

**THE AMERICAN UNIVERSITY**

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT  
Institute for Advanced Studies in Justice  
The American University Law School  
Washington, D.C.

A Program of the  
Adjudication Division  
Office of Criminal Justice Programs  
Law Enforcement Assistance Administration  
U.S. Department of Justice

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DEPARTMENT OF DEFENSE, SPECIAL ADJUTANT GENERAL SERVICES

U.S. GOVERNMENT PRINTING OFFICE: 1964 O - 354-000

100-443887-1

PROJECT

X STATE FUNDING OF COURT SYSTEMS

An Initial Examination

NCJRS

AUG 27 1979

June 1979

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This report was prepared in conjunction with The American University Law School Criminal Courts Technical Assistance Project, under a contract with the Law Enforcement Assistance Administration of the U.S. Department of Justice.

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STATE FUNDING OF COURT SYSTEMS

AN INITIAL EXAMINATION

## PREFACE

State funding of court systems is now receiving more attention than ever before. At this time, 22 states provide full or substantial funding of their court systems or have made commitments to do so; several more are considering state funding; and others are beginning to think about it. The primary recent motivating force appears to be the need to relieve local government financial problems resulting from undue reliance on the property tax and from budgetary and revenue restrictions imposed by Proposition 13-type enactments or initiatives in a number of jurisdictions.

Even though wide-spread attention is a relatively recent development, state funding has been a subject of concern for some time to judicial administration practitioners and academicians, most often in connection with court reorganization. The assets and liabilities of state funding, at least in theory, have been debated extensively, although the participants have been few and the audience small and inbred. Several points of view have had ardent advocates. The problem is that most of this discussion has centered on differing concepts of what a state-funded court system is or what it ought to be rather than on state funded court systems as actually organized and operated. In fact, there are even differing views on what constitutes a state-funded court system and what criteria to use to tell if one has one.

It is not surprising that the discussion or debate has been primarily theoretical. Only one book has been written on court funding.<sup>1</sup> This pioneering effort, although published in 1975, was based on 1972 data. Since that time, 11 states (one-half of the total) have joined the list of state-funded court systems, at least as defined in this study.

This study does not do a number of things. It does not reach a conclusion with irrefutable proof that state funding is good or bad. It does not recommend one way of organizing and managing a state-funded system. It does not offer advice on whether to adopt state funding; how to tell if it's a good idea for a particular jurisdiction; or how to get it, if one wants it.

This study does make an initial examination of the administrative organization and operation of most of the 22 state-funded systems, with emphasis on the budget and appropriation processes and on fiscal administration. It also looks at executive and legislative relationships, at least as seen from a judicial system perspective. It also attempts to identify what is state funded and what is not and how much is spent for what purpose.

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1. Carl Baar, Separate but Subservient; Court Budgeting in the American States, (Lexington, Mass.: Lexington Books, 1971).

Several findings and observations are made about the operations and administration of state-funded systems and judicial - executive - legislative relationships, but further examination is needed on several points to legitimize these findings. This study, perhaps, raises as many questions as it answers, and several areas for continued study and analysis are suggested.

Many hands have worked on the several tasks involved in this study, but if the broth is spoiled, the blame falls on the chief cook who concocted it.

Joan Cady, Director of Special Programs, University of Denver College of Law, had the major responsibility for the annotated bibliography, found in Appendix A. She also participated in the field interviews in Connecticut, Kentucky, New Mexico, and South Dakota. Professor Joyce Sterling helped design the questionnaire sent to the 22 states, as well as the one used as a guide by the field interviewers in five states. Phil Winberry, former Administrator for the Courts in Washington state, helped conduct the field interviews in Connecticut and Kentucky.

Maryann Motza, Budget Officer, Denver Juvenile Court, is responsible for the fiscal data analysis, including the narrative, tables, and charts. She conducted most of the field interviews in Colorado and also participated in the preparation of the annotated bibliography. Christina Clark, formerly on the staff of the Criminal Courts Technical Assistance Project, assisted with the annotated bibliography, the state profiles, and the preparation of the final manuscript. Marion Weaver Lawson read and edited this report and recommended a number of clarifying changes.

Norman Meyer, MSJA alumni research fellow and MSJA candidate, coordinated the work of the other graduate students, all of whom are MSJA candidates. He assisted in some of the Colorado field interviews, and he and Kandace Van Sickel prepared the state-by-state summary profile found in Appendix B. They both also assisted in questionnaire analysis.

Graduate students assisting in the literature search and preparation of the annotated bibliography were: Fiona Humphrey, Marsha Klinker, and Priscilla Robb. Graduate students who assisted in constitutional, statutory, and rule search and analysis for the 22 states include: John Carpenter, Scott Crampton, Gerard Daly, and Joanne Downs.

The study team is indebted to the Criminal Courts Technical Assistance Project, Institute for Advanced Studies in Justice, The American University, Washington College of Law and to the Law Enforcement Assistance Administration for providing funds for the field studies, writing, and research involved in this project.

The number of acknowledgments is long, as might be expected in a study which depended on so many people to provide information. First, we wish to thank Walter Kane, Chairman of COSCA, and State Court Administrator, Rhode

Island, for his encouragement and for his letter of support which accompanied the questionnaire. The study team also thanks those 20 state court administrators and their staffs who took the time from busy schedules and legislative sessions to answer a very lengthy questionnaire and to verify the information in the preliminary report. In particular, we would like to thank Betsy Belshaw and Mark Geddes who pretested the questionnaire.

The cooperation of the judges, administrators, and other staff - both state and local - in the five states visited is greatly appreciated. Our special thanks to Chief Justice Paul Hodges, former Chief Justice Edward E. Pringle, and State Court Administrator Jim Thomas, Colorado; Chief Justice Dan Sosa, Jr., Senior Justice John B. McManus, Jr., and AOC Director Larry Coughenour, New Mexico; Chief Justice Roger L. Woolman, former Chief Justice Francis G. Dunn, and State Court Administrator Mark Geddes (once again), South Dakota; Chief Justice John J. Palmore and Administrative Office of the Courts Director Bill Davis, Kentucky; and Executive Secretary Joe Keefe and Dave Jackson, Administrative Aide to the Chief Court Administrator, Connecticut. We also thank the many other interviewees whose names are listed in Appendix E.

This study report is offered with the hope that it will be the first in a series dealing with all aspects of court funding.

Harry O. Lawson

Denver, Colorado  
June, 1979



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## STUDY SCOPE, METHODOLOGY, AND LIMITATIONS

IntroductionDefining State Funding

In the past six years, there has been a dramatic increase in the number of court systems which are totally or substantially state funded or where there have been legislative commitments to do so.<sup>1</sup> "Substantially" is defined as state funding of at least one trial court or trial court major expense, such as non-judicial personnel. This definition is used in this study, instead of using the percentage of judicial system funding provided by the state in each jurisdiction, for several reasons:

- 1) Those data are not current.
- 2) There are several states where the municipal courts have ordinance violation jurisdiction only and are locally funded and operated. These courts remain outside the state system, but lower the percentage when all judicial system costs are used as the base.
- 3) The use of percentages does not reflect those states which have made a legislative commitment to substantial state funding.

State Funded Jurisdictions

The following states are totally or substantially state funded: Alaska, Alabama, Colorado, Connecticut, Delaware, Hawaii, Kansas, Kentucky, Maine, Maryland, Massachusetts, Missouri, Nebraska, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, South Dakota, Vermont, Virginia, and West Virginia.

Variations Among States

In designing this study, it was assumed that- despite the similarities - there is great variation among state funded systems, including, but not necessarily limited to:

1. Examples of legislative commitment are: 1) Missouri, where almost all trial court personnel will be state funded on July 1, 1981; 2) Kansas, where most trial court and probation personnel will become state funded over four years, with a percentage increased each year; 3) New York, which has a commitment similar to Kansas for most court expenses, except town and village courts. (New York paid 56% in FY 1979 and will pay 100 percent in FY 1981.)

- 1) what is state funded;
- 2) budget process (internal and external):
- 3) fiscal administration, especially executive branch involvement;
- 4) division of central - local authority and responsibility;
- 5) type and scope of information systems;
- 6) distribution of fines and fees;
- 7) appropriation format; and
- 8) problems encountered in implementation.

The study was, therefore, constructed to provide as much data as possible on these and other subjects, so that these and other items could be identified and compared.

#### Appropriation Comparisons

It was also decided that an analysis should be made of the amount of state appropriations by aggregate total and by specific categories, as applicable, such as trial court personnel, probation, operating expenses, capital outlay, facilities, etc. These are reduced to per capita amounts to facilitate comparisons among states. Closely related data are:

- 1) aggregate differences between the budget requested and the amount appropriated; and
- 2) use and purposes of supplemental appropriations and differences between amount requested and appropriated.

#### Identification of Variables

In designing this study, a number of variables were initially identified, all or any of which might provide some explanation of differences among states as to budget process, fiscal administration, central-local distribution of authority and responsibility, type and scope of information systems, fine and fee distribution, amount of appropriation and difference between appropriation and budget request, appropriation format, etc.

The most obvious variable is: what is state funded? Other variables which were initially thought to provide an explanation of differences among states include:

- 1) Overall Judicial System Administrative Authority/Responsibility. Who exercises authority and what is the scope? For example, do states with strong chief justices have more centralized budget development and fiscal controls than jurisdictions where administrative authority and responsibility are more diffused?

2) External Administrative Authority. For example, does the judicial system have to follow executive branch accounting and purchasing procedures, or may it establish its own? If there is executive branch intrusion, it may affect budget process, fiscal administration, information systems, and central - local authority and responsibility.

3) Judges Elected or Appointed. For example, is there more local control in states with elected judges? If so, how does this affect budget submission?

4) Rule Making Authority. Does the supreme court or other internal policymaking body have the authority to promulgate administrative rules, is this authority shared with the legislature, or is it primarily exercised by the courts? Does this variable explain any of the differences among states?

5) Selection of Chief Justice. Is the chief justice selected by the court, by the governor, or selected in some other way, such as rotation? For example, is there more local autonomy in states with a rotating chief justice? How is this reflected in the budget process or fiscal administration?

6) Size of SCA Professional Staff. For example, do states with small professional staffs in the SCA's office have more decentralized fiscal administration and budget preparation?

7) Elected or Appointed Clerks. Can any of the differences among states on the issues being examined be explained by whether clerks are elected or appointed?

8) Strong Executive Budget State or Strong Legislative Budget State. For example, in states where the executive (governor) predominates in budget preparation and submission, one would expect to find greater executive branch involvement in the budget process and, perhaps, in fiscal administration than in states where the legislature dominates the appropriation process.

9) Lead Time. Can peculiarities in the budget process, fiscal administration, or information system design be related to the amount of lead time available to make state funding operational?

10) Phase In. Are there significant differences between states that phase in state funding (by whatever method) and those jurisdictions where it was done all at once?

11) System Size or Complexity. What differences, if any, among states can be explained by system size (number of employees, courts, state population, etc.) or system complexity (multiple trial courts, separate administration of different trial court levels instead of unified administration)?

12) Annual or Biennial Appropriation. Is there any pattern discernable among states with biennial appropriations as differentiated from those with annual appropriations, aside from possible greater reliance on supplemental appropriations?

It was recognized that it might not be possible in the time available to explore these variables in depth as explanations for differences among states, but at least a preliminary analysis could be made, with directions for further study indicated. Some of them probably have no application whatsoever, and there may be others which will be identified in the course of the study. Nevertheless, it is important that this analysis be attempted, even in this limited study.

### Study Methodology

#### Questionnaire

Given the amount of data to be collected and analyzed and the time and funds available, it was necessary to gather as much information as possible by questionnaire. A five-part, 34-page questionnaire with definitions was mailed to the 22 states listed on page 1 of this report, following pretesting by Maine and South Dakota and revision as a result of the pretest.

This questionnaire (attached as appendix C) covers:

- 1) general organization, structure, and administration;
- 2) scope of state funding;
- 3) budget and appropriation procedures;
- 4) fiscal administration; and
- 5) background information (legislative session, state funding implementation processes and problems, SCA staffing, etc.).

To facilitate response to the questionnaire, the study team filled in as much data as it could, especially on Part 1 of the questionnaire. This was done through research done by MSJA graduate students on pertinent constitutional provisions, statutes, rules, and other material in the MSJA and Colorado Judicial Department files and provided by the National Center for State Courts.

The analysis of returned questionnaires has provided most of the information for Parts II through VII of this report and for Appendix B.

#### Field Visits

Five states were selected for field visits of two to three days each (all the time available). These visits were designed to augment the information provided by the questionnaire responses and to find out how participants in the system feel about its operation, as well as to gain additional



insight as to how it actually operates. Time limitations did not permit inclusion of executive and legislative branch officials, with the exception of South Dakota, where a small amount of time was found to meet with the Directors of the League of Municipalities, the County Commissioners' Association, and the Legislative Research Council.<sup>1</sup>

The five states selected turned out to be fairly representative of most of the twenty-two, despite the fact that time limits made it necessary to select them before some of the questionnaires had arrived or been analyzed, thus requiring reliance on information already gathered and the study team's prior knowledge. Selection was also made according to travel accessibility and the availability of those to be interviewed at the times selected.

Several states were excluded from consideration either because of uniqueness or because state funding is primarily limited to one level of court or one major category of expense. In the former group are New York and Oklahoma. The latter group comprises Kansas, Maryland, Missouri, Nebraska, and Virginia.

Population and Land Area. While there is seemingly a great diversity among state-funded systems in population and land area, generally, these states have less than four million population (16 out of 22) and rank among the least in land area (12 out of 22).

The field visit sample reflects these concentrations to some extent. The exceptions are: 1) The largest states in population are not represented. New York and Virginia were already excluded, Massachusetts has just enacted state funding, and North Carolina would have taken more travel time than Kentucky, in the study team's view. 2) The largest states in land area are over represented, as only three state funded systems are among the top 10, and two are represented in the sample (Colorado and New Mexico).

There are six states of the 22 with less than one million population, and one (South Dakota) is in the sample. Seven have between one and three million population, and two (New Mexico and Colorado) are in the sample. Five have between three and five million population, and two (Connecticut and Kentucky) are in the sample.

In area, five states rank between 10th and 20th, and one (South Dakota) is in the sample. Four rank between 30th and 40th, and one (Kentucky) is in the sample. There are eight that rank between 40th and 50th, and one (Connecticut) is in the sample.

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1. The questionnaire guidelines used by the interviewers is attached as Appendix D and the list of interviewees is attached as Appendix E.

Other Criteria. Here is how the five states rank as to other criteria which might be used to determine whether the sample is generally representative.

