

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:35 A.M. on February 13, 2006, in Room 123-S of the Capitol.

All members were present except:

Senator Donald Betts- excused  
Senator Carolyn McGinn- excused

Committee staff present:

Jill Wolters, Revisor of Statutes Office  
Michael Corrigan, Revisor of Statutes Office  
Alan Conroy, Director, Kansas Legislative Research Department  
J. G. Scott, Kansas Legislative Research Department  
Michelle Alishahi, Kansas Legislative Research Department  
Reagan Cussimano, Kansas Legislative Research Department  
Audrey Dunkel, Kansas Legislative Research Department  
Debra Hollon, Kansas Legislative Research Department  
Carolyn Rampey, Kansas Legislative Research Department  
Matt Spurgin, Kansas Legislative Research Department  
Judy Bromich, Chief of Staff  
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

None

Others attending:

See attached list.

**Bill Introductions**

Senator Schodorf moved, with a second by Senator Steineger, to introduce a bill concerning libraries; creating the state library of Kansas board and abolishing the state library advisory commission and the Kansas library network board (5rs1906). Motion carried on a voice vote.

Senator Umbarger moved, with a second by Senator Wysong, to introduce a bill concerning recovery of certain damages in antitrust cases (5rs2023). Motion carried on a voice vote.

Copies of the Kansas Legislative Research Department Budget Analysis Report for FY 2006 and FY 2007 were made available to the Committee.

**Subcommittee budget reports on:**

**Judicial Council (Attachment 1)**

Subcommittee Chairman Jay Emler reported that the budget subcommittee on the Judicial Council concurs with the Governor's recommendations in FY 2006 and FY 2007 with adjustment and observations.

Senator Emler moved, with a second by Senator Schmidt, to adopt the subcommittee budget report on the Judicial Council in FY 2006 and FY 2007. Motion carried on a voice vote.

**Board of Indigents' Defense Services (Attachment 2)**

Subcommittee Chairman Jay Emler reported that the budget subcommittee on the Board of Indigents' Defense Service concurs with the Governor's recommendations in FY 2006 and FY 2007 with adjustment and observations.

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:35 A.M. on February 13, 2006, in Room 123-S of the Capitol.

Senator Barone moved, with a second by Senator Morris, to amend the budget subcommittee report on the Board of Indigents' Defense Services in FY 2007 to defer Item No. 3 to Omnibus. Motion carried on a voice vote. Senator Emler urged having the Board of Indigents' Defense Services come before the Committee to address this item prior to the Omnibus Session.

Senator Emler moved, with a second by Senator Barone, to adopt the subcommittee budget report on the Board of Indigents' Defense Services as amended in FY 2006 and FY 2007. Motion carried on a voice vote.

**Judicial Branch** (Attachment 3)

Subcommittee Chairman Jay Emler reported that the budget subcommittee on the Judicial Branch concurs with the Governor's recommendations in FY 2006 and FY 2007 with exceptions and comments.

Senator Emler moved, with a second by Senator Kelly, to adopt the subcommittee budget report on the Judicial Branch in FY 2006 and FY 2007. Motion carried on a voice vote.

The meeting adjourned at 11:10 a.m. The next meeting was scheduled for February 14, 2006.



FY 2006 and FY 2007

SENATE WAYS AND MEANS SUBCOMMITTEE

Judicial Council



Senator Jay Scott Emler, Chair



Senator Jim Barone



Senator Mark Taddiken

Senate Ways and Means  
2-13-06  
Attachment 1

## Senate Subcommittee Report

**Agency:** Judicial Council

**Bill No. --**

**Bill Sec. --**

**Analyst:** Alishahi

**Analysis Pg. No.** Vol. I, 648

**Budget Page No.** 221

Expenditure Summary	Agency Estimate FY 06	Governor's Recommendation FY 06	Senate Subcommittee Adjustments
Operating Expenditures:			
Special Revenue Funds	\$ 431,375	\$ 431,375	\$ 0
FTE Positions	4.0	4.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<b>4.0</b>	<b>4.0</b>	<b>0.0</b>

### Agency Estimate

The **agency** estimates current year operating expenditures of \$431,375 from special revenue funds, a decrease of \$1,024 or 0.2 percent below the approved amount. The difference between the approved amount and the agency's revised estimate is the result of an increase of \$36 in salaries and wages and a net decrease of \$1,060 in other operating expenditures.

### Governor's Recommendation

The **Governor** concurs with the agency's revised estimate.

### Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

# Senate Subcommittee Report

**Agency:** Judicial Council

**Bill No. --**

**Bill Sec. --**

**Analyst:** Alishahi

**Analysis Pg. No.** Vol. I, 648

**Budget Page No.** 221

<u>Expenditure Summary</u>	<u>Agency Request FY 07</u>	<u>Governor's Recommendation FY 07</u>	<u>Senate Subcommittee Adjustments</u>
Operating Expenditures:			
Special Revenue Funds	\$ 432,256	\$ 438,816	\$ 0
FTE Positions	4.0	4.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u>4.0</u>	<u>4.0</u>	<u>0.0</u>

## Agency Request

The **agency** requests FY 2007 operating expenditures of \$432,256 from special revenue funds, an increase of \$881 or 0.2 percent above the FY 2006 revised estimate.

## Governor's Recommendation

The **Governor** recommends FY 2007 operating expenditures of \$438,816 from special revenue funds, an increase of \$7,441 or 1.7 percent above the current year recommendation. The FY 2007 recommendation is \$6,560 or 1.5 percent above the agency's FY 2007 and includes an additional \$6,560 from special revenue funds for a 2.5 percent base salary increase for all state employees.

## Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

**Senate Subcommittee Report  
Board of Indigents' Defense Services**

**FY 2006 and FY 2007**



Senator Jay Emler, Chair



Senator Jim Barone



Senator Mark Taddiken

## Senate Subcommittee Report

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

**Analyst:** Spurgin      **Analysis Pg. No.** Vol. 1. 659      **Budget Page No.** 207

Expenditure Summary	Agency Est. FY 2006	Governor's Recommendation FY 2006	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 18,859,793	\$ 18,325,760	\$ 250,000
Other Funds	625,000	625,000	0
<b>TOTAL</b>	<b>\$ 19,484,793</b>	<b>\$ 19,484,793</b>	<b>\$ 250,000</b>
FTE Positions	178.0	178.0	0.0
Non FTE Uncl. Perm. Pos.	1.0	1.0	0.0
<b>TOTAL</b>	<b>179.0</b>	<b>179.0</b>	<b>0.0</b>

### Agency Estimate

The agency's current year estimate for operating expenditures is \$19,484,793 which is an increase of \$941,176 (5.1 percent) above the approved amount. State General Fund expenditures of \$18,859,793 represent an increase of \$896,176 (5.0 percent) above the approved amount.

### Governor's Recommendation

The **Governor** recommends current year operating expenditures of \$18,950,760, an increase of \$407,143 (2.2 percent) above the approved amount. The recommendation includes \$18,325,760 from the State General Fund, an increase of \$362,143 (2.0 percent) above the approved amount. The recommendation includes funding for 27 payroll periods.

### Senate Subcommittee Recommendation

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

1. Add \$250,000 from the State General Fund for capital defense operations. The Subcommittee recommends that unencumbered expenditures from this account be reappropriated to FY 2007. The Subcommittee notes that the Governor's recommendation for expenditures for capital defense operations would leave an ending balance of \$412,535 in the State General Fund capital defense operations account and that the Governor recommends that this ending balance be lapsed. The recommended lapse is funding that is not budgeted to be spent in FY 2006. The Subcommittee recommends that the net lapse of State General Fund moneys from the capital defense operations account be reduced from \$412,535 to \$162,535 and be reappropriated to FY 2007.

2. The Subcommittee recommends a review at Omnibus of FY 2006 expenditures to determine if additional funding is necessary.
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## Senate Subcommittee Report

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

**Bill Sec.**

**Analyst:** Spurgin

**Analysis Pg. No.** Vol. 1, 659

**Budget Page No.** 207

Expenditure Summary	Agency Req. FY 2007	Governor's Recommendation FY 2007	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 22,108,156	\$ 18,161,055	\$ 3,521,721
Other Funds	470,000	725,000	0
TOTAL	\$ 22,578,156	\$ 18,886,055	\$ 3,521,721
FTE Positions	183.0	178.0	5.0
Non FTE Uncl. Perm. Pos.	1.0	1.0	0.0
TOTAL	184.0	179.0	5.0

### Agency Request

The **agency** requests a FY 2007 operating budget of \$22,578,156, which is an increase of \$3,093,363 (15.9 percent) above the FY 2006 estimated expenditures. State General Fund expenditures are requested in the amount of \$22,108,156, an increase of \$3,248,363 (17.2 percent) above the FY 2006 estimate.

### Governor's Recommendation

The **Governor** recommends a FY 2007 operating budget of \$18,886,055, a decrease of \$64,705 below the revised current year estimate. The recommendation includes \$18,161,055 from the State General Fund, a decrease of \$164,705 (0.9 percent) below the revised current year estimate. The recommendation includes funding for 26 payroll periods.

