

Approved: February 3, 2000
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Vice-Chairperson Tim Carmody at 3:30 p.m. on January 18, 2000 in Room 313-S of the Capitol.

All members were present except:

Representative Michael O'Neal - excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Jill Wolters, Office of Revisor of Statutes

Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Jeff Bottenberg, Kansas Sheriffs' Association

Honorable John White, Chief Judge, 31st Judicial District

Jeff Bottenberg, Kansas Sheriffs' Association, requested that the committee introduce a bill which would amend K.S.A. 60-303 & 61-1803 to allow sheriffs' departments to serve process by any authorized method, unless personal or residence service has been specifically requested.

Representative Long made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Honorable John White, Chief Judge, 31st Judicial District, gave a presentation on Non-judicial Salary Initiative. The Kansas Supreme Court appointed the Non-judicial Salary Initiative Committee to study the current pay plan and propose changes. They found that because of the lack of compensation, the court has had a high percentage of turnovers:

- ◆ Non Judicial- 17%
- ◆ Clerks of the Court - 23%
- ◆ Court Services Officers - 12%
- ◆ 70.3% are leaving with a tenure of less than three years

The Courts can't compete with employment in the private sector when the COLA that is given by the state each year is considerably less than the inflation rate.

The Committee had six recommendations, of which two were primary. The first, was to move towards a Pay for Performance Plan and have it apply to managers & supervisors, not line staff. Second, was to provide an annual cost of living increase in salaries each year. The remaining four recommendations could be done Court Rule but would need the State to enhance their budget. (Attachment 1)

Staff from the Kansas Legislative Research Department gave an overview of reports from the Special Committee on Judiciary. (Copies of Interims Committee Reports can be found at the Kansas Legislative Research Department.)

The Committee meeting adjourned at 4:45 p.m. The next meeting is scheduled for Wednesday, January 19, 2000.

NONJUDICIAL EMPLOYEE COMPENSATION

A REPORT TO THE
KANSAS SUPREME COURT

FROM THE
NONJUDICIAL SALARY INITIATIVE

August 13, 1999

EXECUTIVE SUMMARY

"To provide efficient, effective and creative public service to the people of Kansas through an employee compensation system that is competitive; has internal equity; is based on employee skills, competencies, and performance; and is fiscally sound."

-State Compensation Philosophy

The Kansas Supreme Court appointed the Nonjudicial Salary Initiative (NJSI) on June 4, 1999, to study the present pay plan for nonjudicial employees, to make recommendations concerning appropriate changes to the plan, and to propose a legislative approach to obtain funding for implementing the changes.

In recent years, the Judicial Branch's system of compensating its employees has led to high turnover rates and difficulty in hiring and retaining qualified applicants. Because this pay plan is not competitive with salary levels in the private sector or in other government offices, our courts cannot remain efficient, effective or creative. Unless modifications are made to the Judicial Branch pay plan, the courts cannot compete for services of qualified employees.

The NJSI believes there is interest among legislators in modifying the existing state's pay plan. The concept of a performance-based pay plan appears to have gained favor among a number of lawmakers. As the Supreme Court formulates its legislative proposal for salary increases, the NJSI proposes a performance-based pay plan, as discussed in the following recommendations.

RECOMMENDATION 1.

THE NJSI RECOMMENDS THAT THE JUDICIAL BRANCH'S COMPENSATION PLAN PROVIDE FOR AN ANNUAL COST OF LIVING ADJUSTMENT THAT IS COMMENSURATE WITH INCREASES IN THE INFLATION RATE, AS MEASURED BY CURRENT ECONOMIC INDICATORS.

RECOMMENDATION 2.

THE NJSI RECOMMENDS THAT THE SUPREME COURT ADOPT SEPARATE PAY PLANS FOR SUPERVISORY AND NONSUPERVISORY EMPLOYEES. THE PLAN FOR SUPERVISORY PERSONNEL SHOULD INCLUDE A PAY FOR PERFORMANCE COMPONENT AND AN ANNUAL COLA . THE PLAN FOR NONSUPERVISORY PERSONNEL SHOULD INCLUDE AN ANNUAL COLA AND PERIODIC STEP INCREASES. EACH OF THESE STEP INCREASES SHOULD BE LARGER THAN THE PRESENT 2.5% STEP INCREASE, BUT THERE SHOULD BE FEWER STEP INCREASES IN NUMBER.

RECOMMENDATION 3.

THE NJSI RECOMMENDS THAT THE SUPREME COURT REVISE ITS PERSONNEL RULES TO EXTEND THE PROBATIONARY TERM OF NEW EMPLOYEES FROM SIX MONTHS TO ONE YEAR.

THE JUDICIAL BRANCH COMPENSATION PLAN SHOULD PROVIDE FOR A STEP INCREASE IN SALARY OF AT LEAST 5% ONCE THE NEW EMPLOYEE HAS SUCCESSFULLY COMPLETED THE ONE YEAR PROBATIONARY TERM.

RECOMMENDATION 4.

THE NJSI RECOMMENDS THE COMPENSATION PLAN SHOULD PROVIDE FLEXIBILITY FOR HIRING OF AN EMPLOYEE ABOVE THE ENTRY LEVEL SALARY (STEP 1) WHEN A JUDICIAL DISTRICT DEMONSTRATES THAT AN EMPLOYEE CANNOT BE HIRED AT THE ENTRY LEVEL OF COMPENSATION.

RECOMMENDATION 5.

