

FILED

2002 SC 13

2002 MAR 22 P 2:08

AMENDED - March 22, 2002

CAROL G. GREEN
CLERK APPELLATE COURTS

IN THE SUPREME COURT OF THE STATE OF KANSAS

Re: Kansas Judicial Branch Fiscal Year 2003 Emergency Surcharge

WHEREAS the Judicial Branch has been underfunded for many years; and

WHEREAS FY 2001 and FY 2002 have seen escalating underfunding in the Judicial Branch basic maintenance budget; and

WHEREAS an overwhelming \$3.5 million has been cut from the Judicial Branch's FY 2003 maintenance budget; and

WHEREAS recent meetings with Kansas legislative leaders have offered scant hope of restoration of funds to the Judicial Branch's FY 2003 budget by virtue of the then anticipated \$426 million shortfall in state revenues; and

WHEREAS at such meetings, support was expressed for the Judicial Branch to seek innovative means of securing the necessary funding; and

WHEREAS as of March 8, 2002, the projected state revenue shortfall has been increased to \$680 million making the possibility of restoration of the maintenance budget even more unlikely; and

WHEREAS without restoration of maintenance funding, the Judicial Branch cannot perform its constitutional and statutory duties; and

WHEREAS the Judicial Branch has the inherent power to do that which is necessary to enable it to perform its mandated duties; and

WHEREAS the Emergency Surcharge is not a service or operational charge and funds will be utilized solely to make up the deficit in the maintenance budget to avoid even less palatable alternatives such as prioritizing mandated services and reducing or eliminating a substantial number thereof, including misdemeanor probation, a wide variety of post-judgment remedies, and implementing furloughs and layoffs.

Amended - March 22, 2002

IT IS THEREFORE ORDERED that an Emergency Surcharge shall be imposed in accordance with the attached schedule, which is subject to change upon order of the Supreme Court.

IT IS FURTHER ORDERED that the district and appellate courts may waive all or part of the Emergency Surcharge set forth by this order on motion of the party to be charged and upon a showing that such surcharge will result in undue hardship to the petitioning party.

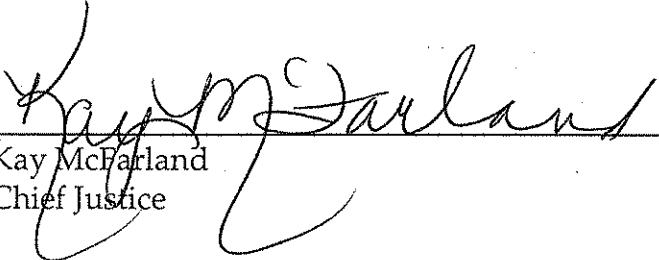
IT IS FURTHER ORDERED that the district and appellate court clerks shall monthly remit surcharge funds to the state treasurer. Upon receipt of such remittance the state treasurer shall deposit the entire amount thereof in a special fund to be known as the Judicial Branch Emergency Surcharge Fund, which is hereby established by this Order, and which shall not be a part of the state treasury. This fund shall be used only for Judicial Branch expenditures. All expenditures from such fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the Chief Justice of the Supreme Court or her designee.

IT IS FURTHER ORDERED that notwithstanding the provisions of Supreme Court Administrative Order No. 41 or local rules pertaining to the order of payment in criminal cases, funds received in criminal cases shall first be credited to the Judicial Branch Emergency Surcharge Fund in the amount required, then shall be credited to other funds or entities as Supreme Court Administrative Order No. 41 or local rule requires.

IT IS FURTHER ORDERED that in criminal and civil cases where a party is ordered to pay court costs, the Judicial Branch Emergency Surcharge shall be considered a portion of such court costs.

This order shall be effective April 1, 2002, and shall continue until June 30, 2003, unless rescinded, amended, or extended by the Kansas Supreme Court.

BY ORDER OF THE COURT the 22nd day of March, 2002.



Kay McFarland
Chief Justice

Attachment

FILED

2002 SC 13

2002 MAR 19 P 2:01

AMENDED

CAROL G. O'NEILL SUPREME COURT OF THE STATE OF KANSAS
CLERK APPELLATE COURTS

Re: Kansas Judicial Branch Fiscal Year 2003 Emergency Surcharge

WHEREAS the Judicial Branch has been underfunded for many years; and

WHEREAS FY 2001 and FY 2002 have seen escalating underfunding in the Judicial Branch basic maintenance budget; and

WHEREAS an overwhelming \$3.5 million has been cut from the Judicial Branch's FY 2003 maintenance budget; and

WHEREAS recent meetings with Kansas legislative leaders have offered scant hope of restoration of funds to the Judicial Branch's FY 2003 budget by virtue of the then anticipated \$426 million shortfall in state revenues; and

WHEREAS at such meetings, support was expressed for the Judicial Branch to seek innovative means of securing the necessary funding; and

WHEREAS as of March 8, 2002, the projected state revenue shortfall has been increased to \$680 million making the possibility of restoration of the maintenance budget even more unlikely; and

WHEREAS without restoration of maintenance funding, the Judicial Branch cannot perform its constitutional and statutory duties; and

WHEREAS the Judicial Branch has the inherent power to do that which is necessary to enable it to perform its mandated duties; and

WHEREAS the Emergency Surcharge is not a service or operational charge and funds will be utilized solely to make up the deficit in the maintenance budget to avoid even less palatable alternatives such as prioritizing mandated services and reducing or eliminating a substantial number thereof, including misdemeanor probation, a wide variety of post-judgment remedies, and implementing furloughs and layoffs.

IT IS THEREFORE ORDERED that an Emergency Surcharge shall be imposed in accordance with the attached schedule.

