



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

Legislative Budget Committee Judicial Branch Update

Kim Fowler
Budget and Fiscal Officer

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Thank you for the opportunity to discuss the Judicial Branch budget. I was requested to provide an update on the following three topics:

- the e-filing project,
- clerks' fees revenue, and
- the FY 2014 base budget and enhancement requests.

Information on those topics is provided below.

E-filing

Over the past several months, Office of Judicial Administration (OJA) programming staff members have been working with programmers from both Tybera, the electronic filing software vendor, and Justice Systems, the case management software vendor, to create the links between the various systems required to make functional the electronic filing system. The initial test system hosted by Tybera was migrated to the Office of Judicial Administration in September, and OJA staff have since been configuring and testing the system. Training of the initial system users is underway. The system is scheduled to be installed in the selected pilot courts according to the following schedule:

- December 2012 – Appellate Courts
- January 2013 – Leavenworth County
- March 2013 – Douglas County
- April 2013 – Sedgwick County

The FY 2014 budget request includes \$1.1 million to install e-filing in 14 of the remaining 28 judicial districts. The first court scheduled for the statewide implementation is

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Shawnee County in July 2013. More information regarding the electronic case filing project can be found at: <http://www.kscourts.org/Kansas-Courts/E-filing/default.asp>.

Clerks' Fees

When civil cases are filed, a filing fee, also known as a docket fee, is collected by the clerk of the district court. Pursuant to K.S.A. 28-172a, filing fees are assessed at disposition for criminal cases, including traffic. Filing fees vary by case type. As set by statute, a portion of the docket fee may be retained at the county level. The remaining portion of the filing fee is sent to the State Treasurer.

The State Treasurer receives revenue from docket fees from each district court monthly. This revenue is most often referred to as clerks' fees. The courts send \$20 million annually to the State Treasurer from clerks' fees. The State Treasurer deposits clerks' fees into several funds using the percentage splits specified in K.S.A. 20-367. As you can see in the attached chart, some of these funds are Judicial Branch funds and others are not. Most of the funds listed receive a portion of clerks' fees because, when the particular cause was proposed to the Legislature, the docket fee was raised to generate funding for the program. For example, in 1993 the Judicial Branch needed to replace the Wang VS word processing system, so the Legislature raised docket fees by \$1.50 to generate revenue for the Judicial Branch Technology Fund. At that time, annual revenue into the fund was estimated at \$731,085.

Twenty years later, the estimated revenue into the fund is about the same, but the cost of technology, particularly with the addition of maintenance fees, has increased. This has left the Judicial Branch Technology Fund with more expenses than revenue.

For most of the past ten years, the annual clerks' fees revenue was steady, except when the Legislature raised filing fees. However, clerks' fees declined more than 5% from FY 2010 to FY 2011 and more than 6% from FY 2011 to FY 2012. Typically, 35% of the revenue from clerks' fees is received in the first four months of the fiscal year. Applying that percentage to revenue to date, the annual revenue in FY 2013 is anticipated to be 9% lower than last year.

This revenue decline impacts several funds and programs. Other than salary funds, the Judicial Branch has five programs funded by clerks' fees: the Access to Justice Fund, the Alternative Dispute Resolution Fund, the Education Fund, the Technology Fund, and the Permanent Families Account in the Family and Children Investment Fund. Two of these funds are designed to fund programs outside of the judiciary. The Permanent Families Account is mandated to be used to foster development and expansion of Court Appointed Special Advocate (CASA) programs and Citizen Review Board (CRB) programs. Declining revenue has resulted in a reduction in grants made to these programs. Statute dictates that the Access to Justice Fund is granted to programs which provide access to the Kansas civil justice systems for persons who would otherwise be unable to gain access to civil justice. Kansas Legal Services has been the

recipient of this grant since its inception in fiscal year 1997. The remaining three funds are used for the same purpose as the fund name: alternative dispute resolution, education, and technology. Services in these areas continue to decline as the revenue is not enough to fund the activities as originally designed.