THE NJSI RECOMMENDS THAT THE SUPREME COURT SUPPORT ELIMINATION OF THE LONGEVITY BONUS, IF THE LEGISLATURE FUNDS RECOMMENDATION 1. THE NEED AND JUSTIFICATION FOR LONGEVITY BONUSES IS NO LONGER VALID IF RECOMMENDATION 1 IS FUNDED.

RECOMMENDATION 6.

THE NJSI RECOMMENDS THE SUPREME COURT PROVIDE BY RULE FOR PERIODIC REVIEW OF THE JUDICIAL BRANCH PAY PLAN TO ASSURE THAT THE PLAN REMAINS CONSISTENT WITH THE JUDICIAL BRANCH COMPENSATION PHILOSOPHY.

NONJUDICIAL SALARY INITIATIVE REPORT

"To provide efficient, effective and creative public service to the people of Kansas through an employee compensation system that is competitive; has internal equity; is based on employee skills, competencies, and performance; and is fiscally sound."

-State Compensation Philosophy

INTRODUCTION

The Kansas Supreme Court, in response to concerns of the Judicial Branch's judicial and nonjudicial employees, appointed the Nonjudicial Salary Initiative (NJSI) on June 4, 1999, to study the present pay plan for nonjudicial employees. The Court directed that the NJSI study the existing plan, make recommendations concerning appropriate changes to the plan, and suggest a legislative approach to obtain funding for implementing the proposed changes.

District court clerks, court administrators, court services officers and members of the judiciary provided information to the NJSI concerning problems faced by district courts in hiring and retaining employees. The Office of Judicial Administration provided an analysis concerning "turnover" among nonjudicial employees. The Office of Judicial Administration also created an Internet listserve that provided a means for Judicial Branch employees to send their suggestions and comments concerning the pay plan to the NJSI. Representatives from the Department of Administration, Division of Personnel Services provided additional information concerning proposed pay plans and the Statewide Human Resources and Payroll System (SHaRP).

The NJSI has developed recommendations for modification of the present pay plan. Certain modifications will have an immediate impact on the salaries of our nonjudicial employees. Other recommendations include modifications that will become effective in future years. The directive to the NJSI from the Supreme Court required that preliminary recommendations of the NJSI be submitted to the Court by September 1, 1999, for use in preparation of the Judicial Branch's Year 2001 budget. This report

contains those preliminary recommendations. Subject to the Court's acceptance and approval of this report and recommendations, the NJSI will continue meeting to refine its recommendations for presentation to the Year 2000 Kansas Legislature.

COMMITTEE MEMBERS AND REPRESENTATION

The NJSI includes representatives from the judiciary, clerks of the court, court administrators, court services, and the Office of Judicial Administration. The Department of Administration, Division of Personnel Services and the Office of Judicial Administration have provided staff services and valuable information to the committee.

Appointees to the NJSI:

Hon. John W. White, Chief Judge, 31st Judicial District, NJSI Chair

Hon. Larry McClain, Chief Judge, 10th Judicial District

Hon. Larry Solomon, Chief Judge, 30th Judicial District

Robin Becker, District Court Clerk, 17th Judicial District

Kathleen Collins, District Court Clerk, 29th Judicial District

Louis Hentzen, District Court Administrator, 18th Judicial District

Mary Kadel, Chief Court Services Officer, 14th Judicial District

Patricia Henshall, Personnel/Programs Director, Office of Judicial Administration

Jerry Sloan, Budget and Fiscal Officer, Office of Judicial Administration

Department of Administration, Division of Personnel Services:

Connie Guerrero, Human Resource Professional IV

Carol Brownlow, Human Resource Professional III

Ken Otte, Human Resource Professional III

Roger Mathews, Public Service Executive IV

Office of Judicial Administration

Dr. Howard Schwartz, Judicial Administrator

Kathy Porter, Executive Assistant to the Judicial Administrator

Amy Bertrand, General Counsel

Nancy Trickett, Education Technician

Kansas Supreme Court

Jack Fowler, Administrative Assistant to the Chief Justice

BACKGROUND

The NJSI held its organizational meeting in Wichita on June 11, 1999. The committee subsequently met in the Office of Judicial Administration on June 23, July 15, and July 28, 1999. The NJSI considered the following background information in preparing its report and recommendations.

Judicial Branch Pay Plan

Letters to the Supreme Court from chief judges and clerks of the district courts have expressed a pressing need for change in the pay plan.¹ Statistical data from the Office of Judicial Administration reinforces the concerns expressed by the clerks and chief judges. In each of the past two years, one in four employees in the clerk of the district court offices have left the court system. In the urban areas of the state, where caseloads are rapidly increasing, more than one in three of the clerks' staff have left those offices.²

Letters received by the Court express the following concerns:

- our turnover rate is so high we are unable to evaluate accurately our personnel needs
- the state's pay plan that was once competitive with those in private industry is no longer attractive to potential job applicants
- it is becoming increasingly difficult to attract quality applicants
- once new employees have received training and experience, they leave for better paying jobs.

Other factors in addition to inadequate salaries contribute to our employee turnover. In 1997, the Legislative Division of Post Audit noted that "(b)etween 1987 and 1996, case filings have increased 40% while nonjudicial staff have increased 7%."³ Budget cuts in 1990

¹ Copies of letters to the Supreme Court from Chief Judges and Clerks of the Court were provided to NJSI for the committee's use.