### Senate Subcommittee Recommendation

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

1. Add \$3,200,000 from the State General Fund to fund the increase in assigned counsel payments from \$50 to \$80 per hour. The Subcommittee notes that the Senate Committee of the Whole has passed HB 2129, as amended, which increases this rate of compensation.
2. The Subcommittee notes the population increases in the Wichita area as well as the expected population increases in the Junction City area with the additional personnel expected to be stationed at Fort Riley. The Subcommittee also notes that the population growth has and will place increased demand on the agency's services.

3. Add \$281,721 from the State General Fund for operating expenditures to fund 5.0 additional FTE positions. The Subcommittee recommends 2.0 FTE public defender positions be added in the Wichita office, 2.0 FTE public defender positions be added to the Junction City office, and 1.0 FTE public defender position be added to the Hutchinson office to reduce the caseloads. The Subcommittee notes that the American Bar Association has recommended that defense attorneys handle 150 cases per year to provide effective assistance of counsel. The Subcommittee notes that the attorneys in the agency's trial level public defender offices statewide average 200 completed cases per year, and that attorneys in the Wichita Public Defender Office handle an average of 231 cases per year and that attorneys in the Junction City Public Defender Office handle an average of 214 cases per year. The Subcommittee also notes that if these offices were forced to stop accepting additional cases due to the workload, that the State would incur additional costs for assigned counsel to handle the cases.
4. Add \$40,000 from the State General Fund to fund a database for the Appellate Defender Office, telephone system upgrades and continuing legal education for staff.
5. The Subcommittee notes that several bills have been introduced requiring mandatory sentences for persons convicted of sex offenses. The Subcommittee notes that such a bill, if passed, would have a significant fiscal impact on this agency. Specifically, the agency estimates such a bill could cost the agency \$1,558,000 per year due to the following information:
  - a. In FY 2005, there were approximately 324 cases involving child rapes, sodomy and indecent liberties.
  - b. Currently, many of the cases where a defendant is charged with a sex crime against children are pled to some lesser offense, but that with mandatory sentencing the cases cannot be pled and must go to trial.
  - c. Few public defenders have the necessary training, or are willing to defend sex crimes against children. Additional training would be necessary as would an estimated 4.0 FTE additional attorney positions. Additional FTE expenses are estimated at \$250,000. Additional training is estimated at \$12,000.
  - d. Experts costing from \$4,000 to \$10,000 per case would be required. The agency estimates \$1,296,000 to pay experts \$4,000 per case for 324 cases.
6. The Subcommittee notes that due to the significant fiscal impact that a bill requiring mandatory sentencing for sex offenders, if such a bill should be passed by the legislature the matter should be reviewed at Omnibus to determine if additional funding for the agency is necessary.

FY 2006 and FY 2007

SENATE WAYS AND MEANS SUBCOMMITTEE

Judicial Branch



Senator Jay Scott Emler, Chair



Senator Jim Barone



Senator Mark Taddiken

## Senate Subcommittee Report

**Agency:** Judicial Branch

**Bill No.**

**Bill Sec.**

**Analyst:** Rampey

**Analysis Pg. No.** Vol. I, 633

**Budget Page No.** 223

Expenditure Summary	Agency Estimate FY 2006	Governor's Recommendation FY 2006	Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 97,917,553	\$ 97,917,553	\$ 0
Emergency Surcharge	3,565,720	3,565,720	0
Nonjudicial Salary Initiatives Fund	4,002,542	4,002,542	0
All Other Funds	6,546,402	6,587,326	0
TOTAL	<u>\$ 112,032,217</u>	<u>\$ 112,073,141</u>	<u>\$ 0</u>
FTE Positions	1,830.3	1,830.3	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u>1,830.3</u>	<u>1,830.3</u>	<u>0.0</u>

### Agency Estimate

The **Judicial Branch** estimates expenditures of \$112,032,217 in the current year. Items in the estimate include the following:

- \$533,364 from the State General Fund reappropriated from FY 2005.
- \$3,565,720 from the Emergency Surcharge Fund. For FY 2006, the Judicial Branch requested that the Emergency Surcharge be replaced with funding from the State General Fund, as it has each year since the Surcharge was imposed in April 2002. However, the Legislature did not replace the funding and the Supreme Court reimposed the Surcharge through FY 2006.

### Governor's Recommendation

The **Governor** includes \$112,073,141 in the current resource budget for FY 2006, of which \$97,917,553 is from the State General Fund. The Governor's budget is \$40,924 higher than the Judicial Branch's estimate, which is accounted for almost entirely by the fact that the Governor's budget includes a federal grant of \$40,800, which was received after the budget was submitted. The money is to be used for security devices in the Judicial Center.

### Subcommittee Recommendations

The Subcommittee concurs with the recommendations of the Governor.

