

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:34 A.M. on February 14, 2006, in Room 123-S of the Capitol.

All members were present,

David Haley arrived, 9:38 a.m.

Terry Bruce arrived, 9:41 a.m.

Committee staff present:

Mike Heim, Kansas Legislative Research Department

Helen Pedigo, Office of Revisor of Statutes

Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Senator Nick Jordan

Hon. Michael Freelove, Magistrate Judge, 6th Judicial District

Hon. Richard Smith, Chief Judge, 16th Judicial District

Hon. Meryl Wilson, District Judge, 21st Judicial District

Bill McKean

Doug Smith, Kansas Credit Attorney's Association

Pat Scalia, Kansas State Board of Indigent's Defense

Kathy Porter, Kansas Judicial Branch

Whitney B. Damron, Kansas Information Consortium

Others attending:

See attached list.

The hearing on **SB 493--Economic development; eminent domain; procedure; compensation** was opened.

Senator Nick Jordan appeared in support of the bill which was also referred to the Commerce Committee (No written testimony). Senator Jordan provided background and briefed the committee on the bill.

The hearing on **SB 493** was closed.

The hearing on **SB 337--Compensation for certain judicial branch employees, docket fees** was opened.

Judge Michael Freelove spoke in support of the bill comparing current jurisdictions and salary to other states (Attachment 1). He indicated that magistrate judges' salaries are well below the national median and provided copies of a report on Kansas judicial salaries (Attachment 2).

Judge Meryl Wilson testified in support indicating judicial compensation should attract and retain able, experienced attorneys to the bench (Attachment 3).

Judge Richard Smith appeared in support and presented information on funding **SB 337** through increased docket fees (Attachment 4).

Bill McKean spoke in opposition relating personal experiences with the judiciary and requested **SB 337** be tabled (Attachment 5).

Doug Smith appeared in opposition stating concern on proposed docket fee increases (Attachment 6). He encouraged the committee to consider making a policy change concerning the use and disbursement of docket fees. Mr. Smith also pointed out that the proposed docket fee increase would generate an estimated one million dollars more than is needed for the salary increases creating an overall windfall to the general fund.

There being no further conferees, the hearing on **SB 337** was closed.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:34 A.M. on February 14, 2006, in Room 123-S of the Capitol.

The hearing on **SB 505--Electronic access to court records; exemption from fees** was opened.

Pat Scalia spoke in support stating the Board of Indigent Defense has a statutory duty to provide counsel to indigent persons accused of felonies (Attachment 7). Ms. Scalia requested the agency be exempt to the proposed access fees. Defense Services also requested changing Section 3 (a) and Section 3 (f) to state "An attorney ... who is appointed by the court to perform services for an indigent person..". This would eliminate the potential problem of any attorney receiving free access rather than limiting it to court appointed attorneys.

Kathy Porter appeared in opposition indicating for the same reasons presented on **SB 353** (Attachment 8). It would hinder the Supreme Court's coordinated effort to enhance statewide equity, uniformity, efficiency, and effectiveness in the Judicial Branch. The Supreme Court is attempting to establish statewide Internet access to court records through a fee-based system but expressed concern that Section 4(a)(3) of **SB 505** would prohibit INK (Information Network of Kansas) from entering agreements which may result in the charging of fees.

Whitney Damron spoke in opposition because **SB 505** would prohibit INK from contracting to provide for access to such records for a fee (Attachment 9). He voiced concern that the language would have unintended consequences with respect to the Registered Sex Offender Search, Kansas Criminal History Record Check, and sale of motor vehicle records.

There being no further conferees, the hearing on **SB 505** was closed.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2/14/06

NAME	REPRESENTING
DIANE Costello	Olathe Chamber
BILL YANEK	Ks Assn. of REALTORS
TK Shively	Ks LEGAL SERVICES
to John	Sen. Bruce
Bill McKeon	concerned citizen
Kathy Puse	Judicial Branch
Judge Richard M Smith	KDJA - Linn County
Kathy Damm	KDJA
Judge Meryl Wilson	KDJA Riley Co
Judge MICHAEL FREEDLOVE	KDJA CLACK CO
Doug Smith	Ks Credit Attorneys Association
JIM CLARK	KBA
Whitney Damm	KS Information Consortium
TRACY SMITH	Kansas Information Consortium
PAT SCALIA	BIDS
Natalie Gibson	KSC
Gandy Jaquet	LKM
Allie Z...	Ks Lincoln Area

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2/14/06

NAME	REPRESENTING
TERRY HOWERTW	KFB
Jeff Bottenberg	Polsinelli, Sh. Hon, Welto, <i>Sen H. Lee</i>
Shea Patel	KFSR
Ernie Dominguez	KDOC
Christy Caldwell	Topika Chambers
Bill Roe	KS SWS
Josh Bender	KU SLAB
Jim Hollingsworth	INK
Estelle Montgomery	Hein Law Firm
Kiel Brunner	intern

Mr. Chairman, members of the committee and guests.

Thank you for the opportunity to speak to you today. I am Michael Freelove, District Magistrate Jude from Clark County.

I am here today on behalf of the District Magistrate Judge's Association.

I will begin my testimony by explaining the district magistrate judge's jurisdiction as it is at the present time. I will then compare Kansas district magistrate judge's jurisdiction and salary to that of magistrate judges and courts of limited or similar jurisdiction through out our nation. Lastly, I will compare Kansas district magistrate judge's salary to Kansas district court employees.

The statute that governs district magistrate judges, a court of limited jurisdiction, is KSA 20-302b which came into existence as a new statute in 1976, the beginning of court unification.

KSA 20-302b states, a district magistrate judge shall have the jurisdiction and power, in any case in which a violation of the laws of the state is charged, to conduct the trial of traffic infractions, cigarette or tobacco infractions, all misdemeanor charges, to conduct the preliminary examination of felony charges and to hear felony arraignments.

In civil cases, a district magistrate judge shall have jurisdiction over actions filed under the Code of Civil Procedure for Limited Actions, which includes Small Claims, and shall have concurrent jurisdiction, powers and duties with a district judge in which the amount of controversy, exclusive of interest and costs do not exceed \$25,000 for limited actions cases or \$4,000 for small claims cases.

Nothing under this statute shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas Probate Code which not only includes estate cases but adoptions, treatment of the mentally ill, substance abuse, and guardian and conservatorship cases; to hear any action pursuant to the Kansas Code for Care of Children or the Kansas Juvenile

Justice Code; to establish, modify or enforce orders of support, including, but not limited to, orders of support pursuant to the Kansas Parentage Act, or to enforce orders granting visitation rights or parenting time.

In the absence, disability or disqualification of a district judge, a district magistrate judge may grant restraining orders, appoint a receiver or make any order authorized by KSA 60-1607, interlocutory orders.

District magistrate judges also have jurisdiction to hear Protection from Abuse and Protection from Stalking cases, fish and game violations and authorize search warrants.

It is interesting to note that the district magistrate judge jurisdictional limit in Chapter 61 civil cases is \$25,000. However, in actions of replevin, the affidavit in replevin or the verified petition fixing the value of property shall govern the jurisdiction. In an action for forcible detainer or eviction, the verified petition fixing the amount prayed for shall govern the jurisdiction. Simply put, district magistrate judges have jurisdiction to hear these types of cases even if the amount in the petition exceeds the jurisdictional limit of \$25,000.

There is no jurisdictional limit in probate cases filed. There are many million-dollar estates, however, not many million-dollar lawsuits.

Since 1976 our jurisdiction has increased significantly. Specifically, civil jurisdiction (Chapter 61) has increased from \$2,000 to \$25,000. Criminal jurisdiction now includes felony arraignments.

Now that I have explained the jurisdiction of district magistrate judges it would almost be easier to list the types of cases that are not included in a district magistrate judge jurisdiction. District magistrate judges have concurrent jurisdiction, power and duties with a district judge in every division of district court except for Chapter 60 civil cases. Even then we have limited jurisdiction as I have just explained.

87% of the cases filed in district court fall within the district magistrate judge jurisdiction, only 32% of the state court judges are magistrates. The interesting fact about the jurisdiction of a district magistrate judge is that it covers all of the high volume cases, which in many instances result in mass dockets. The majority of district magistrate judges are not specialized in just one area of jurisdiction. We have to be knowledgeable in all aspects of our extensive jurisdiction. There are days when a district magistrate judge may touch on many of these areas.

In the 2002 State of the Judiciary Report, Chief Justice McFarland said, *“Adding district magistrate judges has proved to be a cost-effective way to manage increasing caseloads. A district magistrate judge is able to manage many of the less complex cases, leaving the district judge to handle the more complex caseloads. The lower salary of a district magistrate*

judge coupled with less support staff makes this a cost-effective caseload management tool.”

I can tell you that there are only five district magistrate judges that I know of that have a secretary or administrative assistant. These positions are paid by the counties not the state. The majority of district magistrate judges do not have support staff.

When you compare the jurisdiction of magistrate judges across the nation, Kansas district magistrate judges have far more jurisdiction.

When you compare salaries of magistrate judges across the nation, Kansas district magistrate judges are well below the national median.

The national median salary for a magistrate judge is \$99,000. Kansas district magistrate judges salary is \$50,000 \$49,000 below the national median.

To support my findings I used statistical information from the National Center for State Courts (NCSC). The October 2004 State Court Structure Chart and the Survey of Judicial Salaries were used to compare Kansas district magistrate judges jurisdiction and salary to magistrate judges or courts of limited or similar jurisdiction across the nation. Information from courts of limited jurisdiction was used for this comparison; general jurisdiction information was not considered.

It is important to note that not every state has magistrate judge positions but may have a position similar to that of a magistrate judge, i.e. Justice of the Peace, County Court or Probate Court. I compared jurisdiction across the nation to that of Kansas district magistrate judges regardless of the title of the position. I then compared the salary of that position to the salary of Kansas district magistrate judges. Again, information from courts of limited jurisdiction was used; general jurisdiction information was not considered.