² Appendix A-"Analysis of the Problem", Office of Judicial Administration

³ Performance Audit Report; Reviewing the Kansas Court System's Allocation of Staff Resources to the District Courts; A Report to the Legislative Post Audit Committee by the Legislative Division of Post Audit, State of Kansas; June 1997; p.ii

translated to a loss of positions. A 1997 study of compensation issues concerning all state employees included a finding that "many believe employee morale is low."⁴

In June 1999, the Office of Judicial Administration prepared an analysis of nonjudicial employee turnover. OJA reached the following conclusions:

"When we broke it down into job function, i.e., clerks' offices, CSOs, and judicial support staff, the area with the most problems was the clerks' offices and primarily in the lower salary/classification levels. The table below shows some of this data regarding the percentage on an annual basis of positions that turned over. This is also shown on the attached graphs for the clerks' offices and CSO offices by judicial district.

Annual Turnover of Selected Segments

All Nonjudicial	17%
Clerks' Offices	23%
Court Services Officers	12%

We also discovered in reviewing this data that a significant number of employees leaving had only worked for us for a short time. One particularly striking statistic is that 70.3% of the employees who left and required a permission to fill had been working for us less than three years. The average length of service for the 620 positions in our data was 3.42 years and this included 11 employees that came to the court system at unification. What is happening is that our starting salaries have failed to remain competitive. Moreover, if we are able to hire someone, it is easy for them to find a higher paying job before too much time is invested with us. This is also evident from the following table reflecting percentage wage increases prepared from data provided by the Kansas Legislative Research Department and from an understanding of Kansas' pay practices.

⁴ State of Kansas, Diagnostic Review and Draft Philosophy and Strategies for the State's Classification and Compensation Systems, Revised Final Report, Fox, Lawson & Associates, June 25, 1997, p.50.

Percentage Salary Increases
(1988-1999)

<u>Year</u>	<u>State COLA</u>	<u>Avg. Weekly Wage Private Sector</u>
1988	2.0	3.0
1989	4.0	2.8
1990	3.0	2.7
1991	1.5	4.2
1992	---	3.3
1993	1.0	3.9
1994	0.5	2.8
1995	1.5	3.2
1996	1.0	3.5
1997	---	4.6
1998	1.0	3.5
1999	1.5	3.5

When cost of living increases are given, each step in the pay plan is increased by that amount which in particular means, the starting salary, or step 1, is only increased by the COLA. Using the data above, assuming our starting salaries were competitive in 1988, the starting salary has fallen 26.48% below that offered in private industry."⁵

A clerk of the court in one of the urban districts that has experienced substantial turnover provided the following comments:

- With the turnover comes constant training of new employees.
- Our caseload filings have increased 33% over the last ten years.
- With the constant turnover and increased workload, it is difficult to maintain accuracy. The supervisors are overwhelmed with constant training and lack of accuracy of the new employees. The feeling is that we are a training ground for staff to move on to higher paying positions. Needless to say, the morale within the office is very low and difficult to improve.⁶

⁵ Id., Appendix A

⁶ Letter to the Supreme Court from Joyce Reeves, Clerk of the District Court, Third Judicial District, Shawnee County, March 10, 1999.

The OJA analysis shows that an average of one in eight Court Services Officers (CSOs) will leave the Judicial Branch each year. Inadequate salaries are a major reason for departure of Court Services employees. In the hiring and retention of CSOs, the Judicial Branch is competing with other government agencies, primarily Community Corrections departments, city court systems, and the Federal system where higher salaries are paid for similar work.⁷

The courts of Kansas have provided efficient, effective and creative public service to the people of Kansas. However, in recent years the Judicial Branch's system of compensating its employees has led to high turnover rates and placed Kansas courts in a position of being unable to hire and retain qualified applicants. With a pay plan that is not competitive with salary levels in the private sector or in other government offices, our courts are in the position of providing public service in a work environment that cannot remain efficient, effective or creative. Unless modifications are made to the Judicial Branch pay plan, the courts cannot compete for services of qualified employees.

Legislative Background

During the 1996 Interim, the Legislative Budget Committee of the Kansas Legislature studied the Kansas Pay Plan. The study was in response to concerns expressed by agency managers, employees, and other legislators. As a result of the Committee's work, the consulting firm of Fox Lawson was hired to address these concerns and to examine civil service goals, objectives, and priorities for a state pay plan.

The Fox Lawson Report is better known by its title, Performance 2000. The Executive Summary of the Report states:

"Performance 2000 puts forth the purpose, goals and objectives for the classification and compensation system(s) for the classified employees within the executive branch and non judicial employees in the judicial branch as well as the strategies to be followed in order to fulfill the stated goals and objectives.

⁷ Appendix B-Kansas Court Services Paper; Appendix A, OJA Analysis

Within the strategic plan document, the specified goals are as follows:

The classification and compensation system(s) should facilitate internal equity across positions within all departments, agencies and applicable branches of Kansas state government. The classification structure(s) should also reflect meaningful differences in the level of work within each occupational group.

The compensation system(s) should reflect both internal equity and external parity within the various labor markets in which the State must compete. The system(s) should also reward employees who perform at above standard levels within their respective job class.

The performance appraisal system shall be used to facilitate two-way communication between supervisors and employees regarding expected levels of performance."

In 1998, the Department of Administration prepared a report addressing a number of issues raised in the Performance 2000 recommendations.⁸ The Department's report concluded:

Investigation of performance-based pay, quantified job evaluation, broad banding, and a host of other contemporary human resource management systems during the past year has led to the conclusion that **the State of Kansas is attempting to bring about change in culture, rather than a change in pay philosophy, per se.** The new culture would take on the following characteristics:

- responsiveness to changing needs of government
- shift in responsibility and accountability
- recognition of accomplishment over length of service
- realization that different kinds of work may be worthy of different treatment

⁸ Appendix C-"Evaluation of Performance 2000 Report Issues", Department of Administration, Division of Personnel Services, November 25, 1998.

