



SUPREME COURT OF KANSAS

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SENATE JUDICIARY COMMITTEE

Honorable Senator Tim Owens, Chair

Testimony in Support of

SB 97 Judicial Branch Surcharge Extension

February 10, 2011

Thank you for the opportunity to testify in support of SB 97, which would extend the sunset on the Judicial Branch Surcharge one year from June 30, 2011 to June 30 2012.

Both the statutes regarding the surcharge and the order authorizing the surcharge are effective only to the end of the present fiscal year. The Division of Budget requested that the surcharge be included in the Judicial Branch FY 2012 budget request, although it is set to expire at the end of FY 2011. We complied with that request. For FY 2012, \$9 million in surcharge revenue is included in the budget submitted for the Legislature's consideration.

Enactment of SB 97 would allow the surcharge to remain in effect for FY 2012, helping to fund the court system. Even with the surcharge, the Judicial Branch will continue holding 75 – 80 positions open throughout the fiscal year.

The 2009 Legislature considered a \$10 Judicial Branch Surcharge as a way to provide funding for the Judicial Branch budget, which was significantly underfunded. 2009 SB 66 authorized the Supreme Court to impose an additional charge, not to exceed \$10, on specified docket and other fees, to fund the cost of nonjudicial personnel. 2009 SB 66 also created the Judicial Branch Surcharge Fund, into which surcharge amounts are deposited.

The 2010 legislature, in HB 2476, increased surcharge amounts to a range of between \$10 and \$17.50, effective July 1, 2010. The Judicial Branch Emergency Surcharge was a fee that was charged in addition to the statutory docket fee when cases were filed. The revenue generated from the Emergency Surcharge kept Kansas courts open and operating. The Emergency Surcharge was in effect April 1, 2002, through fiscal year 2006. At that time, the state's fiscal situation had improved and the Legislature was able to fully fund the courts. Therefore, during the 2006 legislative session SB 180 was enacted, which stated that docket fees would be set by the Legislature and no other fee would be charged. Given the fiscal crisis the state is experiencing, the 2009 and 2010 Legislatures revisited the idea of a surcharge, enacting

2009 SB 66, and 2010 HB 2476, which contains the current surcharge. The surcharge allows the Legislature to use funds that otherwise would be appropriated to the Judicial Branch for other necessary expenditures, while helping to keep the courts open and functioning. The Court does not view the surcharge authority as permission to increase fees to fund enhancements or even operations when they choose. It is viewed as a temporary stopgap measure to react to severe underfunding. The Legislature is the appropriating body, and should remain so. The surcharge is a method through which additional fees can be generated that, for the specified time period, will take the place of State General Fund financing for the Judicial Branch.

We ask that you consider this bill favorably. Thank you again for the opportunity to testify in support of SB 97, and I would be happy to answer your questions.