

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:40 A.M. on March 6, 2008 in Room 123-S of the Capitol.

All members were present except:

Senator Carolyn McGinn - excused

Committee staff present:

Jill Wolters, Senior Assistant, Revisor of Statutes
Kristen Clarke Kellems, Assistant Revisor of Statutes
Mike Heim, Assistant Revisor of Statutes
Audrey Dunkel, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Jarod Waltner, Kansas Legislative Research Department
Melinda Gaul, Chief of Staff, Senate Ways & Means
Mary Shaw, Committee Assistant

Conferees appearing before the committee:

Dr. Edward Hammond, President, Fort Hays State University
Diane Lindeman, Director of Student Financial Assistance, Kansas Board of Regents

Others attending: -

See attached list.

Copies of the Kansas Legislative Research Department Budget Analysis Report for FY 2008 and FY 2009 were available to the committee.

Subcommittee reports on:

Judicial Council (Attachment 1)

Subcommittee Chairman Jay Emler reported that the subcommittee on the Judicial Council concurs with the Governor's recommendation in FY 2008 with adjustments and notations and concurs with the Governor's FY 2009 recommendation with adjustments and comments.

Senator Emler moved, with a second by Senator Taddiken, to adopt the subcommittee budget report on the Judicial Council in FY 2008 and FY 2009. Motion carried on a voice vote.

Board of Indigents' Defense Services

Subcommittee Chairman Jay Emler reported that the subcommittee on the Board of Indigents' Defense Services concurs with the Governor's recommendation in FY 2008 and concurs with the Governor's FY 2009 recommendation with adjustments and comments.

Senator Wysong moved, with a second by Senator Schodorf, to amend the subcommittee budget report on the Board of Indigents' Defense Services, in FY 2009, Item No. 2, and keep the \$240,000 from the State General Fund for salary enhancements and consider the additional \$10,000 at Omnibus from the State General Fund. Motion carried on a voice vote.

Senator Emler moved, with a second by Senator Goodwin, to adopt the subcommittee budget report on the Board of Indigents' Defense Services in FY 2008 and FY 2009 as amended. Motion carried on a voice vote.

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:40 A.M. on March 6, 2008 in Room 123-S of the Capitol.

Judicial Branch

Subcommittee Chairman Jay Emler reported that the subcommittee on the Judicial Branch concurs with the Governor's recommendation in FY 2008 and concurs with the Governor's FY 2009 recommendation with adjustments and comments.

Senator Emler moved, with a second by Senator Goodwin, to adopt the subcommittee budget report on the Judicial Branch in FY 2008 and FY 2009. Motion carried on a voice vote.

Chairman Umbarger opened the public hearing on:

SB 651—Appropriations for the state board of regents; funding for the Kansas academy for math and science

Staff briefed the committee on the bill.

The Chairman welcomed Dr. Edward Hammond, President, Fort Hays State University, who testified in support of **SB 651** (Attachment 2). Dr. Hammond referred to his written testimony regarding the Kansas Academy for Math and Science (KAMS) program. He also added budgeting information. Dr. Hammond emphasized that multi year funding is necessary and it is why **SB 651** is drafted in a certain manner.

Written testimony was submitted by:

Reginald Robinson, President and CEO, Kansas Board of Regents (Attachment 3)

The Chairman closed the public hearing on **SB 651**.

Senator Kelly moved, with a second by Senator Teichman, to recommend SB 651 favorable for passage. Motion carried on a roll call vote.

The Chairman welcomed Diane Lindeman, Director of Student Financial Assistance, Kansas Board of Regents, who presented an overview of the State-Funded Obligation Scholarship Programs (Attachment 4). She detailed the information in a chart that was attached to her written testimony and addressed the undergraduate and graduate programs.

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

SB 485—Counties; alternative building construction procurement

The Revisor explained a balloon amendment that was requested (Attachment 5) which would put the language contained in **SB 594** into **SB 485**. Senator Taddiken moved, with a second by Senator Kelly, to adopt the balloon amendment. Motion carried on a voice vote.

The Revisor explained another balloon amendment (Attachment 6) that included the requested Johnson County amendments (mostly technical). Senator Steineger moved, with a second by Senator Betts, to amend the balloon on page 5 regarding posting public notice to add "publish in an official county newspaper."

Senator Emler made a substitute motion, with a second by Senator Taddiken, to amend the balloon to expand to "notice" only. Motion carried on a voice vote.

Chairman Umbarger delayed any further action on **SB 485** and requested that the committee review the bill at this point and asked the interested parties to get together and discuss the bill at this point.

The meeting adjourned at 11:55 a.m. The next meeting was scheduled for March 7, 2008.

**SENATE WAYS AND MEANS
GUEST LIST**

Date March 6, 2008

NAME	REPRESENTING
Randall Allen	Kansas Assoc. of Counties
Greg Peterson	AGC of Kansas
CD Deaton	Budget
S. Ward	BUDGET
Steve Lindem	KBOR
Karl Wagner	Leasing & Assoc.
Tracy M. Neaville	Judicial Council
Kat Julia	BIDS
Bob Carlisle	KCA
MIKE KEAL	KCA
Eugene C. Beachwer	KCA
Paul Tolson	Ka Contractors Assoc
MARK BORANYAK	CAPITOL STRATEGIES
Lindsey Douglas	Hein Law Firm
LARRY BIEG	KACCT
Kip Peterson	KBOR
James Smedley	KPHA
Elaine Schwartz	KPHA
Ron Gaches	KSPE
Diane Gierstail	Wichita - WID 259
William	FHSU
Nebra Kideaux	FHSU
Shelby Smith	Chris Stappes


FY 2008 and FY 2009

SENATE WAYS AND MEANS SUBCOMMITTEE

Judicial Council
Board of Indigents' Defense Services
Judicial Branch



Senator Jay Emler, Chair



Senator Greta Goodwin



Senator Mark Taddiken

Senate Ways and Means
3-6-08
Attachment 1

House Budget Committee Report

Agency: Judicial Council

Bill No. HB 2947

Bill Sec. --

Analyst: Holwegner

Analysis Pg. No. Vol. II - 1047

Budget Page No. 219

Expenditure Summary	Agency Estimate FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	\$ 220,000	\$ 220,000	0
Other Funds	1,301,763	1,301,763	150,000
Subtotal - Operating	<u>\$ 1,521,763</u>	<u>\$ 1,521,763</u>	<u>\$ 150,000</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 1,521,763</u></u>	<u><u>\$ 1,521,763</u></u>	<u><u>\$ 150,000</u></u>
FTE Positions			
FTE Positions	7.0	7.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>7.0</u></u>	<u><u>7.0</u></u>	<u><u>0.0</u></u>

Agency Estimate

The Judicial Council's revised FY 2008 budget request is \$1,521,763 from all funds, including \$220,000 from the State General Fund. The requested budget would fund 7.0 FTE positions. This is the same amount as what the 2007 Legislature had approved.

Governor's Recommendation

The Governor concurs.

House Budget Committee Recommendation

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

- Judicial Performance Fund.** Add \$150,000 from the Judicial Performance Fund. The Committee notes that the Commission on Judicial Performance, which is a part of the Judicial Council, initially planned to start in FY 2007 to survey persons (such as lawyers, litigants, witnesses, and jurors) who recently had contact with the court system. In April of 2007, the Commission entered into a contract with a vendor to conduct the surveys and in June of 2007 made the initial payment \$300,000 from the Judicial Performance Fund under the terms of the

contract. However, the Commission was unable to provide the contractor in a timely manner with the information needed to do the mailings because of a software compatibility issue involving the district court databases. In FY 2008 the vendor returned the \$300,000 to the Commission and entered into a letter of understanding, which will reinstate the original contract when the rewritten software is functioning. In the meantime the Commission secured an "extraction disc" and has been physically going from courthouse to courthouse to extract the information needed for mailings from the court files. The agency informed the Committee that it plans to catch up, and the original \$300,000 will be spent during FY 2008 and FY 2009: \$150,000 in FY 2008 and \$150,000 in FY 2009.

House Committee Recommendation

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

Senate Subcommittee Report

Agency: Judicial Council **Bill No.** SB 655 **Bill Sec.** --
Analyst: Holwegner **Analysis Pg. No.** Vol. II - 1047 **Budget Page No.** 219

Expenditure Summary	Agency Estimate FY 08	Governor's Recommendation FY 08	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 220,000	\$ 220,000	\$ 0
Other Funds	1,301,763	1,301,763	150,000
Subtotal - Operating	<u>\$ 1,521,763</u>	<u>\$ 1,521,763</u>	<u>\$ 150,000</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
 TOTAL	 <u><u>\$ 1,521,763</u></u>	 <u><u>\$ 1,521,763</u></u>	 <u><u>\$ 150,000</u></u>
FTE Positions	7.0	7.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>7.0</u></u>	<u><u>7.0</u></u>	<u><u>0.0</u></u>

Agency Estimate

The Judicial Council's revised FY 2008 budget request is \$1,521,763 from all funds, including \$220,000 from the State General Fund. The requested budget would fund 7.0 FTE positions. This is the same amount as what the 2007 Legislature had approved.

Governor's Recommendation

The Governor concurs.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following adjustments and notations:

- 1. Judicial Performance Fund.** Add \$150,000 from the Judicial Performance Fund. The Committee notes that the Commission on Judicial Performance, which is a part of the Judicial Council, initially planned to start in FY 2007 to survey persons (such as lawyers, litigants, witnesses, and jurors) who recently had contact with the court system. In April of 2007, the Commission entered into a contract with a vendor to conduct the surveys and in June of 2007 made the initial payment \$300,000 from the Judicial Performance Fund under the terms of the contract. However, the Commission was unable to provide the contractor in a timely manner with the information needed to do the mailings because of a software compatibility issue involving the district court databases. In FY 2008 the vendor returned the \$300,000 to the Commission and entered into a letter of understanding, which will reinstate the original contract when the rewritten software is functioning. In the meantime the Commission secured an "extraction disc" and has been physically going from courthouse to courthouse to extract the information needed for mailings from the court files. The agency informed the Committee that it plans to catch up, and the original \$300,000 will be spent during FY 2008 and FY 2009: \$150,000 in FY 2008 and \$150,000 in FY 2009.
- 2. Reappropriation for Criminal Code Recodification Commission.** The Subcommittee recommends adding reappropriation language for the State General Fund for the Criminal Code Recodification Commission from FY 2008 to FY 2009. While the Commission is not part of the Judicial Council, the agency acts as the fiscal agent for the Commission. The Commission is currently in its first year of operation, and it will complete its work by the end of FY 2010. The Commission believes that the reappropriation of funds, estimated to be no greater than \$10,000, from one fiscal year to the next will allow Commission members to meet more frequently. The budget for the Commission for FY 2008 is \$150,000 from the State General Fund.