1) Location:

Northeast	CT
South-Southeast	KY
Plains	SD
Mountains	CO, NM

2) Selection of Judges:

Appointed	CO, CT
Elected	KY, NM, SD

3) Selection of Clerks:

Appointed	CO, CT, NM, SD
Elected	KY

4) Extent of State Funding:

Full, including facilities	CT
Full, including facility rental	KY
Full, including facility rental, limited jurisdiction courts	NM
Full, except facilities	CO
75 percent, except facilities, indigent defense, jury and witness fees	SD

5) Length of Time State Funded:

18 years	CT
8-10 years	CO, NM
3-4 years	SD
2-3 years	KY

6) Relationship Between State Funding and Court Reorganization:

Both at same time	KY, SD
Funding followed within five years	CO
Funding followed minor reorganization and major reorganization followed funding	CT
Funding followed minor reorganization	NM

7) Annual - Biennial Appropriation:

Annual	CO, CT, NM, SD
Biennial	KY

8) Trial Court System Organization:

One level	CT, SD
Two levels, administered as one	CO
Two levels	KY, NM

It should be noted that Colorado was included primarily because of easy access. The former state court administrator did not conduct any of the interviews to avoid any bias in the answers which might result if he asked the questions.

Data Collection Adequacy

Questionnaire Responses

Questionnaires were returned by 20 of the 22 states. No response was received from Virginia. Massachusetts indicated by letter that implementation is still taking place, so it would be difficult to provide specific answers. Follow-up information was also received from most states. The additional information was most helpful in trying to determine how these 20 states operate.

Questionnaire Limitations

As is apparent to every researcher, questionnaires have a number of limitations, aside from a possible low return rate (not true for this study), misconstrued questions, unanswered questions, and conflicting answers. Questionnaires can provide a picture of what is happening, what processes and procedures are used, and who the actors are, but they do not usually explain why or provide an understanding of the environment within which the processes and procedures take place and decisions are made.

Field Visits

Some of the gaps referred to above were filled in to a certain extent by the field visits and also by the follow-up information requested from a number of states. The field visits also had limitations. Two or three days in a jurisdiction, even with a large number of interviews, is not sufficient to obtain a complete picture of judicial system operations and problems.

It was not possible in the time available to interview executive branch and legislative branch officials or to cover trial court judges and administrators in all areas of the states visited. Part VII of this report

should be read with these limitations in mind. Nevertheless, the field visits were very helpful in providing the interviewers with a much greater understanding of judicial system internal and external relationships and operations than could be obtained from the questionnaires.

### Interpretation of Data

It was assumed that questionnaire length and complexity might result in some incomplete or conflicting responses, and, unfortunately, this assumption proved to be correct in some instances. The study team also recognized that it might interpret some data incorrectly. Both of these problems appear to have been solved for the most part through follow-up contacts with the respondents, who answered additional questions, carefully checked the information on their respective states in the preliminary report, and made the necessary corrections. There still may be some errors of interpretation, but it is hoped that these are now minimal.

### Matters for Further Study

This study is only a first effort at explaining how state funding was accomplished and why and how state funded court systems operate, so there are still a number of questions remaining about state funding.

### Legislative and Executive Views

Additional and longer site visits would be useful in exploring state funding in greater depth. There is also a need to obtain legislative and executive branch views. This can be accomplished to a limited extent by questionnaire, examination of governors' addresses to legislatures, and other public documents. It can also be addressed through site visits, both in the five states already covered, and in any other selected for this purpose.

### Court System Size and Complexity

Further study is needed to determine the effect (if any) of court system size and complexity on the organization and administration of state funding. Previously collected data can be used for analysis, given additional time. One factor which may limit the utility of pursuing this analysis is that all except three of the 22 states considered to be state funded under the definitions used in this study have populations of less than five million, and most of them have one or two-tier trial court systems.

North Carolina (5.5 million) has a relatively simple court structure. Massachusetts (5.8 million) has several trial courts, but it had adopted state funding so recently that it might be difficult to ascertain whether recent adoption, complexity, or some other factors may be the most important. New York (18 million) is the other state, and its size and numbers of trial courts make it atypical. As far as is known as of the date of this report, Michigan (9.1 million) is the only other large state (es-



pecially with more than a two-tier trial court system) that is seriously considering state funding in this legislative session, or at least making a first step.

### Workload Measures

Several states report using various kinds of workload measures to determine employee need, impact of technological innovation, etc. The need for developing and applying workload formulae seems to be growing, because state appropriating bodies demand more thorough documentation as the inclination toward government spending decreases. A thorough examination of these formulae would be extremely useful, including the methodology used and why, their validity, appropriating body acceptance, possible pitfalls, and potential transferability.

### How to Do It

The "how to do it" issue is much broader than the application of workload measures, especially for states considering state funding. There appears to be a need for a manual that will not explain what to do, but how to do it, in other words, a step-by-step approach with alternatives. This manual should cover the period before state funding, startup, and transition. It should also include alternative processes and procedures and organizational structures which could be transferred from other jurisdictions. The preparation of a comprehensive and useful manual will probably require greater in-depth study of selected state-funded jurisdictions.

In this connection, lead time and phase-in procedures are extremely important. The questionnaire responses provided insufficient information on both these subjects, in part because state funding preceded some present state court administrators by several years.

### SCA Staff

Another issue that might be addressed is what constitutes an adequate SCA staff (in size and skills) to administer state funding. Obviously, this is going to differ from jurisdiction to jurisdiction and will depend, at least in part, on the division of state - local responsibility and what functions are state funded. Data on staff size were provided by some, but not all, states responding to the questionnaire. These provide a starting place for analysis of what exists. More information is needed if the intent is to develop guidelines or criteria.

### Planning and Budgeting Integration

Originally, a survey of the degree of integration of planning and budgeting was included within the scope of this study. It was dropped, because the questionnaire was already lengthy and complicated, and because it would be hard to assess the degree of integration or its utility within the context of a multipurpose questionnaire. This topic appears to be worthy of study as a separate issue, because a number of JPC's are

expanding beyond planning for federal funds, and a number of states have either moved in the direction of or are considering zero base budgeting (ZBB) and other applications of planning, program budgeting (PPB).

### Court Facilities

In only a handful of state-funded jurisdictions has the question of who provides facilities been resolved satisfactorily. Even where the state system pays rent, there may be controversy over the amount and the basis for payment. In two of the states which were visited (Colorado and South Dakota), county officials are unhappy over continued facility fiscal responsibility at the local level. In two others (Kentucky and New Mexico) the amount of rent is an issue, and some other states called attention to the facility responsibility problem on their questionnaires. Whether this issue can be appropriately addressed through further study is questionable, but it is important enough to be considered.

### Trial Court Administrators

There is a large variance in the employment of trial court administrators and in their functions among state funded jurisdictions. It appears that the most compact in area have less need for trial court administrators. There is also some evidence that a high degree of centralization is defended, at least in part, because of the lack of professional administrative skills at the trial court level. At the same time, in three of the states included in the site visits (Kentucky, New Mexico, and South Dakota ) some reluctance was expressed both at state and local levels over expanding the number and role of trial court administrators for a variety of reasons. This also appears to be an area in which further study might be useful.

## II

### SUMMARY OF FINDINGS AND OBSERVATIONS

#### What Is Funded?

Examination of what is state funded shows clearly the diversity among the 20 states that responded to the questionnaire:

1) Six states fund all, or virtually all, trial court expenses , including court facilities: Alaska , Connecticut, Delaware, Hawaii, Kentucky, and Rhode Island. (Delaware and Kentucky pay rent for facility use.)

2) Two states (Maine and New Mexico) fund all trial court expenses, except for facilities for the trial court of general jurisdiction. Vermont funds everything, except superior court facilities, clerks' personnel and operations.<sup>2</sup>

3) North Carolina funds everything except facilities, but there is a docket fee surcharge retained by the counties for this purpose.

4) Alabama funds everything except facilities, but local governments retain 20 percent of court generated revenue to offset facility costs.

5) Colorado funds everything except facilities.

6) West Virginia funds everything except facilities and circuit court clerks' offices (personnel).

7) New York funds all trial court expenses, except court appointed counsel, sanity exams, and indigent transcripts. Facilities are a local responsibility.

8) South Dakota funds 75 percent of all costs except facilities, witness and jury fees, court appointed counsel, and indigent transcripts.

9) Nebraska funds county court personnel, recording equipment and some district court personnel.

10) Maryland primarily funds the court of limited jurisdiction (district court), which includes facility rental.

11) Oklahoma funds everything except facilities in some counties and part of the court clerks' personnel through a combination of a relatively small state general fund appropriation and court generated revenue.

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2. District court facilities outside the courthouse are state funded.

- 12) Two states (Kansas and Missouri) are funding or are committed to fund court personnel only. In Missouri there are some exceptions.

### Court Services

The pattern is also diverse with respect to court services:

- 1) Seven states fund adult and juvenile probation as part of the judicial system: Colorado, Connecticut, Hawaii, Kansas, Nebraska, South Dakota, and West Virginia. Juvenile detention is included in Connecticut and Hawaii. In Nebraska, juvenile counselors in three special juvenile courts are county-funded.
- 2) Two states (New Mexico and North Carolina) fund only juvenile probation services as part of the judicial system.
- 3) Delaware funds juvenile probation services and also pre-sentence investigators (adult) as part of the judicial system.
- 4) Rhode Island's judicial system has state-funded domestic relation counselors.
- 5) Kentucky funds pre-trial services as part of the judicial system.

### System Models

It is virtually impossible to construct meaningful models of state-funded court systems, because of the great diversity among states. This diversity includes: 1) scope and extent of state funding; 2) court organization, structure, and administration; 3) population and geography; 4) budget process; and 5) fiscal administration.

If budget process and fiscal administration are emphasized and the other three disregarded, some very general models can be developed relating to the extent of local (trial court) participation in the budget process, degree of executive branch involvement in budget submission and fiscal administration, and degree of judicial branch centralization in fiscal administration.

Seven models are shown in Figure 1. These models cover 19 of the 20\* states that responded to the questionnaire, although some states do not fit any of the models precisely. Each state, therefore, has been assigned to the model which most nearly represents its budget process and fiscal administration.

### Explanation of Terms

The terms: significant, substantial, minimal, highly centralized, and less highly centralized are purposely not as definitive as they might be. Had more definitive terms been used, it would have been impossible

\* A late response from Vermont indicates that it would be an eighth model: substantial - minimal - substantial - highly centralized.

to limit the number of models to seven. \*

For example, significant local (trial) court involvement in the budget process could have been divided into at least three categories: written submission and communication, oral contact through some sort of budget hearings, or a combination of the two. These could have been further divided as to when in the process local involvement takes place; i.e. initial preparation, after central analysis and amendment, at the legislative budget hearing, etc. To do so would have added another seven or eight models.

"Significant" as used here covers all of the variations noted above, if the data indicated that local participation is meaningful in the process, otherwise "minimal" was used. These category decisions, like the others in the model may suffer from being subjective, but, at least, serve as a starting point for more in-depth analysis.

Executive branch involvement in the budget process was considered to be substantial if one or both of the following occurs: 1) a budget hearing is required with the executive branch; or 2) executive branch recommendations on the judicial branch budget have the possibility of being considered seriously by the legislature. Otherwise, "minimal" was used.

Executive branch involvement in fiscal administration was considered to be substantial, if the judicial branch is required to use the executive branch accounting system and procedures, fiscal rules, etc.; has little leeway or flexibility; and has very limited - if any - authority to transfer funds. If the judicial branch is subject to many of these controls and procedures, but decided to become so voluntarily, or appears to have established comity with the executive branch to the extent that it has considerable leeway and flexibility, then "minimal" was used. "Minimal" was also used for those states that are not subject to executive branch controls and procedures.

#### Centralized Fiscal Administration

All of the 20 states included in this study, have highly centralized fiscal administration, three are less highly centralized: Colorado because each judicial district handles its operating expenses through an imprest or revolving fund; Delaware, because each court is budgeted separately; and Oklahoma, because of the funding mixture of court revenues and state appropriations and local accounting. Missouri may fall in this category as well, depending on legislative and judicial policy decisions concerning the structure and administration of the state-funded court personnel system, effective July 1, 1981.

#### Fitting States to Models

As previously indicated, a number of states do not fit precisely the models in Figure 1. These differences are covered in the following discussion:

\* See note on page 12.

Model A. States in this category have substantial executive branch involvement in both the budget process and fiscal administration. There is a significant degree of local (trial court) involvement in the budget process, and fiscal administration is highly centralized. These states are New Mexico and South Dakota, although state funding is handled somewhat differently for the two levels of trial courts in New Mexico. The district courts (court of general jurisdiction) are more involved in the budget process than are magistrate courts. The appropriation for each judicial district is separate, although the funds are maintained centrally. The magistrate courts have an aggregate appropriation, which is centrally maintained and administered. Kentucky may also fall in this category, if current efforts to involve the trial courts to a greater extent in the budget process culminate successfully.

Missouri may also fall in this category, but depending on developments may be more closely represented by Model B.

Model B. States in this category have substantial executive branch involvement in both the budget process and fiscal administration. There is a significant degree of local involvement in the budget process, and fiscal administration is less highly centralized than it is in most of the states. Oklahoma falls in this category primarily, because of its funding mixture of court revenues and state appropriations. Missouri may be in this category if its funding of state personnel, effective July 1, 1981, is decentralized.

Model C. States in this category have minimal executive branch involvement in both the budget process and fiscal administration. Local involvement in the budget process is significant, and fiscal administration is highly centralized. States which appear to fall under this model are Alaska, Hawaii, Kansas, Maryland, Nebraska, New York, and Rhode Island.

Model D. States in this category have minimal executive branch involvement in both the budget process and fiscal administration, significant local participation in the budget process, and less highly centralized fiscal administration. The two states represented by this model are Colorado and Delaware.

Model E. States in this category are highly centralized in fiscal administration and there is minimal local involvement in the budget process. The executive branch is minimally involved in both the budget process and fiscal administration. The states that appear to correspond most closely to this model are Connecticut, Maine, and West Virginia.

Model F. States in this category have substantial executive branch involvement in both the budget process and fiscal administration. Fiscal administration is highly centralized, and there is minimal local involvement in the budget process. Alabama fits this model, and Kentucky may, unless the extent of local involvement in the budget process in the upcoming biennium increases.

FIGURE 1

STATE FUNDED COURT SYSTEM MODELS,  
ACCORDING TO BUDGET PROCESS AND FISCAL ADMINISTRATION

	BUDGET PROCESS		FISCAL ADMINISTRATION	
	Local Court Participation	Executive Branch Involvement	Executive Branch Control	Extent of Centralization
A	Significant	Substantial	Substantial	Highly
B	Significant	Substantial	Substantial	Less Highly
C	Significant	Minimal	Minimal	Highly
D	Significant	Minimal	Minimal	Less Highly
E	Minimal	Minimal	Minimal	Highly
F	Minimal	Substantial	Substantial	Highly
G	Minimal	Substantial	Minimal	Highly

Model G. The one state in this category (North Carolina) has substantial executive branch involvement in the budget process, but minimal involvement in fiscal administration. As in almost all states, fiscal administration is highly centralized. There is minimal local involvement in the budget process.

#### Executive Branch Involvement - Separation of Powers

The executive branch is much more involved in judicial branch budgeting and fiscal administration than the study team expected. Executive branch requirements have not been an onerous burden for the judiciary in some states, because of a mutual environment of comity and cooperation. The judicial branch follows executive branch regulations and procedures without seriously questioning the validity of their application. The executive branch, in turn, is flexible in applying its regulations and procedures to the judiciary and agrees to exceptions and exclusions.

