

# The State of Kansas Courts

By Chief Justice Lawton R. Nuss, Kansas Supreme Court, Topeka

In August the Kansas Supreme Court ordered a weighted caseload study to be performed in all Kansas district courts on all types of cases. Later this year, the Court will appoint a Blue Ribbon Commission to consider the results of the study, review the operations of the Kansas Judicial Branch and make recommendations for possible changes. It has been said that the changes have the potential to be the most dramatic since court unification in 1977.

Now that I have your attention, I will explain how this happened and elaborate on what it may mean for the state.

Recently we have been living in extraordinary economic times. They have called for extraordinary measures. For example, last spring my colleagues and I were forced to close all state courts and send employees home without pay for four days. The reason: insufficient funds. This was a first for Kansas in its 149-year history. Because about 98 percent of the Judicial Branch budget is for salaries, much of our significant cost-cutting unfortunately comes at the expense of our personnel and, as a result, our ability to serve the citizens of Kansas.

Another event important to the Judicial Branch also happened last spring. A legislator asked, "Just how much money will it take for the Supreme Court to keep state courts open during the fiscal year" beginning July 1, 2010? We were asked to be realistic, given the hard economic times. We gave each legislator this "realistic" figure and a majority agreed to fund it. But the realistic figure required us to maintain 75-80 of our existing 135 job vacancies for the entire year. This represents approximately 5 percent of our authorized nonjudicial work force. In other words, the hiring freeze we were forced to begin in December 2008 would not be thawed completely.

Still another event important to the Judicial Branch happened during the last legislative session. The Legislative Division of Post Audit delivered its report to the five state senators and five representatives on the Legislative Post Audit Committee. Among other things, the audit report recommended that Kansas' existing 31 judicial districts be consolidated into 13 districts for a purported savings of \$6.2 million, or be consolidated into seven districts for a savings of \$8.1 million. These recommendations included resultant changes in numbers, and geographic locations, of many judges and nonjudicial personnel. The full report can be found at [http://www.kslegislature.org/postaudit/audits\\_perform/10pa04a.pdf](http://www.kslegislature.org/postaudit/audits_perform/10pa04a.pdf).

Through the Supreme Court's Office of Judicial Administration, we challenged much of the audit report. We did agree, however, with two of the fundamental recommendations: (1) the chief justice appoint a judicial advisory committee to

study the issues stated in the audit and (2) the Legislature provide funding for a judicial district weighted caseload study.

What is a weighted caseload study? Sheer numbers of cases do not tell the full story of judicial and staff workloads. Among other things, a proper study must examine the complexity of some cases and consider the driving time for certain judges to travel from court to court in their district. We know that a judge with a workload of 5,000 uncontested traffic tickets is not necessarily entitled to 10 times more resources than a judge with 500 cases – when that volume includes two capital murder cases, five class actions, and 10 complex products liability cases spread over six counties. The weighted caseload study attempts to take these and other differences into account and compare apples to apples.

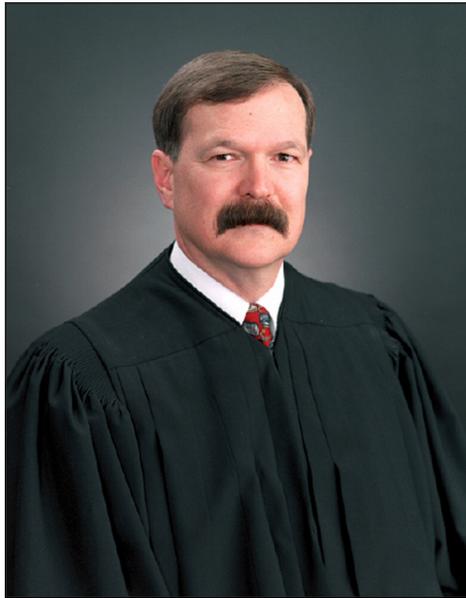
Also during this past legislative session, concurrent resolutions for the study of the Judicial Branch were introduced in both chambers. The resolutions called for funding a caseload study and for the chief justice's appointment of a Blue Ribbon Commission with a report to the Legislature by January 2011. No final action was taken on the Senate resolution. Additionally, legislation was again introduced to repeal, or amend, the statute requiring at least one judge of the district court to reside, and have principal office, in each of Kansas'

105 counties. *See* K.S.A. 20-301b. This is the well-known "one judge per county" requirement. That bill also failed.

In short, the Legislature adjourned last spring without the passage of many of these proposals.

After reviewing these events, the Supreme Court decided to be proactive. In the Kansas Constitution, the people created the judiciary as an independent, co-equal branch of our state government, and we felt compelled to act under Section 1 of Article 3, which grants the Supreme Court general administrative authority over all courts in the state. We recognized that the Legislature, however well-intentioned, cannot know the Judicial Branch as well as the Supreme Court does.