- continued adherence to quality management principles such as customer service and process improvement”

The NJSI believes there is interest among legislators to modify the existing state pay plan. The concept of a performance-based pay plan appears to have gained favor among a number of lawmakers. The Supreme Court's legislative proposal for salary increases should include consideration of a performance-based pay plan as discussed in our recommendations.

PAY PLAN RECOMMENDATIONS

*"The ultimate goal of the Kansas court personnel system is to attract and retain qualified, dedicated employees for the mutual benefit of the employees and the public they serve."*⁹

The Judicial Branch has based its pay plan on the pay plan applicable to other state classified employees. The present state pay plan was adopted in 1941, and has remained essentially the same for the past sixty years. The legislature modified the pay plan in 1985 and 1989 to provide for a pay matrix that includes 38 grades and 15 steps within each grade.¹⁰ Increases from step to step approximate 2.5%; increases from grade to grade approximate 5%. In 1989, the legislature revised the pay plan to include a longevity bonus for employees having ten or more years of service.¹¹ The longevity bonus is awarded at the rate of \$40 for each year of service not to exceed twenty-five years (\$1,000). The Legislature established longevity bonuses to "recognize permanent employees who have provided experience and faithful long-term service to the state of Kansas in order to encourage officers and employees to remain in service of the state."¹²

The salary schedule shown by the pay matrix is increased each year by the cost of living adjustment (COLA) established by the Kansas legislature. An employee remaining

⁹ KCPR 1.1-PERSONNEL SYSTEM PURPOSE AND SCOPE

¹⁰ Appendix E – State of Kansas pay matrix

¹¹ The 1989 legislative change to the pay plan also reduced from three years to one year the time on step in the upper steps and added two steps to each salary range.

¹² K.S.A. 75-5541(f)

within the same grade or salary range will annually receive a COLA, a step increase of 2.5%, and a longevity bonus if the employee is eligible.

RECOMMENDATION 1.

THE NJSI RECOMMENDS THAT THE JUDICIAL BRANCH'S COMPENSATION PLAN PROVIDE FOR AN ANNUAL COST OF LIVING ADJUSTMENT THAT IS COMMENSURATE WITH INCREASES IN THE INFLATION RATE, AS MEASURED BY CURRENT ECONOMIC INDICATORS.

Each year since implementation of the revised pay plan, except in fiscal years 1992 and 1997, the legislature has provided state employees with a salary adjustment. The adjustment has been referred to by legislators and employees as a cost of living adjustment (COLA). In reality, the adjustment bears little resemblance to a COLA. The inflation rate has exceeded the salary adjustment in every year since implementation of the state's present pay plan. However, because we have come to know the salary adjustment as a COLA, in this report we will refer to it as a COLA rather than a salary adjustment.

While the legislature has funded COLAs for ten of the past twelve years, the salaries of court employees have not kept pace with the inflation rate.¹³ The estimated cost of living increase from 1989 to 2000 is 38.6%. In the same period, our court employees received annual COLAs totaling 16%. Table I shows a comparison of the annual COLA and the inflation rate.¹⁴

¹³ Consumer Price Index--All Urban Consumers (1982-84 equals 100): the increase in the average index for the fiscal year (July-June).

¹⁴ Statistical data from "Kansas Fiscal Facts", Kansas Legislative Research Department, Sixth Edition, June 1999, p.32

Table I.
COLA v. Inflation Rate
(FY 1989-FY 2000)

Fiscal Year	State Classified Service COLA	Inflation Rate
1989	4.0%	4.6%
1990	3.0%	4.8%
1991	1.5%	5.5%
1992	---	3.2%
1993	1.0% effective 12/18/92	3.1%
1994	0.5%	2.6%
1995	1.5% effective 9/18/94	2.9%
1996	1.0%	2.7%
1997	---	2.9%
1998	1.0%	1.8%
1999	1.5%	2.0% (est.)
2000	1.0%	2.5% (est.)

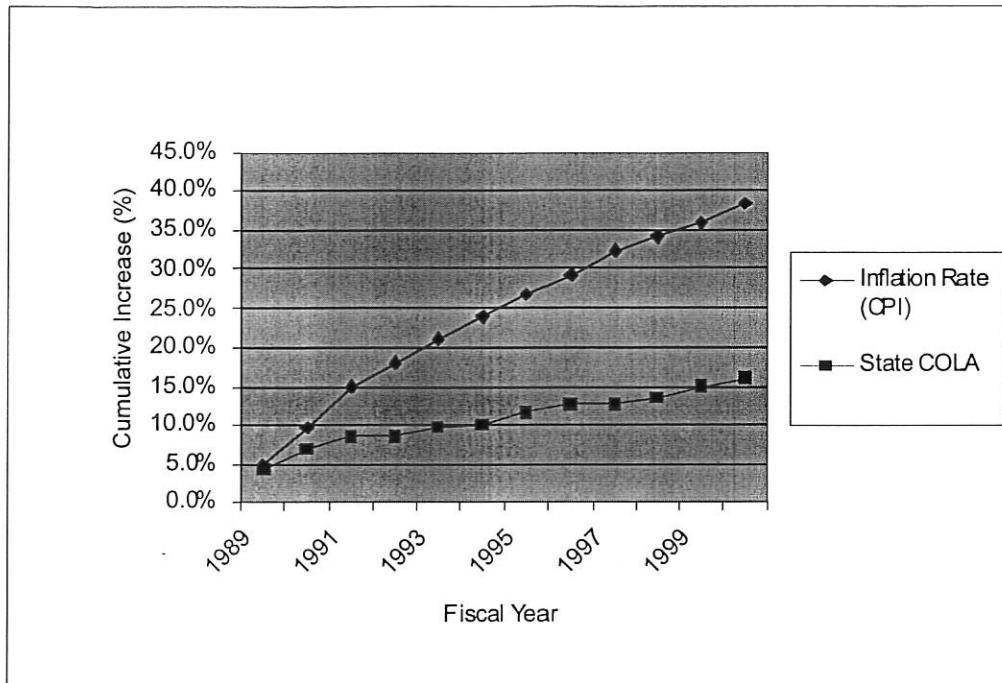
The COLA funding policy has had an adverse impact on the courts' ability to hire and retain employees. Each year the salaries on the pay matrix are increased by the COLA authorized by the legislature. Since 1989, the salaries for each grade or classification have increased by 16%. When we consider entry level salaries, the salaries at which we attempt to employ applicants, we see that in the past twelve years those salaries have increased by 16%. A position that in 1989 had an entry level salary of \$7.00 per hour now pays \$8.20 per hour. To keep pace with the inflation rate the same \$7.00 per hour salary should now be \$10.23 per hour.