## Senate Subcommittee Report

**Agency:** Judicial Branch

**Bill No.**

**Bill Sec.**

**Analyst:** Rampey

**Analysis Pg. No.** Vol. I, 633

**Budget Page No.** 223

Expenditure Summary	Agency Request FY 2007	Governor's Recommendation FY 2007	Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 105,269,804	\$ 100,774,803	\$ (3,923,525)
Emergency Surcharge	0	0	0
Nonjudicial Salary Initiatives Fund	3,891,919	3,978,497	0
All Other Funds	6,688,028	6,668,854	0
TOTAL	<u>\$ 115,847,751</u>	<u>\$ 111,422,154</u>	<u>\$ (3,923,525)</u>
FTE Positions	1,867.3	1,833.3	(2.0)
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	<u>1,867.3</u>	<u>1,833.3</u>	<u>(2.0)</u>

### Agency Request

The **Judicial Branch requests** a total of \$115,847,751 for FY 2007, of which \$105,269,804 is from the State General Fund. In addition, \$141,141 from the State General Fund is requested for capital improvements associated with the expansion of the Court of Appeals.

- The Judicial Branch's FY 2007 request includes \$6,718,536 for enhancements, of which \$6,637,448 is from the State General Fund. Requested enhancements from the State General Fund include \$2,950,657 for a 10 percent salary increase for all judges; \$75,031 for a salary increase for chief judges of the district court; \$756,488 for new judges and associated positions; \$147,838 for 2.0 FTE research attorneys for the Court of Appeals; \$1,907,357 for a 3.2 percent cost of living increase for nonjudicial employees; \$10,528 for nonjudicial personnel reclassifications; \$773,149 for 22.0 FTE nonjudicial positions; and \$16,400 to replace a mini-van.
- \$297,296 from the State General Fund is included for the ongoing expansion of the Court of Appeals which is due to add the 13<sup>th</sup> judge January of 2007. The estimate includes half-year funding for the new judge and 2.0 FTE associated positions, half-year funding for other operating expenditures, and funding for capital outlay and capital improvements. **Staff Note:** The Judicial Branch is withdrawing this request and asking that legislation be introduced to delay the ongoing expansion of the Court of Appeals by one year.
- The Judicial Branch once again requests that the Emergency Surcharge be replaced with funding from the State General Fund. Replacement costs are estimated to be \$3,700,000.

## Governor's Recommendation

The **Governor recommends** \$111,422,154 in FY 2007 for operating expenditures, of which \$100,774,803 is from the State General Fund. As in past years, the Governor replaces funding from the Emergency Surcharge with funding from the State General Fund. The Governor does not include requested enhancements in the current service budget except for \$16,400 from the State General Fund to replace a vehicle. The Governor also includes \$2,150,446 from the State General Fund and \$150,492 from other funds for the 2.5 base salary adjustment for classified employees and a 2.5 percent merit pool for unclassified employees, as well as requested funding associated with adding the 13<sup>th</sup> judge to the Court of Appeals (\$297,296 from the State General Fund).

## Subcommittee Recommendations

The Subcommittee concurs with the Governor, with the following exceptions and comments:

1. Delete \$297,296 from the State General Fund for all costs associated with the addition of the 13<sup>th</sup> judge to the Court of Appeals in January of 2007 and recommend the introduction of legislation to delay ongoing expansion of the Court of Appeals by one year. This action is taken at the request of the Chief Judge of the Court of Appeals, who requested that the expansion be delayed but not abandoned.
2. Delete \$3,700,000 from the State General Fund, which is the amount recommended by the Governor to replace the Emergency Surcharge. The Subcommittee's recommendation would force the Kansas Supreme Court to consider whether to reimpose the Surcharge for FY 2007.
3. Add \$73,771 from the State General Fund for the salary and fringe benefits of 1.0 FTE Research Attorney II for the Court of Appeals. The new position would be used to develop expertise on the staff in the area of utility rate cases.
4. The Subcommittee notes recurring requests by the Judicial Branch for additional judges and nonjudicial personnel. In order to give the Legislature a context in which to evaluate these requests, the Subcommittee requests that the Judicial Branch prepare information for submission to the Subcommittee by the time of first adjournment of the 2006 Legislature which would identify proposals to give the Judicial Branch more flexibility to address caseload imbalances among judges and judicial districts.
5. Consider the Judicial Branch's request for 3.0 FTE new district court judges and 6.0 FTE associated staff positions in the Omnibus Bill. The Subcommittee is generally supportive of increasing judicial positions in districts with high and growing caseloads, but wants to delay making a decision until the Judicial Branch has provided the information requested in item 4 above, which would identify proposals to give the Judicial Branch flexibility to address caseload imbalances.
6. Consider the Judicial Branch's request for 22.0 FTE additional nonjudicial positions in the Omnibus Bill and ask the Judicial Branch to resubmit the request in priority order.