Accordingly, we first looked at the issue of a weighted caseload study. Research revealed that a weighted caseload study has been recommended in Kansas since at least 1944 and by almost all subsequent commissions formed to study the Kansas courts. Apparently the Legislature's historical failure to provide funding was among the reasons the Supreme Court never conducted such a study. That has now changed. In August the Court hired the National Center for State Courts to perform the first-ever weighted caseload study in Kansas history. In hiring the experts from the National Center for State Courts, we join many other states.



**Chief Justice Lawton R. Nuss**  
Kansas Supreme Court

Because Kansas has some qualities unique to us, the Supreme Court has appointed two 14-member committees of Judicial Branch personnel to assist the National Center. One committee of district judges and district magistrate judges will study judges' work. This "judicial needs assessment committee" is chaired by Judge David King, chief judge of the 1st Judicial District (Leavenworth and Atchison counties). The other committee of court administrators, court clerks, and other nonjudicial personnel will study staff work. That "staffing needs assessment committee" is chaired by Todd Heitschmidt, court administrator of the 28th Judicial District (Saline and Ottawa counties). The Supreme Court has taken care to make committee appointments representative of the wide diversity of Kansas communities and judicial districts. (Committee rosters are contained in the shaded box)

The primary purpose of the study is to measure actual workloads as accurately as possible. The study's findings may be substantial: There are approximately 266 judge positions and 1,590 nonjudicial positions authorized for the Kansas state courts. Moreover, during the fiscal year ending June 30, 2010, Kansas state courts handled 517,968 cases, which included 177,029 traffic cases.

The Supreme Court estimates that the weighted caseload study, which will begin in early January 2011, will not be produced in final report form until more than a year from now. While that study is underway, a commission of talented people from across the state – also recommended in the House and Senate concurrent resolutions – will be reviewing the operations of the Judicial Branch. The Court anticipates appointing that commission later this year. In the early 1970s, such a Blue Ribbon Commission – the Kansas Judicial Study Advisory Committee – performed a study that led to the unification of state courts in 1977.

Obviously, the new commission's work will also take some time – more than a year. Based upon the commission's recommendations, which in turn will somewhat rely upon the results of the weighted caseload study, the Supreme Court will look at possible improvements in the Kansas court system and for ways to make better use of taxpayer money. However, economics will not be our sole consideration. We will also consider Kansans' access to justice. For example, while the most economical approach for the state might be to mirror the federal courts in Kansas – with courthouses only in Kansas City, Topeka, and Wichita – that plan obviously would prove a financial hardship to many Kansas lawyers and their clients participating in hearings and trials.

State leaders have already been notified of our plans. I have spoken personally with the governor, the speaker of the House, and the president of the Senate. They have all appreciated our initiative and our desire to be efficient.

The Supreme Court has no preconceived notions on what, if any, changes should be made. But if changes are made, it is essential that they be the right changes. That is one of the reasons that, again for perhaps the first time in Kansas history, all justices recently conducted meetings with judges and nonjudicial personnel in communities across the state.

This is also where Kansas attorneys enter the arena. Because you are the heavy users of our court system, we need your input so any changes will be the right changes. We need your thoughts on possible nominees to the Blue Ribbon Commission. We also need your opinions expressed at the Commission's meetings, which we intend to be held in communities around Kansas, or through other means.

This is an important undertaking for all of us. By anyone's measure, exciting times are ahead. ■

#### **JNAC (Judicial Needs Assessment Committee)**

- David King, Chair, 1st Judicial District
- Edward Bouker, 23rd Judicial District
- Cheryl Rios Kingfisher, 3rd Judicial District
- Kim Cudney, 12th Judicial District
- Wayne Lampson, 29th Judicial District
- Dan Creitz, 31st Judicial District
- Thomas Foster, 10th Judicial District
- Jeff Goering, 18th Judicial District
- Merlin Wheeler, 5th Judicial District
- Bob Frederick, 25th Judicial District
- Ann Dixson, 16th Judicial District
- Mary Thrower, 28th Judicial District
- Jim Kepple, 24th Judicial District
- Richard Smith, 6th Judicial District

#### **SNAC (Staffing Needs Assessment Committee)**

- Todd Heitschmidt, Chair, Court Administrator, 28th Judicial District
- Lea Dawn Throckmorton, Chief Clerk, 12th Judicial District
- Alice Adams, Clerk of District Court, 8th Judicial District
- Angie Callahan, Clerk of the District Court, 3rd Judicial District
- Kathleen Collins, Clerk of the District Court, 29th Judicial District
- Vicki Mills, Clerk of the District Court, 4th Judicial District
- Mary Kadel, Court Administrator, 14th Judicial District
- Ellen House, Court Administrator, 18th Judicial District
- John Isern, Court Administrator, 20th Judicial District
- Christine Blake, Clerk of the District Court, 25th Judicial District
- Pam Moses, Chief Clerk, 27th Judicial District
- Kelley Grisier, Clerk of the District Court, 31st Judicial District
- Donna Hoener-Queal, Chief Court Services Officer, 30th Judicial District
- Lori Coleman, Court Reporter and Administrative Assistant, 21st Judicial District