IT IS FURTHER ORDERED that the district and appellate court clerks shall monthly remit surcharge funds to the state treasurer. Upon receipt of such remittance the state treasurer shall deposit the entire amount thereof in a special fund to be known as the Judicial Branch Emergency Surcharge Fund, which is hereby established by this Order, and which shall not be a part of the state treasury. All expenditures from such fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the Chief Justice of the Supreme Court or her designee.

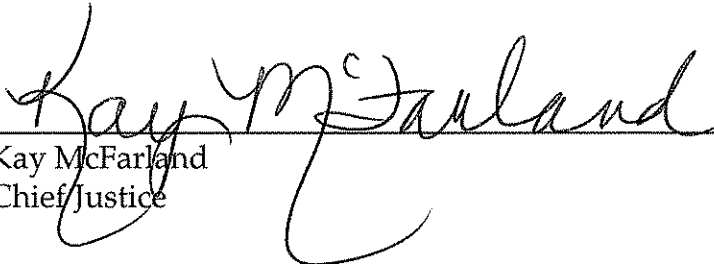
IT IS FURTHER ORDERED that funds collected in accordance with the attached schedule shall be credited to the Judicial Branch Emergency Surcharge Fund in the state treasury, which Fund is hereby established by this Order. The funds collected under the attached schedule shall be attributed to the Judicial Branch Emergency Surcharge Fund for Judicial Branch expenditures, and warrants shall be issued for this purpose.

IT IS FURTHER ORDERED that notwithstanding the provisions of Supreme Court Administrative Order No. 41 or local rules pertaining to the order of payment in criminal cases, funds received in criminal cases shall first be credited to the Judicial Branch Emergency Surcharge Fund in the amount required, then shall be credited to other funds or entities as Supreme Court Administrative Order No. 41 or local rule requires.

IT IS FURTHER ORDERED that in criminal and civil cases where a party is ordered to pay court costs, the Judicial Branch Emergency Surcharge shall be considered a portion of such court costs.

This order shall be effective April 1, 2002, and shall continue until June 30, 2003, unless rescinded, amended, or extended by the Kansas Supreme Court.

BY ORDER OF THE COURT the 19th day of March, 2002.



Kay McFarland
Chief Justice

Attachment

FILED

2002 SC 13

2002 MAR 15 A 9:16

IN THE SUPREME COURT OF THE STATE OF KANSAS

CAROL G. GREEN
CLERK APPELLATE COURTS

Re: Kansas Judicial Branch Fiscal Year 2003 Emergency Surcharge

WHEREAS the Judicial Branch has been underfunded for many years; and

WHEREAS FY 2001 and FY 2002 have seen escalating underfunding in the Judicial Branch basic maintenance budget; and

WHEREAS an overwhelming \$3.5 million has been cut from the Judicial Branch's FY 2003 maintenance budget; and

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WHEREAS as of March 8, 2002, the projected state revenue shortfall has been increased to \$680 million making the possibility of restoration of the maintenance budget even more unlikely; and

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WHEREAS the Emergency Surcharge is not a service or operational charge and funds will be utilized solely to make up the deficit in the maintenance budget to avoid even less palatable alternatives such as prioritizing mandated services and reducing or eliminating a substantial number thereof, including misdemeanor probation, a wide variety of post-judgment remedies, and implementing furloughs and layoffs.

IT IS THEREFORE ORDERED that an Emergency Surcharge shall be imposed in accordance with the attached schedule.

IT IS FURTHER ORDERED that each district court shall collect fees in accordance with the attached schedule and remit such funds monthly to the state treasurer. The attached schedule may be subject to change upon order of the Supreme Court. The district court may waive all or part of the Emergency Surcharge set forth by this Order on motion of the party to be charged and upon a showing that such surcharge will result in an undue hardship to the petitioning party.

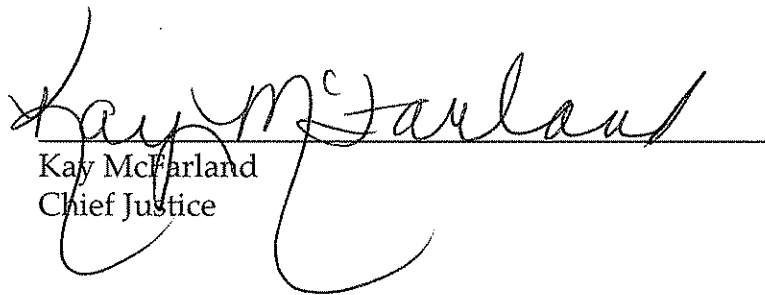
IT IS FURTHER ORDERED that funds collected in accordance with the attached schedule shall be credited to the Judicial Branch Emergency Surcharge Fund in the state treasury, which Fund is hereby established by this Order. The funds collected under the attached schedule shall be attributed to the Judicial Branch Emergency Surcharge Fund for Judicial Branch expenditures, and warrants shall be issued for this purpose.

IT IS FURTHER ORDERED that notwithstanding the provisions of Supreme Court Administrative Order No. 41 or local rules pertaining to the order of payment in criminal cases, funds received in criminal cases shall first be credited to the Judicial Branch Emergency Surcharge Fund in the amount required, then shall be credited to other funds or entities as Supreme Court Administrative Order No. 41 or local rule requires.

IT IS FURTHER ORDERED that in criminal and civil cases where a party is ordered to pay court costs, the Judicial Branch Emergency Surcharge shall be considered a portion of such court costs.

This order shall be effective April 1, 2002, and shall continue until June 30, 2003, unless rescinded, amended, or extended by the Kansas Supreme Court.

BY ORDER OF THE COURT the 13th day of March, 2002.



Kay McFarland
Chief Justice

Attachment