House Budget Committee Report

Agency: Judicial Council

Bill No. HB 2946

Bill Sec. 12

Analyst: Holwegner

Analysis Pg. No. Vol. II - 1047

Budget Page No. 219

Expenditure Summary	Agency Request FY 09	Governor's Recommendation FY 09	House Budget Committee Adjustments*
Operating Expenditures:			
State General Fund	\$ 155,000	\$ 151,210	\$ (1,210)
Other Funds	1,233,830	1,244,363	136,467
Subtotal - Operating	<u>\$ 1,388,830</u>	<u>\$ 1,395,573</u>	<u>\$ 135,257</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 1,388,830</u></u>	<u><u>\$ 1,395,573</u></u>	<u><u>\$ 135,257</u></u>
FTE Positions	7.0	7.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>7.0</u></u>	<u><u>7.0</u></u>	<u><u>0.0</u></u>

* Includes a reduction of \$14,743, including \$1,210 from the State General Fund, for the removal of the Governor's recommended pay plan adjustments.

Agency Request

The Judicial Council requests expenditures of \$1,388,830 from all funds for the agency's operating budget (\$1,233,830) and for the second year of operations of the Criminal Code Recodification Commission (\$155,000 from the State General Fund). This is a decrease of \$132,933, or 8.7 percent, below the revised current year estimate. Requested State General Fund expenditures are a decrease of \$65,000, or 29.5 percent, below the revised budget. The request would finance 7.0 FTE positions. The request includes enhancement funding of \$5,000 from the State General Fund for the Criminal Code Recodification Commission.

Governor's Recommendation

The Governor recommends \$1,395,573 from all funds. This includes \$1,244,363 from other funds for the operations of the Judicial Council and \$151,210 from the State General Fund for the Criminal Code Recodification Commission. Compared to the revised FY 2008 recommendation, this is a decrease of \$126,190, or 8.3 percent, from all funds and a decrease of \$68,790, or 31.3 percent, from the State General Fund. Compared to the Judicial Council's request, this is a decrease of \$6,743, or 0.5 percent, from all funds and a decrease of \$3,790, or 2.4 percent, from the State General Fund. The recommended budget would fund 7.0 FTE positions. The Governor does not recommend the enhancement requested by the Criminal Code Recodification Commission.

House Budget Committee Recommendation

The Budget Committee concurs with the Governor's recommendation with the following adjustments and comments:

1. **Pay Plan Adjustments.** Delete \$14,743, including \$1,210 from the State General Fund, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
 - a. **State Employee Pay Increases.** Delete \$11,743, including \$1,210 from the State General Fund, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
 - b. **Classified Employee Pay Plan.** The Judicial Council is not part of the Governor's recommended pay plan for classified employees, and no money is deleted for this item.
 - c. **Longevity Pay.** Delete \$3,000, all from special revenue funds, to remove the amount recommended by the Governor for longevity bonus payments.
2. **Judicial Performance Fund.** Add \$150,000 from the Judicial Performance Fund. The Committee notes that the Commission on Judicial Performance, which is a part of the Judicial Council, initially planned to start in FY 2007 to survey persons (such as lawyers, litigants, witnesses, and jurors) who recently had contact with the court system. In April of 2007, the Commission entered into a contract with a vendor to conduct the surveys and in June of 2007 made the initial payment of \$300,000 from the Judicial Performance Fund under the terms of the contract. However, the Commission was unable to provide the contractor in a timely manner with the information needed to do the mailings because of a software compatibility issue involving the district court databases. In FY 2008 the vendor returned the \$300,000 to the Commission and entered into a letter of understanding, which will reinstate the original contract when the rewritten software is functioning. In the meantime the Commission secured an "extraction disc" and has been physically going from courthouse to courthouse to extract the information needed for mailings from the court files. The agency informed the Committee that it plans to catch up, and the original \$300,000 will be spent during FY 2008 and FY 2009: \$150,000 in FY 2008 and \$150,000 in FY 2009.

House Committee Recommendation

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

Senate Subcommittee Report

Agency: Judicial Council

Bill No. SB 658

Bill Sec. 12

Analyst: Holwegner

Analysis Pg. No. Vol. II-1047

Budget Page No. 219

<u>Expenditure Summary</u>	<u>Agency Request FY 09</u>	<u>Governor's Recommendation FY 09</u>	<u>Senate Subcommittee Adjustments*</u>
Operating Expenditures:			
State General Fund	\$ 155,000	\$ 151,210	\$ (1,210)
Other Funds	1,233,830	1,244,363	136,467
Subtotal - Operating	<u>\$ 1,388,830</u>	<u>\$ 1,395,573</u>	<u>\$ 135,257</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 1,388,830</u></u>	<u><u>\$ 1,395,573</u></u>	<u><u>\$ 135,257</u></u>
FTE Positions	7.0	7.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>7.0</u></u>	<u><u>7.0</u></u>	<u><u>0.0</u></u>

* Includes a reduction of \$14,743, including \$1,210 from the State General Fund, for the removal of the Governor's recommended pay plan adjustments.

Agency Request

The Judicial Council requests expenditures of \$1,388,830 from all funds for the agency's operating budget (\$1,233,830) and for the second year of operations of the Criminal Code Recodification Commission (\$155,000 from the State General Fund). This is a decrease of \$132,933, or 8.7 percent, below the revised current year estimate. Requested State General Fund expenditures are a decrease of \$65,000, or 29.5 percent, below the revised budget. The request would finance 7.0 FTE positions. The request includes enhancement funding of \$5,000 from the State General Fund for the Criminal Code Recodification Commission.

Governor's Recommendation

The Governor recommends \$1,395,573 from all funds. This includes \$1,244,363 from other funds for the operations of the Judicial Council and \$151,210 from the State General Fund for the Criminal Code Recodification Commission. Compared to the revised FY 2008 recommendation, this is a decrease of \$126,190, or 8.3 percent, from all funds and a decrease of \$68,790, or 31.3 percent, from the State General Fund. Compared to the Judicial Council's request, this is a

decrease of \$6,743, or 0.5 percent, from all funds and a decrease of \$3,790, or 2.4 percent, from the State General Fund. The recommended budget would fund 7.0 FTE positions. The Governor does not recommend the enhancement requested by the Criminal Code Recodification Commission.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following adjustments and comments:

1. **Pay Plan Adjustments.** Delete \$14,743, including \$1,210 from the State General Fund, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
 - a. **State Employee Pay Increases.** Delete \$11,743, including \$1,210 from the State General Fund, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
 - b. **Longevity Pay.** Delete \$3,000, all from special revenue funds, to remove the amount recommended by the Governor for longevity bonus payments.

2. **Judicial Performance Fund.** Add \$150,000 from the Judicial Performance Fund. The Committee notes that the Commission on Judicial Performance, which is a part of the Judicial Council, initially planned to start in FY 2007 to survey persons (such as lawyers, litigants, witnesses, and jurors) who recently had contact with the court system. In April of 2007, the Commission entered into a contract with a vendor to conduct the surveys and in June of 2007 made the initial payment of \$300,000 from the Judicial Performance Fund under the terms of the contract. However, the Commission was unable to provide the contractor in a timely manner with the information needed to do the mailings because of a software compatibility issue involving the district court databases. In FY 2008 the vendor returned the \$300,000 to the Commission and entered into a letter of understanding, which will reinstate the original contract when the rewritten software is functioning. In the meantime the Commission secured an "extraction disc" and has been physically going from courthouse to courthouse to extract the information needed for mailings from the court files. The agency informed the Committee that it plans to catch up, and the original \$300,000 will be spent during FY 2008 and FY 2009: \$150,000 in FY 2008 and \$150,000 in FY 2009.

3. **Reappropriation for Criminal Code Recodification Commission.** The Subcommittee recommends adding reappropriation language for the State General Fund for the Criminal Code Recodification Commission from FY 2009 to FY 2010. While the Commission is not part of the Judicial Council, the agency acts as the fiscal agent for the Commission. The Commission is currently in its first year of operation, and it will complete its work by the end of FY 2010. The Commission believes that the reappropriation of funds, estimated to be no greater than \$10,000, from one fiscal year to the next will allow Commission members to meet more frequently. The budget for the Commission for FY 2009, minus the recommended pay plan adjustments of \$1,210, is \$150,000 from the State General Fund.

House Budget Committee Report

Agency: Board of Indigents' Defense Services **Bill No.** HB 2947

Bill Sec. 3

Analyst: Holwegner

Analysis Pg. No. Vol. II - 1057

Budget Page No. 205

Expenditure Summary	Agency Estimate FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	\$ 23,301,160	\$ 22,497,270	\$ 0
Other Funds	1,000,000	1,000,000	0
Subtotal - Operating	\$ 24,301,160	\$ 23,497,270	\$ 0
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	\$ 0	\$ 0	\$ 0
TOTAL	\$ 24,301,160	\$ 23,497,270	\$ 0
FTE Positions	193.0	193.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	193.0	193.0	0.0

Agency Estimate

The Board of Indigents' Defense Services requests a revised FY 2008 budget totaling \$24,301,160. This includes \$23,301,160 from the State General Fund and \$1,000,000 from all other funds. The revised budget request is an increase of \$503,890, or 2.1 percent, above the amount approved by the 2007 Legislature. The increase can be attributed to funding either reappropriated (\$103,890 from the State General Fund) or additional funds made available to the agency since the last legislative session (\$400,000 from the Indigents' Defense Services Fund). No supplemental enhancements have been requested. The request would fund 193.0 FTE positions, the same level as the 2007 Legislature approved.

Governor's Recommendation

The Governor recommends \$23,497,270 which includes \$22,497,270 from the State General Fund and \$1,000,000 from all other funds. Compared to the amount initially approved by the Legislature, this is a decrease of \$300,000, or 1.3 percent, from all funds and a decrease of \$700,000, or 3.0 percent, from the State General Fund. Compared to the agency's revised estimate, this is a decrease of \$803,890, or 3.3 percent, from all funds and a decrease of \$803,890, or 3.4 percent, from the State General Fund. The Governor's recommendation takes into account the latest caseload estimate for assigned counsel. The revised recommendation includes a reduction of \$700,000 from the State General Fund. The recommendation also includes an additional \$400,000 from the Indigents' Defense Services Fund. This fund receives revenue from docket fees (\$0.50 per case filed with the courts), bond forfeitures, and application fees (\$100 per application) for representation by the agency.

House Budget Committee Recommendation

The Budget Committee concurs with the Governor's recommendation.

House Committee Recommendation

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

Senate Subcommittee Report

Agency: Board of Indigents' Defense Services **Bill No.** SB 655 **Bill Sec.** 3

Analyst: Holwegner **Analysis Pg. No.** Vol. II-1059 **Budget Page No.** 205

Expenditure Summary	Agency Estimate FY 08	Governor's Recommendation FY 08	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 23,301,160	\$ 22,497,270	\$ 0
Other Funds	1,000,000	1,000,000	0
Subtotal - Operating	<u>\$ 24,301,160</u>	<u>\$ 23,497,270</u>	<u>\$ 0</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 24,301,160</u></u>	<u><u>\$ 23,497,270</u></u>	<u><u>\$ 0</u></u>
FTE Positions	193.0	193.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>193.0</u></u>	<u><u>193.0</u></u>	<u><u>0.0</u></u>

Agency Estimate

The Board of Indigents' Defense Services requests a revised FY 2008 budget totaling \$24,301,160. This includes \$23,301,160 from the State General Fund and \$1,000,000 from all other funds. The revised budget request is an increase of \$503,890, or 2.1 percent, above the amount approved by the 2007 Legislature. The increase can be attributed to funding either reappropriated (\$103,890 from the State General Fund) or additional funds made available to the agency since the last legislative session (\$400,000 from the Indigents' Defense Services Fund). No supplemental enhancements have been requested. The request would fund 193.0 FTE positions, the same level as the 2007 Legislature approved.