For instance, if you look at Table A you will see that the jurisdiction of the Kansas district magistrate judge is the controlling factor. I then listed every state in the United States and compared that states limited jurisdiction court to that of Kansas district magistrate judges. Listed under the state is the title of the position or level of a limited court jurisdiction that was comparable to Kansas district magistrate judges.

If you look at the State of Alabama you will find that the court jurisdiction similar to the Kansas district magistrate judge jurisdiction is called district court. When reviewing the State Court Structure Chart for the State of Alabama it shows that there are three levels of limited jurisdiction courts, district court, probate court and municipal court. District court jurisdiction was the most comparable to that of Kansas district magistrate judges.

I than compared the salary of Alabama district court to the Kansas district magistrate judge salary. As you can see the difference in salary is \$60,941. The table clearly indicates that

Kansas district magistrate judges have more jurisdiction than Alabama's district court.

40 out of 50 states have courts of limited jurisdiction. Six of these states do not list salary amounts. Only 34 state salaries were considered. Out of 34 states, Kansas district magistrate judges rank 31st in salary. Out of 40 states, Kansas ranks 1st in jurisdiction.

I will now compare Kansas district magistrate judges salary to that of Kansas District Court Employees. If you look at Table B you will see a comparison table of salaries.

Listed are the salaries of the Kansas judiciary and the salaries of Kansas district court employees. I was greatly disturbed at the comparison of **all** salaries compared to the salary of a DMJ.

For instance, an entry level position, Step A, of a Court Administrator I is \$52,869. That is \$2,810 more than a district magistrate judge's salary. On Step B the difference is \$4,123; on Step C the difference is \$8,241; on Step D the difference is \$12,653; on Step E the difference is \$17,404.

I would guess that most of the district court positions across the state of Kansas are not at Step A. With the opportunity to progress across the pay matrix long-term employees in most positions would quickly surpass the salary of a district magistrate judge.

I have indicated in bold print the salaries of district court employees as they near or surpass the district magistrate judge's salary. I certainly am not opposed to state employees receiving more money but any pay increase be it a COLA or an across the board salary increase will only continue to show the disparity between state employees salaries and district magistrate judges salaries.

I believe that Senator Vratil said it best during the debate on SB 296 in the 2005 Legislative Session. *“District magistrate judges are grossly underpaid. They could be earning more in private practice or public sector; they do their work as public service at a sacrifice.”*

In summary, to clarify my position on this issue I would simply say that considering the jurisdiction and salary of Kansas district magistrate judges compared to that of magistrate judges or court of limited and similar jurisdiction across the United States, Kansas district magistrate judges have far more jurisdiction and are far below the national median salary range. In most instances limited jurisdiction courts across the nation have far less jurisdiction than Kansas district magistrate judges and their salaries are more than that of a Kansas district judge.

We can look in our own back yard and find the disparity between salaries of Kansas district court employees and the salaries of a district magistrate judge. SB 296 offers a solution, a source of revenue to compensate judicial salaries.

On behalf of the Kansas District Magistrate Judges' Association, our hope is that you as a committee will share our vision to think outside the box and support passage of SB 296.

This concludes my testimony. At this time I will stand for questions.

DMJ
Salary Initiative
Jurisdiction
Revised 12/05

State	No. Judge	Salary	Limited Civil	Small Claims	Civil Domestic CS Enforce Temp Orders PFA/PFS/DV	Criminal Misd/Felony PE/Plea	Traffic Infra/Misd Felony DWS/DUI	Probate Adopt GC/CT	Juvenile CINC/JV	JT
Kansas DMJ	76	50,059	25,000	4,000	X	X Felony Plea	X	X	X	Y
Alabama District Court	102	111,000	3,000 - 10,000	3,000	X	X	Misc Traffic/ DUI	No	X	N
Alaska DMJ	60	101,000	50,000	7,500	DV	X No Felony Plea	X	No	Emergency	Y
Arizona Justice of Peace	82	85,000	5,000 - 10,000	2,500	DV	X No Felony Plea	X	No	No	Y
Arkansas District Court	112	123,000	5,000	5,000	No	Misd/PE No Felony Plea	X	No	No	N
California	None	---	---	---	---	---	---	---	---	---
Colorado County Court	102	124,000	15,000	7,500	No	Misd/PE No Felony Plea	X	No	No	Y
Connecticut Probate Court	133	94,000	Misc Civil	No	X	No	No	X	X	N
Delaware JP/Magistrate	82	113,000	15,000	15,000	X	Misd No Felony Plea	X No Felony	No	X	Y
Dist Columbia	None	---	---	---	---	---	---	---	---	---
Florida County Court	280	121,000	15,000	5,000	No	Misd/PE No Felony Plea	X	No	No	Y
Georgia DMJ	505	113,000	15,000	15,000	No	Misd/PE No Felony Plea	No	No	No	N
Hawaii District Court	20	101,000	20,000	3,500	No	Misd/PE No Felony Plea	X	No	No	N
Idaho DMJ	83	93,000	10,000	4,000	X	Misd/PE No Felony Plea	X	No	X	N
Illinois	None	---	---	---	---	---	---	---	---	---
Indiana County Court	4	95,000	10,000	3,000	DV	Misd/PE No Felony Plea	X	CT	No	Y
Iowa	None	---	---	---	---	---	---	---	---	---
Kentucky District Court	87	106,000	4,000	1,500	X	Misd/PE No Felony Plea	X	X	X	Y
Louisiana Justice of Peace	390	106,000	2,000	2,000	No	No	X	No	No	N

State	No. Judge	Salary	Limited Civil	Small Claims	Civil Domestic CS Enforce Temp Orders PFA/PFS/DV	Criminal Misd/Felony PE/Plea	Traffic Infra/Misd Felony DWS/DUI	Probate Adopt GC/CT	Juvenile CINC/JV	JT
Maine District Court	33	103,000	No Limit	4,500	X	Misd/PE No Felony Plea	X	X	X	N
Maryland District Court	107	125,000	25,000	2,500	X	Misd/PE No Felony Plea	X	No	No	N
Massachusetts District Court	177	117,000	No Limit	2,000	X	Misd/PE No Felony Plea	X	X	X	Y
Michigan District Court	285	138,000	25,000	3,000	No	Misd/PE No Felony Plea	X	No	No	Y
Minnesota	None	---	---	---	---	---	---	---	---	---
Mississippi Justice Court	191	Set Locally	2,500	No	No	Misd/PE No Felony Plea	No	No	No	Y
Missouri	None	---	---	---	---	---	---	---	---	---
Montana Justice of Peace	31	Set Locally	7,000	3,000	DV	Misd/PE No Felony Plea	X	No	No	Y
Nebraska County Court	59	107,000	15,000	2,100	No	Misd/PE No Felony Plea	X	Estates Adoptions	X	Y
Nevada Justice Court	68	154,000	7,500	5,000	No	Misd/PE No Felony Plea	X	No	No	Y
New Hampshire District Court	20	106,000	25,000	5,000	No	Misd/PE No Felony Plea	X	No	X	Y
New Jersey	None	---	---	---	---	---	---	---	---	---
New Mexico Magistrate Court	62	64,000	10,000	No	No	Misd/PE No Felony Plea	X	No	No	Y
New York District Court	50	127,000	15,000	3,000	No	Misd/PE No Felony Plea	X	No	No	Y
North Carolina District Court	721	97,000	10,000	4,000	X	Misd/PE No Felony Plea	X	No	X	Y
North Dakota	None	---	---	---	---	---	---	---	---	---
Ohio County Court	52	103,000	15,000	2,000	No	Misd/PE No Felony Plea	X	No	No	Y
Oklahoma	None	---	---	---	---	---	---	---	---	---
Oregon Justice Court	30	Set Locally	No	2,500	No	Misd/PE No Felony Plea	X	No	No	Y
Pennsylvania District Justice Court	550	61,000	8,000	No	No	Misd/PE No Felony Plea	X	No	No	N
Rhode Island District court	2	112,000	10,000	1,500	No	Misd/PE No Felony Plea	X	X	No	N

State	No. Judge	Salary	Limited Civil	Small Claims	Civil Domestic CS Enforce Temp Orders PFA/PFS/DV	Criminal Misd/Felony PE/Plea	Traffic Infrastruct/Misd Felony DWS/DUI	Probate Adopt GC/CT	Juvenile CINC/JV	JT
South Carolina Magistrate Court	300	Set Locally	7,500	7,500	No	Misd/PE No Felony Plea	X	No	No	Y
South Dakota	None	---	---	---	---	---	---	---	---	---
Tennessee General Sessions Court	154	Set Locally	Varies	25,000	X	Misd/PE No Felony Plea	X	No	X	N
Texas Justice of Peace	834	Set Locally	5,000	5,000	No	Misd/PE No Felony Plea	X	No	No	Y
Utah Justice Court	120	89,000	5,000	5,000	No	Misd/PE No Felony Plea	X	No	No	Y
Vermont Probate Court	18	26,000	Misc Civil	No	X	No	No	X	No	N
Virginia District Court	234	113,000	15,000	No	X	Misd/PE No Felony Plea	X	No	X	N
Washington District Court	113	118,000	50,000	4,000	DV	Misd/PE No Felony Plea	X	No	No	Y
West Virginia Magistrate Court	158	40,000	5,000	No	No	Misd/PE No Felony Plea	X	No	No	Y
Wisconsin	None	---	---	---	---	---	---	---	---	---
Wyoming Justice of Peace	7	33,000	3,000	3,000	No	Misd/PE No Felony Plea	X	No	No	Y

CINC Child in Need of Care
 CS Enforce Child Support enforcement
 CT Care and Treatment
 DMJ District Magistrate Judge
 DUI Drive While Under the Influence
 DV Domestic Violence
 DWS Drive While Suspended
 GC Guardianship and Conservatorship
 Infrastruct Infraction
 JP Justice of the Peace
 JV Juvenile Offender
 Misd Misdemeanor
 PE Preliminary Examination
 PFA Protection from Abuse
 PFS Protection from Stalking
 Temp Orders Temporary Orders

