. To meet future contractual requirements of the SSA, the OVS will be required to implement an electronic-based system for fact-of-death reporting. As outlined above, our current database operations cannot be modified to accommodate electronic fact-of-death reporting.

Authorization and establishment of the Vital Statistics Maintenance Fee Fund is a sound approach for helping to meet the continuing challenge of technological change. However, it should be noted that the proposed \$1.00 increase will only generate about \$350,000. The estimated cost of the entire project, which has already begun and will be completed in 2003, is \$3.6 million (\$3.2 million from the KDFA loan and \$400,000 currently in our budget). The increased fees, combined with \$200,000 from the State General Fund already included in the agency's budget, would be used to make payments on the certificate. Maintenance costs will probably not change before the project is completed. However, at that point we will need to adjust our allocation to deal with maintenance costs which, according to the needs assessment, could be as high as \$300,000 above current expenditures depending upon vendor and database selections.. Once the KDFA loan is paid off, the Fee Fund will provide a stable funding stream to keep pace with technological change. Establishment of the Vital Statistics Maintenance Fee Fund provides a foundation for ensuring that the OVS, for which there is no alternate source of such service, is responsive to meeting current and future vital records needs of Kansans.

I thank you for the opportunity to appear before the Senate Committee on Ways and Means and will gladly stand for questions members of the Committee may have on this topic.

PROPOSED Substitute for SENATE BILL NO. 85

For Consideration By Committee on Ways and Means as Recommended
by Subcommittee on Judicial Branch

AN ACT concerning docket fees; relating to compensation for certain nonjudicial employees in the judicial branch; amending K.S.A. 21-4610a, 28-170 and 60-3005 and K.S.A. 2000 Supp. 20-1a14, 20-367, 21-4619, 22-2410, 59-104, 60-1621, 60-2001 and 60-4001 and repealing the existing sections; also repealing K.S.A. 2000 Supp. 20-367b and 61-2501.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 20-1a14 is hereby amended to read as follows: 20-1a14. (a) There is hereby established in the state treasury the judicial branch nonjudicial salary initiative fund.

(b) All moneys credited to the judicial branch nonjudicial salary initiative fund shall be used for compensation of nonjudicial officers and employees of the district courts, court of appeals and the supreme court and shall not be expended for compensation of judges or justices of the judicial branch. Moneys in the fund shall be used only to pay for that portion of the cost of salaries and wages of nonjudicial personnel of the judicial branch, including associated employer contributions, which shall not exceed the difference between the amount of expenditures that would be required under the judicial branch pay plan for nonjudicial personnel in effect prior to the effective date of this act and the amount of expenditures required under the judicial branch pay plan for nonjudicial personnel after the cost-of-living adjustments and the adjustments for upgrades in pay rates for nonjudicial personnel approved by the chief justice of the Kansas supreme court for fiscal year 2001. For fiscal years commencing on and after June 30, 2001, moneys in such fund shall be used only for the amount attributable to maintenance of the judicial branch pay plan for nonjudicial personnel for such adjustments and upgrades approved by the chief justice of the supreme court for fiscal year 2001 and for any reclassifications and salary initiatives that may be necessary for the judicial branch to hire and retain qualified employees.

(c) All expenditures from the judicial branch nonjudicial

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salary initiative fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to payrolls approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

(d) The enactment of this legislation shall not be considered a statement of legislative intent to endorse future state general fund financing for ensuing fiscal years for the proposed nonjudicial pay plan contained in the report to the Kansas supreme court by the nonjudicial salary initiative entitled nonjudicial employee compensation submitted to the 2000 legislature.

Sec. 2. K.S.A. 2000 Supp. 20-367 is hereby amended to read as follows: 20-367. Of the remittance of the balance of docket fees received monthly by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the access to justice fund: (a)(1) A sum equal to ~~6.05%~~ 5.63% of the remittances of docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to 5.37% of the remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter; to the juvenile detention facilities fund: (b)(1) A sum equal to ~~3.36%~~ 3.13% of the remittances of docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to 2.99% of the remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter; to the judicial branch education fund, the state treasurer shall deposit and credit: (c)(1) A sum equal to ~~2.58%~~ 2.40% of the remittances of docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to 2.29% of the remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter; to the crime victims assistance fund, the state treasurer shall deposit and credit: (d)(1) A sum equal to ~~.69%~~ .64% of the remittances of the docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to .61% of the

remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter; to the protection from abuse fund, the state treasurer shall deposit and credit: (e)(1) A sum equal to ~~2.07%~~ 1.93% of the remittances of the docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to 1.84% of the remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter; to the judiciary technology fund, the state treasurer shall deposit and credit: (f)(1) A sum equal to ~~5.23%~~ 4.87% of the remittances of docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to 4.65% of the remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter; to the dispute resolution fund, the state treasurer shall deposit and credit: (g)(1) A sum equal to ~~.43%~~ .40% of the remittances of docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to .38% of the remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter; to the Kansas juvenile delinquency prevention trust fund, the state treasurer shall deposit and credit: (h)(1) A sum equal to ~~1.53%~~ 1.42% of the remittances of docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to 1.36% of the remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter; to the permanent families account in the family and children investment fund, the state treasurer shall deposit and credit: (i)(1) A sum equal to ~~.25%~~ .23% of the remittances of docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to .22% of the remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter; to the trauma fund⁷: (j)(1) A sum equal to ~~1.81%~~ 1.68% of the remittance of docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to 1.61% of the remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter; and to the judicial branch nonjudicial salary initiative fund, the state treasurer shall deposit and credit: (k)(1) A sum equal to ~~21.97%~~ 27.87% of the

remittance of docket fees for the fiscal year ending June 30, 2002, and (2) a sum equal to 31.13% of the remittances of docket fees for the fiscal year ending June 30, 2003, and fiscal years thereafter. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

Sec. 3. K.S.A. 21-4610a is hereby amended to read as follows: 21-4610a. (a) Each person placed under the probation supervision of a court services officer or other officer or employee of the judicial branch by a judge of the district court under K.S.A. 21-4610 and amendments thereto and each person assigned to a community correctional services program shall pay a probation or community correctional services fee. If the person was convicted of a misdemeanor, the amount of the probation services fee is-\$25 shall be \$10 per month for the term of probation to which the probationer was originally sentenced, and if the person was convicted of a felony, the amount of the probation or community correctional services fee is-\$50, shall be \$20 per month for the term of probation to which the probationer was originally sentenced, except that in any case the amount of the probation or community correctional services fee specified by this section may be reduced or waived by the judge if the person is unable to pay that amount.

(b) The probation or community correctional services fee imposed by this section shall be charged and collected by the district court. The clerk of the district court shall remit at least monthly all revenues received under this section for probation or community correctional services fees to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

(c) This section shall not apply to persons placed on probation or released on parole to reside in Kansas under the uniform act for out-of-state parolee supervision.

Sec. 4. K.S.A. 2000 Supp. 21-4619 is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsection

(b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b) and (c), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Except as provided in subsection (c), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

(1) Vehicular homicide, as defined by K.S.A. 21-3405 and amendments thereto or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) a violation of K.S.A. 8-1567 and amendments thereto, or a violation of any law of another state, which declares to be unlawful the acts prohibited by that statute;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended

or revoked, as prohibited by K.S.A. 8-262 and amendments thereto or as prohibited by any law of another state which is in substantial conformity with that statute;

(4) perjury resulting from a violation of K.S.A. 8-261a and amendments thereto or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(5) violating the provisions of the fifth clause of K.S.A. 8-142 and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(8) violating the provisions of K.S.A. 40-3104 and amendments thereto, relating to motor vehicle liability insurance coverage; or

(9) a violation of K.S.A. 21-3405b, prior to its repeal.

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in subsection (a)(2) of K.S.A. 21-3502 and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505 and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510 and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511 and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516 and

amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603 and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608 and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609 and amendments thereto; (12) capital murder as defined in K.S.A. 21-3439 and amendments thereto; (13) murder in the first degree as defined in K.S.A. 21-3401 and amendments thereto; (14) murder in the second degree as defined in K.S.A. 21-3402 and amendments thereto; (15) voluntary manslaughter as defined in K.S.A. 21-3403 and amendments thereto; (16) involuntary manslaughter as defined in K.S.A. 21-3404 and amendments thereto; (17) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 2000 Supp. 21-3442 and amendments thereto; or (18) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

(d) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. Except as otherwise provided by law, a petition for expungement shall be accompanied by payment of a docket fee in the amount of \$150. The petition shall state: (1) The defendant's full name;

(2) the full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(3) the defendant's sex, race and date of birth;

(4) the crime for which the defendant was arrested, convicted or diverted;

(5) the date of the defendant's arrest, conviction or diversion; and

(6) the identity of the convicting court, arresting law enforcement authority or diverting authority. ~~There shall be no docket fee for filing a petition pursuant to this section.~~ All petitions for expungement shall be docketed in the original

criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

(e) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(f) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions: (A) In any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01 and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01 and

amendments thereto; or with an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(F) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(G) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-1252 and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose

of the new commitment.