A reduction in case filings does not necessarily mirror a reduction in caseload or work needing to be performed by court employees. Kansas court cases are not all filed and completed in the same time frame or even in the same fiscal year. No two cases are alike. Scheduling conflicts, statutory authority and caseloads all impact the time necessary to process cases. While there is initial work involved when a new case is filed, such as receipting docket fees, indexing parties, and scheduling hearings, there is also continued work required after a case has been completed.

For example, a journal entry of judgment in a civil case does not guarantee parties will automatically receive the judgment amount awarded. In many cases, litigants continue using the courts after the case is closed statistically. When payments are not made, the parties find themselves back in court to file garnishments or citation orders in an attempt to collect the judgment awarded. Anecdotally, it appears that the poor economy has increased the number of persons convicted of crimes who are unable to pay fines, fees, and restitution. Clerks receipt partial payments as they are made, which causes the clerks to receipt those payments more frequently until the debt is paid in full. These are examples showing why it is misleading to rely solely on case filings as a tool to measure workload of court employees.

Clerks also process numerous other collections on a daily basis. Last year, in addition to clerks' fees, clerks receipted \$35.5 million for the benefit of state government. Much of this work is performed after the case is statistically closed. Fines, restitution, and attorney fees paid to the Board of Indigents' Defense Services are all examples of debt that is collected after the case is closed.

Surcharge

The Judicial Branch did not include surcharge revenue in the FY 2014 budget request because statutory authority for the surcharge sunsets at the end of this fiscal year. Currently, revenue is projected at \$10.5 million annually.

FY 2014 Budget Request

The FY 2014 State General Fund base budget request is \$17.3 million more than the FY 2013 budget. Of that increase, \$11.1 million is to offset the elimination of surcharge revenue with funding from the State General Fund. The other items listed are required to fully fund the positions authorized by the Legislature and to return the Judicial Branch to its full operation.

The enhancements included in the FY 2014 budget request involve mainly staffing and compensation. In 2010, the Supreme Court commissioned an independent group to obtain an objective and impartial review of the Kansas court system. You have been briefed on the Blue Ribbon Commission's work and recommendations. The weighted caseload study report indicated that 127 additional clerks and 22 additional judges are needed in the district courts. The study did not address the need for court services officers. However, 2012 Senate Bill 60, which passed last legislative session, criminalized the second refusal to submit to a test to determine the presence of alcohol or drugs. Court services officers are required to supervise these offenders. Using statistics from the Kansas Driver Control Bureau, and the current statewide average court services officer caseload of 68 offenders, 28 new court services officers will be needed to supervise those offenders.