Judiciary Annual Salary					
		Effective 6-5-05	Effective 12-4-05		
Chief Justice – Supreme Court	121,389	122,906	124,424		
Justice – Supreme Court	118,212	119,690	121,167		
Chief Court of Appeals	117,134	118,598	120,062		
Court of Appeals	114,118	115,544	116,971		
Chief District Judge	104,368	105,673	106,977		
District Judge	103,232	104,522	105,813		
District Magistrate Judge	48,838	49,448	50,059		
District Court Employee Annual Salary					
Effective 12-4-05					
Position	Step A	Step B	Step C	Step D	Step E
Court Administrator I	52,869	54,182	58,300	62,712	67,463
Court Administrator II	58,300	59,704	64,249	69,135	74,362
Court Administrator III	64,249	65,857	70,812	76,217	82,033
Clerk of Court I	29,432	30,179	32,488	34,932	37,577
Clerk of Court II	32,488	33,280	35,768	38,482	41,375
Clerk of Court III	39,458	40,427	43,460	46,831	50,315
Clerk of Court IV	47,961	49,161	52,869	56,876	61,198
Court Service Adm Officer	47,961	49,161	52,869	56,876	61,198
Court Service Officer I	32,488	33,280	35,768	38,482	41,375
Court Services Officer II	35,768	36,672	39,458	42,442	45,677
Court Services Officer III	39,458	40,427	43,460	46,831	50,315
Managing Ct Reporter	38,458	40,427	43,460	46,831	50,315
Official Ct Reporter	37,577	38,482	41,375	44,545	47,961
Administrative Assistant	25,451	26,062	28,032	30,179	32,488

1.25 % COLA Effective 6-5-05

1.25 % COLA Effective 12-4-05

In addition to the testimony from Judge Walters I would like to encourage you to study table A.

This table shows the salary and jurisdiction of the courts of limited jurisdiction. Some of these courts require attorneys as judges, however there are 34 states that have lay judges or non law trained judges.

The compensation for these judges varies greatly. Mary C. McFarland stated in "The Role of Quasi-Judicial Officers in Today's Changing Courts"

"What compensation do quasi-judges receive? Generally, salaries for quasi-judges are lower than for full judges, but because these positions are controlled at a local level, salaries and compensation methods for these figures vary greatly. Some positions, such as special masters, serve at the pleasure of the courts, and each case carries varying compensation. Of the 67 positions surveyed, with multiple positions in several states, 22 reported information on salaries. The average salary was \$103, 970, and salaries ranged from \$25,699 to \$127,000. Half of these positions were paid \$90,000 or more, while an additional six were paid between \$60,000 and \$90,000."

The judges receiving \$25,699 come from the state of Vermont where they hear some civil, no limit listed, PFA and child support and uncontested probate. The Justices Of The Peace in the State of

Nevada earn \$154,000.00 with jurisdiction in civil up to \$7,500, small claims up to \$5000. criminal misdemeanor and preliminary examinations, no felony pleas, and traffic, they may do jury trials.

When you consider the pay and jurisdiction of these courts to Kansas courts, Kansas Magistrates have more jurisdiction and sit at number 31 out of the 33 states that have magistrates or justice of the peace positions that are not required to be attorneys.

If you consider the state of Nevada, they pay a justice of the peace \$31,094.00 more than we pay our Chief Justice, \$50,768.00 more than a district judge and \$53,941.00 more than a district magistrate judge with substantially more jurisdiction.

The District Magistrate Judges Association respectfully requests that you pass a bill to increase the salary of all judges in Kansas.

Thank you for your attention.

KANSAS JUDICIAL SALARIES

**A Report prepared by the Kansas District Judge Association
Committee on Compensation and Retirement**

Senate Judiciary

2-14-06

Attachment *2*

Summary of

Report on Kansas Judicial Salaries

It would hardly seem debatable that there is a direct relationship between the level of judicial salaries and the competence of attorneys attracted to the judiciary. To provide a quality justice system for Kansas citizens, judicial compensation must be set at a level that able and experienced attorneys will be attracted to the bench, and competent, experienced judges will be retained.

Judicial Salaries-National and Regional:

- Judges in forty-one states are paid higher salaries than Kansas judges.
- Kansas judges are paid \$14,096 less than the national mean salary for trial court judges.
- Kansas judges are paid lower salaries than judges in any nearby states, including Missouri, Nebraska, Colorado, Iowa, and Arkansas.
- Kansas judges receive \$17,400 per year less than the highest salary (Arkansas) and \$9,400 per year less than the average of salaries paid to judges in the six nearby states.

Kansas Attorneys' Income:

- In 1996, the average income of Kansas attorneys with 15-19 years experience was \$92,820. Adjusted for inflation, this equates to a 2003 salary of \$110,085, or \$9,860 more than the comparable district judge salary.
- The median income of Kansas attorneys with twenty or more years of experience was \$98,500 and the average income was \$109,867. This equates to a 2003 median income of \$116,821 (\$16,596 more than the district judge salary) and a 2003 average income of \$130,302 (\$30,077 more than the district judge salary).
- The city attorney of Overland Park, Kansas is paid \$13,600 more than the Chief Justice of the Kansas Supreme Court and approximately \$31,700 more than a Johnson County District Judge.

Per Capita Income/Judicial Salaries-Kansas and Other States:

- Kansas 2004 per capita income ranked 26th nationally; Kansas judicial salaries ranked 42nd nationally.
- Of nearby states, only Colorado and Nebraska had a higher per capita income than Kansas; Kansas judges are paid less than judges in all of those states, except Oklahoma.
- From 1996 through 2003, Kansas per capita income increased 33.8%; Kansas judges salaries increased 20.76%.
- Of ten states having a comparable per capita income to Kansas, Kansas judges are paid less than judges in any of those ten states, with the exception of Oregon and South Dakota.
- In 2005, the average salary for judges in the ten states having a comparable per capita income was \$112,835.

KANSAS JUDICIAL SALARIES

A Report prepared by the Kansas District Judges Association Committee in Compensation and Retirement

Introduction

Each year, increasing numbers of Kansans are seeking quality justice in the courts of our state. We think the question can fairly be asked whether the present salary level of the Kansas judges, without significant adjustments, is adequate to ensure Kansans that their case will be presented to qualified, competent, and experienced judges.

For many years Kansas judges have actively lobbied the Kansas legislative for an increase in judicial compensation that would bring the salaries of Kansas judges to the national median. For the first time since 1999, judges seek a salary increase that would place the Kansas compensation level at or near the national median. In FY 1988 and FY 1989 judges received 7% salary increases, a legislative effort to bring Kansas judges to the national median. In subsequent years, Kansas judicial salaries began to drop further below the national median, until a FY 2000 salary increase helped to some extent. However, since FY 2000, judges have received cost of living adjustments, but nothing more. In FY 2003, judges did not even receive a cost of living adjustment. Since 1989, a period of 16 years, Kansas judges have received one raise of \$3,218 in FY 2000.

Whether Kansas judges are being fairly compensated is a matter that can be, and has been, the subject of debate between individual judges and legislators. Unfortunately, that debate may have clouded an issue of greater concern than the personal gain of judges or the political concerns of legislators—the issue of the public’s interest in having a quality judicial system. Providing the citizens of Kansas with a quality judicial system is the responsibility not only of the Judicial Branch, but also the Legislative and Executive branches of our state government.

It would hardly seem debatable that there is a direct relationship between the level of judicial salaries and the competence of attorneys attracted to the judiciary. To provide a quality justice system,

judicial compensation must be set at a level to attract able and experienced attorneys to the bench and to retain competent, experienced judges. The Kansas Judicial Branch cannot continue to provide quality justice to the citizens of Kansas without the Legislative and Executive branches providing fair and adequate compensation to Kansas judges.

We would be less than candid if we suggested that the level of salaries is the sole criteria by which attorneys decide whether to seek a judicial position. Perhaps the question of concern can be better stated by asking at what level of compensation are competent, qualified, and experienced attorneys dissuaded from seeking judicial appointment or election.

Salary Comparison – Judges Other States

As of July 1, 2005, Kansas trial judges received an annual salary of \$104,522.. Forty-one states paid their judges higher salaries than the salaries received by Kansas judges¹. Kansas trial judges received approximately \$13,000 less than the national mean salary of \$117,328. Nationally, the range of annual salaries of general jurisdiction trial court judges varied from a high of \$163,850 in District of Columbia to a low of \$88,164 in Montana.²

The justices of the Kansas Supreme Court have fared no better than the trial judges. The Supreme Court justices' salary for 2005 was \$119,690, which was still \$10,638 less than the 2005 national mean of \$130,328.

The average salary paid to the trial judges in the states shown in Table 1 was \$110,000. Kansas trial judges were paid \$17,400 less than the highest paid (Arkansas), less than \$1,000 above the lowest salary (Oklahoma).