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(h) Subject to the disclosures required pursuant to subsection (f), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime, but the expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

(i) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining

information relating to employment in an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas sentencing commission;

(11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming

commission or to hold a license issued pursuant to a tribal-gaming compact; or

(12) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged.

(j) The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

Sec. 5. K.S.A. 2000 Supp. 22-2410 is hereby amended to read as follows: 22-2410. (a) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. Except as otherwise provided by law, a petition for expungement shall be accompanied by payment of a docket fee in the amount of \$150. The petition shall state: (1) The petitioner's full name;

(2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;

(3) the petitioner's sex, race and date of birth;

(4) the crime for which the petitioner was arrested;

(5) the date of the petitioner's arrest; and

(6) the identity of the arresting law enforcement agency.

~~There shall be no docket fee for filing a petition pursuant to this section.~~ Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(c) At the hearing on a petition for expungement, the court shall order the arrest record and subsequent court proceedings,

if any, expunged upon finding: (1) The arrest occurred because of mistaken identity;

(2) a court has found that there was no probable cause for the arrest;

(3) the petitioner was found not guilty in court proceedings; or

(4) the expungement would be in the best interests of justice and (A) Charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the federal bureau of investigation, the Kansas bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes: (1) In any application for employment as a detective with a private detective agency, as defined in K.S.A. 75-7b01 and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01 and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services;

(2) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(3) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(4) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(5) in any application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142 and amendments thereto;

(6) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(7) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(8) in any other circumstances which the court deems appropriate.

(f) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(g) Whenever a petitioner's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

(h) The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

Sec. 6. K.S.A. 28-170 is hereby amended to read as follows: 28-170. (a) The docket fee prescribed by K.S.A. 60-2001 and amendments thereto shall be the only costs assessed for services of the clerk of the district court and the sheriff in any case filed under chapter 60 of the Kansas Statutes Annotated. For

services in other matters in which no other fee is prescribed by statute, the following fees shall be charged and collected by the clerk. Only one fee shall be charged for each bond, lien or judgment:

- 1. For filing, entering and releasing a bond, mechanic's lien, notice of intent to perform, personal property tax judgment or any judgment on which execution process cannot be issued \$5 ~~\$20~~
- 2. For filing, entering and releasing a judgment of a court of this state on which execution or other process can be issued ~~\$5~~ 20
- 3. For a certificate, or for copying or certifying any paper or writ, such fee as shall be prescribed by the district court.

(b) The fees for entries, certificates and other papers required in naturalization cases shall be those prescribed by the federal government and, when collected, shall be disbursed as prescribed by the federal government. The clerk of the court shall remit to the state treasurer at least monthly all moneys received from fees prescribed by subsection (a) or (b) or received for any services performed which may be required by law. The state treasurer shall deposit the remittance in the state treasury and credit the entire amount to the state general fund.

(c) In actions pursuant to the Kansas code for care of children (K.S.A. 38-1501 et seq. and amendments thereto), the Kansas juvenile justice code (K.S.A. 38-1601 et seq. and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 et seq. and amendments thereto) or the care and treatment act for mentally ill persons (K.S.A. 2000 Supp. 59-2945 et seq. and amendments thereto), the clerk shall charge an additional fee of \$1 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a and amendments thereto.

(d) In actions pursuant to the Kansas code for care of children (K.S.A. 38-1501 et seq. and amendments thereto), the Kansas juvenile justice code (K.S.A. 38-1601 et seq. and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment of

drug abuse (K.S.A. 65-5201 et seq. and amendments thereto) or the care and treatment act for mentally ill persons (K.S.A. 2000 Supp. 59-2945 et seq. and amendments thereto), the clerk shall charge an additional fee of \$.50 which shall be deducted from the docket fee and credited to the indigents' defense services fund as provided in K.S.A. 28-172b and amendments thereto.