Governor's Recommendation

The Governor recommends \$23,497,270 which includes \$22,497,270 from the State General Fund and \$1,000,000 from all other funds. Compared to the amount initially approved by the Legislature, this is a decrease of \$300,000, or 1.3 percent, from all funds and a decrease of \$700,000, or 3.0 percent, from the State General Fund. Compared to the agency's revised estimate, this is a decrease of \$803,890, or 3.3 percent, from all funds and a decrease of \$803,890, or 3.4 percent, from the State General Fund. The Governor's recommendation takes into account the latest caseload estimate for assigned counsel. The revised recommendation includes a reduction of \$700,000 from the State General Fund. The recommendation also includes an additional \$400,000 from the Indigents' Defense Services Fund. This fund receives revenue from docket fees (\$0.50 per case filed with the courts), bond forfeitures, and application fees (\$100 per application) for representation by the agency.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation.

House Budget Committee Report

Agency: Board of Indigents' Defense Services **Bill No.** HB 2946

Bill Sec. 13

Analyst: Holwegner

Analysis Pg. No. Vol. II - 1057

Budget Page No. 205

Expenditure Summary	Agency Request FY 09	Governor's Recommendation FY 09	House Budget Committee Adjustments*
Operating Expenditures:			
State General Fund	\$ 23,618,395	\$ 23,249,586	\$ (659,231)
Other Funds	1,000,000	1,000,000	0
Subtotal - Operating	<u>\$ 24,618,395</u>	<u>\$ 24,249,586</u>	<u>\$ (659,231)</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 24,618,395</u></u>	<u><u>\$ 24,249,586</u></u>	<u><u>\$ (659,231)</u></u>
FTE Positions	193.0	193.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>193.0</u></u>	<u><u>193.0</u></u>	<u><u>0.0</u></u>

* Includes a reduction of \$397,631 from the State General Fund for the removal of the Governor's recommended salary adjustments.

Agency Request

The **Board of Indigents' Defense Services** requests an FY 2009 budget of \$24,618,395. This includes \$23,618,395 from the State General Fund and \$1,000,000 from other funds. This is an increase of \$317,235, or 1.3 percent, above the revised current year estimate. Requested State General Fund expenditures are an increase of \$317,235, or 1.4 percent, above the revised budget. The request would finance 193.0 FTE positions, the same staffing level as approved for the current fiscal year. The request includes enhancement funding of \$597,990 from the State General Fund.

Governor's Recommendation

The Governor recommends \$24,249,586 for an operating budget in FY 2009; this includes \$23,249,586 from the State General Fund and \$1,000,000 from the Indigents' Defense Services Fund. Compared to the revised 2008 recommendation, this is an increase of \$752,316, or 3.2 percent, from all funds. Compared to the agency's request, this is a decrease of \$368,809, or 1.5 percent, from all funds and a decrease by the same amount from the State General Fund. The recommendation would fund 193.0 FTE positions. The Governor further recommends \$261,600 from the State General Fund for enhancements.

House Budget Committee Recommendation

The Budget Committee concurs with the Governor's recommendation with the following adjustments and comments:

1. **Pay Plan Adjustments.** Delete \$397,631, all from the State General Fund, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
 - a. **State Employee Pay Increases.** Delete \$233,633, all from the State General Fund, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
 - b. **Classified Employee Pay Plan.** Delete \$133,948, all from the State General Fund, to remove the amount recommended by the Governor for FY 2009 pay increases for basic vocational classes and for those employees identified as having the most disparity relative to market rate.
 - c. **Longevity Pay.** Delete \$30,050, all from the State General Fund, to remove the amount recommended by the Governor for longevity bonus payments.
2. **Public Defender Salary Enhancement.** Delete \$250,000 from the State General Fund that was recommended for salary enhancement for public defenders. The Committee heard testimony from the agency that these non-classified employees are estimated to be 24 percent below market rates. Approximately one out five public defenders resigned their position in FY 2007. A year ago the Budget Committee sent a letter to the Legislative Division of Post Audit requesting a study of the State Board of Indigents' Defense Services. The letter requested Post Audit to study the entire system of delivering services to indigent persons in the state, including methods to effectively and efficiently provide services, attracting and retaining public defenders and private attorneys, and the future needs of the agency. That study has not yet been authorized by the Post Audit Committee. The Budget Committee repeats its request. While the Committee believes that public defender salary pay may be an issue, it should be addressed while looking at the whole public legal defense system. The Budget Committee further recommends this issue be considered during omnibus.
3. **Vehicle.** Delete \$11,600 from the State General Fund for the replacement of one vehicle. While the vehicle recommendation meets the criteria for replacement that was established by the Department of Administration, the Budget Committee recommends that this issue be considered during omnibus after the consensus revenue estimates for the State General Fund have been revised.
4. **Assigned Counsel Caseload Estimates.** Approximately 40 percent of the State Board's budget is dedicated to paying for assigned counsel, a total of \$9,600,000 from the State General Fund. New caseload estimates will determined in the spring. The Budget Committee recommends that any funding changes be considered during omnibus.

House Committee Recommendation

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

Senate Subcommittee Report

Agency: Board of Indigents' Defense Services **Bill No.** SB 658

Bill Sec. 13

Analyst: Holwegner

Analysis Pg. No. Vol. II-1059

Budget Page No. 205

Expenditure Summary	Agency Request FY 09	Governor's Recommendation FY 09	Senate Subcommittee Adjustments*
Operating Expenditures:			
State General Fund	\$ 23,618,395	\$ 23,249,586	\$ (409,231)
Other Funds	1,000,000	1,000,000	0
Subtotal - Operating	<u>\$ 24,618,395</u>	<u>\$ 24,249,586</u>	<u>\$ (409,231)</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
 TOTAL	 <u><u>\$ 24,618,395</u></u>	 <u><u>\$ 24,249,586</u></u>	 <u><u>\$ (409,231)</u></u>
 FTE Positions	 193.0	 193.0	 0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>193.0</u></u>	<u><u>193.0</u></u>	<u><u>0.0</u></u>

* Includes a reduction of \$397,631 from the State General Fund for the removal of the Governor's recommended salary adjustments.

Agency Request

The **Board of Indigents' Defense Services** requests an FY 2009 budget of \$24,618,395. This includes \$23,618,395 from the State General Fund and \$1,000,000 from other funds. This is an increase of \$317,235, or 1.3 percent, above the revised current year estimate. Requested State General Fund expenditures are an increase of \$317,235, or 1.4 percent, above the revised budget. The request would finance 193.0 FTE positions, the same staffing level as approved for the current fiscal year. The request includes enhancement funding of \$597,990 from the State General Fund.

Governor's Recommendation

The Governor recommends \$24,249,586 for an operating budget in FY 2009; this includes \$23,249,586 from the State General Fund and \$1,000,000 from the Indigents' Defense Services Fund. Compared to the revised 2008 recommendation, this is an increase of \$752,316, or 3.2 percent, from all funds. Compared to the agency's request, this is a decrease of \$368,809, or 1.5 percent, from all funds and a decrease by the same amount from the State General Fund. The recommendation would fund 193.0 FTE positions, the same staffing level as approved for the current fiscal year. The Governor further recommends \$261,600 from the State General Fund for enhancements.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following adjustments and comments:

1. **Pay Plan Adjustments.** Delete \$397,631, all from the State General Fund, to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
 - a. **State Employee Pay Increases.** Delete \$233,633, all from the State General Fund, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
 - b. **Classified Employee Pay Plan.** Delete \$133,948, all from the State General Fund, to remove the amount recommended by the Governor for FY 2009 pay increases for basic vocational classes and for those employees identified as having the most disparity relative to market rate.
 - c. **Longevity Pay.** Delete \$30,050, all from the State General Fund, to remove the amount recommended by the Governor for longevity bonus payments.
2. **Public Defender Salary Enhancement.** The Subcommittee notes that the agency manages its budget frugally. By negotiating the reimbursement rates in certain judicial districts, the Board saved \$240,000 from the State General Fund in FY 2007. The agency estimates that it will save an amount equal to or greater than that in the FY 2008. The Subcommittee heard testimony from the agency about its annual turnover rate which is greater than 20 percent. The predominant reason that public defenders leave office is due to relatively low salary. Most entry-level public defenders are newly licensed attorneys; within eighteen months they are expected to be able to defend individuals charged with homicide. The Subcommittee has concurred with the Governor's recommendation to add \$250,000 from the State General Fund for salary enhancement; the additional funds will be used to create a graduated pay grade which will provide salary increases for public defenders.
3. **Vehicle.** Delete \$11,600 from the State General Fund for the replacement of one vehicle. While the vehicle recommendation meets the criteria for replacement that was established by the Department of Administration, the Subcommittee recommends that this issue be considered during Omnibus after the consensus revenue estimates for the State General Fund have been revised.
4. **Assigned Counsel Caseload Estimates.** Approximately 40 percent of the State Board's budget is dedicated to paying for assigned counsel, a total of \$9,600,000 from the State General Fund. New caseload estimates will be determined in the spring. The Subcommittee recommends that any funding changes be considered during Omnibus.

House Budget Committee Report

Agency: Judicial Branch **Bill No.** HB **Bill Sec.**

Analyst: Holwegner **Analysis Pg. No.** Vol. II - 1029 **Budget Page No.** 221

Expenditure Summary	Agency Estimate FY 08	Governor's Recommendation FY 08	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	\$ 109,181,506	\$ 109,181,506	\$ 0
Other Funds	10,961,220	10,961,220	0
Subtotal - Operating	<u>\$ 120,142,726</u>	<u>\$ 120,142,726</u>	<u>\$ 0</u>
Capital Improvements:			
State General Fund	\$ 139,984	\$ 139,984	0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 139,984</u>	<u>\$ 139,984</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 120,282,710</u></u>	<u><u>\$ 120,282,710</u></u>	<u><u>\$ 0</u></u>
FTE Positions	1,846.3	1,846.3	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>1,846.3</u></u>	<u><u>1,846.3</u></u>	<u><u>0.0</u></u>

Agency Estimate

The Judicial Branch estimates its revised total expenditures to be \$120,142,726. This includes \$109,181,506 from the State General Fund, \$491,814 from federal funds, and \$10,469,406 from other funds. The revised budget request is an increase of \$471,735, or 0.4 percent, above the amount approved by the 2007 Legislature. Requested State General Fund expenditures are an increase of \$456,002, or 0.4 percent, above the approved amount and can be attributed to the reappropriation of funds. The request would fund 1,846.3 FTE positions.

Governor's Recommendation

The Governor concurs.

House Budget Committee Recommendation

The Budget Committee concurs with the Governor's recommendation.

House Committee Recommendation

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

Senate Subcommittee Report

Agency: Judicial Branch

Bill No. SB

Bill Sec.