¹ *Survey of Judicial Salaries*, National Center for State Courts, Vol. 30, Number 1 April 1, 2005

² *id.*

Table 1
Judicial Salaries – Central States
Trial Courts, Intermediate Appellate Courts and Highest Appellate Court
(as of April 1, 2005)

	Kansas	Missouri	Iowa	Nebraska	Colorado	Oklahoma	Arkansas
Trial	\$103,232	\$108,000	\$117,040	\$110,330	\$107,044	\$102,529	\$120,632
Intermediate Appellate Court	\$114,118	\$115,000	\$123,120	\$113,312	\$111,647	\$108,336	\$124,652
Highest Appellate Court	\$118,212	\$123,000	\$128,000	\$119,276	\$116,251	\$113,531	\$128,669

Judicial Salaries – Attorney Income

Presumably, the state of Kansas expects its judges to possess above average levels of legal skills and experience. Assuming that an attorney's income is an indicator of that attorney's legal skills and experience, we can compare judicial salaries with the income of above average attorneys. A 1997 Kansas Bar Association study of attorneys' income in Kansas provides the basis for a comparison of judicial salaries and attorneys' incomes.³

In 2003, attorneys with fifteen to nineteen years of experience had an average income of \$110,085, based on a 1996 Kansas Bar Association survey, as adjusted for inflation using the Consumer Price Index [CPI]. Attorneys in the top 25% of that range of experience have incomes of approximately \$142,320, as adjusted for inflation. The median income of attorneys with twenty or more years of experience was \$116,821 and their average income was \$130,302, as adjusted for inflation. This compares with the 2003 salary of district judges of slightly more than \$100,000. Based on this data, Kansas cannot expect to attract an above average attorney to the trial bench unless that attorney has less than fifteen years experience. To attract an attorney from the 75th percentile group, that attorney will likely have less than ten years experience. In 1998 the Kansas Citizens Justice

³ 1997 *Economic Survey of Kansas Lawyers*, Journal of the Kansas Bar Association, December 1997, Vol. 66, No. 10

Initiative Committee issued its final report. On the issues of compensation of judges the committee stated “ We believe that, to hire from among the best Kansas lawyers, the State should attempt to provide judicial salaries at least approaching the 75th percentile in the experience level from which judges are most likely to be recruited. I.e., those lawyers with from 10 to 20 years of experience.”. Recommendation number six of the report was to increase the salaries an additional \$15,000 beyond current salaries, in addition to any cost of living increases. In the opinion of the committee, this was the amount necessary to bring district judges salaries roughly to the median income statewide for attorneys with 20 to 29 years of experience. Five years later this gap has increased to \$16,596.

In Johnson county, the city attorney of Overland Park is paid an annual salary approximately \$135,000, or approximately \$31,800 more than the annual salary of a Johnson County district judge, and approximately \$13,600 more than the salary paid to the Chief Justice of the Kansas Supreme Court. At least three law firms in Kansas City have announced a \$95,000 base salary for incoming associates in September 2006 (i.e., this year’s third –year law student).

The average income of male attorneys⁴ categorized by the number of years in the practice of law is shown in Table 2:

Table 2
Kansas Attorneys’ Income by Years in Practice

Years in Practice	Percentile 25	Percentile 25 Adjusted to 2003	Median	Median Adjusted to 2003	Mean	Mean Adjusted to 2003	Percentile 75	Percentile 75 Adjusted to 2003
<5	31,750	37,656	38,500	45,661	41,244	48,915	49,250	58,411
5-9	40,000	47,440	52,000	61,672	51,989	68,775	70,000	83,020
10-14	50,000	59,300	74,000	87,764	84,338	100,025	114,250	135,501
15-19	50,000	59,300	80,000	94,880	92,820	110,085	120,000	142,320
20-29	65,000	77,090	98,500	116,821	109,867	130,302	134,500	159,517

⁴ The study provided statistical data showing the net income of Kansas attorneys by gender and number of years in practice. The net income of female attorneys was shown to be lower than that of male attorneys.

Judicial Salaries – Per Capita Income

The 2004 per capita income of Kansas ranked 26th in the nation.⁵ The 2004 per capita incomes and the national rankings for Kansas and nearby states are shown in Table 3. Of the surrounding states, only Colorado and Nebraska had a higher per capita income than Kansas.

Table 3
Central States
Per Capita Income, National Ranking

	Kansas	Missouri	Iowa	Nebraska	Colorado	Oklahoma	Arkansas
Income	31,003	30,516	30,970	32,276	36,109	27,819	25,724
US Rank	26	31	27	21	9	39	48

While Kansas citizens enjoyed the third-highest per capita income in the seven states, Kansas judges were paid less than the judges in any of our neighboring states, with the exception of Oklahoma. From 1996 to 2003, Kansas per capita income rose from \$23,165 to \$31,003, an increase of 33.8%. In the same time period, salaries of district judges increased 20.76%. A comparison of the per capita income rankings of the states and the ranking for salaries paid to general trial judges is shown in Table 4.

⁵ Bureau of Economic Analysis, US Department of Commerce, September 28, 2005 news releases.

Table 4
2005 National Ranking – Per Capita Income and Judicial Salaries

	Kansas	Missouri	Iowa	Nebraska	Colorado	Oklahoma	Arkansas
US Rank-Judges	42	35	20	26	37	44	16
US Rank-Per Capita Income	26	31	27	21	9	39	48

Table 5 provides a comparison of April 1, 2005, judicial salaries in those states having a 2004 per capita income comparable to the Kansas per capita income. For purposes of this comparison, ten states were selected: the five states ranking nationally twenty-first through twenty-fifth and the five states ranking nationally twenty-seventh through thirty-first. With two exceptions, Oregon and South Dakota, trial judges in these states were paid more than Kansas trial judges. The average salary for the eleven states was \$112,414.

Table 5
2004 Per Capita Income and Judicial Salaries Ranking

State	Per Capita Income	National Rank (PCI)	Judge Salary	National Rank (Judge \$)
Nebraska	32,276	21	110,330	31
Vermont	31,737	23	104,700	34
Florida	31,460	24	134,650	9
Michigan	32,052	22	139,919	7
Ohio	31,135	25	110,050	27
Kansas	<i>31,003</i>	<i>26</i>	<i>103,232</i>	<i>42</i>
Iowa	30,970	27	117,040	20
Texas	30,697	28	111,700	29
South Dakota	30,617	29	98,787	45
Oregon	30,584	30	95,800	49
Missouri	30,516	31	108,000	35

Judicial Salaries – Other State Officials and Employees

The twenty-four (25) full professors at KU (excluding the Dean) who are on a nine (9) month term, average \$136,548. Because some of the professors are “distinguished professors,” a modest amount of some salaries come from sources outside the normal channels. Of these 25 full professors only nine (9) make less the Chief Justice and only two make less than a district judge. The Dean of the Law School, who is on a twelve (12) month appointment, earns \$86,094 more than the Chief Justice of the Kansas Supreme Court.

Table 6
Salaries of State Officials and Employees

Position Title	FY 2005 Salary
Chairman of dept. KU Law School	\$209,000
KU Law School Professor	\$174,082
KU Law Professor	\$172,509
KU Law Professor	\$172,217
KU Law Professors average	\$136,548
Chief Justice – Supreme Court	\$ 122,906
Justice – Supreme Court	\$ 119,690
Chief Judge – Court of Appeals	\$ 117,134
Judge – Court of Appeals	\$ 115,544
Chief District Judge	\$105,673
District Judge	\$104,522

Fiscal Note

The estimated fiscal note to increase the salaries of Kansas judges by 10% to the national median is \$3,054,249. FY 2007 cost of 10% across-the board (plus \$2,000 for chief judges) is \$3,054,249. FY 2007 cost of \$9,000 across-the board (SB296) (does not include \$2,000 for chief judges) is \$2,970,297.

KANSAS DISTRICT JUDGES ASSOCIATION
LEGISLATIVE COMMITTEE

Hon. Earnest L. Johnson, Chair
Cloud County Courthouse
811 Washington Street
Concordia, KS 66901

Hon. Nancy E. Parrish
Shawnee County Courthouse
200 SE 7th Street
Topeka, KS 66603

Hon. Meryl D. Wilson
Riley County Courthouse
100 Courthouse Plaza
Manhattan, KS 66502

Hon. Robert J. Fleming
Labette County Courthouse
201 S. Central
Parsons, KS 67357

Hon. Richard M. Smith
Judicial Building
318 Chestnut Street
Mound City, KS 66068

Hon. Larry T. Solomon
Kingman County Courthouse
130 N. Spruce Street
Kingman, KS 68068

Hon. Daniel L. Love
Ford County Courthouse
P.O. Box 197
Dodge City, Ks 67801

THE HONORABLE JOHN VRATIL, CHAIRMAN

SENATE COMMITTEE ON JUDICIARY

STATEHOUSE, TOPEKA, KS

Each year, increasing numbers of Kansans are seeking quality justice in the courts of our State. Providing the citizens of Kansas with a quality judicial system is the responsibility not only of the Judicial Branch, but also the Legislative and Executive branches of our state government. It is the position of the Kansas District Judges' Association that to provide a quality system, judicial compensation must be set at a level to attract able and experienced attorneys to the bench and to retain competent, experienced judges. I would be less than candid to suggest that the level of salaries is the sole criteria by which attorneys decide whether to seek a judicial position. Perhaps the question of concern can be better stated by asking at what level of compensation are competent, qualified and experienced attorneys dissuaded from seeking judicial appointment or election.

Presumably, the State of Kansas expects its judges to possess above average levels of legal skills and experience.

Senate Judiciary

2-14-06

Attachment 3

Assuming that an attorney's income is an indicator of that attorney's legal skills and experience, we can compare judicial salaries with the income of above average attorney. Our report, which you have before you, contains this salary comparison. The Kansas District Judges' Association is not suggesting that Kansas Judges are generally unqualified or inferior today, however the quality of the bench may be threatened in the near future if nothing is done to improve judicial salaries. We believe that public service generally involves some sacrifices, and recognize that public employees simply do not attain levels equal to the top pay scale in the private sector. However be it Engineers, Doctors , Computer Programmers or Judges, that are working for government entities, they must be paid salaries that are in line with the private sector, or we will cease to have a pool of well-qualified candidates.

Since 1989, a period of 16 years, Kansas judges have received one raise of \$3,218 in FY 2000, excluding COLA's. Since I last appeared to testify (last fall) our salaries, as compared to the national average, have dropped to 42nd. At least three law firms in Johnson County have announced a base salary for new incoming associates in September 2006 of between \$90,000 and \$95,000. These new associates are new law school graduates. The Kansas District

Judges' Association supports senate bill 337. We would however request that it be amended to include judges of the Kansas Court of Appeals and the Kansas Supreme Court.