Whether this relatively happy situation is a permanent one every place it exists is conjectural. Nevertheless, it is one of several reasons why the judicial branch in some states has not asserted its independence by invoking the separation of powers. Other reasons, as indicated by the questionnaire, follow-up responses, and field visits include: need for executive branch assistance, legislative concern if executive branch procedures are not followed, executive dominance of the legislative process, and primary concern over legislative relationships.

#### Separation of Powers

Before discussing these reasons, it may be useful as background to examine the separation of powers doctrine as it applies to the financial affairs of the judicial branch. In Separate but Subservient, Carl Baar discusses the separation of powers as a limitation on executive and legislative action:

In simplest terms, the separation of powers exempts the judiciary from executive branch discretion over its budget processes and places limitations on legislative discretion over judicial budget processes. It links the use of inherent powers lawsuits to improper exercises of legislative and executive power over court finances. But the principle of separation of powers does not exempt the judiciary from the legislative appropriation process...

...Executive branch authority over judicial budget requests derives from extending gubernatorial authority to administer state departments to departments outside the executive branch. Executive budgets were created - at federal, state, and municipal levels - to give chief executives a tool to exert power over executive departments and agencies. Those departments and agencies had been subject to executive control as a matter of law but not as a matter of fact. The goal was to



make central authority real. Advocates of central budgeting, however, did not consider whether their theories applied to court systems. So little state money was used to finance state judiciaries that the question of whether principles of executive budgeting applied to court systems was apparently ignored.

... Certainly, if a central state budget is designed to give executive officials the opportunity "to learn the inner details of organization and procedure of all administrative agencies and to establish performance standards," such budget authority should not be applied to state court systems.

Chapter 2 [Separate but Subservient] suggested that executive supervision of judicial budgetary processes was administratively unwise, because it would tend to retard the development of internal judicial management skills. This supervision could also constitute a violation of the separation of powers. To the extent that executive officials attempt to establish administrative procedures or set administrative guidelines for state court systems, they are infringing on the incidental powers of the judiciary. To the extent that executive supervision is designed to achieve substantive executive policy goals, the judiciary may also be subject to an improper check. ...

... To the extent that gubernatorial budget authority derives from constitutional authority to administer state agencies, the judiciary is exempt, because one branch of government should not be subject to nonstatutory, non-constitutional, or administrative guidelines of another branch. To the extent that gubernatorial budget authority derives from constitutional authority to recommend legislation, the judicial budget may still be legally subject to executive review and recommendation. But because this review is based on the legislative authority of the governor and not his administrative authority, the judiciary should not be required to cooperate with executive screening officials or follow procedures applicable to executive agencies. The exercise of the governor's legislative authority is still limited by the concepts of improper check and incidental powers and the more basic principles of a balanced constitution and rule of law.

The authority of legislative appropriations bodies is also subject to similar limitations. The budget should not be used to pressure any court or judge to decide a case in a manner favored by an appropriations body. Budget limitations should not be used either as a form of harassment or as an indirect technique for stimulating

policy change (organizational or procedural) in the judicial branch. On the other hand, the legislature should retain its authority to pass an overall state budget, which includes appropriations for all three branches of government. This legislative authority extends to the judicial budget and allows legislators to establish priorities among competitors for scarce public dollars. As long as judicial appropriations do not fall below some minimum level reasonably necessary for the performance of judicial functions, the courts must join the competition for fiscal resources.<sup>3</sup>

Compelling Reasons. In addition to comity, the judicial branch in some jurisdictions finds the executive branch to be of assistance in obtaining appropriations. This may be done by serving as a buffer or, as in New Mexico, the executive budget agency may recommend a higher level of funding than the legislative appropriation body.

In at least one state - Kentucky - the governor apparently dominates the appropriation process. This dominance is recognized by the judicial branch, and it works closely with the governor's office and with executive budget and fiscal officials.

In at least two states, some legislative concern has been expressed over the failure of the judicial branch to follow executive branch procedures. The unified judicial system in South Dakota had different travel reimbursement regulations from those of the executive and also a different rule for the payment of unused sick leave upon employment termination. These were changed to conform with those in the executive branch after some questions were asked by a few legislators. In Kansas, there was some legislative discussion of making the judicial branch subject to the regulations and procedures of the department of administration, even though the department director opposed it, citing separation of powers.<sup>4</sup>

Finally, although there is considerable executive branch involvement in matters many would argue are exclusively within judicial branch purview, the judiciary appears to be much more concerned with judicial-legislative relationships. There are several reasons for this: 1) the ripple effect of Proposition 13, with its resultant increasing fiscal conservatism; 2) the diminution in the number of lawyers in many legislatures; 3) a growing lack of understanding of what the judicial system does and what its needs are; 4) a seeming increase in communication difficulties between the branches. (The latter two are connected and perhaps related to the second reason.) The fact that courts have no formal constituencies in the sense that other governmental functions and services have (e.g., higher education, social services) exacerbates the situation from the courts' point of view.

3. Carl Baar, Separate but Subservient; Court Budgeting in the American States, (Lexington, Mass.: Lexington Books, 1971, pp. 156-158. For a more extensive discussion see all of Chapter 6, The Separation of Powers and Judicial Budget Process, pp. 143-161.)

4. See Topeka Daily Capital (various articles) March and April, 1979.

The prevailing attitude concerning the executive branch and the separation of powers issue is perhaps summed up best by this response on the Nebraska questionnaire, "We have conflicting [constitutional] provisions which the supreme court has not yet felt called upon to construe." <sup>5</sup>

#### Executive Branch Involvement in the Budget Process

Eighteen states submit their final budget request to the executive branch, and two do not. Of the 18, seven do so only for information purposes. The two states who do not submit their budget requests to the executive branch are Hawaii and Kansas, but in Hawaii, the judicial branch is required to inform the governor of the amount of the budget request.

Six states (Kentucky, Missouri, New Mexico, North Carolina, Oklahoma, and South Dakota) are required to have budget hearings with the executive branch. While Nebraska does not have a formal hearing, the state court administrator meets with the executive branch budget analyst to discuss the request.

In 15 states, the governor may recommend changes in the judicial branch budget. The five where he can not or does not are: Alaska, Delaware, Hawaii, Kansas, and New York. The governor in West Virginia may only recommend increases in the judicial budget. In Colorado the governor may and does make recommendations, but the general assembly reviews the budget request submitted directly by the judicial branch.

In none of the 15 states are the governor's recommendations binding on the legislature, but they are usually followed in some. This is the situation in two states visited: Kentucky and South Dakota.

#### Executive Branch Involvement in Fiscal Administration

The executive branch appears to be more involved in the internal fiscal administration of state funded judicial systems than it is in the budget and appropriation process. Only in seven states does the judicial branch report extensive control over fiscal administration: Colorado, Delaware, Hawaii, Maine, Nebraska, New York, and West Virginia. The other 13 states responding to the questionnaire state that judicial branch responsibility and control are limited.

In some of these 13 states, the judicial branch seems to have considerable independence and, in practice, may not be subject to all executive branch controls and procedures, e.g., Alaska and Rhode Island.

5. In three of the five states visited (Kentucky, New Mexico, and South Dakota), some of the interviewees, both at the state and trial court levels expressed concern over existing or potential undue interference by the executive branch, but most were pragmatic in their approach to inter-branch relationships.

Nevertheless, executive branch approval is required for the transfer of funds by 10 states, and state purchasing procedures are followed in 14 states, although not required in all of them.

The executive branch approves judicial system vouchers in six states and approves purchases above a specified amount in two others. In several states, it maintains the judicial system financial and related records, often at the request of the judicial branch.

Depending on the relationship between the two branches, involvement of the executive branch in fiscal administration may be looked upon as providing a service rather than imposing controls. It may also save money by avoiding duplication of services and record keeping. Six of the 20 states have populations of less than one million, and seven have between one and three million. Especially in the smallest states, it is difficult to justify parallel systems. Nevertheless, there is usually a thin line between service and control.

#### Impact of Variables

Most of the variables listed in Part I of this report as possibly explaining differences among state funded systems do not do so.

#### Extent of Centralization

The extent to which the budget process and fiscal administration is centralized in any state funded jurisdiction can not be explained by or related to:

- 1) over-all judicial system administrative authority;
- 2) whether judges are elected or appointed; or
- 3) size of SCA staff.

#### Elected or Appointed Clerks

Differences among states in the budgeting process or fiscal administration can not be related to whether clerks are elected or appointed. There may be some relationship in what is funded, as clerks' office personnel are excluded from state funding in West Virginia, and some clerks' personnel are paid by counties in Oklahoma. (Both states have elected clerks.) No other significant differences could be traced to elected clerks in those states that have them as contrasted with those states where clerks are appointed.

#### Chief Justice Selection

It might appear that the method of chief justice selection has an impact on local participation in the budgeting process and fiscal administration, because three states (Missouri, New Mexico, and Oklahoma) where

the chief justice designation rotates or has the possibility of rotating every two years are among those with a greater degree of local participation.

There are other factors in these three states which may be more important than the rotation of chief justices in explaining a high degree of local participation. For example, Missouri statutes give the circuit judges a great deal of budget authority at the county level; New Mexico's legislature budgets each judicial district separately; and Oklahoma's peculiar statutorily mandated funding mix requires local participation to function. On the other hand, in several states with the highest degree of local participation in the budget process, chief justices are selected for set terms or by seniority. These include: Alaska, Colorado, Hawaii, Kansas, and South Dakota.

#### Lead Time and Phase In

The information received from the questionnaires on lead time prior to state funding and whether and how state funding was phased in was insufficient to determine the impact of either, except to note that the shorter the lead time the more likely the budget would be prepared centrally, at least initially. Part of the reason for the lack of information is that many of the present state court administrators were not on the scene when state funding began.

#### Annual or Biennial Funding

There appears to be no significance to whether funding is annual or biennial as an explanation for differences in the budget process and fiscal administration. Perhaps this is because 17 of the 20 states that responded have annual appropriations. It is not possible to relate biennial funding either to the similarities or the differences among Hawaii, Kentucky, and North Carolina.

#### System Size and Complexity

System size or complexity may have some effect on differences among state-funded court systems, but it is not readily apparent from the data collected and analyzed thus far. This is area that needs further study.

#### External Administrative Authority

One variable discussed in Part 1 of this report has been identified by this study as having a pronounced effect on the degree of centralization and internal judicial system administration. This variable is the extent to which judicial systems are required to follow (or do so of their own volition) executive branch fiscal procedures and regulations and are subject to executive branch controls. (This subject has already been discussed in more detail.)

## Impact of Proposition 13 and Fiscal Conservatism

Field visits, questionnaire responses, and supplemental information indicate strongly that the spending philosophy expressed by Proposition 13 and similar proposals have affected both state-funded judicial systems and those jurisdictions which are considering state funding of courts. While the judicial branch is not necessarily being treated differently from other governmental entities, this more restrictive approach to funding has altered judicial - legislative relationships in some states by placing the judicial budget under much greater scrutiny than ever before. It appears also to have raised difficulties for one or more states relatively new to state-funded judicial systems.

### Number of Employees

Thirteen of the 20 states report that the legislature places some sort of control on the number of employees (full-time equivalents or FTE's). Two others indicate that this is liable to happen in the future, and a third states that the legislature is attempting to appropriate FTE's, as well as money in the current session. Usually, this control is imposed through a limit on the number of permanent FTE's. It is done this way in eight states; employees are line itemed in one state (Oklahoma); and in Kentucky, the executive branch, in effect, controls the number of employees.

Controls on the number of employees have been imposed in some states (e.g., Colorado and Kansas) on all state-funded government entities for a number of years. In others, the judicial branch has been excluded, even if the executive branch has not. This situation is apparently changing.

### Vacancy Savings

Vacancy savings are those anticipated savings from the time lag in filling vacant positions or from hiring at a lower step than that of the terminated employee. Six states (Alaska, Colorado, Connecticut, Hawaii, Kansas, and New York) report that vacancy savings are subtracted from the appropriation or appropriations for personnel (or personal services - a term used in some states). One (New Mexico) states that this is done sometimes. A few others indicate that this may happen in the near future. In three states (Colorado, Kansas, and New York), vacancy savings are also applied to appropriations for wage survey or cost of living adjustments, merit increases, and reclassifications. New Mexico reports that this is done sometimes.

### Supplemental or Deficiency Appropriations

Some judicial systems that usually received annual appropriations ample enough to result in some reversion of funds at the end of the fiscal year now state that they are required to request supplemental or deficiency appropriations for the first time. Others are finding that the amount requested in supplemental or deficiency appropriations is

larger than in previous years. These changes are indicative of inflation, general belt tightening, and, possibly, the use of supplemental appropriations, at least in some jurisdictions, to limit the level of the appropriation base.

#### Recent State Funded Jurisdictions

At least two recent state-funded jurisdictions are experiencing funding difficulties which may be attributable, at least in part, to current funding philosophy. In the opinion of some judicial system officials (both state and local), the new Kentucky district court system (court of limited jurisdiction) is seriously underfunded in the number of judges, judicial salaries, judicial support personnel, and clerks' office personnel.<sup>6</sup>

Kansas's new state-funded judicial personnel system, number of judicial employees, and the proposed cost were subject to considerable legislative scrutiny, including a legislative audit review, and to a certain amount of acrimony.<sup>7</sup>

#### Jurisdictions Considering State Funding

The Proposition 13 syndrome seems to cut two ways in states where the court system is not yet state funded. On the one hand, it seems to foster state funding to relieve the local government expenditure burden. On the other, there is a reluctance to spend money for new programs at the state level. This reluctance was reflected in North Dakota, where opposition to funding new programs was a contributing factor in the defeat of legislation in 1979 to implement the new judicial article adopted in 1976.<sup>8</sup>

The situation in Oregon is somewhat similar. After considerable study, an interim legislative committee recommended state funding of the Oregon judicial system. As of the date of this report, it appears that the legislature will reject this proposal.<sup>9</sup>

#### Administrative Services

There is another significant potential problem which may affect states where funding of the judicial system is being or may be considered: the level of central staff administrative services. Legislatures generally accept the level of administrative staff required to administer executive branch agencies without question, because these agencies and their administrative apparatus have been long established, and even so-called zero based

6. Interviews conducted in Kentucky during site visit.

7. See Topeka Daily Capital, newspaper articles, March 14, 15, and 22, 1979.

8. Telephone conversation with Bill Bohn, State Court Administrator, June 27, 1979.

9. Telephone conversation with Charles E. Gleason, Assistant State Court Administrator, June 27, 1979.

budgeting - where practiced - has not resulted in much reduction, if any.

The judicial branch has lagged behind the other two branches in internal administrative services. In fact, resistance to increase in the size of administrative staff and to so-called bureaucratic procedures has been a feature of judicial system operations.