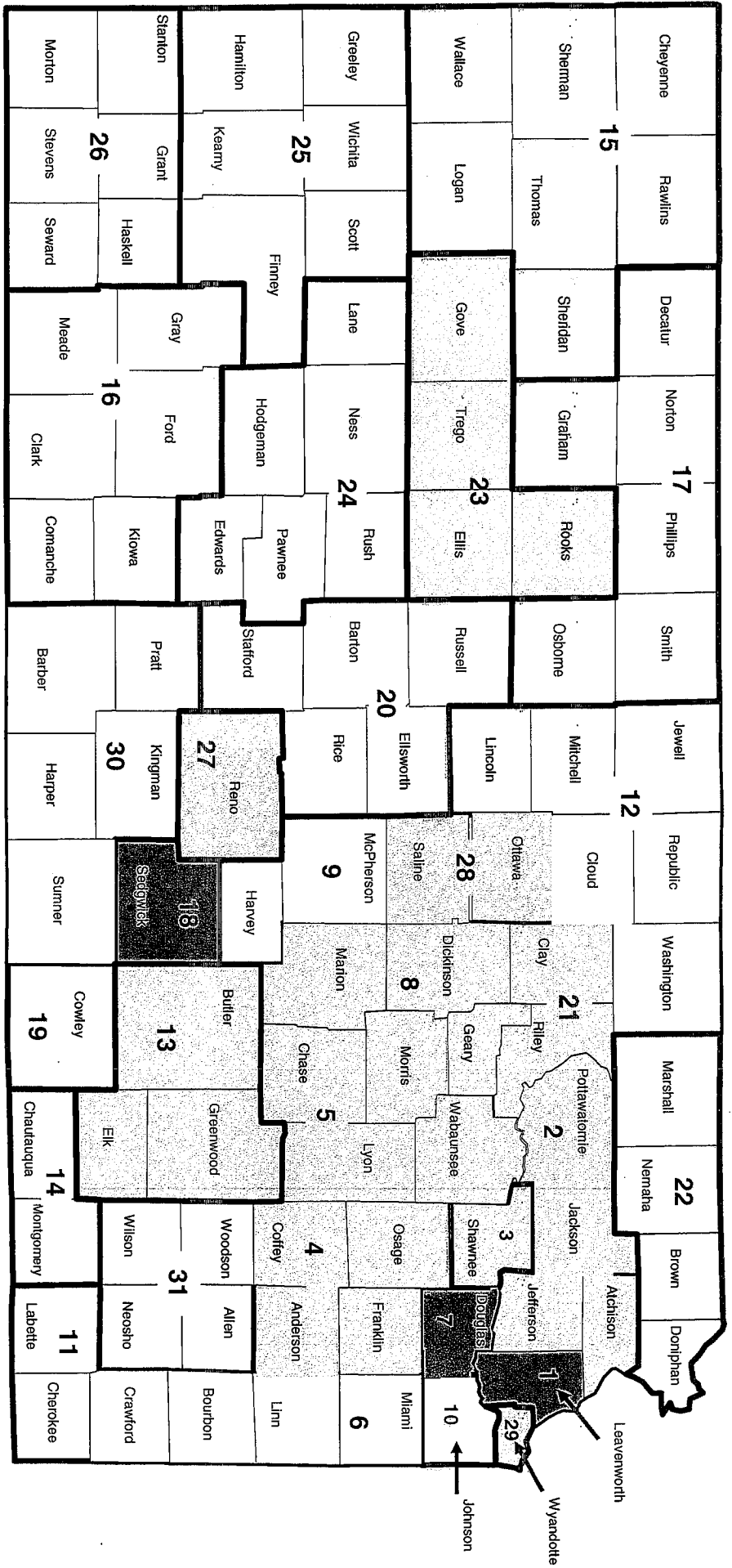
The FY 2014 budget request includes a 5.25% market adjustment for nonjudicial personnel. Based on a pay study in FY 2008, it was determined that the Judicial Branch pay plan had fallen far behind the level established when it was created in FY 2001. Therefore, the Judicial Branch included a salary increase for employees in its budget submission for FY 2009. The percentage increase requested – 15.75% – was required to return the pay plan to the market levels of competitiveness. The 2009 Legislature agreed to fund the full increase, but it chose to implement the 15.75% increase over a three-year period to mirror the implementation of the Executive Branch under market initiative. While funding for the second year of the three-year plan was proposed, it was never funded by the Legislature. In contrast, the 2012 Legislature approved continuation of the plan to bring the Executive Branch to market levels. Maintaining parity with the Executive Branch pay plans requires additional funding of the Judicial Branch's second installment plan. This request still leaves the Judicial Branch employees considerably short of the 2009 market levels that would have been achieved with a 15.75% increase in that year, but it would demonstrate good faith support of the 2009 commitment.

Adequate salaries are imperative for continuing to attract and retain the quality of judges Kansas citizens expect and deserve. After court unification in the 1970's, one goal of the Kansas judiciary has been to have judicial salaries set at the national median. After adjustments for cost of living, Kansas judges ranked 24th in the nation in 2008. They currently have dropped to 29th. Kansas judges have not received any increase since FY 2009 and had their salaries reduced by 5% the last six pay periods of FY 2010. The Employment Cost Index reported by the Bureau of Labor Statistics has increased 2.14% from 2009 to the end of calendar year 2011. The Judicial Branch enhancement budget for FY 2014 includes a cost of living increase for justices and judges below that – a modest 2%. This slight increase would improve Kansas' rank as adjusted for cost of living to 26th.