Respectfully submitted,

Meryl D. Wilson

District Judge 21st Judicial District

SENATE COMMITTEE ON JUDICIARY

Hon. John Vratil, Chairman
Hon. Terry Bruce, Vice-Chair
Hon. Greta Goodwin, Ranking Minority Member

February 14, 2006
9:30 a.m.
Room 123-S

Testimony on behalf of the
KANSAS DISTRICT JUDGE'S ASSOCIATION
Chief Judge Richard M. Smith
6th Judicial District
P.O. Box 350
Mound City, Kansas 66056-0350
judgeIndc@earthlink.net

FUNDING THE JUDICIAL SALARY INITIATIVE

- Revenue from docket fee proposal - \$3,197,417
- Cost of judicial salary initiate - \$2,970,297
- Fee increase varying from \$2 to \$39
- Docket fees would still be nearly equal to or less than surrounding states
- “User fee” funding will have a positive impact on General Fund while still assuring reasonable access to justice

FUNDING THE JUDICIAL SALARY INITIATIVE

Thank you, Honorable Chairman and distinguished members of the Committee for allowing me the opportunity to make this address.

Judge Wilson has addressed the rationale justifying the judicial salary initiative and it is my task to address the fashion in which it might be funded. We are mindful of the fiscal state of affairs. Many of our members are fiscal conservatives and would not approve of this initiative, even for their own benefit, if it would require a tax increase. Mindful of the stressors on and limitations of the State General Fund we are proposing, what might be described as a "user fee" funding mechanism. This would be in the nature of a docket fee increase.

The projected cost of the proposal is \$2,970,297. After thorough analysis of such factors as citizen access to justice, comparable fees in neighboring states, projected revenue, and the relevant burden or effect of cases on the judicial system, we considered four final scenarios or plans. After consideration of those factors relative to each plan we at one final recommendation. A chart is attached to my testimony outlining all the current fees, the proposed increases and the results. It would provide for the following increases. Chapter 60 civil cases usually referred to as "Big Civil" would increase \$39, as would domestic relations (divorce) cases. Chapter 61 cases of less than \$500 and from \$500 to less than \$5,000 in controversy would increase \$2, and Chapter 61 cases making claim for greater than \$5,000 would increase \$16. Small Claims would increase \$2. Criminal cases, both felony and misdemeanor, would increase \$8, and traffic cases would increase \$4.

This proposal would net a projected \$3,197,417. More than \$200,000 over and above the cost of the initiative.

Under our proposal there would be no new court costs and under our proposed plan there would be no increased costs to probate, lien filings, performance bonds or tax warrants.

Increases in the docket fees (assuming the continuation of the surcharge) would maintain relative parity with other costs charged by the Federal Courts and our sister states. The Federal Court filing fee for "Big Civil" has been increased to \$250.

Admittedly, it is somewhat difficult if not impossible to do an exact "across the board" comparison with other states. The nature and types of filing fees differs drastically from state to state. Missouri, for example, does not have uniform state wide filing fees, they differ between circuit courts. Generally, Missouri requires \$150 for regular civil actions but there are a host of surcharges that may apply depending on the nature of the case and the court in which the action is filed. Colorado charges a filing fee of \$136, but also charges an answer fee of \$70 and an additional \$150 if demand for jury is made. Domestic fees are \$153 in Missouri and \$184 in Colorado and again Colorado charges the respondent \$70 to file a response. Oklahoma's filing fees are less, \$83 but there are a host of ancillary fees we do not require in Kansas such as \$61 for requesting a jury trial, \$35 for each attempt at service for each defendant. By comparison, in a simple car wreck case with one defendant and successful service on the first attempt, jury trial requested, Oklahoma fees would total \$179. This would compare to \$ 150 under our proposal. Court costs for the majority of traffic infractions in Oklahoma are \$73. Under our proposal, \$64. More detailed information can be provided regarding small claims and limited action cases if this committee would so desire.

After the suggested docket fee increase our fees would generally be equivalent to and in most cases less than those charged in or neighboring states.

Last February the Kansas Supreme Court issued a statement expressing their support of a judicial salary enhancement proposal. The statement explained that the KDJA had convinced them that an increase in judicial salaries was justified. Further after consideration of the KDJA's docket fee proposal they were not opposed to funding the salary initiative in part or in whole by an increase in

docket fees. The primary concern of the Supreme Court and the trial court judges as well is that docket fees never reach a level that would deny citizens access to the court system. The specific proposal before you was drafted in light of that overriding concern. The increases in fees are minimized in the areas of limited actions and small claims. Those cases have a mere \$ 2 increase. Nothing is done in this proposal to limit the ability of an indigent person to obtain a waiver of costs. It may be difficult if not impossible to measure "access to the courts" since that is a philosophical goal with no particular mathematical formula. That is why we looked to the surrounding states where the general costs of living might be relatively similar. If our proposal were adopted, most of our "filing fees" and court costs would be nearly equal to if not a little less than those charged in the rest of this geographic region. We truly believe this proposal will continue to guarantee reasonable access to justice while funding an initiative that will help to ensure a competent dedicated judiciary.

We understand the General Fund has been stretched to the max. We appreciate the reluctance to consider any tax increase and its resultant burden on Kansas taxpayers. That is why we are proposing this increase in "user fees" to fund this necessary initiative. We believe that this docket or filing fee proposal would accomplish the goals of insuring quality in the judiciary while not denying any citizen reasonable access to our courts.

Respectfully submitted,
Richard M. Smith, Chief Judge
Sixth Judicial District

(minimize limited actions more)

Type of Fee	Filings or Terminations	% of Cases Docket Fees Collected	Adjusted Filings or Terminations	Current Fee	Proposed Increase	Proposed Total	Change From Proposal	
Civil								
Chapter 60 Limited Action (61)	25,684	98%	25,170	\$111.00	\$39.00	\$150.00	\$921,630	
<=\$500	152,878	98%	117,983	\$31.00	\$2.00	\$33.00	\$129,782	
>\$500 or <=\$5,000		55%	64,891	\$51.00	\$2.00	\$53.00	\$94,386	
>\$5,000 or <=\$10,000		40%	47,193	\$81.00	\$16.00	\$97.00	\$94,384	
Small Claims	9,816	98%	9,620	\$31.00	\$2.00	\$33.00	\$10,582	
		55%	5,291	\$51.00	\$2.00	\$53.00	\$8,658	
Domestic Relations	37,222	45%	4,329	\$111.00	\$39.00	\$150.00	\$1,088,763	
		75%	27,917					
Criminal*								
Felony	19,087	16%	3,054	\$152.00	\$8.00	\$160.00	\$19,324	
Misdemeanor	19,813	38%	7,529	\$117.00	\$8.00	\$125.00	\$45,174	
Expungements	500	100%	500	\$50.00	\$100.00	\$150.00	\$50,000	
Probate								
Treatment of Mentally Ill								
Treatment of Alcohol or Drug	2,427	25%	607	\$30.50	\$0.00	\$30.50	\$0	
Determination of Descent	1,263	98%	1,238	\$45.50	\$0.00	\$45.50	\$0	
Guardianship	657	40%	263	\$65.50	\$0.00	\$65.50	\$0	
Conservatorship	317	60%	190	\$65.50	\$0.00	\$65.50	\$0	
Guardianship and Conservatorship	915	50%	458	\$65.50	\$0.00	\$65.50	\$0	
Annual Reports	7,800	100%	7,800	\$5.00	\$0.00	\$5.00	\$0	
Annual Accounting of Conservatorship over \$10,000	3,500	30%	1,050	\$5.00	\$0.00	\$5.00	\$0	
Closing Conservatorship								
under \$10,000	1,000	100%	1,000	\$5.00	\$0.00	\$5.00	\$0	
over \$10,000	1,000	100%	1,000	\$5.00	\$0.00	\$5.00	\$0	
Trusteeship	128	98%	125	\$65.50	\$0.00	\$65.50	\$0	
Probate of an Estate or a Will	3,923	100%	3,923	\$105.50	\$0.00	\$105.50	\$0	
Other Costs and Fees								
Performance Bonds								
Delinquent Personal Property Tax								
Hospital Lien								
Intent to Perform								
Mechanic's Lien								
Oil and Gas Mechanic's Lien								
Pending Action Lien								
Total	3,435	100%	3,435	\$10.00	\$0.00	\$10.00	\$0	
Employment Security Tax Warrant								
Sales and Compensating Tax Warrant								
State Tax Warrant								
Motor Carrier Lien								
Total	4,812	100%	4,812	\$20.00	\$0.00	\$20.00	\$0	
Marriage License	19,121	100%	19,121	\$75.00	\$0.00	\$75.00	\$0	
Driver's License Reinstatements	15,759	100%	15,759	\$55.00	\$0.00	\$55.00	\$0	
Traffic**	203,236	92%	186,977	\$60.00	\$4.00	\$64.00	\$665,638	
Fish and Game**	3,417	83%	2,836	\$60.00	\$4.00	\$64.00	\$10,096	
TOTAL FEES COLLECTED							\$3,197,417	

* Criminal fees are adjusted by 25% to reflect delayed collection

** Traffic and Fish and Game fees are adjusted by 11% to reflect delayed collection

SB 296 DOCKET FEE INCREASES

<u>Case Type</u>	<u>Increase</u>
Chapter 60	\$ 39.00
Limited Actions < 500	\$ 2.00
> 500 < 5000	\$ 2.00
>5000 < 10,000	\$ 16.00
Domestic Relations	\$ 39.00
Criminal - Felony	\$ 8.00
Criminal - Misdemeanor	\$ 8.00
Expungements	\$ 100.00
Probate (all filings)	\$.00
Liens (all types)	\$.00
Marriage Licenses	\$.00
Tax Warrants	\$.00
Traffic	\$ 4.00
Fish & Game	\$ 4.00

REVENUE PRODUCED **\$3,197,417**

ANNUAL COST OF INITIATIVE **\$2,970,297**

Total Cost of Initiative.....\$2,970,297

Revenue raised by fee proposal \$3,197,417

Fiscal impact (Positive) \$227,120

My name is Bill McKean. I live in West Wichita and am a constituent of Les Donovan. I am a divorced father of 2 boys ages 9 & 11 which I have coached in soccer for several years. I am a member of the Peace & Social Justice Committee at St. Elizabeth Ann Seton Catholic Church where Senator Donovan & his wife serve as Eucharistic ministers. While being employed as a senior manager at an oil & gas company for the past 9 years, I have worked with senior trial attorneys on contract matters, lawsuits and regulatory matters at 5 large & medium sized Wichita law firms. I served on the Board of Directors of my professional society for three years and last year I received the annual award for and was the Petroleum Accountants Society for three years and last year received the society's annual award for outstanding service. Three years ago I testified before former Senator Corbin's Energy & Utilities committee on pending regulations. I recently have become involved in politics by joining the Wichita Pachyderm Club.