Analyst: Holwegner

Analysis Pg. No. Vol. II-1029

Budget Page No. 221

<u>Expenditure Summary</u>	<u>Agency Estimate FY 08</u>	<u>Governor's Recommendation FY 08</u>	<u>Senate Subcommittee Adjustments</u>
Operating Expenditures:			
State General Fund	\$ 109,181,506	\$ 109,181,506	\$ 0
Other Funds	10,961,220	10,961,220	0
Subtotal - Operating	<u>\$ 120,142,726</u>	<u>\$ 120,142,726</u>	<u>\$ 0</u>
Capital Improvements:			
State General Fund	\$ 139,984	\$ 139,984	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 139,984</u>	<u>\$ 139,984</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 120,282,710</u></u>	<u><u>\$ 120,282,710</u></u>	<u><u>\$ 0</u></u>
FTE Positions	1,846.3	1,846.3	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>1,846.3</u></u>	<u><u>1,846.3</u></u>	<u><u>0.0</u></u>

Agency Estimate

The Judicial Branch estimates its revised total expenditures to be \$120,142,726. This includes \$109,181,506 from the State General Fund, \$491,814 from federal funds, and \$10,469,406 from other funds. The revised budget request is an increase of \$471,735, or 0.4 percent, above the amount approved by the 2007 Legislature. Requested State General Fund expenditures are an increase of \$456,002, or 0.4 percent, above the approved amount and can be attributed to the reappropriation of funds. The request would fund 1,846.3 FTE positions.

Governor's Recommendation

The Governor concurs.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation.

House Budget Committee Report

Agency: Judicial Branch

Bill No. HB 2446

Bill Sec. 14

Analyst: Holwegner

Analysis Pg. No. Vol. II - 1029

Budget Page No. 221

Expenditure Summary	Agency Request FY 09	Governor's Recommendation FY 09	House Budget Committee Adjustments*
Operating Expenditures:			
State General Fund	\$ 121,428,688	\$ 111,792,805	\$ (2,589,227)
Other Funds	11,168,896	10,902,785	(213,229)
Subtotal - Operating	<u>\$ 132,597,584</u>	<u>\$ 122,695,590</u>	<u>\$ (2,802,456)</u>
Capital Improvements:			
State General Fund	\$ 143,483	\$ 143,483	0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 143,483</u>	<u>\$ 143,483</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 132,741,067</u></u>	<u><u>\$ 122,839,073</u></u>	<u><u>\$ (2,802,456)</u></u>
FTE Positions	1,887.8	1,849.3	6.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>1,887.8</u></u>	<u><u>1,849.3</u></u>	<u><u>6.0</u></u>

* Includes a reduction of \$3,378,821, including \$3,165,592 from the State General Fund, for the removal of the Governor's recommended pay plan adjustments.

Agency Request

The Judicial Branch requests an operating budget of \$132,597,584 for FY 2009. This includes \$121,428,688 from the State General Fund, \$357,479 from federal funds, and \$10,811,417 from other funds. This is an increase of \$12,454,858, or 10.4 percent, above the revised current year estimate. Requested State General Fund expenditures are an increase of \$12,247,182, or 11.2 percent, above the revised budget. The request would finance 1,887.8 FTE positions, an increase of 41.5 positions from the revised current year estimate. The request includes enhancement funding of \$12,465,207 from all funds, including \$11,674,425 from the State General Fund, and 38.5 FTE positions. Absent the enhancement requests, the requested budget for FY 2009 would total \$120,132,377 from all funds, including \$109,754,263 from the State General Fund. Compared to the revised FY 2008 budget request, the FY 2009 base budget is increased by \$6,850, or less than 0.1 percent, from all funds and a State General Fund increase of \$572,757, or 0.5 percent.

Governor's Recommendation

The Governor recommends \$122,695,590 which includes \$111,792,805 from the State General Fund. Compared to the revised FY 2008 recommendation, this is an increase of \$2,552,864, or 2.1 percent, from all funds and an increase of \$2,611,299, or 2.4 percent, from the State General Fund. Compared to the Judicial Branch's FY 2009 request, this is a decrease of

\$9,901,994, or 7.5 percent, from all funds and a decrease of \$9,635,883, or 7.9 percent, from the State General Fund. The recommended budget would fund 1,849.3 FTE positions. The Governor does not recommend the enhancements requested by the Judicial Branch.

House Budget Committee Recommendation

The Budget Committee concurs with the Governor's recommendation with the following adjustments and comments:

1. **Pay Plan Adjustments.** Delete \$3,378,821, including \$3,165,592 from the State General Fund to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
 - a. **State Employee Pay Increases.** Delete \$2,538,821, including \$2,391,187 from the State General Fund, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
 - b. **Classified Employee Pay Plan.** The Judicial Branch is not part of the Governor's recommended pay plan for classified employees, and no money is deleted for this item.
 - c. **Longevity Pay.** Delete \$840,000, including \$774,405 from the State General Fund, to remove the amount recommended by the Governor for longevity bonus payments.
2. **District Court Judges and Support Staff.** Add \$737,698 from the State General Fund and 9.0 FTE positions for three district judges and six support staff. One judge position will be for the 2nd Judicial District (Jackson, Jefferson, Pottawatomie, and Wabaunsee Counties) and two judge positions will be for the 18th Judicial District (Sedgwick County). Two support staff positions will be associated with each district judge position. The Committee heard testimony that both of these judicial districts had an increase in caseloads. There are currently only two judges in the 2nd Judicial District, and in FY 2007 the 18th Judicial District had the largest caseload (an average of 3,133 cases per judge) of all of the district courts in the state.
3. **14th Appeals Court Judge.** Delete \$161,333 from the State General Fund and 3.0 FTE positions. In the recent past, the Legislature has postponed the creation of the 13th and 14th Appeal Court judgeships as a means to balance the state's budget. The 13th judge was filled in January 2008. The Committee recommends adding a proviso that will postpone the creation of 14th Appeals Court judge until January 2010.
4. **Market Pay Adjustments.** The Judicial Branch is not included in the Governor's recommended pay adjustments for classified employees. The Judicial Branch has requested that the Legislature appropriate \$10,549,639 from all funding sources, including \$10,135,894 from the State General Fund, for a salary plan adjustment for nonjudicial personnel. Due to high turnover rates, the Judicial Branch previously instituted a pay plan in 2000 that eliminated automatic annual step movements and provided for pay raises at certain performance levels. A portion of clerks' docket fees are deposited into the statutorily created Judicial Branch Nonjudicial Salary Initiatives Fund. Currently 17.85 percent of docket fees (an estimated \$20.9 million in FY 2008 and \$21.3 million in FY 2009) is deposited

in the fund to be used solely for nonjudicial personnel. Initial data indicated to the Court that the pay plan increased the retention of employees. However, the Judicial Branch contends that over time the cost of living allowances for its employees has fallen short because of inflationary pressures as measured by the Employment Cost Index of the Bureau of Labor Statistics. Vacancy rates have begun to increase again. The Judicial Branch estimates that this enhancement would allow for a cost of living adjustment of 15.75 percent.

The Committee heard testimony from nonjudicial personnel about the difficulties in retaining qualified employees. Like many other state employees, nonjudicial employees are expected to take on more responsibilities over time. The Committee concludes that it is necessary to raise the pay of nonjudicial personnel as well. While the Judicial Branch requests the total sum be made up in one year, the Committee recommends that pay adjustments be implemented over three fiscal years.

On February 11, 2007, the House Committee on Appropriations approved the introduction of legislation that would increase docket fees; the bill would increase fees similar to what the Kansas Supreme Court instituted through its emergency surcharge that was in effect from April 1, 2003 to the end of FY 2006. It is estimated that the bill would raise approximately \$3.7 million, which is approximately equivalent to the amount needed to fund the first year of the Judicial Branch's market pay adjustment. The Budget Committee encourages the passage of the bill and recommends that this issue be considered during omnibus.

House Committee Recommendation

The House Committee concurs with the Budget Committee's recommendation with the following adjustment and comment:

1. Delete \$250,000 from the State General Fund from the above Item No. 2, leaving \$487,698 for additional district court judges and staff. The two judges, and their support staff, for the 18th Judicial District are elected and will not be filled until the last half of FY 2009.
 2. The Committee recommends an interim study on the caseloads of district judges. The study should consider the feasibility of moving judge positions across judicial district lines to better utilize judges across the state.
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Senate Subcommittee Report

Agency: Judicial Branch

Bill No. SB 658

Bill Sec. 14

Analyst: Holwegner

Analysis Pg. No. Vol. II-1029

Budget Page No. 221

Expenditure Summary	Agency Request FY 09	Governor's Recommendation FY 09	Senate Subcommittee Adjustments*
Operating Expenditures:			
State General Fund	\$ 121,428,688	\$ 111,792,805	\$ (2,427,894)
Other Funds	11,168,896	10,902,785	(213,229)
Subtotal - Operating	<u>\$ 132,597,584</u>	<u>\$ 122,695,590</u>	<u>\$ (2,641,123)</u>
Capital Improvements:			
State General Fund	\$ 143,483	\$ 143,483	\$ 0
Other Funds	0	0	0
Subtotal - Capital Improvements	<u>\$ 143,483</u>	<u>\$ 143,483</u>	<u>\$ 0</u>
 TOTAL	 <u><u>\$ 132,741,067</u></u>	 <u><u>\$ 122,839,073</u></u>	 <u><u>\$ (2,641,123)</u></u>
 FTE Positions	 1,887.8	 1,849.3	 9.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u><u>1,887.8</u></u>	<u><u>1,849.3</u></u>	<u><u>9.0</u></u>

* Includes a reduction of \$3,378,821, including \$3,165,592 from the State General Fund, for the removal of the Governor's recommended pay plan adjustments.

Agency Request

The Judicial Branch requests an operating budget of \$132,597,584 for FY 2009. This includes \$121,428,688 from the State General Fund, \$357,479 from federal funds, and \$10,811,417 from other funds. This is an increase of \$12,454,858, or 10.4 percent, above the revised current year estimate. Requested State General Fund expenditures are an increase of \$12,247,182, or 11.2 percent, above the revised budget. The request would finance 1,887.8 FTE positions, an increase of 41.5 positions from the revised current year estimate. The request includes \$161,333 from the State General Fund for the 14th judge on the Court of Appeals, created pursuant to law, along with two support positions consisting of an administrative assistant and a research attorney. The request includes enhancement funding of \$12,465,207 from all funds, including \$11,674,425 from the State General Fund, and 38.5 FTE positions. Absent the enhancement requests, the requested budget for FY 2009 would total \$120,132,377 from all funds, including \$109,754,263 from the State General Fund. Compared to the revised FY 2008 budget request, the FY 2009 base budget is increased by \$6,850, or less than 0.1 percent, from all funds and a State General Fund increase of \$572,757, or 0.5 percent.