Our current employees also feel the effect of a COLA that is less than the inflation rate. Until our employees reach step 15 on the pay matrix they receive a step increase of approximately 2.5% in addition to the COLA. In a few of the years shown above, the total of the step increase (2.5%) and the COLA was less than the inflation rate. In the period 1989-2000 our employees can expect step increases of 30% and COLAs of 16%, a total increase of 46%. However, after deducting the 38.6% inflation rate we realize that our employees have effectively received a salary increase of less than 8%.¹⁵ Chart A shows a

¹⁵ The data shown does not reflect the delay in effective dates of the COLAs.

comparison of the cumulative inflation increase and the cumulative COLA increase for the period 1989-2000.

Chart A
Inflation Rate v State COLA
Cumulative Increase
FY 1989-FY2000



These problems could be addressed if the Judicial Branch's compensation plan provided an annual adjustment for increase in cost of living that is commensurate with increases in the inflation rate, as measured by current economic indicators.

RECOMMENDATION 2.

THE NJSI RECOMMENDS THAT THE SUPREME COURT ADOPT SEPARATE PAY PLANS FOR SUPERVISORY AND NONSUPERVISORY EMPLOYEES. THE PLAN FOR SUPERVISORY PERSONNEL SHOULD INCLUDE A PAY FOR PERFORMANCE COMPONENT AND AN ANNUAL COLA. THE PLAN FOR NONSUPERVISORY PERSONNEL SHOULD INCLUDE AN ANNUAL COLA AND PERIODIC STEP INCREASES. EACH OF THESE STEP INCREASES SHOULD BE LARGER THAN THE PRESENT

2.5% STEP INCREASE, BUT THERE SHOULD BE FEWER STEP INCREASES IN NUMBER.

The NJSI recommends that the Court adopt separate pay plans for supervisory/management personnel and nonsupervisory personnel. The committee has reviewed materials concerning other pay plans and believes that the "one plan fits all" pay matrix should be substantially modified, if not abandoned. The Department of Administration has concluded:

"'One size fits all' classification and pay systems are neither necessary nor advisable. If the State wishes to operate government more like a business which is a common idea among progressive government leaders, the notion that all employees must be treated alike, must be replaced with the notion that all employees must be treated fairly. These should be mutually exclusive concepts, but traditional government systems have assumed that identical treatment is the only avenue to fairness despite differences in jobs and levels of performance. The State of Kansas should be open to considering some features of new performance-based pay systems as well as being open to retaining features of our current system if they work well for certain types of jobs and agency organizations."¹⁶

As previously noted, the legislature has shown interest in a state pay plan based on performance. Information provided to our committee shows that pay for performance is currently popular with several agencies of government. Despite the current popularity of the concept, we do not recommend inclusion of all employees in a pay for performance plan.

Nonsupervisory Employee Plan

Although we have emphasized the current popularity of performance based plans, the plan we recommend has only one step increase based on performance. Our rationale for not placing more emphasis on pay for performance involves many issues. Our

¹⁶ Id *Evaluation of 2000 Report Issues*, pp. 7-8

primary concerns center around the inherent straining of relationships between employees and supervisors, between employee and employee, and the time-consuming evaluation process that would be necessary to effectively administer such a plan.

In a report to Tennessee courts, the National Center for State Courts had this to say about pay for performance plans:

"Some researchers state that while pay-for-performance systems have been somewhat successful in non government organizations, because of the ability to quantify goals and objectives, these quantifiable factors are not found in the public sector. They cite three major factors for the failure of pay for performance in public settings:

1. Supervisors must know the desirable job behavior exists to reward it; many performance appraisal instruments are flawed, and supervisors have imperfect knowledge concerning the performance of subordinates. Appraisal results may be biased.
2. Pay for performance is premised on pay being a primary motivational factor for employees, but research indicates that workplace participation, job enrichment, professionalism, and recognition are more important to employees.
3. Pay for performance imposes excessive information gathering and paperwork demands on the supervisor and by focusing on a narrow measurable range of employee performance; it can discourage interpersonal and inter group cooperation."¹⁷

¹⁷ *Pay For Performance Employee Appraisal System*, National Center for State Courts report to Tennessee Supreme Court, Appellate Courts and Administrative Office of the Courts, May 1995, p.4

The NJSI recommends that the Supreme Court adopt the following pay plan for all nonsupervisory employees. According to OJA data, 84% of our nonjudicial employees would be included in this plan, if it is adopted.