The Pachyderm Club has a motto that states that we are entitled to the government that we deserve rather than the government that we wish for. I come before you today to tell the Committee that the citizens of Kansas deserve a much more ethical and accountable judiciary and office of judicial administration. Due to their own unique code of silence, it is naïve to expect that the Supreme Court, the Office of Judicial Administration, the Kansas Bar Association or the district court judges to discipline themselves in any meaningful manner. It is unrealistic to expect an individual attorney to jeopardize his career by fighting to expose unethical behavior by judges or by court employees favored by the judges. The legislature needs to help the judiciary clean up its act. Therefore I urge the committee to table Senate Bill 337 to postpone any pay raises until the following measures are included:

1. House Bill 5039 should be included in SB 337. By allowing the governor to select and the Senate to approve the Supreme Court Justices, aspiring judicial candidates will be rewarded for their courage and ethics rather than their political skills with the Kansas Bar Association.
2. The legislature should fund the Office of Judicial Administration to conduct a bi-annual confidential survey to evaluate the conduct and performance of each district and appellate judge. The results of these surveys should be posted on a website.
3. All ethics complaints against all judges, attorneys, doctors and mental health professionals should be investigated by the consumer affairs division of the Kansas Attorney General's Office instead of the professional society or licensing board. A panel of professionals from different professions should determine the appropriate sanction for the judge, attorney, doctor or mental health professional licensed by the State of Kansas. This could facilitate real tort reform.
4. A state-wide family law court system should be set up separate from the criminal and civil district courts and should employ full-time attorneys as magistrates and full-time mental health professionals as non-binding mediators.

During the past two years I have spent a lot of time researching the systemic conflicts of interest, lack of accountability, corruption and apathy in the family law courts in Kansas. I was the only non-attorney to attend the past two family law seminars and a legal ethics seminar in Wichita. My initial concern was that case managers (attorneys & mental health professionals) who serve as agents of the court can not be disciplined for misconduct by their licensing regulatory agencies due to regulatory immunity. Through my own case I learned that the last two presiding family law judges (Yost & Fleetwood) in Wichita refuse to investigate any allegations of misconduct. I wrote Washburn law professors Sheila Reynolds & Linda Elrod and Senator Vrtil e-mails in the Spring of 2003 about the lack of accountability for case managers. Five months later before the 8/2004 GOP primary, I complained individually in person to judicial candidates and collectively during open forums. I complained publicly to an open forum of the 20 member Sedgwick County delegation in 12/2003. At that time Representative Landwehr seemed very surprised about my assertion that case managers have regulatory immunity. Three months later in 2/2005, I called in to Dale Goter's show to complain to Senator Journey who disagreed with me that the case managers have regulatory immunity.

I have been not been able to get any lawmaker's attention that the corruption in the family law courts is adversely affecting hundreds of families every year. Therefore I want to offer two examples that dramatically illustrate the extent of the problem:

JAGODA CASE

In 2001 a divorced father in Johnson County named Ray Jagoda was concerned about his 4 years old son's emotional health. He repeatedly told the case manager- attorney, Kathy Kirk, that he was unhappy with the psychological care his son was receiving. The case manager got irritated about the father's complaints and issued a case manager's recommendation that Mr. Jagoda perform community service to reduce the amount of free time on his hands to complain about his son's mental health care. Judge Janice Russell approved Kathy Kirk's recommendation. Mr. Jagoda had to hire attorneys to file an appeal with the Kansas Court of Appeals (to overturn Judge Russell's decision which the court determined was unreasonable). However the Appellate Court ordered Mr. Jagoda to pay Ms. Kirk's case management fees. When I spoke with Mr. Jagoda by telephone last summer, I learned that he successfully went back to court to win custody of his son. I do not think that Kathy Kirk was a renegade case manager. Ms. Kirk was the Director of Alternative Dispute Resolution for the Office of Judicial Administration. Ms. Kirk continues to train people who want to become case managers for the family law courts. Ms. Kirk's audacity to "sentence" Mr. Jagoda to community service is a reflection of the arrogance of Judge Russell and the Office of Judicial Administration's policy to abort legitimate custody cases because judges complain that their work load is too heavy or the legislative funding for courts is too low. The courts do not have to perform because they have no incentives.

18TH DISTRICT COURT FAMILY LAW RULES

Last week I was the proverbial skunk at the picnic when I attended the Annual Family Law Seminar by the Wichita Bar Association to announce new district court rules for the family law courts and to introduce the three new judges that have rotated on to the court. There is no institutional chain of command or accountability in the family law courts because the judges rotate in to serve only one year every 8 – 9 years. By playing this shell game, no individual judge is required to accept the responsibility for the corruption in the case management system.

The family law attorneys were instructed at the seminar that the new Presiding family law Judge Fleetwood will not permit any attorney to impeach the credibility of any case manager making a custody decisions either by attacking their qualifications or attacking their negligence action or lack of action. In Wichita a paralegal who is well-connected to the district court judges can become a case manager earning hourly fees of \$100 simply by taking a 40 hour training course by someone like Kathy Kirk.

Another rule that was discussed at the seminar was discretion of the case manager to suspend case management services if the case manager determines that one of the parties is uncooperative or refuses to pay the case management fees. If the case manager successfully petitions the court to suspend case management services, the party no longer can file a motion with the family law courts. This rule is clearly unconstitutional as it violates the concept of due process. If the rule had been operative in Johnson County for Kathy Kirk, she could have simply asked Judge Janice Russell to suspend case management services so that Mr. Jagoda could no longer have access to the courts. If the rule had been operative in Johnson County, Mr. Jagoda would never have had the opportunity to petition the court to win custody of his son. The case management system in Wichita is especially perverse because it tries to discourage legitimate criticism of case managers because judges do not want to do their jobs.

MCKEAN CASE

I alienated the family law courts in Wichita in 4/2003 when I complained to my first attorney that the case manager had made a custody evaluation with out even observing my sons interact with either parents and had intentionally misstated testimony from our marriage counselor. After my son was suspended from kindergarten in 5/2003 after his visitation with me had been cut back, the case manager chose a psychologist for my son who also was a case manager-psychologist. The psychologist and his nurse practitioner prescribed powerful psycho-tropic drugs, Zoloft and Depacote over a 4 month period before my son was suspended from 1st grade in 9/2003. Five days before the suspension, the psychologist suggested that my estranged wife and I consider placing my 7 year old son into a psychiatric unit in Topeka for an evaluation if his aggression at school continued. During the 5 months of treatment from 4/2003-9/2003, the psychologist-case manager continually refused to confirm that my fear that my son had an oppositional disorder due to bullying from an older sibling. Instead the psychologist diagnosed that the problem was depression, a bi-polar condition, or ADHD so that the dishonest case

manager would not have to consider my request that a custody evaluation be performed. When I complained about the psychologist's suggestion that my son be admitted to a psychiatric hospital, the case manager reported to my second attorney that both the psychologist and my estranged wife denied my allegation. Six weeks later and three weeks before the trial, my estranged wife confirmed my allegation during her deposition which impeached the credibility of both the case manager and the psychologist. Shortly before the trial my second attorney told me that he was afraid to attack the case manager for fear of retaliation from the family law system.

The lying and cover up has snow-balled over the past two years. While representing myself pro se, I have documented two prominent family law attorneys lying under oath, a case manager-psychologist refusing to turn over documents that would support my claims, my 4th attorney claiming that we missed a critical deadline because his petition was lost in the mail, a motion being mysteriously withdrawn without my permission or being lost in the judge's office, a court-ordered evaluation stating that I am a delusional person by a psychologist with two extreme conflicts of interest, the opposing attorney suggesting that the court had previously made a ruling on the mysteriously withdrawn motion, ex parte conversation by a judge to influence my attorney, a secret letter from my son's 2nd psychologist-case manager to the 2nd case managers that I could be a dangerous person and the opposing counsel trying to intimidate me by mailing negative information about me to my place of employment.

However the three strangest events occurred last Spring when my civil rights attorney was forced to voluntarily resign his license for a year after a judge required him to take a urine test on the 3rd day of a 2nd degree murder case that he was winning. The second incident occurred three months ago three days before the trial when my case in chief to ask permission to be able to impeach the attorneys was misplaced by the trial judge's personnel so that my case was lost before it started (the court employee claims that the report was missing from the notebook that I turned in). Interestingly the opposing attorney filed a petition stating that I had not turned in the motion two hours in advance of the deadline. The final incident occurred one week before the trial when the trial Judge Pullman ordered that case management services be suspended without hearing any evidence. Pullman based his decision based solely on the case manager's reputation. I had no choice but to follow through and represent myself pro se at the 5 day trial as I would no longer have access to the courts. The one, ongoing consistent behavior by the courts is the turnover of the judges in the family law courts and their refusal to consider any evidence that would impeach the credibility of any case manager.