Governor's Recommendation

The Governor recommends \$122,695,590 which includes \$111,792,805 from the State General Fund. Compared to the revised FY 2008 recommendation, this is an increase of \$2,552,864, or 2.1 percent, from all funds and an increase of \$2,611,299, or 2.4 percent, from the State General Fund. Compared to the Judicial Branch's FY 2009 request, this is a decrease of \$9,901,994, or 7.5 percent, from all funds and a decrease of \$9,635,883, or 7.9 percent, from the State General Fund. The recommended budget would fund 1,849.3 FTE positions. The Governor does not recommend the enhancements requested by the Judicial Branch.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following adjustments and comments:

1. **Pay Plan Adjustments.** Delete \$3,378,821, including \$3,165,592 from the State General Fund to remove the following pay plan adjustments recommended by the Governor. Pay plan adjustments will be considered in a separate bill.
 - a. **State Employee Pay Increases.** Delete \$2,538,821, including \$2,391,187 from the State General Fund, to remove the amount recommended by the Governor for the 2.5 percent base salary adjustment.
 - b. **Longevity Pay.** Delete \$840,000, including \$774,405 from the State General Fund, to remove the amount recommended by the Governor for longevity bonus payments.
2. **District Court Judges and Support Staff.** Add \$737,698 from the State General Fund and 9.0 FTE positions for three district judges and six support staff. One judge position will be for the 2nd Judicial District (Jackson, Jefferson, Pottawatomie, and Wabaunsee Counties) and two judge positions will be for the 18th Judicial District (Sedgwick County). Two support staff positions (a secretary and a court reporter) will be associated with each district judge position. The Committee heard testimony that both of these judicial districts had significant increases in caseloads. There are currently only two judges in the 2nd Judicial District, and in FY 2007 the 18th Judicial District had the largest caseload (an average of 3,133 cases per judge) of all of the district courts in the state. Judge positions in the 18th Judicial District are filled by election, and judge positions in the 2nd Judicial District are filled by appointment.
3. **Market Pay Adjustments.** The Subcommittee recommends that market pay adjustments for nonjudicial personnel be considered during Omnibus. The Judicial Branch is not included in the Governor's recommended pay adjustments for classified employees. The Judicial Branch has requested that the Legislature appropriate \$10,549,639 from all funding sources, including \$10,135,894 from the State General Fund, for a salary plan adjustment for nonjudicial personnel. Due to high turnover rates, the Judicial Branch previously instituted a pay plan in 2000 that eliminated automatic annual step movements and provided for pay raises at certain performance levels. A portion of clerks' docket fees are deposited into the statutorily created Judicial Branch Nonjudicial Salary Initiatives Fund. Currently

17.85 percent of docket fees (an estimated \$20.9 million in FY 2008 and \$21.3 million in FY 2009) are deposited in the fund to be used solely for nonjudicial personnel. Initial data indicated to the Court that the pay plan increased the retention of employees. However, the Judicial Branch contends that over time the cost of living allowances for its employees has fallen short because of inflationary pressures as measured by the Employment Cost Index of the Bureau of Labor Statistics. Vacancy rates have begun to increase again. The Judicial Branch estimates that this enhancement would allow for a cost of living adjustment of 15.75 percent. The Committee heard testimony from nonjudicial personnel about the difficulties in retaining qualified employees. Like many other state employees, nonjudicial employees are expected to take on more responsibilities over time.

4. **Consideration of Additional Nonjudicial Personnel at Omnibus.** The Subcommittee recommends that the addition of 10.0 nonjudicial FTE positions, and a corresponding amount for salaries and wages, be considered during Omnibus. The several district courts had initially requested 74.5 new FTE nonjudicial positions, such as clerk of district court staff, judicial support staff, and court services officers. The Supreme Court concluded during its internal budget deliberations that 27.5 FTE positions would suffice at this time. The Subcommittee believes this issue should be considered during Omnibus after the consensus revenue estimates for the State General Fund have been revised.

Funding

KAMS by design is a residential program for high achieving students in mathematics and science. Students from Kansas public schools enter the program their junior year in high school and exit their senior year; a two-year commitment. The establishment of KAMS within the university requires more than just a year to be fully functional with the programs and student development options needed to make an effective program. Visitations and consultations with similar programs (e.g. Texas and Missouri) indicate that at least 10 years are needed to see the full benefit of the program – allowing time for students to complete the program, enter college, and complete professional programs. The key point is that KAMS requires a dedicated funding stream if its potential is to be realized.

Specific considerations:

- Parents, students, and the sending school districts are making a commitment of two years for the student to attend KAMS. If there is any question about cancellation of KAMS on a year-to-year basis it presents a family with high risk to consider KAMS. It is likely that this uncertainty will lead some students to consider out-of-state options, such as Missouri, rather than Kansas.
- Critical to the success of the academic/leadership/civic-responsibility is time to develop the students. Lack of assured funding will limit the development of programs that take time to mature.
- KAMS recruitment, in order for students to be academically ready for the academy, begins in 7th grade. Students and parents need to consider academic enrichment opportunities (e.g. camps), accelerated curriculum, and pre-requisite work beginning as early as 7th grade in order to be competitive and prepared for the rigors of KAMS. This is a four-year ramp up period, again speaking to the need of a dedicated funding stream.
- A dedicated funding stream is needed if we are to attract the most qualified individuals to fill the leadership positions in KAMS. A year-to-year funding cycle is a major detriment to attracting top candidates who see the potential for KAMS and understand that KAMS requires a long-term approach for successful development.

Why FHSU's Proposal is the Strongest

- National data has documented that the Fort Hays State learning environment produces more learning than 90% of the colleges and universities in the United States.
- FHSU took a broad, interdisciplinary approach to the formation of the campus team, which included math and science faculty, deans, psychologist, student affairs, residential life, grants facilitation/program evaluation expertise, marketing/recruitment expertise, and representation from K-12 education (USD 489). This group formed early, and spent a great deal of time

Dr. Edward Hammond

Senate Ways and Means
3-6-08
Attachment 2

developing the basic architecture for the proposal, resulting in a well thought-out and inclusive plan for KAMS development and implementation

- FHSU's national recognition for civic engagement and student leadership, and the integration of those components into the curriculum and student life, means a comprehensive education for the whole student, not just in math and science
- KAMS not only has the necessary buy-in from FHSU's academic departments, it also benefits from strong advocacy by the university president. Strong leadership and vision throughout all levels of the organization contributed to the quality of the proposal and sets the right course for success of the Academy.
- KAMS offers the state's brightest and most motivated students excellent academics, extraordinary research opportunities, and a strong student development program. At the same time, FHSU took a fiscally conservative approach to setting the budget in order to make the most of resources and thus demonstrate exceptional cost-benefit to the State of Kansas
- The culture at FHSU enables agility and innovation
- The "high tech, high touch" culture at FHSU ensures that students will utilize top-notch, modern classrooms and lab space, and they will integrate tablet computer technology into their learning experience. At the same time, the university's small classes, safe campus, personal interaction between faculty and students and general sense of community demonstrates not only commitment to, but a demonstration of a strong focus on student learning and success.
- FHSU's international ties brings diversity to campus, and facilitates recruitment of international students to KAMS

Appendix 3: Bridge-Year Budget

The following is a proposed budget outline for the period from 7/08 to 6/09.

KAMS Bridge Year Budget		
July 1, 2008 - June 30, 2009		
Salary		
Director	12 months	\$ 67,000
Admission/Enrollment	12 months	\$ 35,000
Administrative Specialist	12 months	\$ 27,600
		\$ 129,600
Fringe Benefits		
Calculated @28%		\$ 36,288
Travel		
Director to USD's, KSDE, KBOR, and Conferences		\$ 6,000
Marketing Director		\$ 3,000
Equipment		\$ -
Supplies and Materials		
2 Laptops, Printers, Fax Machine		\$ 4,500
Printing-postage		\$ 1,000
Communications		\$ 800
Consultants		\$ -
Other		
Renovations to meet ADA Standards		\$ 50,000
Staff search		
Search for 3 Faculty, Residence Counselor, Student Development Coordinator, Resident Assistant		\$ 25,000
Recruitment?Admissions Coordinator		
Brochures, Promotional items, Advertising, Publication Advertising		\$ 32,000
Advisory Group Meetings (3 x\$1000)		\$ 3,000
Fall Visitation by potential KAMS students		\$ 1,600
Spring Orientation for KAMS students		\$ 1,600
Background Checks (8*\$75)		\$ 600
Total		\$ 294,988

C. Summary Budget

KAMS BUDGET SUMMARY

Refer to proposal instructions prior to completing this budget.

Name of Institution: Fort Hays State University

Budget Categories	Year 1* 40 Kansas students	Year 2 80 Kansas students	Year 3 80 Kansas students	Year 4 80 Kansas students	Year 5 80 Kansas students
Revenue					
Tuition and fees	177,573	372,903	391,548	411,125	431,682
Existing state funding streams	0	0	0	0	0
Existing institutional funding streams	0	0	0	0	0
Charges for room and board	260,040	546,084	573,388	596,324	620,177
Grants and/or gifts	56,000	58,800	61,740	64,827	68,068
Other	0	0	0	0	0
Total Revenue	493,613	977,787	1,026,676	1,072,276	1,119,926
Expenses					
Personnel; salaries and wages	451,720	625,506	651,881	684,475	770,879
Fringe benefits	113,904	156,476	162,927	171,074	180,671
Equipment	48,000	22,000	30,200	30,900	31,600
Other operating expenses	92,019	156,190	163,299	170,764	178,603
Residential facilities	238,864	442,394	464,514	487,740	512,127
Transportation for KAMS students	19,903	34,461	36,184	37,993	39,893
Special activities for KAMS students	31,120	29,712	30,628	31,589	32,598
Marketing	20,925	21,971	23,070	24,223	25,434
Restricted fees	96,842	144,568	151,796	159,386	167,355
Other	93,315	98,366	103,249	108,704	118,705
Total Expenses	1,206,612	1,731,644	1,817,749	1,906,849	2,057,865
Total Legislative Request	712,999	753,857	791,073	834,573	937,939

*40 Kansas students will be admitted the first year. An additional 40 students will be admitted each year, for a total of 80 Kansas students at any given time.

On a separate page, explain any increases from one year to the next.

KAMS Budget

For Year One of operation assuming 40 Kansas students

(An additional 40 Kansas students will be admitted each year, for a total of 80 Kansas students at any given time.)

Fill in the shaded boxes. Account for every cost involved in operating KAMS.

Revenue

1.	Tuition and fees paid by the Kansas school district in which the student is enrolled (according to statute, such charges shall not exceed the base state aid per pupil)	177,573
2.	Revenue provided by existing state funding streams	0
3.	Revenue provided from existing institutional funding streams	0
4.	Revenue from charges for room and board	260,040
5.	Revenue from grants and/or gifts*	56,000
6.	Other revenue	0
7.	Total Revenue	493,613

*A specific target value should be established for the revenue to be solicited from grants and gifts.

Expenses

A. Personnel

		Wages	Fringe Benefits	Total
1.	Dean/Director	67,000	18,760	85,760
2.	Support Staff	51,000	9,690	60,690
3.	Faculty	171,999	48,159	220,161
4.	Counselor/Mentor	36,000	10,080	46,080
5.	Academic Advisor	0	0	0
6.	PhD Psychologist with specialty in adolescent behavior	60,000	16,800	76,800
7.	Resident Assistant	20,000	400	20,400
8.	Other Personnel	45,720	10,014	55,734
9.	Total Personnel	451,720	113,904	565,624

B. Equipment

Do NOT include equipment that is normally purchased with revenues from restricted use fees.

1.	Information technology equipment in support of personnel	14,000
2.	General office equipment	20,000
3.	Equipment for classroom use	14,000
4.	Other	0
5.	Total Equipment	48,000

C. Other Operating Expenses

Do NOT include supplies that would normally be purchased with revenues from restricted use fees.