	STEP A	STEP B	STEP C	STEP D	STEP E
Employment Term At Each Step	Entry Level	After 6 mos.	After one year of employment	After three years at Step C and "full performance"*	After four years at Step D.
Total Employment Term	0-6 mos.	6 mos.-1 yr.	1 yr.-4 yrs.	4 yrs.-8 yrs.	8 yrs.-
Comparison with current pay matrix	Approximates current step 5	Approximates current step 6	Approximates current Step 9	Approximates current Step 12	Approximates current Step 15
Pay Increase	Entry Level	Add 2.5% to Step A**	Add 7.5% to Step B	Add 7.5% to Step C	Add 7.5% to Step D
Step Levels under present plan included in this Step	Steps 1-3	Step 4	Step 5-7	Steps 8-11	Steps 12-15
<p>*The "full performance" requirement is intended to place a pay for performance component into this pay plan. Recommendations for evaluating "full performance" will be provided to the Court.¹⁸</p> <p>** Granting a 2.5% step increase at six months will be discretionary with no right to appeal denial of the step increase.</p>					

The general concept of this proposal is to make the starting salaries more competitive, to limit the number of steps in order to make them more significant, and to use more of the salary enhancement money for a realistic "COLA" and less for "step movement." This proposal will require a substantial amount of funding the first year. Moreover, this proposal will continue to have a cost for "step movement" in future years, although it is less than the current system. This means if the governor does not recommend a general pay plan adjustment or recommends only a small adjustment, insufficient funding would be available for a meaningful COLA and step movement.

¹⁸Appendix F-Sample evaluation forms used in the Tennessee judicial branch, provided by the National Center for State Courts.

Steps and Movement Between Steps

This proposal reduces the number of steps for each grade to five. The starting step, step A, would be about step 5 of the current plan. This would further make up the shortcomings of our current starting salary that the Court has partially addressed this year.¹⁹

The next step, step B, would be roughly equivalent to the current step 6 and the employee would be eligible to advance to step B after six months. The NJSI recommends that the personnel rules be modified to provide for granting permanent status after one year.²⁰ A thorough evaluation should still be done after six months and a modest increase at that time encourages that evaluation.

An employee would be eligible for step C after one year of employment. For employees new to the system, the completion of one year of service also means mandatory membership in KPERs and the required 4% contribution to that system. The NJSI proposes that step C be roughly equivalent to the current step 9, or about a 7.5% increase over step B so that an employee actually receives an increase, and not a decrease in pay upon completion of one year of service.²¹

Obviously, under this proposal, the cost after the first year is substantially more than with the current system. Even discounting the enhanced starting salary, this proposal gives an increase after one year, equivalent to what it would take three years to get under the current system. This must be addressed to meet the fiscal goals.

To move to the next step, step D, would require meeting two criteria: Three years on step C and satisfying established criteria for “full performance.” The requirements for

¹⁹ For FY 2000, the Supreme Court has approved a pay increase for any clerical employees under 20 on permanent status who were below the step 3 salary level. Employees below step 3 were moved to step 3. See OJA Analysis, Class Change Plan, p.3

²⁰ See Recommendation 3

²¹ See Recommendation 2

“full performance” in the Clerks’ offices would be recommended by the Clerks’ Advisory Council and those for CSOs by the CSO Advisory Committee. For administrative assistants and court reporters, the Kansas District Judges Association would review standards. In addition to providing another serious performance review at this stage in an employee’s career, it would modestly address the “pay for performance” desire that has been stated. An employee must be functioning at full performance before this raise is granted. The proposal for step D would be roughly equivalent to step 12 on the current system, about a 7.5% increase.

After four more years, a total of eight years on the job, an employee would be eligible for the final step, step E. This would essentially be a longevity step. While it might be considered generous, we suggest step E be equivalent to step 15 in the current system, an additional 7.5% increase.

While on the surface it appears that employees would be concerned about the lack of raises during many of the years of their employment and a relatively early “top out,” this proposal assumes more realistic COLAs which will materially benefit longer-term employees and give newer employees a meaningful (about 10%) raise during the years they do move on the matrix.

Under this system, evaluations would take on renewed importance, and the current forms and system should be revised. Training for supervisors will need to be provided on how to fairly evaluate employees and coach them to achieve “full performance.”

Implementation

While we know any implementation plan creates perceived inequities, the proposal below would give every employee an expectation of a reasonable COLA. In addition, employees on steps 1, 2 and 3 would go to step A (equivalent to step 5).

Employees on step 4 would go to step B (equivalent to step 6).²¹ Employees on steps 5, 6 and 7 would go to step C, those on steps 8, 9, 10 and 11, to step D and those on steps 12, 13, 14 and 15 to step E. It is important that reasonable COLAs be given in the future. The most dramatic perceived inequity are employees on step 11 at implementation. They will go to step D, which is equivalent to step 12, but that may just be an acceleration of normal step movement (e.g. six months early) and then those employees will not be eligible for additional step movement for four years. They must be able to expect COLAs in the future.

Of the positions in the affected classes, if current employees all stayed until implementation, the average raise, above what they would expect under the current system, would be 5.40%. The maximum increase, above the current plan, would be 10.42% and the median would be 6.22%. One hundred eighty-six (186) of these employees (about 15%) would get less than .50% more than they could currently expect. Most of these are currently at the top of the range, or will go there during FY 2000, and that top will not increase without a COLA.