When state funding is proposed, neither the legislature nor the judiciary usually recognizes the need for adding sufficient qualified administrative staff to help operate the system and provide accountability. The legislature is resistant, because it appears to be empire building, even if the administrative staff proposed is proportionately less than that of executive branch agencies. The judiciary is reluctant, because of unfamiliarity and lack of sympathy with, and resistance to, the operational aspects of governmental agencies. There seems to be no easy solution to this dilemma, judging from the interviews and questionnaire responses.<sup>10</sup>

#### Court Reform and State Funding

It appears from the site interviews that where state funding and court reform have taken place at the same time, it is not possible to examine the impact of state funding by itself.<sup>11</sup> The negative attitudes toward state funding expressed by some trial judges and trial court personnel seemed to reflect their concern over loss of independence and the infliction of unnecessary bureaucracy, both of which were seen to be caused primarily by court reorganization or unification.

Since state funding and major court reorganization occurred at the same time (or followed one another closely) in at least 13 states, it raises the question of whether one can examine state funding and its merits separately in these states. At least, it doesn't appear possible within the first few years after both have taken place.

Another difficulty is that, if state funding is examined in a jurisdiction where it has been in effect for several years, there may be few, if any, important participants who were around when state funding took place. Those joining the system usually accept it as a given. While they can express views on how it is working and what they see as shortcomings, they are usually unable to make meaningful comparisons with what previously existed.

Both circumstances cause difficulties for researchers trying to be as objective as possible in methodology, interviewing techniques, and findings. They should be kept in mind as further and more extensive studies are made.

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10. Several judicial branch interviewees in two of the states visited (Kentucky and South Dakota) stated that they had not realized the amount of bureaucracy that would be involved in state funding.

11. Kentucky and South Dakota were the states among those visited where state funding had most recently taken place, and in both, state funding and court reorganization or unification had occurred simultaneously.



## Internal Judicial System Administration

### Fiscal Administration

As illustrated by the models previously discussed in this part of the report, fiscal administration, with very few exceptions, is highly centralized in all of the 20 states responding to the questionnaire. Colorado is the only state where judicial districts handle their operating funds. Only a few states allow local purchasing of any kind, usually, for emergencies only.

While there is a significant correlation between centralized fiscal administration and a high level of executive branch involvement or judicial system use of executive branch procedures, centralized fiscal administration occurs in jurisdictions not subject to executive branch controls. Some of the apparent reasons for centralized fiscal administration are: accountability, resource management, compactness of area, small population, and application of automation.

### Budget and Appropriation Process

There is much greater local involvement in the budget process than in fiscal administration, even though the final budget request decisions are usually made at the state level, and the chief justice (in some jurisdictions) and the SCA and staff make the budget presentations.

In 14 states, judicial districts, circuits, or other units participate in the budget process. In one of these (Delaware), the budgets are initially prepared by each of the five different-state funded trial courts. In another (New Mexico), each judicial district (court of general jurisdiction) prepares its own budget initially, but the Administrative Office of the Courts prepares the budget for the court of limited jurisdiction, with limited consultation with the magistrates. In another state (Kentucky), greater local involvement in budget preparation is planned than was possible during the last biennium, because of the short time available to draw up the budget request.

Eight states have some form of budget hearing with local units or are preparing to do so. Only four indicate that hearings are held or will be held with all participating units as a matter of course (Colorado, Kansas, Nebraska, and Rhode Island).<sup>12</sup>

Judicial districts in New Mexico are assisted in initial preparation by the administrative office. The AOC informs the districts of any change or deletions, and an aggrieved district can have a hearing with the AOC at its request. If still aggrieved, it may request a hearing with the supreme court.

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12. These hearings may be largely informal, as in Nebraska, where the SCA meets with the county judges in each county to discuss their needs before preparing the budget.

Any circuit in South Dakota may have a hearing on request. The SCA in Vermont discusses budget requests with meetings of judges and clerks, and Kentucky is planning to have selective hearings during the next budget cycle.

In most of the other states, there is communication between local units and the central office, or the local unit may prepare the initial request. In a few, the budget request is prepared with minimal or no local communication or involvement.

The general pattern is that the final budget preparation decisions are made by the supreme court or chief justice or by the administrator as delegated by the supreme court or chief justice. One exception is Missouri, where the supreme court has appointed a budget committee composed of presiding circuit judges.

From the field interviews, it appears that the longer a system has been state funded, the less likely there are to be complaints about centralization. There are exceptions, of course, to this generalization. There are likely to be complaints if the amount of funding is not considered adequate, especially if the local units have limited or no involvement in the process. Dissatisfaction may also be voiced if the local units don't even know how much has been allotted to them for what purposes.

### III

#### STATE FUNDED FUNCTIONS AND COURTS

##### Appellate and Trial Courts

As indicated in Part II, there is considerable variance among the 20 states in the functions and courts that are state funded. Table I shows what is state funded in the appellate courts of these states and also in the two that did not return the questionnaire. Table II shows the same information at the trial court level for the 20 states.

In summary (repeated in part from Part II), six states fund everything, including court facilities, except as otherwise noted in the tables: Alaska, Connecticut, Delaware, Hawaii, Kentucky, and Rhode Island. Two states (Maine and New Mexico) fund everything except facilities for the trial court of general jurisdiction. North Carolina funds almost everything except facilities, for which there is a docket fee surcharge retained by the counties for this purpose. Vermont funds everything except superior court facilities, clerks' office personnel and operations.<sup>13</sup>

Colorado funds everything except facilities, and West Virginia funds virtually everything except facilities and clerks' office personnel. All other states fund fewer functions or courts than those states listed above. It should be noted that even in some of the states with the greatest proportion of state funding, municipal or probate courts may be excluded.

##### Court Services

Twelve states have probation or other court services funded as part of the judicial system. These states and the services funded are shown in Table III. As previously indicated, seven states fund adult and juvenile probation services. In two of these (Connecticut and Hawaii), juvenile detention is also included. Juvenile detention was also funded in Colorado at one time, but was transferred to the state department of institutions.

Delaware, New Mexico, and North Carolina fund juvenile probation services only, and Rhode Island and Connecticut have domestic relations counselors. Kentucky funds pre-trial services as part of the judicial system, and South Dakota has funds to purchase group care services for juveniles. For two years prior to the current fiscal year, the Colorado judicial department had funds to purchase community correctional services. These funds are now allocated directly to the department of corrections.

13. District court facilities outside the courthouse are state funded.

TABLE I

## STATE FUNDING OF APPELLATE COURTS IN 22 SELECTED STATES

	AL	AK	CO	CT	DE	HI	KS	KY	ME	MD	MA <sup>c</sup>	MO	NE	NM	NY	NC	OK <sup>d</sup>	RI	SD	VT	VA <sup>c</sup>	WV	
A) <u>Court of Last Resort</u>																							
1) Personnel	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
2) Travel	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
3) Capital Outlay <sup>a</sup>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
4) Facilities	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
5) Operating Expense	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
6) Law Library	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
7) <u>Affiliated Agencies</u>																							
a) Judicial Council		X					X	X	X				X			X				X		X	
b) Jud. Discpl. Comm.	X <sup>b</sup>	X	X		X		X	X	X	X			X			X			X	X			
c) Jud. Nom. Comm.			X				X	X	X				X			X			X	X			
d) Rules Committee									X	X							X			X			
e) BA of Bar Exam			X				X	X	X	X			X							X			
f) Judicial Conference			X		X		X	X	X	X									X	X			
g) Comp. Comm.	X																		X				
h) Perm. Jud. Study Comm.	X				X																		
i) Jury Instruction Comm.			X														X						
j) Other															X								
B) <u>Intermediate Court</u>																							
		NA <sup>e</sup>			NA				NA				NA						NA	NA	NA	NA	NA
1) Personnel	X		X	X		X	X	X		X	X	X		X	X	X	X						
2) Travel	X		X	X		X	X	X		X	X	X		X	X	X	X						
3) Capital Outlay <sup>a</sup>	X		X	X		X	X	X		X	X	X		X	X	X	X						
4) Facilities	X		X	X		X	X	X		X	X	X		X			X						
5) Operating Expense	X		X	X		X	X	X		X	X	X		X	X	X	X						
6) Law Library	X		X			X	X	X		X	X	X		X	X	X	X						

a. Furniture and equipment.

b. Also court of the judiciary.

c. As indicated by statutes, no questionnaire.

d. Also Court of Crim. Appeals

e. Not Applicable

TABLE II

## STATE FUNDING OF TRIAL COURTS IN 22 SELECTED STATES

		PERSONNEL	TRAVEL	CAPITAL OUTLAY*	FACILITIES	OPERATING EXPENSES	CT. APPT. COUNSEL	JURY FEES	WITNESS FEES	INDIGENT TRANSCRIPTS	SANITY EXAMS	SERVICE OF PROCESS	LAW LIBRARY	ADP
AL <sup>a</sup>	G	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
	L	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
AK	G	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
	L	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
CO <sup>c</sup>	G	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
	L	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
CT <sup>j</sup>	G	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	L	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
DE <sup>d</sup>	G	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	L	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
HI <sup>e</sup>	G	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	L	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
KS <sup>f</sup>	G	Y	Y <sup>g</sup>	N	N	N	Y <sup>h</sup>	N	N	Y <sup>h</sup>	N	N	N	N
	L	Y	Y	N	N	N	Y <sup>h</sup>	N	N	Y <sup>h</sup>	N	N	N	N
KY	G	Y	Y	Y	Y <sup>i</sup>	Y	Y	Y	Y	Y	Y	N	Y	Y
	L	Y	Y	Y	Y <sup>i</sup>	Y	Y	Y	Y	Y	Y	N	Y	Y
ME <sup>j</sup>	G	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
	L	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
MD	G	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y <sup>m</sup>
	L	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
MA	G	NO QUESTIONNAIRE RETURNED												
	L	NO QUESTIONNAIRE RETURNED												
MO	G	Y <sup>n</sup>	Y	N	N	N	Y	N	N	Y	o	N	N	N
	L	Y	Y	N	N	N	Y	N	N	Y	o	N	N	N
NE <sup>p</sup>	G	Y <sup>q</sup>	Y <sup>q</sup>	Y <sup>q</sup>	N	N	N	N	N	N	N	N	N	N
	L	Y	Y	Y <sup>q</sup>	N	N	N	N	N	N	N	N	N	N
NM <sup>r</sup>	G	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
	L	Y	Y	Y	Y <sup>s</sup>	Y	Y	Y	Y	Y	Y	Y	Y	Y
NY <sup>t</sup>	G	Y	Y	Y	N	Y	N	Y	Y	N	N	N	Y	Y
	L	Y	Y	Y	N	Y	N	Y	Y	N	N	N	Y	Y
NC	G	Y	Y	Y	N <sup>t</sup>	Y	Y	Y	Y	Y	Y <sup>u</sup>	N	Y	Y
	L	Y	Y	Y	N <sup>t</sup>	Y	Y	Y	Y	Y	Y <sup>u</sup>	N	Y	Y
OK <sup>v</sup>	G	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
	L	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
RI <sup>aa</sup>	G	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	L	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
SD <sup>ab</sup>	G	Y	Y	Y	N	Y	N	N	N	N	N	N	o	Y
	L	Y	Y	Y	N	Y	N	N	N	N	N	N	o	Y
VT	G	Y <sup>aa</sup>	Y	N	N <sup>bb</sup>	Y	Y	Y	Y	Y	Y	Y	N	Y
	L	Y	Y	Y	Y <sup>bb</sup>	Y	Y	Y	Y	Y	Y	Y	Y	Y
VA	G	NO QUESTIONNAIRE RETURNED												
	L	NO QUESTIONNAIRE RETURNED												
WV	G	Y <sup>y</sup>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	L	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Y = Yes  
N = No  
G = General  
Jurisdiction  
L = Limited  
Jurisdiction

## \*Furniture and equipment:

- Municipal and probate courts are locally funded.
- Judges only, except 26 employees of the AOC are assigned to the juvenile court clerk's office in Baltimore City.
- Three special courts in Denver (juvenile, probate, superior) are state funded to the same extent as general jurisdiction courts; municipal courts and the county court in the City and County of Denver are locally funded.
- Superior, chancery, family courts and justices of the peace are state funded as indicated; the municipal court of the City of Wilmington is locally funded, as are the alderman's courts.
- Also family courts.
- Limited jurisdiction is within the court of general jurisdiction; municipal courts are locally funded, except in South Dakota.
- Travel for judges and reporters only.
- Volunteers only.
- Rentals paid to counties.
- Probate courts are locally funded.
- No jury trials.
- State funded, but not in judicial budget.
- Supreme bench of Baltimore City only.
- Judicial salaries currently, plus three employees of chief circuit judges as of 7/1/79 plus 1/2 reporters' salaries; almost all court personnel will be state funded as of 7/1/81.
- Partially state funded.
- Municipal courts are locally funded; so are the three special juvenile courts, except for judges and court reporters; workers' compensation court is state funded.
- Only tape recording equipment is state funded.
- Probate and municipal courts are locally funded.
- Rentals only.
- Decket fee surcharge to counties for construction and modeling.
- Usually provided by state doctors, no charge to judicial system.
- Some clerk's office personnel are county funded.
- Some counties provide facilities.
- State funded at 75 percent.
- Except for clerk's office.
- Town and village courts are locally funded; for the items shown as Y below, the state paid 56 percent of the total cost for FY 1979; it will pay 100 percent in FY 1981.

- Clarks' offices are county funded.
- State funded when located outside of courthouse.

TABLE III

Y = Yes  
N = No

## COURT SERVICES STATE FUNDED AS PART OF JUDICIAL SYSTEM

State and Services	Personnel	Travel	Capital Outlay	Facilities	Operating Expenses
COLORADO					
1) Adult Probation	Y	Y	Y	N	Y
2) Juvenile Probation	Y	Y	Y	N	Y
CONNECTICUT					
1) Adult Probation	Y	Y	Y	Y	Y
2) Juvenile Probation	Y	Y	Y	Y	Y
3) Juvenile Detention	Y	Y	Y	Y	Y
4) Dom. Rel. Counselors	Y	Y	Y	Y	Y
DELAWARE					
1) Juvenile Probation	Y	Y	Y	Y	Y
2) Pre-sentence Investigation (Adult)	Y	Y	Y	Y	Y
HAWAII					
1) Adult Probation	Y	Y	Y	Y	Y
2) Juvenile Probation	Y	Y	Y	Y	Y
3) Juvenile Detention	Y	Y	Y	Y	Y
KANSAS					
1) Adult Probation	Y <sup>a</sup>	N	N	N	N
2) Juvenile Probation	Y	N	N	N	N
3) Dom. Rel. Counselors	Y	N	N	N	N
KENTUCKY					
1) Pre-trial Release	Y	Y	Y	Y	Y
NEBRASKA					
1) Adult Probation	Y	Y	Y	Y	Y
2) Juvenile Probation <sup>b</sup>	Y	Y	Y	Y	Y
NEW MEXICO					
1) Juvenile Probation	Y	Y	Y	N	Y
NORTH CAROLINA					
1) Juvenile Probation	Y	Y	Y	N	Y
RHODE ISLAND					
1) Dom. Rel. Counselors	Y	Y	Y	Y	Y
SOUTH DAKOTA					
1) Adult Probation	Y	Y	Y	N	Y
2) Juvenile Probation	Y	Y	Y	N	Y
3) Purchase of Services	Y	Y	Y	N	Y
WEST VIRGINIA					
1) Adult Probation	Y	Y	Y	N	Y
2) Juvenile Probation	Y	Y	Y	N	Y

a. Entirely within judicial branch, effective July 1, 1979.

b. Except in Douglas, Lancaster, and Sarpy counties.

