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TO: Rep. Barker, Chair
And Members of the House Judiciary Committee

FROM: Nathan D. Leadstrom
On behalf of the Kansas Association of Defense Counsel

DATE: March 3, 2016

RE: KADC's support of Increasing Judicial Salaries (HB 2704)

HB 2704 contains funding for salary adjustments for both Judicial Branch judges (\$8.3 million) and staff (\$8.5 million). This bill is vital to ensure an effective Judicial Branch. A cornerstone for any plan to maintain the health of state government is to ensure each of its branches of government are given sufficient funding to maintain the effectiveness of vital services provided to the public. However, numerous national surveys demonstrate that the Kansas Judicial Branch is lagging well behind everyone other state in the union except one in judicial salaries,¹ which makes it extremely difficult to compete with other private and public entities.

The 1,600 judiciary employees and 250 judges are paid by the state with 96% of the base budget for the Judicial Branch going toward wages and salaries. However, the wages are stuck at a level that is nearly 10 years overdue for an increase without an increase. While the Legislature did approve a salary adjustment for the Judicial Branch in 2008, this was not funded. Likewise, Kansas judges have not received any increase in salaries since FY 2009 and had their salaries reduced by 5% the last six pay periods of FY 2010.

Adequate salaries are imperative because jurists and staff are often drawn from other areas with highly competitive salaries. For instance, according to a 2012 survey conducted by the Kansas Bar Association of Kansas practitioners, the median salary for an equity partner/shareholder based upon 2011 private practitioner taxable income was \$160,000/year with a mean salary of \$212,883/year.² In terms of 2015 dollars, this would equal \$168,591/year and \$224,314/year, respectively, taking into account the rate of inflation since 2011.³ By comparison,

¹ Kansas ranks 50th out of 51 States and the District of Columbia in terms of judicial salary in the nation.

See U.S. Judicial Salary Tracker, available at

<http://www.ncsc.org/FlashMicrosites/JudicialSalaryReview/2016/home.html>.

² See KBA 2012 Desktop Reference on the Economics of Law Practice in Kansas, Exhibit 1, p. 3 (2012).

³ See U.S. Bureau of Labor Statistics CPI Inflation Calculator, available at

http://www.bls.gov/data/inflation_calculator.htm.

federal judicial compensation for 2016 is \$203,200 for District Judges, \$215,400 for Circuit Judges, and \$249,300 for Associate Justices (\$260,700 for Chief Justice).⁴

On the most recent survey of judicial salaries by the National Center for State Courts, this equates to the bottom of the nation as the salary of Kansas judges ranks 50th in the nation.⁵ According to the same survey, comparable judicial salaries in the surrounding states show 2015 salaries as follows:

	Trial Court	Inter. App. Court	Highest Court
Arkansas:	\$169,079	\$161,500	\$166,500
Colorado:	\$146,622	\$166,170	\$173,024
Iowa:	\$143,566	\$154,566	\$165,078
Missouri:	\$145,825	\$155,709	\$170,292
Nebraska:	\$150,712	\$157,851	\$166,159
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5 State Average:	\$151,161	\$159,159	\$168,211

HB 2704 requests a cost of living increase to bring Kansas judicial salaries in line with the average adjusted salaries of its neighboring states. Under the proposal, Kansas salaries would be adjusted, in comparison, as follows:

	Trial Court	Inter. App. Court	Highest Court
Kansas under			
HB 2704:	\$146,889	\$160,939	\$166,307
Kansas under			
Current law: ⁶	\$120,037	\$131,518	\$135,905

The disparities caused by years of no increases are alarming as it has been shown that stagnating judicial compensation – that not only fails to compete with private market salaries but to even keep pace with inflation – acts as a disincentive to applicants to apply for, and judges to remain on, the bench. The Defense Research Institute (DRI) Judicial Task Force has found, based upon numerous reliable sources, that low judicial compensation is one of the top issues that threaten to disrupt the independence of the judiciary.⁷ While the study speaks directly to the federal bench, the findings apply with equal force to state judicial branches suffering from similar issues caused by the failure to maintain competitive salaries and the impact of failing to maintain cost of living adjustments.

Likewise, an equally important issue is to recruit and retain experienced staff to keep the judiciary in operation. A salary adjustment is long overdue and is necessary to recruit and retain

⁴ See Table for Judicial Compensation, available at <http://www.uscourts.gov/judges-judgeships/judicial-compensation>.

⁵ See U.S. Judicial Salary Tracker, available at <http://www.ncsc.org/FlashMicrosites/JudicialSalaryReview/2016/home.html>.

⁶ See 2016 Kansas Judiciary Salaries, available at <https://www.kssos.org/forms/communication/legis.pdf>

⁷ See DRI Judicial Task Force, Without Fear of Favor in 2011: A New Decade of Challenges to Judicial Independence and Accountability, 74 – 79 (2011).

good, experienced employees. To help bring employee wages to a competitive level, HB 2704 includes a 10.44% pay increase, based on the compounded Employment Cost Index, beginning in FY 2017 for non-judge employees. Based upon the Office of Judicial Administration's research, this amount is in line with prior salary adjustments approved by the Legislature and is necessary to maintain their employees to where they should have been with regular cost of living adjustments to their wages. Without an increase, the judiciary cannot offer wages that are competitive with even comparable state governmental positions (municipal, county or state agencies), let alone private sector employment. This stymies recruitment and retention of experienced staff able to keep the judiciary running efficiently and effectively. It is important to remember that the clerks and support staff are essential to the proper functioning of the judiciary and are often the first and primary face to the public interacting with our judiciary.

As such, KADC is strongly in favor of a plan to bring the Kansas Judicial Branch salaries for judges and staff up to the levels set by HB 2704. KADC recommends the Legislature pass this much needed adjustment.