Costs

Because this proposal provides for significant increases for most employees, the cost for this proposal is not small. In addition, while it is not mandatory for the first year, a general salary plan adjustment for increase in cost of living of about 2.5% should also be recommended in order to reward employees on step 15. To implement this proposal will require \$2,102,366 above the base cost of the current plan. When fringe benefits are added, the total cost is \$2,391,652. If we were also to include a 2.5% COLA, or general increase in the matrix, it would cost an additional \$1,214,462. All of these figures are based only on the positions reviewed for this analysis.

²¹ This would put employees who were moved to step 3 due to Supreme Court order No. 60 and those going to step 4 on this implementation "ahead" of new employees.

The advantage of this proposal, if fully implemented in FY 2001, is that, other than new employees, only those employees who are currently on steps 1, 2 and 3 at the beginning of FY 2001 will receive a merit increase during FY 2002. (The base for those on step 4 at implementation will be larger in FY 2002, but they will not receive an increase during that year). In FY 2003 none of the current employees would be eligible for a step increase. In 2004, those on steps 5, 6 and 7 would be eligible for an increase and those on step 4 would receive an increase for half a year. In 2005 those currently on steps 1, 2 and 3 as well as those on steps 8, 9, 10 and 11 would be eligible for step movement. With this limited step movement, reasonable adjustment for increase in cost of living for all nonjudicial employees should be possible using funding that was historically dedicated to step movement.

Manager/Supervisor Plan(s)

The NJSI has discussed possible pay plans for our supervisors and managers. We agree that the plan(s) for managers and supervisors should include a pay for performance component, but we have been unable to agree on a recommendation as to the form of the plan. We recognize that moving our managers and supervisors to a performance-based pay plan will be a dramatic change, one that will require much planning, preparation and training. Therefore, we suggest that the Court implement the committee's recommendations in phases.

The committee members agreed that a movement to pay for performance for managers and supervisors requires overhauling the current evaluation system. Separate evaluation forms for line staff and managers and supervisors must be developed, as well as the guidelines for "full performance." All employees must be given meaningful training on the new forms and the "full performance" criteria. All supervisors and managers must also receive training on how to fairly evaluate employees, and how to coach them to achieve their best performances. OJA suggests the new forms be used for at least for a 12-month period following their adoption before the pay for performance component is

implemented. This period will provide a period to evaluate the forms and the effectiveness of the training.

For the present, we recommend that the proposed plan for nonsupervisory employees include managers and supervisors. After the NJSI has had sufficient time to study other pay plans, we will prepare a recommendation concerning a pay plan for managers and supervisors that will address performance based pay issues.

RECOMMENDATION 3.

THE NJSI RECOMMENDS THAT THE SUPREME COURT REVISE ITS PERSONNEL RULES TO EXTEND THE PROBATIONARY TERM OF NEW EMPLOYEES FROM SIX MONTHS TO ONE YEAR.

THE JUDICIAL BRANCH COMPENSATION PLAN SHOULD PROVIDE FOR A STEP INCREASE IN SALARY OF AT LEAST 5% ONCE THE EMPLOYEE HAS SUCCESSFULLY COMPLETED THE ONE YEAR PROBATIONARY TERM.

The NJSI discussed the six-month probationary term and has concluded that six months is not sufficient time to evaluate a newly hired employee. The NJSI recommends that the Court amend its personnel rules to extend the present probationary term of six months to one year.

The Court's present personnel rules provide that newly hired employees shall serve a probationary term of six months before being granted permanent status with the court system. A newly hired employee enters the system at step 1 of the applicable grade and after serving the six-month probationary term, provided he or she is granted permanent status, is moved to Step 2 of the pay plan. At the end of 12 months of service, the employee has received two step increases. However, due to rules pertaining to KPERS benefits, at the beginning of the second year of employment a 4% contribution to KPERS becomes effective. The employee's "take-home" pay is reduced to less than the employee was receiving during the previous six-month period. To prevent this

inequitable result, NJSI recommends that the Court modify the pay plan to provide for a step increase of 5% or more at the end of the first year of employment.

RECOMMENDATION 4.

THE NJSI RECOMMENDS THE COMPENSATION PLAN SHOULD PROVIDE FLEXIBILITY FOR HIRING OF AN EMPLOYEE ABOVE THE ENTRY LEVEL SALARY (STEP 1) WHEN A JUDICIAL DISTRICT DEMONSTRATES THAT AN EMPLOYEE CANNOT BE HIRED AT THE ENTRY LEVEL OF COMPENSATION.

A complaint raised by appointing authorities is that the present entry-level salary in many classes is insufficient to attract qualified applicants. A remedy for this problem appears to be available in KCPR 4.7:

“4.7 Beginning Pay

Initial appointment to any position with the Judicial Branch shall be at step 1 of the pay grade assigned to the classification in which the position is assigned. Upon recommendation of the appointing authority and the Personnel Officer, the Judicial Administrator may seek approval from the Chief Justice for compensation up to step 5 when the needs of the court system make such action necessary. Exceptions must be based on either: 1) An employee’s outstanding and unusual experience and ability beyond the qualification requirements specified for the position; or 2) A critical shortage of qualified applicants exists.”