1.	Books for KAMS students	60,000
2.	General office supplies	1,500
3.	Postage	500
4.	Phone	1,344
5.	Software	1,200
6.	Classroom supplies/software	7,000
7.	Other	20,475
8.	Total Supplies	92,019

D. Residential Facilities

1.	Maintenance of residential facilities	72,822
2.	Maintenance of dining facilities	7,802
3.	Food service	130,040
4.	Other (e.g. capital improvements)	28,200
5.	Total Residential Facilities	238,864

E. Transportation for KAMS Students

(If applicable)

1.	Local transportation	9,000
2.	Transportation to organized field trips or special activities	7,903
3.	Transportation to academic conferences	3,000
4.	Transportation for visits home	0
5.	Other	0
6.	Total Transportation	19,903

F. Special Activities for KAMS Students

(Exclude transportation costs)

1.	Admission/registration costs	2,720
2.	Guest speakers	12,000
3.	Other	16,400
4.	Total Special Activities	31,120

G. Marketing

1.	Travel	2,000
2.	Printed materials	4,900

3.	Other media	2,000	
4.	Development and maintenance of web page	0	
5.	Postage	3,700	
6.	Other	8,325	
7.	Total Marketing		20,925

H. Restricted Fees

The KAMS statute limits the tuition and fees to be collected from KAMS students; therefore, uncollected restricted fees can be viewed as a project expense. List only those fees that are dedicated to supporting a particular activity on campus (e.g. technology fees, laboratory fees for specific courses, and so on). List the five largest fees below. Show the total amount of any other restricted use fees on line 6; detail these in the budget justification.

1.	Tablet PC's	56,000	
2.	Student Fees (23% Tuition & Fees)	40,842	
3.			
4.			
5.			
6.	Other		
7.	Total Restricted Fees		96,842

I. Other

1.	Contracts and/or collaborations	40,500	
2.	Overhead (lighting, HVAC, physical plant, etc)*	52,815	
3.	Other	0	
4.	Total Other		93,315

*Do not simply use the institution's negotiated indirect cost rate. Estimate expenses associated with operation of the institution that do not appear elsewhere in the budget.

Total Expenses	1,206,612
Legislative Request (subtract revenues from expenses)	712,999

On a separate page, describe the tuition and fees that would be charged to international and out-of-state students, in anticipation of an amendment to the statute. Tuition and fees for these students should be sufficient to cover all program costs.



KANSAS BOARD OF REGENTS

1000 SW JACKSON • SUITE 520 • TOPEKA, KS 66612-1368

TELEPHONE – 785-296-3421
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March 6, 2008

Senator Dwayne Umbarger, Chairman
Senate Ways and Means Committee
Statehouse, Room 120-S
Topeka, KS 66612

Senator Laura Kelly, Ranking Member
Senate Ways and Means Committee
Statehouse, Room 401-S
Topeka, KS 66612

Dear Chairman Umbarger and Ranking Member Kelly:

On behalf of the Kansas Board of Regents, I write to you in support of Senate Bill 651, legislation that would provide multi-year funding for the Kansas Academy of Mathematics and Science (KAMS) at Fort Hays State University (FHSU).

The Board included a placeholder for KAMS in our FY 2009 budget request because competitive proposals to host KAMS were not due until October 2007. Once the Board selected FHSU, we made funding information available to the Governor. As you may know, the Governor recommended that KAMS receive \$250,000 in FY 2009. Senate Bill 651 would fully fund the Board's multi-year funding request.

KAMS represents an important tool for Kansas to use in retaining our most talented students. Our state's future depends upon our capacity to nurture our best and brightest students in an environment that will encourage them to either stay in Kansas or return to Kansas upon completion of their postsecondary studies. KAMS will challenge talented individuals and encourage them to enter mathematics and science-related fields, which in turn will help address some of our state's most critical workforce needs. However, it certainly goes without saying that adequate state funding is essential for the establishment, operation, and ultimate success of KAMS.

Thank you for your consideration of Senate Bill 651.

Sincerely,

Reginald L. Robinson
President and CEO

Senate Ways and Means
3-6-08
Attachment 3



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Senate Ways & Means Committee
March 6, 2008

Overview of the State-Funded Service Obligation Scholarship Programs

Diane Lindeman
Director of Student Financial Assistance

Good Morning, Chairman Umbarger and Members of the Committee. My name is Diane Lindeman and I am the Director of Student Financial Assistance for the Kansas Board of Regents. I am here today to provide you with an overview of the state-funded service obligation scholarship programs that are administered by the Kansas Board of Regents.

You will find attached a chart that that I have prepared that provides an overview of the service obligation programs. I will briefly review this information with you.

I would be happy to address any questions that Committee members may have at any point during my presentation.

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State Funded Service Obligation Scholarship Programs Administered by the Kansas Board of Regents

Program	Description	Student Eligibility	School Eligibility	Service Obligation	Maximum Award Amount
Undergraduate Programs					
Kansas Teacher Service Scholarship	Merit-based scholarship program. Students must be planning to teach in either a hard-to-fill discipline or underserved geographic area of KS. Full-time or part-time enrollment acceptable.	Preference given to students in junior/senior yr in college and current teachers seeking endorsement &/or licensure in hard-to-fill teaching disciplines.	Primarily 4 yr public & private schools in KS; Possibly 2 yr public & private schools, if student has acquired close to junior level status.	Recipient must teach 1 yr for each yr of scholarship assistance received.	\$2,500/semester. Awards are pro-rated based on number of hours enrolled.
Kansas Nursing Service Scholarship	Need-based, if applications greatly exceed funding. Full-time enrollment.	Acceptance into a Kansas nursing program. Pre-nursing not funded. Student must obtain a sponsor to partially fund scholarship. For students in either LPN or RN programs.	2 yr & 4 yr public & private schools in KS; as well as vocational-technical schools & colleges.	Recipient must be employed as a nurse 1 yr for each yr of scholarship assistance received.	\$3,500/RN \$2,500/LPN
Kansas Reserve Officer Training Corp (ROTC) Service Scholarship	For students enrolled in campus ROTC programs. Full-time enrollment.	Student agrees to accept a commission as a Second Lt. & serve not less than 4 yrs as a commissioned officer in the KS Army National Guard.	Program only available at KSU, PSU, KU & Washburn.	Recipient must serve for not less than 4 yrs as an officer in the National Guard.	Variable; but not to exceed 70% of cost of attendance at student's school.
Graduate Programs					
Osteopathic Service Scholarship	Tuition assistance for students seeking degrees in osteopathic medicine. Full-time enrollment.	Students must be Kansas residents attending an accredited school of osteopathic medicine in the U.S.	Any accredited osteopathic school in the U.S.	Recipient must work in KS in a medically underserved area in primary care medicine 1 yr for each yr. of scholarship assistance received.	Up to \$25,000 annually
Optometry Service Scholarship	Tuition assistance for students seeking degrees in optometry. Full-time enrollment.	Students must be Kansas residents attending 1 of 3 accredited schools of optometry in the U.S. in which KBOR has a contractual agreement.	Students must attend one of the following schools of optometry: U of Missouri-St. Louis; Southern College (Memphis, TN); or Northeastern St. U (Tahlequah, OK).	Recipient must work in KS 1 yr for each yr of scholarship assistance received.	Variable.

**State Funded Service Obligation Scholarship Programs
Administered by the Kansas Board of Regents**

<i>Nurse Educator Scholarship</i>	Tuition assistance for students seeking graduate degrees in nursing & plan to teach in the field of nursing. Part-time or full-time enrollment acceptable.	Students must be Kansas residents attending a graduate level nursing program at one of the 4 yr public universities.	4 yr public school's graduate level nursing programs.	Recipient must teach in Kansas school of nursing 1 yr. for each year of scholarship assistance received.	Up to 70% cost of attendance for an academic year.
--	--	--	---	--	--

If scholarship recipients do not fulfill their service obligation in any of these programs, they will be required to repay the amount of the scholarship assistance that they have received plus interest. The interest rate is tied to the PLUS loan + 5 points. Currently that places the interest rate at 13.5%. Interest begins to accrue at the time that the student first receives the scholarship funding.

SENATE BILL No. 485

By Committee on Ways and Means

1-28

Proposed amendment
Senator Umbarger
February 20, 2008

9 AN ACT concerning counties; enacting the county alternative project
10 delivery building construction procurement act; amending K.S.A. 19-
11 214 and repealing the existing section.
12

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

14 New Section 1. This act shall be known and may be cited as the
15 county alternative project delivery building construction procurement act.

16 New Sec. 2. (a) "Alternative project delivery" means an integrated
17 comprehensive building design and construction process, including all
18 procedures, actions, sequences of events, contractual relations, obliga-
19 tions, interrelations and various forms of agreement all aimed at the suc-
20 cessful completion of the design and construction of buildings and other
21 structures whereby a construction manager or general contractor or build-
22 ing design-build team is selected based on a qualifications and best value
23 approach.

24 (b) "Ancillary technical services" include, but shall not be limited to,
25 geology services and other soil or subsurface investigation and testing
26 services, surveying, adjusting and balancing air conditioning, ventilating,
27 heating and other mechanical building systems and testing and consultant
28 services that are determined by the agency to be required for the project.

29 (c) "Architectural services" means those services described by sub-
30 section (e) of K.S.A. 74-7003, and amendments thereto.

31 (d) "Best value selection" means a selection based upon project cost,
32 qualifications and other factors.

33 (e) "Board" means the board of county commissioners or its
34 designees.

35 (f) "Building construction" means furnishing labor, equipment, ma-
36 terial or supplies used or consumed for the design, construction, altera-
37 tion, renovation, repair or maintenance of a building or structure. Build-
38 ing construction does not include highways, roads, bridges, dams,
39 turnpikes or related structures, or stand-alone parking lots.

40 (g) "Building design-build" means a project for which the design and
41 construction services are furnished under one contract.

42 (h) "Building design-build contract" means a contract between the
43 county and a design-builder to furnish the architecture or engineering

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1 and place, the evaluation team shall make public its scoring of phase II.
 2 Cost proposals shall be evaluated in accordance with the requirements of
 3 the request for proposal. In evaluating the proposals, each proposers'
 4 adjusted score shall be determined by adding the phase III cost proposal
 5 to the product of the proposed contract time and the user delay cost, and
 6 dividing that sum by the phase II score.

7 (10) The responsive proposer with the lowest total number of points
 8 shall be awarded the contract. If the board determines, that it is not in
 9 the best interest of the county to proceed with the project pursuant to
 10 the proposal offered by the proposer with the lowest total number of
 11 points, the board shall reject all proposals. In such event, all qualified
 12 proposers with higher point totals shall receive a stipend pursuant to
 13 subsection (e)(12) of this section, and amendments thereto, of this act,
 14 and the proposer with the lowest total number of points shall receive an
 15 amount equal to two times such stipend.

16 (11) If all proposals are rejected, the board may solicit new proposals
 17 using different design criteria, budget constraints or qualifications.

18 (12) As an inducement to qualified proposers, the board shall pay a
 19 stipend, the amount of which shall be established in the request for pro-
 20 posal, to each prequalified building design-builder whose proposal is re-
 21 sponsive but not accepted. Upon payment of the stipend to any unsuc-
 22 cessful building design-build proposer, the county shall acquire a
 23 nonexclusive right to use the design submitted by the proposer, and the
 24 proposer shall have no further liability for its use by the county in any
 25 manner. If the building design-build proposer desires to retain all rights
 26 and interest in the design proposed, the proposer shall forfeit the stipend.