E-Filing Breakout of Expenditures and Budget

Expense	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Total	On-Going
	Actuals	Actuals	Budget	Budget	Budget		Maintenance
Services	5,722	113,299	448,705	747,210	275,960	1,590,896	306,116
Hardware		62,406	50,000	50,000		162,406	
Software		269,939	55,875	299,719	259,718	885,251	
Total	5,722	445,644	554,580	1,096,929	535,678	2,638,553	306,116

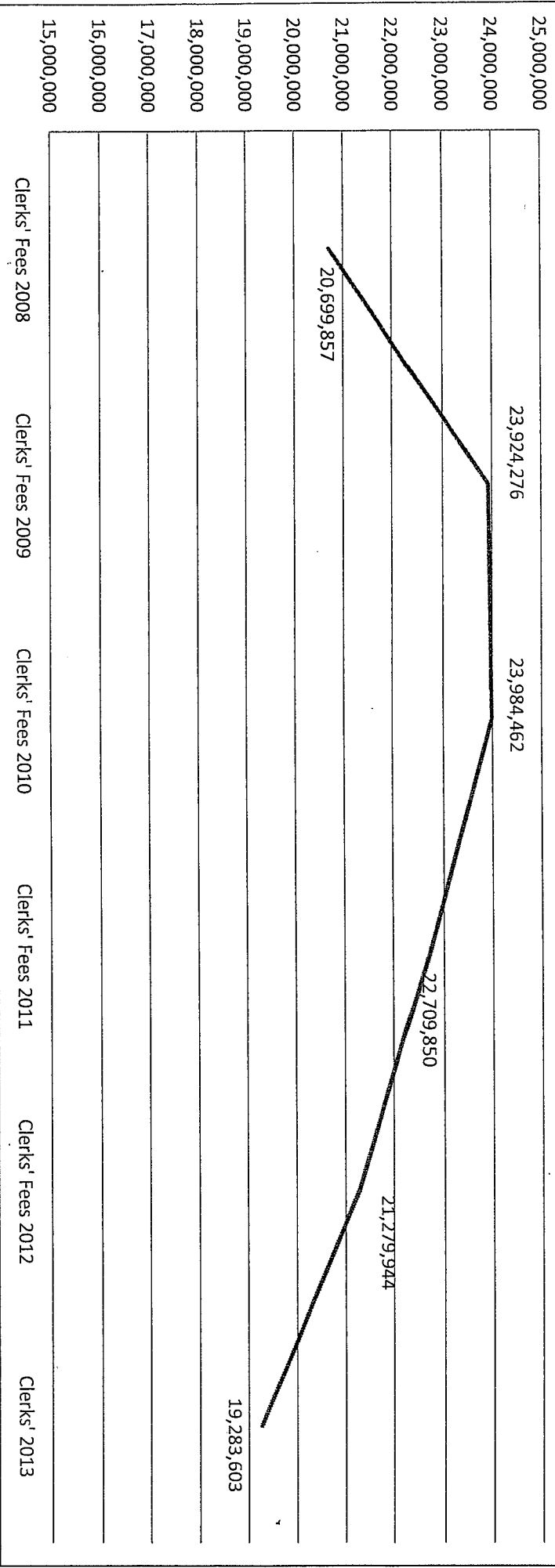
Kansas Judicial Districts Mapping of E-Filing Installation by Fiscal Year



FY 2013
 FY 2014
 FY 2015

Appellate
 Court

Clerks' Fees FY 2008 - FY 2012 Actuals FY 2013 Projected



During FY 2008 session the docket fee for civil filings increased by \$9.00 for Non-judicial Salary Adjustments
 During FY 2009 session the docket fee for certain criminal filings (murder or manslaughter, felony and misdemeanor) were increased by \$1.00 to be deposited into the Prosecution Attorney Fund.
 During FY 2010 session there was a 25% increase to the surcharge on filings.

Revenue Decrease

Actual	FY 2011	-5.3%
Actual	FY 2012	-6.3%
Projected	FY 2013	-9.4%

Since FY 2010 Revenue is projected to decrease by: 19.6%

