



March 21, 2022

Chairperson Billinger, Vice Chairperson Claeys, Ranking Minority Member Hawk, and members of the Senate Ways and Means Committee:

I write you today on behalf of the Kansas District Magistrate Judges Association in support of HB 2541. This legislation will ensure the judicial branch continues to provide access to justice for your constituents independent of the revenue received by the judicial branch through fees.

In my district, the 10th Judicial District, our clerks' office suffered significant staff shortages during the pandemic due to the judicial branch's current reliance on fees to pay staff. This reliance on fees resulted in a hiring freeze which directly impacted our clerk's office and their ability to serve the community.

During Covid, the judicial branch suffered a significant reduction in fees. This reduction in fees occurred even though we continued to hold court, pivoting to virtual hearings, and developing processes to allow access to justice even when the country sheltered at home. Just like our Legislative and Executive branches of government adjusted to doing their job in a different way, the Judicial branch did as well.

This reduction in fees occurred due to fewer motorists on the road which meant fewer tickets being issued by the Kansas Highway Patrol. This reduction resulted because people's focus shifted from filing new cases in District Court to figuring out how to survive and keep their families safe, educated, fed, and healthy during a global pandemic. This reduction in fees directly impacted the judicial branch's ability to fill open positions resulting in a hiring freeze for many months.

HB 2541 eliminates this potential crisis from occurring again. Even before Covid and its impact on the Kansas Judicial Branch, experts reviewing court costs, fee funding, and court operations identified the pitfalls associated with a



fee funded court. The Conference of State Court Administrators released their “2011-2012 Policy Paper - Courts Are Not Revenue Centers” detailing seven principles for courts regarding court costs and fees. Two of those principles directly support HB 2541:

Principle 1: Courts should be substantially funded from general governmental revenue sources, enabling them to fulfill their constitutional mandates. Court users derive a private benefit from the courts and may be charged reasonable fees partially to offset the cost of the courts borne by the public-at-large. Neither courts nor specific court functions should be expected to operate exclusively from proceeds produced by fees and miscellaneous charges.

Principle 7: The proceeds from fees, costs and fines should not be earmarked for the direct benefit of any judge, court official, or other criminal justice official who may have direct or indirect control over cases filed or disposed in the judicial system. All funds collected from fees, costs and fines should be deposited to the account of the governmental source providing the court's funding.¹

The National Center for State Courts also released a report on fines, fees, and bail practices (Revised in 2021) stating:

Principle 1.5. Court Funding and Legal Financial Obligations. Courts should be entirely and sufficiently funded from general governmental revenue sources to enable them to fulfill their mandate. Core court functions should not be supported by revenues generated from Legal Financial Obligations. Under no circumstances should judicial performance be measured by, or judicial compensation be related to, a judge's or a court's performance in generating revenue. A judge's decision to impose a Legal Financial Obligation should be unrelated to the goal of generating revenue. Revenue generated from the imposition of a Legal Financial Obligation should not be used for

¹ https://cosca.ncsc.org/_data/assets/pdf_file/0019/23446/courtsarenotrevenuecenters-final.pdf



salaries or benefits of judicial branch officials or operations, including judges, prosecutors, defense attorneys, and court staff, nor should such funds be used to evaluate the performance of judges or other court officials.

Principle 1.6. Fees and Surcharges: Nexus to the “Administration of Justice.” While situations occur where user fees and surcharges may be necessary, such fees and surcharges should always be minimized and should never fund activities outside the justice system. Fees and surcharges should be established only for “administration of justice” purposes. “Administration of justice” should be narrowly defined and in no case should the amount of such a fee or surcharge exceed the actual cost of providing the service. The core functions of courts, such as personnel and salaries, should be funded by general tax revenues.²

In conclusion, passage of HB 2541 ensures the Judicial Branch remains open, fully staffed, and ready to serve the citizens of Kansas regardless of the amount of fees collected. Funding the Judicial Branch from the State General Fund, and not fees paid to the Court, eliminates the taint of impropriety that exists when the Court directly collects fees to pay its own staff. When you pass HB 2541, you create consistent funding from the State General Fund for all three branches of government and confidence in the citizens in Kansas. Thank you for your consideration.

**Sincerely,
Jenifer J. Ashford
President, KDMJA**

² https://www.ncsc.org/__data/assets/pdf_file/0021/61590/Principles-on-Fines-Fees-and-Bail-Practices-Rev.-Feb-2021.pdf