OBVIOUS SOLUTION

The current family law rules in Sedgwick County are insane because the rules punish any parent that voluntarily moves out of the residence to lower the stress for the children. Instead the rules encourage the Petitioner to win the race to the court house to order the other spouse out of the house based on a poisonous allegation so that the Petitioner can establish de facto residence for the minor children. The rules require the Respondent to

hire an attorney within 10 days so that poisonous counter allegations can be made. The custody case is won or lost 10 days after the papers are served.

This is insane social policy because during a discussion with the audience, two prominent case managers/attorneys, Mr. Foulston and Mr. Tripp Shawver, stated that non-binding mediation was usually successful. It seems obvious that the Court should not immediately award temporary residential custody to either the Defendant or the Petitioner. The Court should assume that non-binding mediation can work if the Court refrains from making any custody decisions during a 60 day cooling off period. If mediation is not successful, the court should order a child custody evaluation by a qualified mental health provider rather than a paralegal or an attorney who received a 40-hour training course by Ms. Kirk, Mr. Foulston or Mr. Shawver.

Case management should not occur until after the divorce is finalized. Due to the probable resistance from the case managers (retired judges & prominent attorneys) who do not want to lose lucrative case management fees, the family law system should be implemented on a state-wide basis through a state-wide family law court segregated from the district courts.

SYSTEMIC LACK OF ACCOUNTABILITY

Last December, the Chief Justice expressed her concerns and dismay that citizens were attacking the credibility of the Kansas Supreme Court. Last summer District Court Judge Terry Bullock criticized any attempt by the legislature to rein in the Supreme Court. He stated that non-partisan panels of attorneys nominate the new State Supreme Court Justices, that justices must be retained by the voters and that justices can be disciplined by a Commission on Judicial Qualifications. Judge Bullock must think that the voters of Kansas are simpletons. How often is a Supreme Court Justice voted out of office? How frequently is a district court judge disciplined? How often will an attorney sue another attorney for malpractice or even serve as an expert witness for the plaintiff in a legal malpractice lawsuit? How often will an attorney complain about the unethical behavior of another attorney?

Judge Bullock's arrogance is not surprising considering that Judge Bullock and Stan Hazlett, the discipline investigator at the Office of Judicial Administration are adjunct professors of legal ethics at University of Kansas Law School. It is naïve to expect the legal profession to reform itself due to its greed and apathy. The instinct of the Supreme Court, the Office of Judicial Administration, Kansas Judicial Council, and the Kansas Bar Association will always be to deny its obvious accountability problems to try to protect the political power of the judiciary and the economic power of the legal profession.

In a competitive global economy, the Kansas economy can not afford the hidden tax of a corrupt, irresponsible judiciary. Most importantly the family law system in Kansas must be reformed so that the courts can help families (rather than by poisoning them) through difficult transitions. Child custody issues must be separated from the property issues at the earliest possible point in the divorce proceeding.

It is an ongoing tragedy that the judges in the Kansas family law courts permit relationships to be poisoned when the lazy judges delegate their decision-making to unaccountable case managers who have a financial incentive to generate large fees.

My son continues to take medication that I consider to be unnecessary. I continue to see my sons every other week end and coach their soccer teams despite my delusions and dangerous personality. I am trying to find an attorney to handle my appeal on a pro bono basis. I am not seeking revenge against any particular case manager or attorney. The corruption in the system is so systemic and pervasive it easy to understand why individual attorneys and mental health professionals are too timid to speak out or represent their clients for the sake of the children.

I am taking a class on designing an internet site which I hope to have up and running by before the primaries to document the dishonesty by the case mangers and to solicit other horror stories about the case managers. I understand that every thing is based on politics, and nothing will change until the legislators and the Supreme Court Justices feel that the some heat through public outrage about the hypocrisy and dishonesty in the case management system.

KANSAS CREDIT ATTORNEY ASSOCIATION

SENATE BILL NO. 337

SENATE COMMITTEE ON JUDICIARY

February 14, 2006

Chairman Vratil and Members of the Senate Committee on Judiciary:

I appreciate this opportunity to present remarks to you on behalf of the Kansas Credit Attorney Association. The Association is comprised of approximately 50 attorneys and firms throughout the state representing mostly small and medium-sized local businesses.

Docket fees, court cost and the efficient functioning of the courts are of perennial interest to our Association and the clients we represent.

First, SB 337 creates an increase to the docket fees at a time both bodies in the Legislature have questioned the existence of any or part of those funds.

The 2003 Special Committee on Judiciary concluded in their report to the 2004 legislature that:

“The Committee believes that the State Legislature has a responsibility to adequately fund the state judicial system and generally disfavors increasing docket fees because this has a negative effect on access to justice.”

The 2005 Special Committee on Judiciary concluded in their report to the 2006 legislature that:

“In discussions on the topic of docket fees and increases in the fee, the Committee indicated disappointment regarding the lack in the number of conferees whose programs are partially financed by docket fees. The Committee concluded that other entities outside the judicial system that receive docket fees should go through the regular appropriations process as do other agencies for funding purposes.”

Once those funds are started, we've learned that it is effectively impossible to eliminate them - even when the legislators oppose their existence.

Second, we renew our past concerns about increasing docket fees. This is the fifth or sixth fee increase bill in this legislative cycle. Each year we have seen an increase in the cost of access to the courts. Some of the prior increases haven't even addressed the core functions of keeping the courts open.

In 2003, we saw the Courts, as a result of insufficient funding implement a \$5 emergency surcharge, which has been extended every year.

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In 2004, we saw a \$5 docket fees added for the filing of a garnishment, a \$5 fee on the service of process by the Sheriff and funding of Judicial Council from docket fees was made permanent.

In 2005 and 2006, we have seen other efforts to fund increases for judicial salaries increases and proposed legislation to make permanent the emergency surcharge imposed by the Court.

We would strongly encourage the members of this committee to consider making a policy change to the use docket fees and their disbursement. We believe that the Legislature should require either sunseting the current disbursements not related to the basic functions of the court and getting those request for funding to the regular appropriations process, or otherwise delete an existing disbursement roughly in the same amount as the new disbursement being added. W

However, we do not question that programs such as the trauma Fund or family Investment Fund may be important. They are not directly related to the basic constitutional obligations of the courts and we don't believe that funding them thought docket fees is appropriate.

We believe that a special committee comprised of representatives of the legislature, courts, bar members and end-users should be established to discuss and review the needs of the Court. This "special committee" could take into account all the various needs for revenue and determine a long range plan to meet these needs. This would include combining the requests for funding to maximize the use of the docket fees paid, without generating excess revenue by rounding increases to the next highest dollar.

An example is in the current fiscal note on SB 337. The proposed docket fee increase would produce just over \$3.1 million, a million dollars more than is actually needed to fund the judicial salary increase, creating an overall windfall to the general fund.

We appreciate you tireless efforts to meet ever-increasing demands with diminishing resources and ask that you not increase the costs to access the Courts at this time.

Presented by Douglas E. Smith for the Kansas Credit Attorneys Association.

TESTIMONY
BEFORE THE SENATE JUDICIARY
on SB 505
February 14, 2006

Chairman Vratil and members of the committee:

My name is Pat Scalia and I serve as the Executive Director of the State Board of Indigents' Defense Services.

It is the statutory duty of the Board to provide the Sixth Amendment right to counsel and related defense services to indigent persons accused of felonies. To accomplish that duty, BIDS uses electronic access to court records where that service is available. Electronic access is being used to determine what cases we have been appointed to defend, the charges and crime levels charged, the assistant district attorney assigned to the case, the court reporter at the past hearings for ordering transcripts, monies that have been paid, or are due to the court, bond amount for the client, bond supervision for the client, to review all documents filed in the case and prior cases, to review appellate records and document retrieval. An informal survey indicates that BIDS accesses court records electronically 5,850 times annually.

The agency does not have the funds that would be required under the proposed contract of \$2.00 per access, or \$117,000 annually. We ask for cost free access to court records to enable us to continue to represent our clients in a timely manner with a caseload of over 25,000 trials annually. The Board is not opposed to the Court contracting with INK and takes no position regarding Section 4 of the proposed legislation.

We would ask for some corrective language in Section 3 (a) and Section 3 (f) to state "An attorney ... who is appointed by the court to perform services for an indigent person..." This would eliminate the potential problem of any attorney receiving free access rather than limiting it to court appointed attorneys.

Respectfully submitted,



Patricia A. Scalia
Executive Director



Supreme Court of Kansas

KAY MCFARLAND
Chief Justice

Kansas Judicial Center
Topeka, Kansas 66612-1507

(785) 296-5322

Senate Judiciary Committee
Tuesday, February 14, 2006

Kansas Supreme Court Testimony in Opposition to 2006 SB 505

Yesterday, committee members were given a copy of the Kansas Supreme Court's Testimony in Opposition to 2006 SB 353, and a second copy is provided as an attachment today. The document outlines the Court's commitment to maximizing free public access to court information and to carrying out its administrative authority over our unified court system. For the reasons set forth in the Testimony in Opposition to 2006 SB 353, the Court also opposes 2006 SB 505.

The Supreme Court is attempting to establish statewide Internet access to electronic court records through a contract with the Information Network of Kansas (INK). Throughout the negotiations with INK during the last several months, the Court has consistently emphasized that, for many users such as the attorneys contracting with the Board of Indigent Defense Services (BIDS), free Internet access must be maintained in the two counties now able to provide that access and that the access be created statewide. Currently, only Shawnee County provides Internet access to docket information on cases without using the services of INK. Johnson County provides the records through its own site as well as through INK. Six other counties provide access through INK only. In the remaining 97 counties, there is no Internet access to any court record. Under the Supreme Court proposal with INK, BIDS and its attorneys would have statewide, free access. The Court agrees with the intent of SB 505.