27 New Sec. 6. Every bid conforming to the terms of the advertisement,
 28 together with the name of the bidder, shall be recorded, and all such
 29 records with name of the successful bidder indicated thereon shall, after
 30 award or letting of the contract, be subject to public inspection upon
 31 request. The county clerk shall, within five days after award or letting of
 32 the contract, publish the name of the successful bidder. The public notice
 33 on public display shall show the phase II and III scores and the adjusted
 34 final score. The county clerk shall, within five days after award or letting
 35 of the contract, have the names of all proposers whose bids were not
 36 selected, together with phase II and III scores and the final adjusted score
 37 for each, available for public review.

38 Sec. 7. K.S.A. 19-214 is hereby amended to read as follows: 19-214.

39 (a) Except as provided in subsection (b) and, in K.S.A. 19-216a, and in
 40 sections 1 through 6, and amendments thereto, all contracts for the ex-
 41 penditure of county moneys for the construction of any courthouse, jail
 42 or other county building, or the construction of any bridge in excess of
 43 \$10,000, shall be awarded, on a public letting, to the lowest and best bid.

the amount specified in subsection (c),

1 The person, firm or corporation to whom the contract may be awarded
2 shall give and file with the board of county commissioners a good and
3 sufficient surety bond by a surety company authorized to do business in
4 the state of Kansas, to be approved by the county attorney or county
5 counselor, in the amount of the contract, and conditioned for the faithful
6 performance of the contract.

7 (b) The provisions of subsection (a) shall not apply: (1) To the ex-
8 penditure of county funds for professional services; (2) to the provisions
9 of K.S.A. 68-521, and amendments thereto; or (3) to the purchase of
10 contracts of insurance.

11 Sec. 8. K.S.A. 19-214 is hereby repealed.

12 Sec. 9. This act shall take effect and be in force from and after its
13 publication in the statute book.

(c) The minimum amount of county moneys for which contracts shall be awarded as required in subsection (a) shall be determined as follows:

(1) For the fiscal year ending on December 31, 2008, the minimum amount shall be \$25,000.

(2) For each subsequent fiscal year after 2008, the amount shall be determined by the county commission on or before January 1 of such fiscal year and shall be equal to the minimum amount for the preceding fiscal year plus an additional amount determined by the county commission to be proportionally equal to the increase, if any, by which the consumer price index for all urban consumers published by the United States department of labor for the preceding calendar year, exceeds that index for the second preceding calendar year.

Session of 2008

SENATE BILL No. 485

By Committee on Ways and Means

1-28

AN ACT concerning counties; enacting the county alternative project delivery building construction procurement act; amending K.S.A. 19 214 and repealing the existing section.

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

New Section 1. This act shall be known and may be cited as the county alternative project delivery building construction procurement act.

New Sec. 2. (a) "Alternative project delivery" means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor or building design-build team is selected based on a qualifications and best value approach.

(b) "Ancillary technical services" include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing air conditioning, ventilating, heating and other mechanical building systems and testing and consultant services that are determined by the agency to be required for the project.

(c) "Architectural services" means those services described by sub section (e) of K.S.A. 74-7003, and amendments thereto.

(d) "Best value selection" means a selection based upon objective criteria related to price, features, functions, life-cycle costs, project cost, qualifications and other factors.

(e) "Board" means the board of county commissioners or its designees.

(f) "Building construction" means furnishing labor,

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equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure. Building construction does not include highways, roads, bridges, dams, turnpikes or related structures, or stand-alone parking lots.

(g) "Building design-build" means a project for which the design and construction services are furnished under one contract.

(h) "Building design-build contract" means a contract between the county and a design-builder to furnish the architecture or engineering and related design services required for a given public facilities construction project and to furnish the labor, materials and other construction services for such public project.

(i) "Construction services" means the process of planning, acquiring, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding highways, roads, bridges, dams or related structures, or stand-alone parking lots.

(j) "Construction management at-risk services" means the services provided by a firm which has entered into a contract with the county to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may include, but are not limited to, scheduling, value analysis, system analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees and construction coordination.

(k) "Construction management at-risk contract" means the contract whereby the county acquires from a construction manager or general contractor a series of preconstruction services and an at-risk financial obligation to carry out construction under a specified cost agreement.

(l) "Construction manager or general contractor" means any individual, partnership, joint venture, corporation or other

legal entity who is a member of the integrated project team with the county, design professional and other consultants that may be required for the project, who utilizes skill and knowledge of general contracting to perform preconstruction services and competitively procures and contracts with specialty contractors assuming the responsibility and the risk for construction delivery within a specified cost and schedule terms including a guaranteed maximum price.

(m) "Design-builder" means any individual, partnership, joint venture, corporation or other legal entity that furnishes the architectural or engineering services and construction services, whether by itself or through subcontracts.

(n) "Design criteria consultant" means a person, corporation, partnership or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to K.S.A. 74-7003, and amendments thereto, and who is employed by contract to the county to provide professional design and administrative services in connection with the preparation of the design criteria package.

(o) "Design criteria package" means performance-oriented specifications for the public construction project sufficient to permit a design-builder to prepare a response to the county's request for proposals for a building design-build project.

(p) "Engineering services" means those services described by subsection (i) of K.S.A. 74-7003, and amendments thereto.

(q) "Guaranteed maximum price" means the cost of the work as defined in the contract.

(r) "Parking lot" means a designated area or parking structure for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act. A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

(s) "Preconstruction services" means a series of services that can include, but are not necessarily limited to: Design review, scheduling, cost control, value engineering, constructability evaluation and preparation and coordination of bid packages.

(t) "Project services" means architectural, engineering

services, land surveying, construction management at-risk services, ancillary technical services or other construction-related services determined by the county to be required by the project.

(u) "Public construction project" means the process of designing, constructing, reconstructing, altering or renovating a public building or other structure. Public construction project does not include the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.

(v) "Stipend" means an amount paid to the unsuccessful and responsive proposers to defray the cost of submission of phase II of the building design-build proposal.

New Sec. 3. (a) Notwithstanding any other provision of the law to the contrary, the board of county commissioners is hereby authorized to institute an alternative project delivery program whereby construction management at-risk or building design-build procurement processes may be utilized on public projects pursuant to this act. This authorization for construction management at-risk and building design-build procurement shall be for the sole and exclusive use of planning, acquiring, designing, building, equipping, altering, repairing, improving or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, but shall not include highways, roads, bridges, dams or related structures or stand-alone parking lots.

~~(b) To assist in the procurement of alternative project delivery construction services as defined under this act, the board shall encourage firms engaged in the performance of construction services to submit annually to the board a statement of qualifications and performance data. Each statement shall include data relating to the following:~~

~~(1) The firm's capacity and experience, including experience on similar or related projects;~~

~~(2) the capabilities and other qualifications of the firm's personnel; and~~

~~(3) such other information related to qualifications and capability of the firm to perform construction services for projects as may be described by the board.~~

~~(b) The board shall approve those projects or programs for which the use of alternative project delivery~~

procurement process is appropriate. In making such determination, the board may consider the following factors:

(1) The likelihood that the alternative project delivery method of procurement selected will serve the public interest by providing substantial savings of time or money over the traditional design-bid-build delivery process.

(2) The ability to overlap design and construction phases is required to meet the needs of the end user.

(3) The use of an accelerated schedule is required to make repairs resulting from an emergency situation.

(4) The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of designers and constructors to solve project challenges during the design or preconstruction phase.

(5) The use of an alternative project delivery method will not encourage favoritism in awarding the public contract or substantially diminish competition for the public contract.

~~(d)~~ When a request is made for alternative delivery procurement by the county, the county clerk shall make official public publish a notice in the official county newspaper that the board will be holding a public meeting hearing with the opportunity for comment on such request. Notice shall be published at least 45 days prior to the public meeting hearing.

~~(e)~~ If the board finds that the project does not qualify for the alternative project delivery methods included under this act, then the construction services for such project shall be obtained pursuant to statute or to procedures permitted by law. ~~competitive bids and all contracts for construction services shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the board.~~

~~(f) When it is necessary in the judgment of the board to obtain project services for a particular project as described under this act, the county clerk shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such request in the official county newspaper and in such other appropriate manner as may be determined by the board.~~

New Sec. 4. Construction management at-risk project delivery procedures shall be conducted as follows:

(a) The board shall determine the scope and level of detail required to permit qualified construction manager or

general contractors to submit construction management at-risk proposals in accordance with the request for proposals given the nature of the project.

(b) Prior to completion of the construction documents, ~~or but as early as initiation of the project during the schematic design phase,~~ the construction manager or general contractor shall be selected. The project design professional may be employed or retained by the board to assist in the selection process. ~~The design professional shall be selected and its contract negotiated as required by the board.~~

(c) ~~The county clerk shall~~ publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such requests in such appropriate manner as may be determined by the county, in the official county newspaper and other

(d) The board shall solicit proposals in a three stage qualifications based selection process. Phase I shall be the solicitation of qualifications and prequalifying a short list ~~minimum of three but no more than five construction manager or general contractors~~ to advance to phase II. Phase II shall be the solicitation of a request for proposal for the project, and phase III shall include an interview with each proposer to present their qualifications and answer questions.

(1) Phase I shall require all proposers to submit a statement of qualifications which shall include, but not be limited to:

- (A) Similar project experience;
- (B) experience in this type of project delivery system;
- (C) references from design professionals and owners from previous projects;
- (D) description of the construction manager or general contractor's project management approach;
- (E) financial statements; and
- (F) bonding capacity. Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capacity to the board with their statement of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.

(2) The board shall evaluate the qualifications of all proposers in accordance with the instructions of the request

for qualifications. The board shall prepare a short list containing a minimum of three and maximum of five qualified firms, which have the best and most relevant qualifications to perform the services required of the project, to participate in phase II of the selection process. ~~If the board, if three qualified proposers cannot be identified, the selection process shall cease. The board shall have discretion to disqualify any proposer that, in the board's opinion, lacks the minimal qualifications required to perform the work.~~ receives qualifications from less than four proposers, all proposers shall be invited to participate in Phase II of the selection process. The board shall have discretion to disqualify any proposer that, in the board's opinion, lacks the minimal qualifications required to perform the work.

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(3) Phase II of the process shall be conducted as follows:

(A) Prequalified firms selected in phase I shall be given a request for proposal. The request for proposal shall require all proposers to submit a more in depth response including, but not be limited to:

- (i) Company overview;
- (ii) experience or references, or both, relative to the project under question;
- (iii) resumes of proposed project personnel;
- (iv) overview of preconstruction services;
- (v) overview of construction planning;
- (vi) proposed safety plan;
- (vii) fees, including fees for preconstruction services,

fees for general conditions, fees for overhead and profit and fees for self-performed work, if any.