NJSI recommends that the Court establish a procedure for uniform implementation of KCPR 4.7 by amending the rule as follows:

“4.7 Beginning Pay

- a. Initial appointment to any position with the Judicial Branch shall be at ~~step 1~~ *the entry level* of the pay grade assigned to the classification in which the position is assigned. Upon ~~recommendation~~ *request* of the appointing authority and the Personnel Officer, the Judicial Administrator may seek approval from the Chief Justice for compensation up to step 5 when the needs of the court system make such action necessary. ~~Exceptions~~ *Requests* must be based on ~~either~~: 1) An employee’s ~~outstanding and unusual~~ experience and ability ~~beyond the qualification requirements specified for the position;~~ *or* and 2) A critical shortage of qualified applicants exists.

- b. *As part of the request, the appointing authority must submit:*
1. *A list of other employees in the district serving in the same job classification and their pay step;*
 2. *A copy of the advertisement for the position conforming to the judicial branch job specification for the job classification, the name of the newspaper, and date(s) of publication;*
 3. *A copy of the notice of posting distributed through the judicial branch; and*
 4. *A list of the other applicants showing why each was not qualified."*

RECOMMENDATION 5.

THE NJSI RECOMMENDS THAT THE SUPREME COURT SUPPORT ELIMINATION OF THE LONGEVITY BONUS, IF THE LEGISLATURE FUNDS RECOMMENDATION 1. THE NEED AND JUSTIFICATION FOR LONGEVITY BONUSES IS NO LONGER VALID IF RECOMMENDATION 1 IS FUNDED.

This recommendation is made on condition that the Court adopts Recommendation 1, funding of an appropriate COLA. The longevity bonus provided for in K.S.A.75-5541(f) benefits employees who have completed 120 months of service to the state. The NJSI recognizes the value of rewarding an employee who has provided "faithful long-term service to the state." However, the greater benefit to all employees is derived from payment of a realistic COLA. We do not recommend that the Court initiate an effort to abolish the longevity bonus, but if such legislation is proposed, the Court should support it. The funds included in the Court's budget for longevity bonuses could then be applied to funding an adjustment for increase in cost of living.

RECOMMENDATION 6.

THE NJSI RECOMMENDS THE SUPREME COURT PROVIDE BY RULE FOR PERIODIC REVIEW OF THE JUDICIAL BRANCH PAY PLAN TO ASSURE THAT THE PLAN REMAINS CONSISTENT WITH THE JUDICIAL BRANCH COMPENSATION PHILOSOPHY.

The Judicial Branch "Personnel System Purpose" states:

“The purpose of the Kansas court personnel system is to establish and maintain equitable and uniform policies, procedures, job classifications, and compensation plans to effectively:

- a. Provide equal employment opportunities to all applicants on the basis of merit regardless of race, color, sex, age, religion, national origin, disability or political affiliation. See KCPR 5.1, at 19; see also Appendix C.
- b. Insure that all employees are properly compensated and that such compensation bears a direct relationship to the position occupied.
- c. Provide regular employee performance reviews so meritorious performance may be rewarded and unsatisfactory performance may be remedied. See KCPR 5.24, at 28.
- d. Provide uniform and adequate medical and retirement plans.

The ultimate goal of the Kansas court personnel system is to attract and retain qualified, dedicated employees for the mutual benefit of the employees and the public they serve.”²²

The present state pay plan on which the Judicial Branch pay plan is based has been in existence for approximately sixty years. The state plan, and consequently the Judicial Branch plan, has not been changed by the legislature in the past ten years. The present Judicial Branch plan does not provide for adequate salaries that will permit the district courts to hire and retain employees. As shown by the information provided in this report, the conditions affecting the courts' ability to hire and retain employees did not totally occur in recent years.

The NJSI recommends that the Supreme Court establish by Rule or otherwise, a procedure for future reviews of the salary plan(s) affecting employees of the Judicial Branch to assure that the purpose of the Kansas Court Personnel Rules is met.

²² KCPR 1.1-PERSONNEL SYSTEM PURPOSE AND SCOPE

January 19, 2000

Testimony on HB 2600
to House Judiciary Committee

Kathy Porter
Office of Judicial Administration

Thank you for the opportunity to appear on HB 2600, which would excuse from jury duty persons who have served as jurors in the county within one year immediately preceding.

My testimony is largely informational. The Office of Judicial Administration surveyed the 31 judicial districts and found only one district in which excusing a juror for one year after service is not the practice. The overwhelming practice is the "one day/one trial" system, in which jurors are called to serve for one day, or the duration of one trial. In Wichita, jurors report for jury service for one week. The common practice is that jurors are required to be "available" for one to three months, or, in a few cases, up to six months. This means that jurors are required to call in to find out if they should report to the courthouse.

Following that service, jurors are excused from additional service for a period of one year, or, in a few cases, for two years.

I have attached a copy of the Supreme Court standards on jury service. As you review the standards, you will note that they are designed to be "juror friendly." Although jury service is an important duty of citizenship, it is acknowledged that jury service can indeed present a disruption in one's life. The standards are designed to minimize any disruption or inconvenience that might result.

A recent study conducted by Dr. Steven Cann of Washburn University and Professor Michael Kaye of Washburn University Law School surveyed a total of 1,747 Kansans called for jury service. The survey concluded that "[o]ver 80 percent of the respondents in this study gave the overall jury duty a positive evaluation, 91 percent said that court employees were courteous and helpful, and there was generally strong support for courthouse facilities." The authors noted:

"National surveys find between 50 and 60 percent of the citizens report satisfactory contact with government agencies. Citizen satisfaction with the Kansas jury system is well above the national average."

Thank you for the opportunity to appear on this bill, and I would be glad to stand for any questions that you might have.