However, the bill takes away the mechanism for providing the access BIDS seeks. No service currently exists to meet the bill's mandate to provide BIDS free access to court documents through "the electronic access service." The only proposal for making this access available is through using the services of INK. Section 4(a)(3) of SB 505 would prohibit INK from entering into any contract, lease, or other form of agreement which may result in the charging of fees for electronic access to court records. In other words, the bill would require the courts to provide free electronic access to court records, yet the bill would also take away the very means through which the court system could provide free electronic access to indigent persons. Moreover, it appears that this section of the bill would prohibit the contracts with INK that currently exist in the seven counties noted above.

INK was created by the Legislature to provide the gateway to public information. See K.S.A. 74-9301. For the Supreme Court to replicate the service, it would require an investment in hardware, software, and technicians to run the service, at considerable taxpayer expense, and would delay BIDS' and others' access to public records. Additionally, inability to use a fee-based INK service cuts off a potential revenue source for maintenance of Full Court and future expansion of imaging and e-filing statewide.

As with SB 353, the enactment of SB 505 would do violence to the Supreme Court's coordinated effort to enhance statewide equity, uniformity, efficiency, and effectiveness in the Judicial Branch and would jeopardize achievement of the goal of maximizing free public access to court information. Accordingly, the Court urges this committee to reject both SB 505 and SB 353.

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TESTIMONY

TO: The Honorable John Vratil, Chair
And Members of the
Senate Committee on Judiciary

FROM: Whitney Damron
On behalf of the
Kansas Information Consortium

RE: SB 505 An Act concerning records; relating to electronic access to
court records; exemption from fees.

DATE: February 14, 2006

Good morning Chairman Vratil and Members of the Senate Committee on Judiciary. I am Whitney Damron and I appear before you today to offer comments on SB 505 on behalf of the Kansas Information Consortium. With me today is Ms. Tracy Smith, the Network Manager for the Consortium.

By way of information, the Kansas Information Consortium, or KIC, is a Kansas corporation and a wholly-owned subsidiary of NIC, Inc., the leading provider of outsourced eGovernment portals. NIC, headquartered in Olathe, Kansas, builds and manages official government websites and eGovernment services for 18 states and three local governments in the U.S. KIC is the network manager for the official eGovernment website for Kansas: Kansas.gov

Sixteen years ago the Kansas Legislature created the first eGovernment portal in the United States through a public/private partnership called the Information Network of Kansas. That vision was created out of a need for accessing state government services by various professionals, including attorneys, accountants, bankers and insurance agents who wanted to develop a means to routinely deliver and remotely access documents in Topeka from their respective offices, rather than physically travel to Topeka to conduct business with the State.

Through the efforts of a working group of these professionals and the Kansas Legislature, SB 682 was adopted in 1990 creating the Information Network of Kansas to service the following needs:

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- Provide electronic access to public information of state agencies.
- Develop an electronic network for this access.
- Provide appropriate oversight of any network manager.
- Enhancing the access and use of public information.
- Using technology to improve public access to state government.
- Expand public access to the network through revenue-based applications.

In 1991, the INK Board issued an RFP for a Network Manager and a contract was awarded to the Kansas Information Consortium, a contract they have maintained since that time through several reissuances of an RFP.

During the past 15 years, this vision has moved Kansas from a dial-up service to a full Internet portal that allows anyone in the world to access Kansas information 24/7. The electronic access system, supported by user fees for some services, has served as a model for nearly half the nation and is referred to as the "self-funded model" due to its reliance on user fees to finance the system. INK receives no state general fund dollars.

The INK model provides nearly 90% of state information content online without charge by assessing reasonable user fees for the 10% of services that have commercial value.

I provide this background information to you this morning to give some context to the reasoning behind our concerns with SB 505.

KIC chose not to offer testimony on SB 353. That legislation as currently drafted simply says that any county may provide electronic access to district court records that are otherwise publicly available. Meaning, the Judicial Branch of Government does not have exclusive jurisdiction over providing public access to district court records. Passage of SB 353 may affect the feasibility of providing access to court records under the contract currently under consideration by the Court and INK, but it does not prohibit making such records available through a state judicial website.

However, SB 505, on page 6 of the bill, with new language found on lines 4-6, shown here in italics, would prohibit INK from contracting to provide for access to such records for a fee and thus leads to our objection to its inclusion in SB 505. This new language is in direct conflict with the enabling legislation for INK to serve as the state's electronic access point:

As proposed, that section reads:

(3) develop charges for the services provided to subscribers, which include the actual costs of providing such services, *except that INK shall not enter into any contract, lease or other form of agreement which may result in the charging of fees for electronic access to court records.*

We find that section of the bill would greatly inhibit INK's ability to fulfill its statutory mission and likely lead to unintended consequences.

If adopted, this language could lead to the destabilization of the self-funded model and potentially result in the loss of significant access to state information by its users or alternatively force the State of Kansas to replace revenues generated through user fees with state general fund dollars.

As noted earlier, the purpose of INK was and is to expand public access to state government through Internet-based web applications. Typically those applications with commercial value used by business and professionals in their normal course of business, such as motor vehicle records, UCC filings, corporate annual reports and other such applications have reasonable user fees in place that provide revenue to INK, which in turn helps support non-revenue generating applications such as websites for all three branches of state government, workplace and safety information, creation of the Kansas Business Center, a Registered Offenders website and literally hundreds of applications that provide greater access to state and local government, while at the same time reducing costs to state and local governments through generated efficiencies.

The INK self-funded model is not "time and materials" model. That is what we had before INK was created. State agencies issued individual RFP's, developed their own websites, created fee schedules for their own information and essentially operated independently of one another. That all changed in 1990 with the creation of the Information Network of Kansas, which is charged with managing access to state information, developing contractual relationships with state agencies, setting fees for access to certain information and providing oversight to the state's network manager.

Precluding INK from contracting to charge fees for access to certain court records may simply lead to a return to the days when state agencies again seek agreements independently of one another, as nothing in the bill precludes the Judicial Branch from contracting with another vendor. Language in SB 505 does potentially do serious damage to the self-funded model of eGovernment in our state and sends us down a path that will likely lead to further erosion of the leading means to provide free access to government utilized in Kansas and the U.S.

We empathize with the concerns raised by the proponents of SB 353 and with the Board of Indigent Defense and their support of SB 505. Non-billable access to court information at the individual county level has been a concern of INK and the Court. We believe there is an opportunity for a resolution of these concerns in a manner that can accomplish the needs and objectives of all parties involved without SB 505.

The objective of the Court is a worthy one: Providing public access to the court systems of all 105 counties. How that is implemented and paid for remains to be determined.

Negotiations between the Court, Johnson County, Shawnee County and other parties of interest are still ongoing. We are hopeful a satisfactory solution will be produced that will be acceptable to all.

Perhaps it would be appropriate for this Committee to create a subcommittee to work with the parties of interest to reach a reasonable solution for access to court records.

In closing, I would like to note that there are already applications created by INK and state government partnerships that have created electronic access to court records. If SB 505 is adopted, what is to happen to those applications and the ability of the public to search for KBI registered sex offenders by name, city, county and zip code? This service is provided free of charge today, but it is only available because of other applications available to the public for a fee, such as the ability to search KBI adult criminal convictions from 1939 to present day. This is an example of a service that employers, health care providers, charities and others have come to rely upon and seem willing to pay the fees required to search the KBI data base due to public safety benefits of these kinds of records.

Included with my testimony are copies of pages from the KBI website on the Registered Sex Offender Search and a Kansas Criminal History Record Check.

And furthermore, to demonstrate the possible unintended consequences of the bill, the state currently receives millions and millions of dollars annually from the sale of motor vehicle records, individually and in bulk. Since driving records are created primarily at the municipal and district court level and then transmitted electronically to the Kansas Department of Revenue, is it envisioned these court records that would be prohibited from being sold for a fee under the provisions of SB 505?

And finally, thirty senators, including eight from this committee, signed on as co-sponsors of SB 487, which would create an automated victim information and notification system. That system would propose to notify crime victims of status changes in the cases they are involved with through telephone, mail or E-mail. That is exactly the kind of a system that can and perhaps should be provided through INK, but will have to be supported by other revenue sources, such as fees produced by accessing other court records.

These are the kinds of questions we have with SB 505 and our concerns in regard to the potential for unintended consequences with its passage as written and urge this committee not to advance this legislation with the changes proposed to Section 4. (a)(3).

On behalf of the Kansas Information Consortium, I thank you for your attention to my remarks and I would be pleased to stand for questions at the appropriate time.

Attachments

kansas.gov: The Official Web site of the State of Kansas

Kansas Bureau of Investigation

**Registered Offender
Search**A partnership of the
KANSAS BUREAU OF INVESTIGATION
& INFORMATION NETWORK
of KANSAS, INC.[Criminal History Search](#)[Missing Persons](#)[Most Wanted](#)[KBI Web Site](#)[Kansas Web site](#)**Kansas Bureau of Investigation Registered Offender Search***Database updated: 02/09/2006*Search by : [NAME](#) | [CITY](#) | [COUNTY](#) | [ZIP](#)**Search by Name**

Enter a last name and an optional first name. The search is *not* case sensitive. Searches on first name only are not allowed.

Last: *required*First: Search [\[KBI Home | About the KBI | Most Wanted | Registered Offenders | Media Releases | Missing Persons \]](#)

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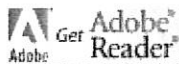
Kansas Bureau of Investigation

Criminal History Record Checks

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Kansas Criminal History Record Check

Welcome

The state of Kansas allows the release of Kansas criminal history records to the general public as well as to a variety of users with specific rights and entitlements.

These record checks are fee-based and both the fee and extent of information released is dependent on your status and the reason for which you are requesting records.

NEW FEATURE: You now have the option of entering a 2nd last name (Other Last Name by Which Known) at no additional cost.

- If you are requesting **YOUR OWN** record, [click here](#).
- If you are requesting a public record check on someone else, [click here](#).
- If you are an Information Network Kansas (INK) Subscriber and have a login and password, [click here](#).
- If you want to view the results of an off-line search that you previously requested, [click here](#).

[Check My Own Record](#)
[Do a Public Record Check](#)
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