(4) Phase III shall be conducted as follows:

(A) Once all proposals have been submitted, the board shall interview all of the proposers. Interview presentation scores shall not account for more than 50% of the total possible score. ~~allowing the competing firms to present their proposed team members, qualifications, project plan and to answer questions~~

(B) The board shall select the firm providing the best value based on the proposal criteria and weighting factors utilized to emphasize important elements of each project. All scoring criteria and weighting factors shall be identified by the board in the request for proposal instructions to proposers. The board shall proceed to negotiate with and attempt to enter

into contract with the firm receiving the best total score to serve as the construction manager or general contractor for the project.

(C) If the board determines, that it is not in the best interest of the county to proceed with the project pursuant to the proposals offered, the board shall reject all proposals. If all proposals are rejected, the board may solicit new proposals using different design criteria, budget constraints or qualifications.

(D) The contract to perform construction management at-risk services will typically be awarded in phases: preconstruction followed by one or more amendments for construction. The contract form will be for a project shall be prepared and entered into between the county and the firm performing such construction management at-risk services. A construction management at-risk contract utilizing a cost plus guaranteed maximum price contract, value shall return all savings under the guaranteed maximum price may return to the county as defined in the request for proposal.

(E) The board and/or the construction manager at-risk, at the board's discretion. The county clerk shall publish a construction services bid notice in an appropriate manner notice in the official county newspaper and in such other for the construction manager or general contractor as may be determined by the county. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager or general contractor and the county. The county may allow the construction manager or general contractor to self-perform construction services provided the construction manager or general contractor submits a bid proposal under the same conditions as all other competing firms. If a firm submitting a bid proposal fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection. At the time for opening the bids, the construction manager or general contractor shall evaluate the bids and shall determine the lowest responsible bidder except in the case of self-performed work for which the county shall determine the lowest responsible bidder. The construction manager or general contractor shall enter into a contract with each firm performing the construction services for the project. All bids will be available for public view, and make a public announcement of

~~each firm selected in accordance with this subsection.~~

New Sec. 5. Building design-build project delivery procedures shall be conducted as follows:

(a) The board shall determine the scope and level of detail required to permit qualified persons to submit building design-build qualifications and proposals in accordance with the county requirements ~~request for proposals~~ given the nature of the project.

~~(b) Notice of requests for proposals shall be advertised and published in the official county newspaper. The county clerk shall publish a notice of a request for proposal with a description of the project the procedures for submittal and the selection criteria to be used.~~

~~(c) The board shall establish in the request for proposal a time, place and other specific instructions for the receipt of proposals. Proposals not submitted in strict accordance with such instructions shall be subject to rejection.~~

~~(d) A request for proposals shall be prepared for each building design-build contract containing at minimum the following elements:~~

~~(1) The procedures to be followed for submitting proposals, the criteria for evaluation of proposals and their relative weight and the procedures for making awards.~~

~~(2) The proposed terms and conditions for the building design-build contract.~~

~~(3) The design criteria package.~~

~~(4) A description of the drawings, specifications or other information to be submitted with the proposal, with guidance as to the form and level~~

~~of completeness of the drawings, specifications or other information that will be acceptable.~~

~~(5) A schedule for planned commencement and completion of the building design-build contract.~~

~~(6) Budget limits for the building design-build contract, if any.~~

~~(7) Requirements, including any available ratings for performance bonds, payment bonds and insurance.~~

~~(8) Any other information that the agency at its discretion chooses to supply, including without limitation, surveys, soil reports, drawings of existing structures, environmental studies, photographs or references to public records.~~

~~(be) The board shall solicit proposals in a three-stage process. Phase I shall be the solicitation of qualifications of the~~

building design-build team. Phase II shall be the solicitation of a technical proposal including conceptual design for the project. Phase III shall be the proposal of the construction cost.

(1) The board shall review the submittals of the proposers and assign points to each proposal as prescribed in the instructions of the request for proposal.

(2) Notice of requests for qualifications shall be advertised and published in the official county newspaper. Notification to include a description of the project and the procedures for submittal.

(3) The board shall establish in the request for qualifications a time, place and other specific instructions for the receipt of qualifications. Qualifications not submitted in strict accordance with such instructions shall be subject to rejection.

(4) A request for qualifications shall be prepared for each building design-build contract containing at minimum the procedures to be followed for each of the three phases in the process for submitting proposals, the criteria for evaluation of proposals and their relative weight and the procedures for making awards.

~~(c2)~~ Phase I shall require all proposers to submit a statement of qualifications which shall include, but not be limited to, the following:

~~(1A)~~ Demonstrated ability to perform projects comparable in design, scope and complexity.

~~(2B)~~ References of owners for whom building design-build projects have been performed.

~~(3C)~~ Qualifications of personnel who will manage the design and construction aspects of the project.

~~(4D)~~ The names and qualifications of the primary design consultants and contractors with whom the building design-builder proposes to subcontract. The building design-builder may not replace an identified subcontractor or subconsultant without the written approval of the board.

~~(5E)~~ Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capability to the board with their statement of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection

under this subsection.

~~(d3)~~ The board shall evaluate the qualifications of all proposers in accordance with the instructions prescribed in the request for qualifications. ~~proposal. Designers on the project shall be evaluated in accordance with the requirements set by the board. A short list of the~~ Qualified proposers selected by the evaluation team may proceed to phase II of the selection process. Proposers lacking the necessary qualifications to perform the work shall be disqualified and shall not proceed to phase II of the process. Under no circumstances shall price or fees be considered as a part of the prequalification criteria. Points assigned in the phase I evaluation process shall not carry forward to phase II of the process. All qualified proposers shall be ranked on points given in phases II and III only. The two-phase evaluation and scoring process shall be combined to determine the greatest value to the county.

~~(4) The board shall have discretion to disqualify any proposer who lacks the minimal qualifications required to perform the work.~~

~~(e5)~~ The board shall prepare a short list containing a minimum of three, but no more than the top five qualified proposers to participate in phase II of the process. ~~If three qualified proposers cannot be identified, the contracting process shall cease. If less than four proposers respond, all proposers shall be invited to participate in Phase II of the selection process.~~

~~(f6)~~ Phase II of the process shall be conducted as follows:

(1) The remaining project requirements will be provided to the short listed proposer to include the following:

(A) The terms and conditions for the building design-build contract.

(B) The design criteria package.

(C) A description of the drawings, specifications or other information to be submitted with the proposal, with guidance as to the form and level of completeness of the drawings, specifications or other information that will be acceptable.

(D) A schedule for planned commencement and completion of the building design-build contract.

(E) Budget limits for the building design-build contract, if any.

(F) Requirements, including any available ratings for performance bonds, payment bonds and insurance.

(G) Any other information that the county at its discretion chooses to supply, including without limitation, surveys, soil reports, drawings of existing structures, environmental studies, photographs or references to public records.

(2A) Proposers shall submit their design for the project to the level of detail required in the request for proposal. The technical design proposal should demonstrate compliance with the requirements set out in the request for proposal.

~~(B) Up to 20% of the points awarded to each proposer in phase II may be based on each proposer's qualifications and ability to design, construct and deliver the project on time and within budget.~~

(3C) The technical design proposal may shall not contain certain limited any reference to specific elements of the cost of the proposal.

(4D) The technical design submittals shall be evaluated and assigned points in accordance with the requirements of the request for proposal.

(g7) Phase III shall be conducted as follows:

(1A) The phase III proposal shall provide a firm fixed cost of design and construction. The proposal shall be accompanied by bid security and any other submittals as required by the request for proposal.

(2B) The proposed contract time, in calendar days, for completing a project as designed by a proposer may shall be considered as an element of evaluation in phase III. In that event, the request for proposal shall establish the assignment of value of contract time in the selection process.
~~a user delay value for each proposed calendar day identified in the proposal.~~

(3C) Phase III - Cost and schedule proposals shall be submitted in accordance with the instructions of the request for proposal. Failure to submit a cost proposal on time shall be cause to reject the proposal.

(48) Proposals for phase II and III shall be submitted concurrently at the time and place specified in the request for proposal. The phase III cost proposals shall be opened only after the phase II technical design proposals have been evaluated and assigned points.

(59) Phase III cost and schedule, which shall prescribe containing the number of calendar days, proposals shall be opened and read aloud at the time and place specified in the request for proposal. At the same time and place, the evaluation team shall make public its scoring of phase II.

Phase III Cost proposals shall be evaluated in accordance with the requirements of the request for proposal. In evaluating the proposals and determining the successful proposer, each proposers' adjusted score shall be determined in a quantifiable and objective manner described in the request for proposal in combination of by adding the points earned in both phase II and phase III, cost proposal to the product of the proposed contract time and the user delay cost, and dividing that sum by the phase II score.

(64) The successful and responsive proposer with the lowest total number of points shall be awarded the contract. If the board determines, that it is not in the best interest of the county to proceed with the project pursuant to the proposal offered by the successful and responsive proposer with the lowest total number of points, the board shall reject all proposals. If the determination to reject all proposals is made for the convenience of the board, the successful and responsive proposer In such event, all qualified proposers with higher point totals shall receive twice the a stipend pursuant to subsection (e)(12) of this section, and amendments thereto, of this act, and all other responsive proposers the proposer with the lowest total number of points shall receive an amount equal to two times such stipend. If the determination is made to reject all proposals as a result of proposals exceeding the budget published in the request for proposals or otherwise not complying with the request for proposal, the board need not remit a stipend to the proposers.

(74) If all proposals are rejected, the board may solicit new proposals using different design criteria, budget constraints or qualifications.

(84) As an inducement to qualified proposers, the board shall pay a stipend, the amount of which shall be established in the request for proposal, to each prequalified building design-builder whose proposal is responsive but not accepted. Upon payment of the stipend to any unsuccessful building design-build proposer, the county shall acquire a nonexclusive right to use the design submitted by the

proposer, and the proposer shall have no further liability for its use by the county in any manner. If the building design-build proposer desires to retain all rights and interest in the design proposed, the proposer shall forfeit the stipend.

~~New Sec. 6. Every proposal received from each phase of procurement, including total scores and total rankings, bid conforming to the terms of the advertisement, together with the name of the bidder, shall be recorded, and all such records with name of the successful bidder indicated thereon shall, after award or letting of the contract, be subject to public inspection upon request. The county clerk shall, within five days after award or letting of the contract, publish the name of the successful bidder. The public notice on public display shall show the phase II and III scores and the adjusted final score. The county clerk shall, within five days after award or letting of the contract, have the names of all proposers whose bids were not selected, together with phase II and III scores and the final adjusted score for each, available for public review.~~

Sec. 7. K.S.A. 19-214 is hereby amended to read as follows: 19-214.

(a) Except as provided in subsection (b) and, in K.S.A. 19-216a, and in sections 1 through 6, and amendments thereto, all contracts for the expenditure of county moneys for the construction of any courthouse, jail or other county building, or the construction of any bridge in excess of \$10,000, shall be awarded, on a public letting, to the lowest and best bid.

The person, firm or corporation to whom the contract may be awarded shall give and file with the board of county commissioners a good and sufficient surety bond by a surety company authorized to do business in the state of Kansas, to be approved by the county attorney or county counselor, in the amount of the contract, and conditioned for the faithful performance of the contract.

(b) The provisions of subsection (a) shall not apply: (1) To the expenditure of county funds for professional services; (2) to the provisions of K.S.A. 68-521, and amendments thereto; or (3) to the purchase of contracts of insurance.

Sec. 8. K.S.A. 19-214 is hereby repealed. Sec. 9.

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