## IV

### BUDGET PREPARATION, SUBMISSION, AND APPROVAL

#### Introduction

This part of the report covers the first two phases of the budget cycle: budget preparation and submission and budget approval. Part V deals with the other two phases: execution (fiscal administration) and audit.<sup>14</sup>

There are a number of important issues in state-funded court systems relating to budget preparation, submission, and approval. Generally, they revolve around:

- 1) central - local division of responsibility, authority, and participation in budget preparation and submission;
- 2) executive branch involvement in budget submission;
- 3) judicial - legislative relationships in budget submission and approval;
- 4) form and context of appropriation (approval); and
- 5) allocation decisions following budget approval.

#### Budget Preparation and Submission

##### Budget Preparation

Major Criticism. One of the major criticisms often heard about state funding of judicial systems is that the trial courts and other local units usually do not participate in budget preparation and that those at the state level (SCA office) do not understand trial court needs and problems. As indicated from some of the field interviews, a distinction should be made between meaningful and token involvement. To some, meaningful involvement would occur only if the trial court or local unit makes the final decisions on its budget rather than some central authority and also had the opportunity to appear before the legislature.<sup>15</sup> To others,

14. A number of public finance texts provide a full discussion of the budget cycle and its programmatic and operational implications, e.g., Robert O. Lee, Jr., and Ronald W. Johnson, Public Budgeting Systems, (Baltimore, Md.: University Park Press, 1973), pp 81-99.

15. For example, these views were expressed by at least two of the interviewees in Colorado (one a chief judge and the other a trial court administrator).

meaningful involvement would occur if someone at the state level would even inform the local units as to what has been requested or allocated.<sup>16</sup>

Although seemingly divergent, these views are quite similar. Regardless of the extent of decentralization, those in the field usually want more. While it is difficult in the abstract to find fault with the notion of greater local participation and decision making, the problem is finding the proper balance between local participation and the proper exercise of central responsibility for the overall operation of the system.

Colorado attempted to resolve this problem through the issuance of a directive by Chief Justice Edward E. Pringle in 1971, delegating specific administrative authority to the chief judges. (Article VI, Section 5(4) of the Colorado Constitution gives the chief justice this power). A portion of this directive is set forth below because it is appropriate to the discussion in both Parts IV and V of this report:

... (B) Authority With Respect to Fiscal and Personnel Administration and Other Administrative Matters

(1) In General. The chief judge is the administrative head and policymaker for all district and county courts within his judicial district. This authority is exercised within the framework of applicable statutes and regulations promulgated by the chief justice or the supreme court or issued by the state court administrator at the direction of the chief justice or the supreme court.

(2) Administrative Delegation. (a) The chief judge, insofar as practicable, should not ordinarily be involved in day-to-day administrative operations, but should delegate this responsibility to the district administrator (where applicable), including, but not limited to, supervision and discipline of employees and development of administrative improvements.

(b) The chief judge should also delegate the responsibility for the day-to-day administration of probation services to the chief probation officer or officers, subject to overall review by the chief judge, and the same policy should be followed with respect to juvenile detention facilities, where these exist.

(c) The district administrator should not be concerned with the internal and professional operations

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16. For example, this view was expressed by a very few trial court interviewees in two states.



of probation departments or a juvenile detention facility, except to make sure that they are generally in conformance with the rules and regulations promulgated at the state level, as supplemented at the district level by the chief judge.

(d) The district administrator, as directed by the chief judge, shall be concerned with the day-to-day operation of the county court...

- (5) Fiscal. (a) In both the district and county courts, consistent with statutory provisions, rules and regulations promulgated by the chief justice or the supreme court, or rules and regulations issued by the state court administrator at the direction of the chief justice or the supreme court, a chief judge, either directly or by delegation:
- (b) May reallocate funds from one location to another within his district;
  - (c) May reallocate funds from one category of operating expenses or from one activity to another;
  - (d) May not reallocate funds from operating expenses to capital outlay or vice-versa without the prior approval of the state court administrator;
  - (e) May not reallocate funds from personal service to operating expenses or vice-versa without the prior approval of the state court administrator;
  - (f) May not reallocate funds from personal services to capital outlay or vice-versa without the prior approval of the state court administrator;
  - (g) Shall submit all requests for capital outlay to the state court administrator;
  - (h) Shall be responsible for budget preparation;
  - (i) Shall be responsible for ensuring the accuracy and propriety of all fiscal transactions whether from the district operating account or court funds; and
  - (j) Shall pay all accounts within thirty days of receipt.
- (6) Equipment and Furnishings. (a) In both district and county courts, consistent with statutory provisions, rules and regulations promulgated by the chief justice or the supreme court, or rules and regulations issued by the state court administrator at the direction

of the chief justice or the supreme court, a chief judge, either directly or by delegation;

(b) Shall maintain an inventory of all furniture and equipment;

(c) May reallocate equipment and furniture for more efficient use;

(d) Shall, to the extent feasible, use specialized equipment, such as microfilm equipment, on a district-wide basis; and

(e) Shall approve all equipment leases or rentals for review prior to consummating the agreement...<sup>17</sup>

This directive is still in effect. Generally, state - local division of responsibility is considered satisfactory by many of those interviewed in Colorado. Others were rather critical of the budget process and the lack of local participation and autonomy. From the interviews in the five states, one can make the following generalizations:

1) Local units are usually striving for greater participation and decision making, regardless of current status.

2) Desire for greater decision making authority is directly related to a perceived loss of autonomy when administration of the system was unified and state funding took place.

3) An even greater source of dissatisfaction was the lack of sufficient funding. In some instances, the legislature or governor was blamed by those in the field. Others blamed the SCA, indicating he was not an aggressive advocate. Although a number remembered county funding with considerable nostalgia, few would prefer to return to that status.

Initial Preparation. The foregoing should be kept in mind in the discussion which follows. In 14 states, local units participate or are consulted in initial budget preparation. These states are: Alaska, Colorado, Delaware, Hawaii, Kansas, Maryland, Missouri, Nebraska, New Mexico, New York, Oklahoma, Rhode Island, South Dakota, and Vermont.

In New Mexico, each judicial district (court of general jurisdiction) prepares its own budget, but the AOC prepares the budget request for the court of limited jurisdiction with only limited consultation with the magistrates.

The AOC in Kentucky is planning to involve the circuit and district courts in the budget process. Involvement was not possible during the past biennium, because of the short time available to prepare budget requests.

17. CJD No. 10, 1971, dated August 27, 1971.

The primary purpose, of course, of local involvement is to give the trial courts the opportunity to express their needs and the reasons therefor at the beginning of the process rather than having decisions made for them without consultation. The extent to which local requests are incorporated at the state level is not known. In three of the states visited where there is substantial local involvement (Colorado, New Mexico, and South Dakota), needs assessment or formulae are used at the state level to determine the validity and priority of local requests. Those techniques are becoming more sophisticated as the executive and legislative budget analysts become more sophisticated, and funds become harder to obtain. Other states also report using similar criteria.

Hearings. Eight states have some form of hearing with local units or are preparing to do so. Only four indicate that hearings are or will be held with all appropriate participating units as a matter of course (Colorado, Kansas, Nebraska, Rhode Island).

Judicial districts in New Mexico can have a hearing with the administrative director of the courts, if dissatisfied with their allocation in the final budget request. If still dissatisfied, a hearing may be requested with the supreme court. In South Dakota, any circuit may request a hearing. The SCA in Vermont discusses budget requests at meetings of judges and clerks, and Kentucky is planning to hold selective hearings during the next budget cycle.

Final Preparation. In 19 of the 20 states, the SCA prepares the final budget request and may amend or modify the budgets submitted by local units or recommend amendment or modifications to the chief justice and supreme court. In Missouri, the circuit judges' budget committee makes these decisions. In some states, the final budget is prepared without further contact with local units. In a few, a local unit may request a hearing with the SCA or supreme court, if dissatisfied with the final request.

The final budget request in most states is reviewed and approved by either the chief justice (eight states) or the supreme court (eight states). In a very few, final approval is delegated to the SCA. Approval in Maine is by the supreme judicial court in consultation with the chief judge of the district court.

Appellate courts in some jurisdictions prepare and submit their own budgets, even if the SCA prepares the trial court budget. In others, the appellate court budget process is the same as for trial courts, and the same final approval is required.

#### Budget Submission

Executive Branch. Eighteen states (all except Hawaii and Kansas) submit their final budget request to the executive branch. Seven of these do so only for information purposes (Colorado, Delaware, Maine, Maryland, New York, Vermont, and West Virginia).

Six states (Kentucky, Missouri, New Mexico, North Carolina, Oklahoma, and South Dakota) are required to have hearings with the executive branch. These hearings are similar to those conducted with executive branch agencies. Usually the SCA and staff appear on behalf of the judiciary at these hearings. Nebraska does not have a formal hearing, but the SCA meets with the executive branch budget analyst to discuss the request.

In 15 states, the governor may recommend changes in the judicial branch budget. The five where he can not or does not are Alaska, Delaware, Hawaii, Kansas, and New York. The governor of West Virginia may recommend judicial budget increases only. In Colorado, the governor may make recommendations, but the general assembly reviews the budget request submitted directly to it by the judicial branch.

The governor's recommendations are not binding on the legislature in any of the 15 states, but they are followed in some. In eight states, the involvement or non-involvement of the executive branch in budget submission is by statute; in five, it is constitutional; in five, it is practice and tradition; and there was no response in two states.

Legislative Referral. In nine states, initial assignment of the judicial budget request is to a joint appropriation or finance committee for review. These states are: Alabama, Colorado, Connecticut, Delaware, Kentucky, Maine, Nebraska, New Mexico, and South Dakota. Nebraska is included in this list because of single committee consideration, as a consequence of its unicameral legislature. The judicial budget request in New Mexico is considered by the joint interim legislative finance committee four months prior to the start of the legislative session. Once the session convenes, it is reviewed by both the senate and the house appropriations or finance committee.

In seven states, initial referral is to both appropriation or finance committees (Alaska, Maryland, Missouri, New York, North Carolina, Vermont, and West Virginia). These referrals are simultaneous, although this is not done in all seven states. In Oklahoma and Rhode Island, initial referral is to the house appropriation committee. In Kansas, initial referral alternates every two years between the house and senate ways and means committees. Initial referral in Hawaii is made simultaneously to both judicial committees which then refer the budget request with recommendations to the respective finance committees.

Legislative Budget Hearings. In most states, the judicial branch goes through more than one formal legislative budget hearing. Those that have only one formal hearing are Colorado, Connecticut, Delaware, Kentucky, Maine, Nebraska, and New York. Colorado used to have hearings before one or both judiciary committees, as well as the joint budget committee, but this practice was abandoned by the subject matter committees because of lack of impact on decision making. In New York, the hearing is before a joint appropriation committee, although the bill is referred to the appropriation committee in each house.

New Mexico may have hearings with both finance committees during the session after appearing before the joint committee before the session. Alabama has hearings before both appropriation committees, in addition to the joint committee. Hawaii has four hearings: the two judiciary committees and the two finance committees. Vermont apparently does the same. South Dakota indicates hearings before appropriation subcommittees, in addition to the joint committee.

West Virginia is usually not requested to appear before the appropriation committees in each house. North Carolina has hearings before subcommittees of the judiciary committees in each house, as well as with the appropriation committees. The other five states (Alaska, Kansas, Missouri, Oklahoma, and Rhode Island) have hearings with each appropriation committee.

Judicial Branch Representatives. There are three major patterns with variations of who represents the judicial branch at budget hearings. In 10 states (Alabama, Colorado, Connecticut, Delaware, Kansas, Kentucky, Maryland, Missouri, South Dakota and Vermont) the chief justice, SCA, and staff are involved. In some of these states, others also appear at hearings. In Alabama, Colorado, Kentucky, and Missouri, the chief judge or judges of the intermediate appellate courts appears. In Maryland, the chief judge of the district court appears in behalf of his court, and the chairman of the conference of circuit judges is present.

Occasionally a trial court judge may appear in Colorado, if there is a particular issue which might best be addressed this way. Appearance is upon invitation of the chief justice. Delaware, Kentucky, and Vermont indicate that trial judges may appear. In Missouri, other members of the supreme court may be present, as well as the chairman of the circuit judges' budget committee.

The second pattern is the appearance only by the SCA and staff. This representation was reported by Alaska, Maine, New Mexico, New York, and West Virginia. In New Mexico, the chief justice will also appear at the joint hearing during the interim.

Five states fall in the third pattern: Hawaii, Nebraska, North Carolina, Oklahoma, and Rhode Island. In these states only the SCA appears, although the chief justice occasionally appears in Nebraska, and other judicial branch representatives may be present in Rhode Island, depending on the appropriation being reviewed.

The importance of these hearings and committee deliberations can be seen by the fact that only four states reported that changes in committee recommendations are usually made on the floor. Eight others state that changes are made occasionally, and the other eight indicate that changes are made rarely, if at all.

#### Budget Approval

There are several important subjects discussed under budget approval. These include: appropriation format or type of appropriations; legislative limits (if any) on the number of FTE's and how applied; application (if any)

of vacancy savings; methodology for determining allocations, if appropriation is less than budget requests; and use of supplemental appropriations. 18

Types of Appropriation. Seven different appropriation formats were identified from the questionnaire responses. To assist in understanding the differences, the following general definitions were used:

1) Types of Appropriation refers to the form in which the appropriation is made. A lump sum means a total appropriation to the judicial branch to cover all state-funded activities without any categorical breakdown.

Categorical means that the appropriation is made by major component, such as personnel, operating expenses, capital outlay, and travel.

Line Item means that the appropriation is made specifically for each position or operating expense, such as office supplies, postage, telephone, etc., or each piece of furniture and equipment.

Program means that the appropriation is made by major program, however, that is defined. The appropriation may be lump sum, categorical, or line item within programs.

As can be seen from the definitions, some states may fall in more than one group. States and type of appropriation format are shown below, followed by additional comments and explanation where appropriate.

Lump Sum: Alaska, Kentucky, New Mexico, and New York

Categorical: Connecticut, Maine, Missouri, and Vermont

Line Item: Delaware, Kansas, Rhode Island, and West Virginia

Program: Alabama and Nebraska

Program/Categorical: Colorado, Hawaii, and South Dakota

Program/Line Item: North Carolina

Categorical/Line Item: Oklahoma

Program/Categorical/Line Item: Maryland

New Mexico reports that even though it receives a lump sum appropriation, categories are determined by legislative intent and executive branch approval of the operating budget. It appears that Kentucky's budget also becomes categorical in application through executive branch oversight.