Sec. 7. K.S.A. 2000 Supp. 59-104 is hereby amended to read as follows: 59-104. (a) Docket fee. Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated without payment of an appropriate docket fee as follows:

Treatment of mentally ill.....	\$24.50	<u>\$30.00</u>
Treatment of alcoholism or drug abuse.....	24.50	<u>30.00</u>
Determination of descent of property.....	39.50	<u>150.00</u>
Termination of life estate.....	39.50	<u>50.00</u>
Termination of joint tenancy.....	39.50	<u>50.00</u>
Refusal to grant letters of administration.....	39.50	<u>50.00</u>
Adoption.....	39.50	<u>50.00</u>
<u>Step-parent adoption.....</u>		<u>50.00</u>
<u>Adult adoption.....</u>		<u>50.00</u>
<u>SRS adoption.....</u>		<u>10.00</u>
<u>Agency adoption.....</u>		<u>100.00</u>
<u>Independent adoption.....</u>		<u>100.00</u>
<u>International adoption (K.S.A. 59-2144 and</u> <u>amendments thereto).....</u>		<u>100.00</u>
Filing a will and affidavit under K.S.A. 59-618a <u>and amendments thereto.....</u>	39.50	<u>50.00</u>
Guardianship.....	59.50	<u>100.00</u>
Conservatorship.....	59.50	<u>100.00</u>
Trusteeship.....	59.50	<u>100.00</u>
Combined guardianship and conservatorship.....	59.50	<u>100.00</u>
Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....	14.50	<u>15.00</u>
<u>Annual accounting of conservatorship under \$10,000....</u>		<u>10.00</u>
<u>Annual accounting of conservatorship over \$10,000.....</u>		<u>50.00</u>

<u>Closing conservatorship under \$10,000.....</u>	<u>10.00</u>
<u>Closing conservatorship over \$10,000.....</u>	<u>50.00</u>
Decrees in probate from another state.....	99.50
Probate of an estate or of a will.....	99.50
Civil commitment under K.S.A. <u>2000 Supp. 59-29a01 et</u> <u>seq. and amendments thereto.....</u>	24.50

(b) Poverty affidavit in lieu of docket fee and exemptions.

The provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) Disposition of docket fee. Statutory charges for the law library and for the prosecuting attorneys' training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.

(d) Additional court costs. Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 8. K.S.A. 2000 Supp. 60-1621 is hereby amended to read as follows: 60-1621. (a) No post-decree motion petitioning for a change in legal custody, residency, visitation rights or parenting time, any modification of an agreed order or for a modification of child support shall be filed or docketed in the district court without payment of a docket fee in the amount of ~~\$20~~ \$40 to the clerk of the district court.

(b) A poverty affidavit may be filed in lieu of a docket fee

as established in K.S.A. 60-2001, and amendments thereto.

(c) The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with subsection (f) of K.S.A. 20-362, and amendments thereto.

Sec. 9. K.S.A. 2000 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) Docket fee. Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of ~~\$101~~ \$150 to the clerk of the district court.

(b) Poverty affidavit in lieu of docket fee. (1) Effect. In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in (A) the six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) Form of affidavit. The affidavit provided for in this

subsection shall be in the following form and attached to the petition:

State of Kansas, _____ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) Disposition of docket fee. The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) Additional court costs. Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 10. K.S.A. 60-3005 is hereby amended to read as follows: 60-3005. Any person filing a foreign judgment shall pay to the clerk of the district court a docket fee ~~as prescribed by K.S.A. 60-2001, and amendments thereto~~ in the amount of \$150. Any additional fees or charges not specifically covered by the docket fee shall be assessed as additional court costs in the same manner and to the same extent as if the action had been originally commenced in the court where the foreign judgment is filed.

Sec. 11. K.S.A. 2000 Supp. 61-4001 is hereby amended to read as follows: 61-4001. (a) Docket fee. No case shall be filed or docketed pursuant to the code of civil procedure for limited actions without the payment of a docket fee in the amount of ~~\$19.50~~ \$26, if the amount in controversy or claimed does not

exceed \$500; ~~\$39-50~~ \$50, if the amount in controversy or claimed exceeds \$500 but does not exceed \$5,000; or ~~\$64-50~~ \$80, if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(b) Poverty affidavit; additional court costs. The provisions of subsections (b), (c) and (d) of K.S.A. 60-2001, and amendments thereto, shall be applicable to lawsuits brought under the code of civil procedure for limited actions.