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18. Transfer of funds will be discussed in Part V.

Traditionally, a more rigid and detailed appropriation format makes administrative and resource allocation more controlled from outside the agency. While preliminary analysis seems to indicate this is so, further study is needed, because things aren't always as they seem.

FTE Limits. Fourteen states report that the legislature places some sort of control on the number of employees (FTE's). The six states without FTE controls are Alabama, Kentucky, Maine, New Mexico, New York, and Rhode Island. Two of these (Kentucky and Maine) indicate that controls are likely to be imposed in the future, and another (New Mexico) states that the legislature is attempting to appropriate FTE's this session. Rhode Island reports that it has to stay within its personnel appropriation, even if the number of employees is not limited.

Usually controls are imposed through a limit in the long appropriation bill on the number of FTE's. It is done this way in at least eight states. Employees are line itemed in Oklahoma. In Kentucky, it appears that, in effect, the executive branch controls the number of FTE's, even if the legislature does not prescribe limits.

Vacancy Savings. Vacancy savings are those anticipated savings from the time lag in filling vacant positions or from hiring at a lower step than that of the terminated employee. These savings, if applied, are usually subtracted from appropriations for personal services. Six states report that this is done in the judicial appropriation (Alaska, Colorado, Connecticut, Hawaii, Kansas, and New York). Another (New Mexico) states that this is done sometimes, and, in a few others, there is indication that deductions for vacancy savings may be taken in the future. In Maryland, the executive budget office may apply vacancy savings to new positions.

In Colorado, Kansas, and New York, vacancy savings are also applied to appropriations for wage survey or cost of living adjustments, merit increases, and reclassifications. New Mexico reports this is sometimes done, apparently as spasmodically as the application of vacancy savings to the base personnel budget.

Method of Determining Allocations. In 14 states, the SCA has the authority to make budget allocations, when the appropriation is less than the amount requested. Some of this authority is limited, as explained below. The six states where the SCA doesn't make any decisions are: Delaware, Kansas, Kentucky, Missouri, Oklahoma, and West Virginia. The West Virginia constitution, as interpreted by a recent court case prevents the legislature from reducing the amount requested.<sup>19</sup>

The supreme court and the chief justice make the final decisions in Kansas, Kentucky, Missouri, and Oklahoma. Recommendations are made by the SCA in Kansas, Kentucky, and Maryland to either the chief justice or supreme court.<sup>20</sup> It is highly probable that the circuit judges budget committee will

19. State ex rel. Bagley v. Blankenship.

20. Chief Judge, Court of Appeals, in Maryland.

become involved in their process in Missouri. The presiding judges of the trial courts in Delaware make these decisions.

Among the other 12 states, minor adjustments are made by the SCA in Colorado and Vermont. In the former, major adjustments may be delegated to the SCA by the chief justice, may be decided by him or the supreme court, or referred to the chief judges en banc, depending on the subject or problem involved. In Vermont, major reallocations are made by the supreme court.

In New Mexico, the AOC handles allocations for the magistrate courts, but the chief judge of each judicial district has this responsibility for the court of general jurisdiction, because appropriations are by district.

Most states make a needs reassessment in determining how to allocate appropriations which are less than requested. This is a logical approach, because needs and priorities change during the 14-18 month period between budget submission and approval.<sup>21</sup> Those who apply workload formulae in the first instance reapply them to determine needs changes. In Colorado, some further reallocation is made as a result of discussions at internal budget hearings for the next fiscal year.

#### Supplemental or Deficiency Appropriations

Some judicial systems that usually received annual appropriations ample enough to result in some reversion of funds at the end of the fiscal year now state that they are required to request supplemental or deficiency appropriations for the first time. Others are finding that the amount requested in supplemental or deficiency appropriations is larger than in previous years. These changes are indicative of general belt tightening and, possibly, the use of supplemental appropriations, at least in some jurisdictions, to limit the level of the appropriation base.

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21. Time lag is even more of a problem in states with biennial appropriations.



## FISCAL ADMINISTRATION AND AUDITING

Introduction

Fiscal administration and how it is carried out is extremely important, because it is through this phase of the budget cycle that resource allocation policy decisions are executed, and judicial system accountability is established and maintained. While the element of control is foremost in fiscal administration, at least some flexibility is desirable. This is especially true in judicial systems where it may be necessary to provide for unexpected situations, such as a protracted trials, mass arrests, or a significant increase in jury trials. A balance must, therefore, be found between flexibility and accountability.

Initially, the purposes of the audit phase were to guarantee compliance with provisions of appropriation bills, to prevent waste, and to detect and deter malfeasance and misfeasance. In recent years, it has been broadened, at least in some places, to encompass studies of whether governmental programs achieve desired results (performance auditing).

Fiscal Administration

Fiscal administration includes much more than disbursing and accounting for appropriated funds. It involves the promulgation and monitoring of fiscal rules, purchasing standards and procedures, maintenance of payroll and related personnel records, voucher approval, property inventory and control (supplies, as well as furniture and equipment), development and maintenance of a financial information system designed to be an aid to informed management (as well as provide accountability), and control and disbursement of court collected fines, fees, and other payments into court registry and trust accounts.

Extent of Centralization

Virtually all facets of fiscal administration, in so far as state appropriated funds are concerned, are very highly centralized in the 20 jurisdictions covered in this study. This situation is much different from the budget process, where there is a significant degree of local participation in most states.

Usually, trial courts do not handle any state appropriated funds, except for petty cash accounts. Colorado is the only state where local courts (judicial districts) handle their own operating expenditures through an imprest or revolving fund.

In almost all of these states, purchasing is handled centrally, including voucher approval; placement of orders; and determining what kinds of equipment, furniture, and supplies will be purchased. In a very few states (e.g. South Dakota), local emergency purchases may be made. Usually such purchases are limited to \$50. or \$100. Only Colorado allows local purchasing on occasion, because of special circumstances, such as availability, price, service availability, etc. Even in Colorado, central prior approval is required, before local purchases can be made.

The high degree of fiscal administration centralization was found to be an irritant to some of the trial court officials interviewed in the five states where site visits were conducted. Some were concerned about purchasing, citing delay, red tape, and quality as problems. A few were not satisfied with the timeliness and content of financial records, and a very few stated they received little, if any, information on the amounts allocated to them and the purposes of these allocations. By and large, central administration was accepted, despite the dissatisfactions voiced. The greater the frequency and amount of contact between the central office and the trial courts, the greater the acceptance of central fiscal administration.<sup>22</sup>

Central fiscal administration is generally seen by those responsible for over-all judicial branch management to provide better system-wide accountability and greater assurance that programs and functions will be carried out as planned and allocated. It also facilitates the transfer of funds, providing flexibility to meet emergencies, changing needs, etc.

#### Executive Branch Involvement

The executive branch is much more involved in the internal fiscal administration of state-funded court systems than it is in the budget process. This involvement is a major factor in the high degree of fiscal administration centralization in state funded systems.

Only in seven states does the judicial branch report extensive control over fiscal administration: Colorado, Delaware, Hawaii, Maine, Nebraska, New York and West Virginia. In the other 13 states, judicial branch authority and control are limited. The extent of these limitations varies considerably, both because of formal requirements and because of the degree of comity between the two branches in some states.<sup>23</sup>

The extent of executive branch involvement in judicial branch fiscal administration, as well as some of the fiscal services provided by the executive branch, is shown in Tables IV and V.

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22. See Part VII for more detail.

23. See Part III for more extensive discussion, including the implications of the separation of powers doctrine.

Accounting System. As previously indicated, only seven state judicial systems have broad authority over their fiscal affairs. All 20 states, including those with fiscal independence use the executive branch accounting system, although two (Colorado and Connecticut) state that the chart of accounts is more expanded than that of the executive branch, and Maryland uses the executive branch system with some modifications.

The use of the executive branch accounting system can be a service rather than an imposition of controls. This appears to be the situation in nine states which reported they were not subject to executive branch accounting controls: Alaska, Colorado, Hawaii, Kansas, Maine, Missouri, Nebraska, New York, and West Virginia.

Fiscal Rules. Nine states report that the judicial branch has its own fiscal rules, even if they are similar to those in the executive branch. These states are: Colorado, Connecticut, Hawaii, Kentucky, Missouri, New York, North Carolina, South Dakota, and West Virginia. They are the same as the executive branch in North Carolina, South Dakota, and West Virginia.

While Maryland doesn't have a full separate set of judicial system fiscal rules, it does have separate travel regulations which generally follow those of the executive branch.

Fiscal Procedures and Records. The use of executive branch fiscal procedures and records is not, by itself, an indicator of the degree of independence in fiscal affairs, because these procedures and records may be used as a service to avoid duplication and reduce staffing needs. As shown in Table IV, 13 states report that they use executive branch fiscal procedures, although some of them (e.g. Maine, New York, and West Virginia) are not required to do so.

Only six states report that they do not have their own purchasing procedures. In most of the states reporting, executive branch purchasing procedures are followed, whether required or not. Most states maintain their own inventory and personnel records.

Executive Branch Control. The extent of executive branch control over state system fiscal administration is illustrated best by the responses shown in Table V.

Seven states report that executive branch approval is required to transfer funds across categories, although this requirement is primarily limited to major program transfers in Maryland. In another state, Connecticut, the finance advisory committee made up of legislative and executive branch representatives must approve fund transfers.

In a few states, transfers are generally approved without difficulty (e.g. Connecticut and Rhode Island). Nevertheless, application of the separation of powers doctrine suggests that the exercise of this authority by the executive branch is undue interference in the operations of the judicial branch.

TABLE IV  
SELECTED DATA ON FISCAL ADMINISTRATION CONTROLS  
AS REPORTED BY 20 STATE JUDICIAL SYSTEMS

STATE	1	2	3	4	5	6	7	
Alabama	Y	Y <sup>d</sup>	N/Y	N <sup>a</sup>	Y/Y	Y	Y	1) Judicial branch's fiscal administrative authority is limited: yes/no
Alaska	Y	Y/N	N/Y	Y <sup>a</sup>	Y/Y	Y	Y	
Colorado	N	N <sup>b</sup> /N	Y/N	N	Y/Y <sup>c</sup>	Y	Y	2) Use executive accounting system: yes/no
Connecticut	Y	Y <sup>d</sup> /Y	Y/Y <sup>e</sup>	N	Y/N	Y	Y	Subject to executive controls: yes/no
Delaware	N				/N	Y		
Hawaii	N	Y/N	Y/N	N	Y/N	N	Y	3) Has own fiscal rules: yes/no
Kansas	Y	Y/N		Y	N/Y	Y	Y	Same as executive branch: yes/no
Kentucky	Y	Y/	Y/N	Y <sup>f</sup>	N/Y	Y	Y	
Maine	N	Y/N		Y <sup>f</sup>	Y/Y	Y	Y	4) Uses executive branch fiscal procedures yes/no
Maryland	Y	Y <sup>k</sup> /	N <sup>l</sup> /	Y <sup>m</sup>	Y <sup>f</sup> /Y <sup>c</sup>	Y <sup>n</sup>	Y <sup>n</sup>	
Missouri	Y	Y/N	Y/N	Y	Y/Y <sup>c</sup>	Y	Y	
Nebraska	N	Y/N	g		/Y	Y	Y	5) Has own purchasing procedures: yes/no
New Mexico	Y	Y/N	N/Y	Y	Y/Y	Y	Y	Follows state purchasing procedures: yes/no
New York	N	Y/N	Y/N <sup>o</sup>	Y	Y/Y	Y	Y	
North Carolina	Y	Y/	Y/Y		Y/Y	Y <sup>h</sup>	Y	
Oklahoma	Y	Y/	N/Y	Y	N/Y	Y <sup>h</sup>	Y	
Rhode Island	Y	Y/Y <sup>i</sup>		Y	N/Y	Y	Y	6) Maintains own inventory records and controls: yes/no
South Dakota	Y	Y/Y	Y/Y	Y	N/Y	Y	Y	
Vermont			N/	Y	N/Y	Y	N	
West Virginia	N	Y/N	Y/Y	Y	Y/Y	Y	Y	

a. Except for trust and registry accounts.

b. Majority of accounts are similar and integrated with executive system for controller's records.

c. Usually.

d. Chart of accounts more expanded than executive branch.

e. Very similar; some difference: travel and purchasing.

f. Judicial branch choice.

g. Follow statutes, if executive rules more restrictive, then they are not followed.

h. Appellate courts.

i. In official sense somewhat subject; in practice, great independence.

j. Legislature approved purchase procedures by the trial courts.

k. With some modifications.

l. Separate travel regulations which generally follow executive branch.

m. Some exceptions.

n. Compatible with executive branch.

o. Some differences.

This is also true with respect to approval of vouchers and purchases and the performance of pre-audits, unless the latter is done at the request of the judicial branch as a service and judicial branch rules and regulations are followed.

Executive branch voucher approval was reported by eight states. In six states, executive branch approval of purchases is required, although Kentucky is the only one where this applies to all purchases. Approval above specific monetary limits are the rule in the other five.

The pre-audit function is handled by the executive branch in seven states. It is not clear in how many of these this function is a service to the judicial branch, because New York is the only one that indicated this was the case. The executive branch also performs internal audits in three states.

#### Auditing Phase

The auditing phase of the budget cycle is the one that has been most overlooked in examinations of judicial system financial affairs.<sup>24</sup>

The role of the executive branch in pre-audits and internal audits has already been mentioned and is shown in Table V. Pre-audit refers to the examination and approval of purchase orders and documents, such as travel reimbursement forms; authorizing payments to see if funds are available and are taken from the appropriate account; and expenditures conform with rules and regulations.

#### Internal Audits

The internal audit function is the one that is most misunderstood and is also the one that is most likely to be ignored by judicial systems. Only five states reported performance of internal audits by the judicial system: Colorado, Connecticut, Kentucky, New Mexico, and North Carolina.

Internal audits may be conducted according to a fixed schedule and include an examination of procedures and accounts to assure compliance with fiscal requirements and regulations. They also may be expanded to include performance auditing. Internal auditing may and probably should be applied to court registry and trust accounts, because this is the area of greatest potential abuse, especially when appropriated funds are centrally controlled and accounted for.

The internal auditor and staff should report and be responsible directly to the state court administrator to enable him to have first-hand knowledge of system operations and actual and potential problems that need correction. It can be argued that this internal audit staff acting independently but within the system is the appropriate one to make performance audits.

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24. The study team could find only one written discussion of auditing within judicial systems. See Carl Baar, Separate But Subservient, pp. 95-102.

TABLE V  
EXECUTIVE BRANCH INVOLVEMENT  
IN JUDICIAL FISCAL ADMINISTRATION,  
SELECTED ACTIVITIES IN 20 STATES

STATE	1	2	3	4	5	
Alabama	N	Y	Y <sup>a</sup>	Y	N	1) Executive branch must approve transfer of funds across categories: yes/no
Alaska	N	N	N	Y	Y	
Colorado	N	C	N	C	N	2) Executive branch must approve all vouchers: yes/no
Connecticut	d	N	N			
Delaware	Y					
Hawaii	N	N	N <sup>e</sup>	N	N	3) Executive branch must approve purchases: yes/no
Kansas	N	Y	Y <sup>e</sup>	Y	N <sup>f</sup>	
Kentucky	Y	Y	Y			
Maine	Y <sup>j</sup>	N	N <sup>k</sup>	Y	f	4) Executive branch performs pre-audits: yes/no
Maryland	Y <sup>j</sup>	N	N <sup>k</sup>	N	N	
Missouri	N	N	N	N	N	
Nebraska	N	N	N			5) Executive branch performs internal audits: yes/no
New Mexico	Y	Y	N	N	N	
New York	N	N	N	b	N	
North Carolina						
Oklahoma	Y	Y	Y <sup>g</sup>	N	f	
Rhode Island	Y	Y	Y <sup>h</sup>		Y	
South Dakota	N	N	N <sup>i</sup>	Y	N	
Vermont	Y	Y	Y	Y		
West Virginia	N	Y	N	Y	Y	

a. With the exception of limited purchases that can be made by the trial courts.  
b. State Department of Audit and Control provides service, enforcing judicial branch fiscal rules.  
c. Only to extent that controller will not order warrant if funds overspent, until sufficient amount is transferred.  
d. Finance advisory committee made up of legislative and executive branch representatives must approve transfers.  
e. Above \$1,000.  
f. Legislative auditor performs internal audit.  
g. Above \$500.  
h. Above \$50.  
i. Above \$100.  
j. Between major programs and certain expenditure objects.  
k. Except printing.

### Post-Audits

The post-audit function is usually performed by the state auditor in the executive branch or the legislative auditor who is appointed by and responsible to the legislature. It may also be performed under contract by a private auditing firm.

It is proper and good management to have this function performed outside of the judicial branch when the purposes are limited to: 1) determination of compliance with appropriation bill provisions; 2) prevention of waste; and 3) detection and deterrence of misfeasance and malfeasance.

In some jurisdictions, the post-audit function now encompasses performance audits. So far, judicial systems have resisted performance audits provided in this manner. Again the question should be raised as to whether this is a proper function under the separation of powers doctrine. Arguments can be made on both sides of this issue.

The present emphasis on accountability will increase the pressure for performance audits in the judicial branch. There are a number of problems besides the separation of powers issue, such as what performance measures should be used, for example, the on-going debate on what is justice and how does one measure the quality of justice. Nevertheless, it behooves the judicial branch to take the initiative in developing meaningful measures that will be generally acceptable. The judicial branch can not afford to stand aloof from this issue, or performance auditing may be imposed, using standards developed without judicial branch participation. This is also a strong reason for adopting or expanding the internal audit function.

## VI

### FISCAL DATA COMPARISON<sup>25</sup>

#### Per Capita Appropriations

The per capita appropriations (and expenditures) of 19 state-funded judicial systems are compared in Table VI. A graphic illustration of this information is presented in Figure 2. The latest available population estimate from the Bureau of Census is for 1976 and was used to calculate per capita appropriations. Because state funding of trial court personnel doesn't start until July 1, 1981, Missouri data were not included for calculating the averages and range. The data available on this state are presented in the body of the table for informational purposes only.

#### Population

Of the state-funded systems considered, the lowest state population was 382,000 in Alaska, while the highest population was 18,084,000 in New York. The median (average) population was 2,065,500.

#### Appellate Courts

The average per capita expenditure in FY 79 for courts of last resort was \$.51, while the average expenditure for intermediate appellate courts was \$.32. The total average per capita expenditure for appellate court operations was \$.78.

The highest per capita expenditure for appellate courts was in Alaska at \$4.26. The lowest expenditure rate was \$.31 in Connecticut.

#### Trial Courts

The expenditures per capita for general jurisdiction courts averaged \$6.64, with the highest expenditure again in Alaska, where \$42.55 per capita is spent on the general jurisdiction courts (including limited jurisdiction cases). Nebraska has the lowest state expenditure for these courts with \$1.99 per capita, but this amount only covers judges, reporters, travel for judges and reporters, and recording equipment.

Of the states showing separate expenditure information for limited jurisdiction courts, the average per capita appropriation was \$2.63. The highest per capita expenditure for limited jurisdiction courts was \$5.31 in Hawaii, and the lowest was \$1.55 in New Mexico. The combined figures on general and limited jurisdiction courts show that the highest per capita expenditure was Alaska with \$42.55, and the lowest was \$4.61 in Nebraska, again because of the limited number of expenditure categories that are state funded. The average amount spent on the trial courts was \$7.61.

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25. The information from Delaware could not be included in this report because the FY 79 budget request data were not available, and the budget appropriation data included both state and federal funds, which could not accurately be separated.



### State Administrator's Office

The per capita expenditures for the state administrator's offices were not as readily determined as were other categories of expenditures, because the budget for the state office is combined with the appellate courts in Kansas, Nebraska, Oklahoma, Rhode Island, and West Virginia. For the 11 states where separate budget information was available, the average per capita appropriation for the state administrator's office was \$.64. The highest per capita amount was \$6.81 in Alaska, and the lowest was \$.14 in Maine.

### Court Services

The budget information on court services was extremely limited. New Mexico and West Virginia court services expenditures were not separated from the general jurisdiction court budgets. Court services are not funded under the court system in several states. The remaining states either do not have state-funded court services, or no information was available on the FY 79 appropriation.

The five states with data available had an average appropriation for court services of \$.86. The lowest per capita expenditure was \$.58 in Hawaii. The highest cost was in Colorado (\$2.54) where adult juvenile probation personnel, travel, operating expenses, and capital outlay are funded.

### Total Judicial System

Combined appropriations for appellate and trial courts, court services, and the state administrator's office show an average per capita appropriation for the judicial system of \$9.87. The range of per capita expenditures on state-funded judicial systems was from \$53.62 in Alaska to \$5.80 in Maryland, where the number of areas that are state funded is limited.

### Per Capita Comparison of Judicial and Support Staff

Table VII is a comparison of the per capita appellate, general, and limited jurisdiction judicial and support staff provided under state funding in the 17 states for which data were available. Information from FY 78-79 was used to prepare this table and also for Figure 3.

### Total Judicial Support Staff

The average (median) number of justices and judges was 122. New York had the largest number of justices/judges with 577, and Maine had the fewest, 41. The average amount of FTE (full-time equivalent) support staff was 509.5, with 11,641 in New York being the highest and 176 in Vermont the lowest. The combined total of judicial and support staff ranges from 220 in Vermont to 12,218 in New York. The average number of employees was 794.

### Average Population Per Justice/Judge

The number of people served by each judicial officer or staff

member of the judicial system is shown in the last three columns on the table. The average number of people served by each justice/judge was 16,251. The highest number of people per justice/judge was 31,341 in New York with the lowest population per justice/judge being 9,095.2 in Alaska.

#### Average Population per (FTE) Staff

The average population served by each judicial employee was 2,491. Oklahoma had the highest population served with 12,375.8 and Alaska had the lowest at 1,091.4.

#### Average Population Per Total Judicial and Support Staff

The average population served by the total judicial and support staff was 2,104.6. The range was from 6,351.3 in Oklahoma to 974.5 in Alaska.

#### Average Support Staff Per Justice or Judge

A comparison of the average support staff provided for each justice or judge in the state-funded judicial systems is contained in Table VIII and is graphically shown in Figure 4. The table and graph include all direct support, state court administrator's office, and court services staff who are state funded under the judicial system.

The median (average) staff provided was 6.7 per justice or judge. The amount of support staff ranged from a low of 1.1 in Oklahoma to a high of 20.2 in New York.

#### Budget Requests and Appropriations Comparison

Table IX compares the FY 1979 budget requests with legislative appropriations for the same year in 19 states. Figure 5 is a graphic presentation of these data. The median budget request was \$21,495,748 and the median appropriation, \$20,910,893.

West Virginia received the same amount as requested, which is required by the West Virginia Constitution, but not without a court case.<sup>26</sup> Three states received more than they requested. The substantial increase in Kansas resulted from appropriation for a judicial salary increase and for the first six months of funding district court personnel (beginning January 1, 1979), neither of which was in the budget request. Missouri's appropriation was augmented by the funds required to carry out the provisions of HB 1614 (1978), which implemented the new judicial article and other legislation, such as the new criminal code and the speedy trial act. The increase in North Carolina was in large part a result of an employee cost of living increase.

#### Supplemental Budget Requests and Appropriations

Information on supplemental budget requests and appropriations was incomplete. From the information available, several states did not

26. See footnote 19 on page 39.

request a supplemental appropriation, including Kansas, Nebraska, North Carolina, and Oklahoma. Alabama apparently did not request a supplemental appropriation, yet received \$500,000.

Five states submitted information on the FY 78 supplemental request and supplemental appropriation. Of the five, South Dakota received all of the money requested, \$6,100; New Mexico received \$150,000 or \$700 (0.5 percent) less than was requested; Maine received an appropriation of \$200,000, or 33.4 percent less than the requested \$300,100; Colorado received only \$488,904 of its requested \$879,969, or 44.4 percent less. Maryland requested \$47,500 in FY 78 and received an appropriation for the full amount. New York did not send information on FY 78, yet listed a supplemental request for FY 79 of \$18,669,802, which included a judicial salary increase that was not acted upon. The amount of the supplemental request which was appropriated was not reported.

#### Distribution of Fines and Fees

Table X shows the percentage distribution to the state and localities of fines and fees collected by 14 of the state-funded judicial systems considered in this study. Both the last resort and intermediate appellate courts pay all fines or fees to the state, with the opposite side of the scale, municipal courts, paying all revenue to local government. In Colorado and Hawaii, where information was available on fines and fees collected by court services, 100 percent of receipts are paid to the state.

Trial courts are more likely to have a variation in the distribution of fines and fees. In five states (Colorado, Delaware, Hawaii, Kentucky, and Maine), the general jurisdiction courts distribute to the state 100 percent of the fines and fees collected. Nebraska, South Dakota, and West Virginia general jurisdiction courts distribute to county governments 100 percent of fines and fees. The general jurisdiction courts in Alabama and Missouri send 80 percent to the state and 20 percent to the counties. Missouri has some categories of fees that are split between the state and localities on a 50/50 basis. Alaska divides its fines and fees by paying 90 percent to the state and 10 percent to local government. North Carolina general jurisdiction courts allocate 49.89 percent of their fines and fees to the state, with the remaining 50.11 percent going to the localities. New York courts send 100 percent of all fees to the state and 100 percent of their fines to local government.

Limited jurisdiction courts show an even greater variety of pay schedules. Three states (Hawaii, Kentucky, Maine) send 100 percent of their fees and fines to the state, with South Dakota sending 100 percent to local governments for limited jurisdiction cases.

Alabama splits 80 percent and 20 percent between the state and localities, respectively. Nebraska and West Virginia both send 40 percent to the state and 60 percent to the localities. Colorado distributes 91 percent to the state, with 9 percent remaining with municipalities.

These fines come from municipal court appeals tried in county court and driving while intoxicated cases brought by municipalities. North Carolina limited jurisdiction courts send 50.11 percent of all fines and fees to local government, with 49.89 percent being sent to the state. New York sends 100 percent of its fees to the state, and 100 percent of the fines to local government.

Special courts in two states (Alabama and Maine) send all fines and fees to local governments. Colorado, Nebraska, and Hawaii transmit 100 percent of the fine and fee revenue to the state. New York fines and fees of the special courts are split between the state and localities according to the same formula used to distribute revenue from general and limited jurisdiction courts with all fines being paid to the localities, and 100 percent of their fees going to the state.

The New York justices of the peace courts transmit 100 percent of fees to local governments, and the majority of fines to the state. The exceptions are fines from violations of special state statutes, such as the Environmental Conservation Law, which are payable to the state, with local governments receiving a five dollar handling fee.

#### Summary

##### Per Capita Expenditures

Generally, the per capita expenditures during FY 79 for the 19 state-funded judicial system for which complete data were available did not vary greatly. There were some exceptions, and the major one was Alaska, where state population is extremely low in comparison with other states in the study, and there is a much larger judicial system per capita expenditure. In the remaining 18 states, the per capita expenditure ranged from \$5.80 in Maryland, with its limited kinds of state funding, to \$12.23 in Colorado. The difference between these two extremes is only \$6.43.

The largest per capita expenditures are on the trial courts with over three-fourths of the total per capita expenditures. The following summary (from Table VI) clearly shows this fact.

### Total Per Capita Expenditures

<u>Type of Court Office, or Service</u>	<u>Per Capita Appropriation</u>	<u>Percent of Total</u>
<u>Appellate Courts</u>		
Last Resort	\$13.21	7.0%
Intermediate	<u>2.94</u>	<u>1.6%</u>
Subtotal	\$16.15	8.6%
<u>Trial Courts</u>		
General Jurisdiction	\$130.35	68.9%
Limited Jurisdiction	<u>\$ 21.05</u>	<u>11.1%</u>
Subtotal	\$151.40	80.0%
<u>State Administrator's Office</u>	\$13.98	7.4%
<u>Court Services</u>	\$ 7.52	4.0%
TOTAL	\$189.05 <sup>27</sup>	100.0%

### Per Capita Population Served by Each Judicial System Employee

The average population served by each judge and employee of the various state-funded judicial systems ranges from 974.5 in the least populous state, Alaska, to 6,351.3 in Oklahoma, or a total range of 5,376.8 people. The median number of people served is 2,104.6.

### Average Amount of Support Staff Per Justice or Judge

The average total support staff provided statewide to the justices and judges in the state-funded systems is 6.7 F.T.E. Oklahoma has the least staff per judge (1.1), and New York has the most (20.2).

### Comparison of Budget Request and Appropriations

The final budget appropriation from the state legislatures to the state-funded judicial systems results in an average reduction of \$413,402 less than was the original request (see Table IX). Colorado had the highest percentage reduction (8.6 percent) from its original request, while Kentucky had the lowest, one percent.

### Distribution of Fines and Fees

In the majority of states, the fine and fee revenue from most of the state-funded courts is paid into state general or special funds. The notable exceptions are the Nebraska and West Virginia limited jurisdiction courts,

27. This figure does not include the totals from New York, North Carolina, and Vermont (\$29.98) which could not be separated into various categories.

where only 40 percent of that revenue is paid to the state. Also, North Carolina divides its revenue between the state and localities on an almost 50/50 basis with the state receiving 49.89 percent and localities a total of 50.11 percent.