Sec. 12. K.S.A. 21-4610a, 28-170 and 60-3005 and K.S.A. 2000 Supp. 20-1a14, 20-367, 20-367b, 21-4619, 22-2410, 59-104, 60-1621, 60-2001, 60-4001 and 61-2501 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

REMARKS CONCERNING SENATE BILL 85

SENATE WAYS AND MEANS COMMITTEE

MARCH 15, 2001

Thank you for giving the opportunity to express the concern of the Kansas Credit Attorneys Association, which is a state-wide organization of attorneys whose practice includes considerable collection work, and Kansas Collectors Association, Inc., which is an association of collection agencies in Kansas, with regard to Senate bill 85.

Our groups feel very strongly that the operation of the court system is a basic state function, and should be financed from the state general fund. Our groups were hit hard last year by the increase in docket fees for filing cases in Chapter 61, limited actions. The legislation last year which was passed to fund phase 1 of the nonjudicial pay plan increased docket fees from \$19.50 to \$26.00 for cases involving less than \$500.00; from \$39.50 to \$46.00 for cases where the amount in controversy or claimed exceeds \$500.00 but does not exceed \$5,000.00; and from \$64.50 to \$76.00 for cases where the amount in controversy is more than \$5,000.00. We do not feel that our groups should be hit hard again this year.

We support improving salaries and benefits of nonjudicial employees of the judicial branch.

However, we have concerns with SB 85. Philosophically, we feel that the funding of our court system and salaries of our state employees should be paid from the state general fund.

Senate Ways and Means
3-15-01
Attachment 8

During last interim, the Special Committee On Judiciary studied the topic of revision of state court costs. The conclusions and recommendations of that interim committee were:

"The committee expresses appreciation for the efforts of the Judicial Council and the Office of Judicial Administration to resolve funding issues. The Committee further stated the belief that it is inappropriate for the court funding to be driven by docket fees. The recommendation of the Committee is that court funding should be the responsibility of the state and the funding should come from the State General Fund."

We certainly concur with that interim committee. The funding of our court system and salaries of state employees should be paid from the general fund, and not user fees. Docket fees and court costs are fees that have to be paid by the businesses of this state who use the court system to collect unpaid accounts. Only if a business is successful in collecting any money are those fees and costs passed on to the debtor who owes the account.

If funding of state government is shifted to these types of fees, it has the effect of imposing those expenses on a continually narrowing group. It discourages more and more businesses from using the court system, and for those debtors who are forced to pay higher costs and fees it encourages them to seek ways not to pay, such as bankruptcy.

As more and more businesses elect not to pay the additional cost to collect their debts, revenue from the fees generated will fall off, and we will see each year requests for higher fees and fees in more areas.

Small businesses and the attorneys who assist those businesses in collecting small accounts were hard hit last year by the increase in docket fees. The legislative changes

made last year in Chapter 61 reduced burdens on the clerks with regard to garnishments. The attorney for the judgment creditor prepares the paperwork, the attorney for the judgment creditor sends the notice of garnishment, the attorney for the judgment creditor maintains the record of payments, and the attorney for the judgment creditor is responsible for terminating the garnishment. Transferring those functions, most of which are formerly handled by the clerks, should REDUCE the need for staff in the Court. It is ironic that docket fees were increased dramatically last year at the same time as attorneys for creditors assumed some of the responsibility for activities previously performed by the clerks.

It is extremely burdensome to this year impose additional burdens on the same group that had to bear extra expenses last year.

We appreciate the hard work of the subcommittee on this bill, and we find the proposed substitute bill recommended by the subcommittee to be a great improvement over the original bill. The substitute bill would certainly be the lesser of two evils. The proposed substitute bill does not include "docket fees" for garnishments. We strongly objected to that portion of the original bill, and we would urge the committee to adopt the recommendations of the subcommittee to amend the bill by introducing the proposed substitute bill as your committee report.

We still feel that the court system ought to be funded from the state general fund.

Elwaine F. Pomeroy
For Kansas Credit Attorneys Association
And Kansas Collectors Association, Inc.