TABLE VI  
COMPARISON OF PER CAPITA APPROPRIATIONS<sup>a</sup> FOR  
STATE FUNDED JUDICIAL SYSTEMS, FY 1979

State	1976 Pop. Est.	APPELLATE COURTS			TRIAL COURTS			State Adm. Office	Court Services	Grand Total
		Last Resort	Inter- mediate	Sub Total	General Juris.	Limited Juris.	Sub Total			
Alabama	3,665,000	\$ .38	\$ .26	\$ .64	\$ 6.64	-	\$ 6.64	\$ .41	-	\$ 7.69
Alaska	382,000	4.26	-	4.26	42.55	-	42.55	6.81	-	53.62
Colorado	2,583,000	.35	.39	.74	7.97	b	7.97	.98	2.54	12.23
Connecticut	3,117,000	.31	-	.31	9.21	-	9.21	.33	-	9.85
Hawaii	887,000	.79	-	.79	9.57	5.31	14.88	1.43	.58	17.68
Kansas	2,310,000	.70	.30	1.00	5.70	-	5.70	c	-	6.70
Kentucky	3,428,000	.38	.45	.83	7.49	1.63	9.12	.65	.61	11.21d
Maine	1,070,000	.86	-	.86	3.02	3.07	6.09	.14	-	7.09
Maryland	4,144,000	.18	.32	.50	4.87	b	4.87	.43	-	5.80e
Missouri	4,778,000	.30	.59	.89	2.67	-	2.67	.10	-	3.66f
Nebraska	1,553,000	.77	-	.77	1.99	2.62	4.61	c	1.1i	6.49
New Mexico	1,168,000	.53	.45	.98	6.49	1.55	8.04	2.08	h	11.10
New York	18,084,000	-	-	-	-	-	-	-	-	11.02g
North Carolina	5,469,000	-	-	-	-	-	-	-	-	11.31g
Oklahoma	2,766,000	.60	.18	.78	7.06	-	7.06	c	-	7.84
Rhode Island	927,000	1.82	-	1.82	3.82	4.24	8.06	c	-	9.88
South Dakota	686,000	.51	-	.51	6.82	b	6.82	.62	2.30	10.25i
Vermont	476,000	-	-	-	-	-	-	-	-	7.65g
West Virginia	1,821,000	.47	-	.47	4.98	2.63	7.61	c	h	8.08
Total	59,314,000	\$13.21	\$ 2.94	\$16.15	\$130.35	\$21.05	\$151.40	\$13.98	\$ 7.52	\$219.15
Mean	3,029,778	\$ .81	\$ .34	\$ 1.02	\$ 8.55	\$ 3.01	\$ 9.95	\$ 1.39	\$ 1.25	\$ 11.97
Median	2,065,500	\$ .51	\$ .32	\$ .78	\$ 6.64	\$ 2.63	\$ 7.61	\$ .64	\$ .86	\$ 9.87
Range:High	18,084,000	\$ 4.26	\$ .59	\$ 4.26	\$ 42.55	\$ 5.31	\$ 42.55	\$ 6.81	\$ 2.54	\$ 53.62
Low	382,000	\$ .18	\$ .18	\$ .31	\$ 1.99	\$ 1.55	\$ 4.61	\$ .14	\$ .58	\$ 5.80

a. For the purpose of this table, expenditures are synonymous with appropriations.

b. Limited jurisdiction costs are combined with the general jurisdiction figures in these states. c. Budget combined with the appellate courts.

d. Includes state match for federal funds of \$100,000, and facilities costs of \$4,314,000. These costs could not accurately be distributed among the courts so the total amount is shown under the trial courts.

e. The FY 79 appropriation also included \$425,968 for affiliated agencies for Maryland's appellate courts which could not accurately be distributed among the courts for the purpose of this table. If this amount was included the total per capita appropriation would be \$5.90.

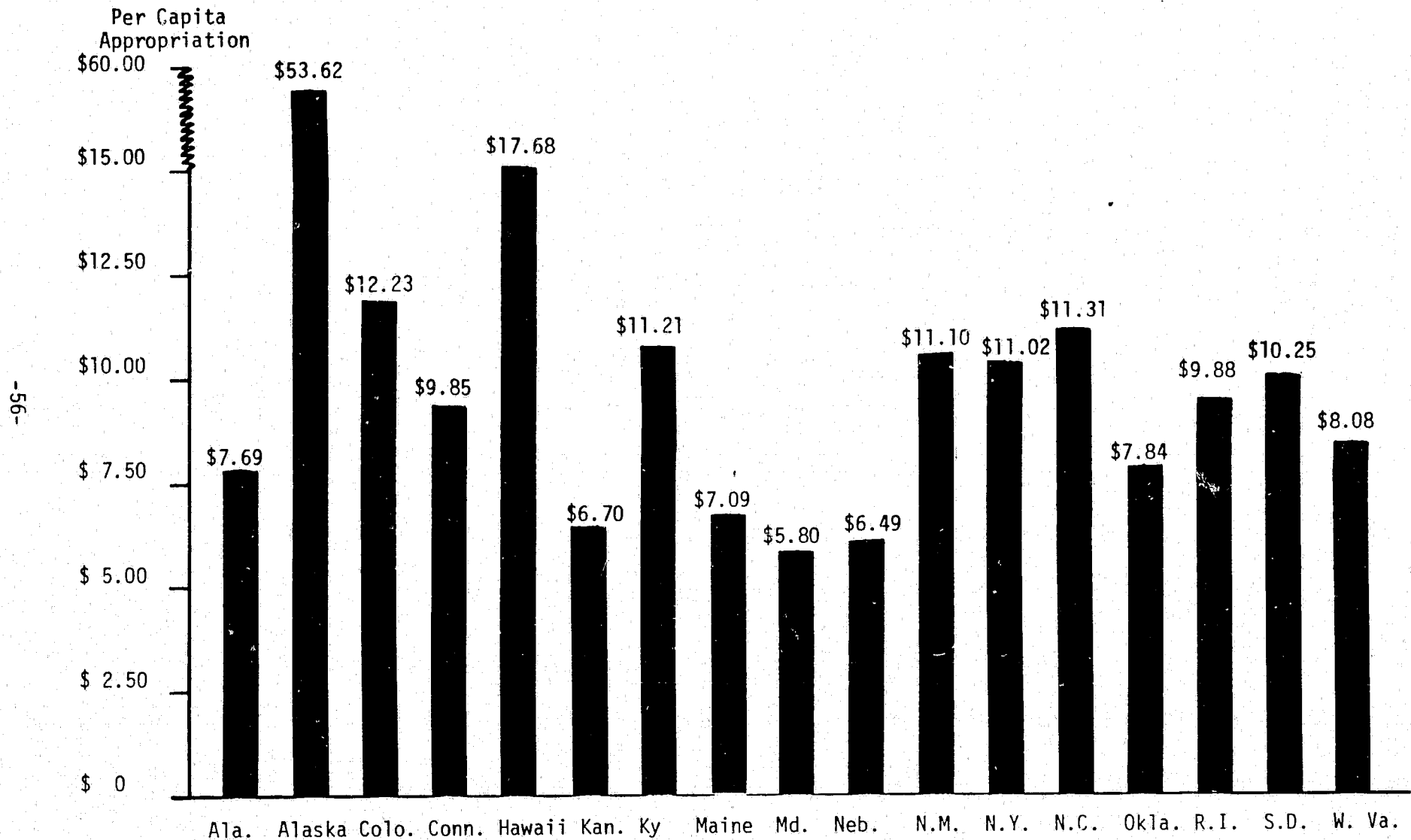
f. Missouri data were excluded in calculating the averages and range, because Missouri will not be state funded until July, 1981 (for trial court personnel).

g. New York, North Carolina, and Vermont appropriations could not accurately be separated into the various categories. Only the total state appropriations could be used in this table. The New York figure represents 56 percent (\$100.97 million) of the total FY 79 funding level for the New York judicial system. The remaining funding sources are: local units of government, 33 percent (106.6 million) including chargebacks, security costs, and pensions; user fees, 11 percent (37.0 million). All clerical assistance, facilities, and operating expenses of the clerk's office in the Vermont superior courts are county funded. Superior court facilities are county funded, as are district court facilities, except those located outside of courthouses.

h. Budget included with the general jurisdiction court.

i. These figures represent 75 percent of the total cost for the South Dakota judicial system. The additional 25 percent of the costs are paid by the counties.

FIGURE 2

COMPARISON OF PER CAPITA APPROPRIATIONS FOR  
STATE FUNDED JUDICIAL SYSTEMS, FY 1979

Note: The vertical axis is scaled unevenly from \$15 through \$60 to accomodate Alaska.  
Due to lack of complete information, Missouri is excluded from this chart.  
Vermont is not included above because the information was received after this graph was completed.



TABLE VII

PER CAPITA COMPARISON OF STATE FUNDED JUDICIAL SYSTEM JUDGES AND  
SUPPORT STAFF, FY 1979

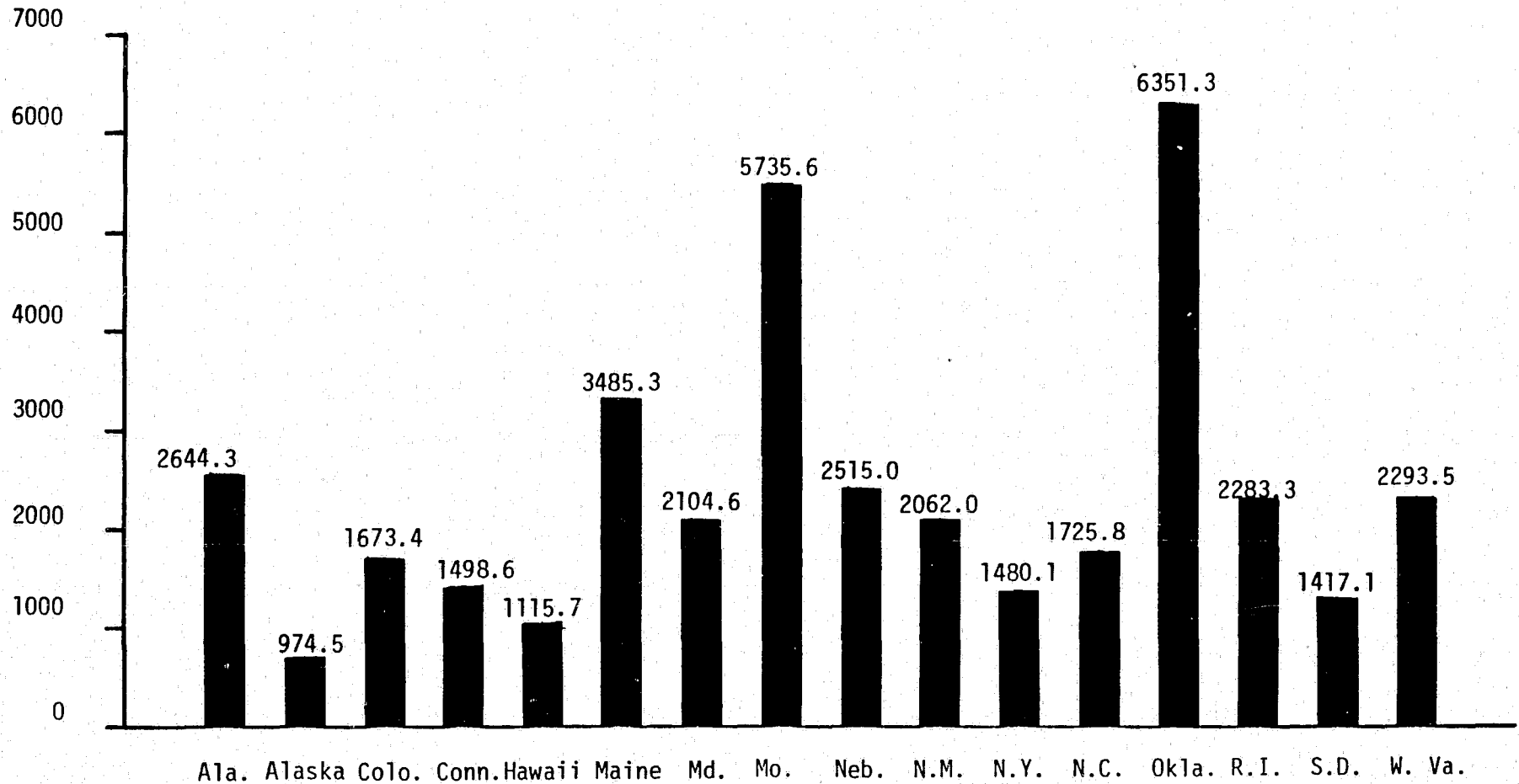
State	1976 Population	Number <sup>a</sup> Judges/ Justices	Number <sup>a</sup> of Staff (FTE)	Total <sup>a</sup> Judicial Employees	Average Population per Judge/ Justice	Average Population per FTE	Avg. Pop. Served by ea. Judicial Employee
Alabama	3,665,000	218	1,168	1,386	16,811.9	3,137.8	2,644.3
Alaska	382,000	42	350	392	9,095.2	1,091.4	974.5
Colorado	2,583,000	216.25	1,327.4	1,543.6	11,944.5	1,945.9	1,673.4
Connecticut	3,117,000	122	1,958	2,080	25,549.2	1,591.9	1,498.6
Hawaii	887,000	48	747	795	18,479.2	1,187.4	1,115.7
Maine	1,070,000	41	266	307	26,097.6	4,022.5	3,485.3
Maryland	4,144,000	255	1,714	1,969	16,251.0	2,417.7	2,104.6
Missouri	4,778,000	326	507.1	833.1	14,656.4	9,423.1	5,735.6
Nebraska	1,553,000	108	509.5	617.5	14,379.6	3,048.1	2,515.0
New Mexico	1,168,000	125	441.5	566.5	9,344.0	2,645.8	2,062.0
New York	18,084,000	577	11,641	12,218	31,341.4	1,553.5	1,480.1
North Carolina	5,469,000	212	2,957	3,169	25,797.2	1,849.5	1,725.8
Oklahoma	2,766,000	212	223.5	435.5	13,047.2	12,375.8	6,351.3
Rhode Island	927,000	44	362	406	21,068.2	2,560.8	2,283.3
South Dakota	686,000	54	430.1	484.1	12,703.7	1,594.9	1,417.1
Vermont	476,000	44	176	220	10,818.2	2,704.5	2,163.6
West Virginia	1,821,000	63	731	794	28,904.8	2,491.1	2,293.5
Total	53,576,000	2,707.25	25,509.1	28,216.3	306,289.3	55,641.7	41,223.7
Mean	3,151,529	159	1,500.5	1,659.8	18,017	3,273	2,424.9
Median	1,821,000	122	509.5	794	16,251	2,491	2,104.6
Range: High	18,084,000	577	11,641.0	12,218	31,341.4	12,375.8	6,351.3
Low	382,000	41	176	220	9,095.2	1,091.4	974.5

a. Does not include justices of the peace, municipal court judges, or special court judges, and their staffs who are not state funded.

FIGURE 3

PER CAPITA COMPARISON OF STATE FUNDED JUDICIAL SYSTEMS  
JUDGES AND SUPPORT STAFF,  
FY 1979

AVERAGE POPULATION  
SERVED BY EACH JUDICIAL  
SYSTEM EMPLOYEE



Note: Vermont is not included above because the information was received after this graph was completed.

TABLE VIII  
COMPARISON OF AVERAGE SUPPORT STAFF PER JUSTICE OR JUDGE  
IN STATE FUNDED JUDICIAL SYSTEMS, FY 1979

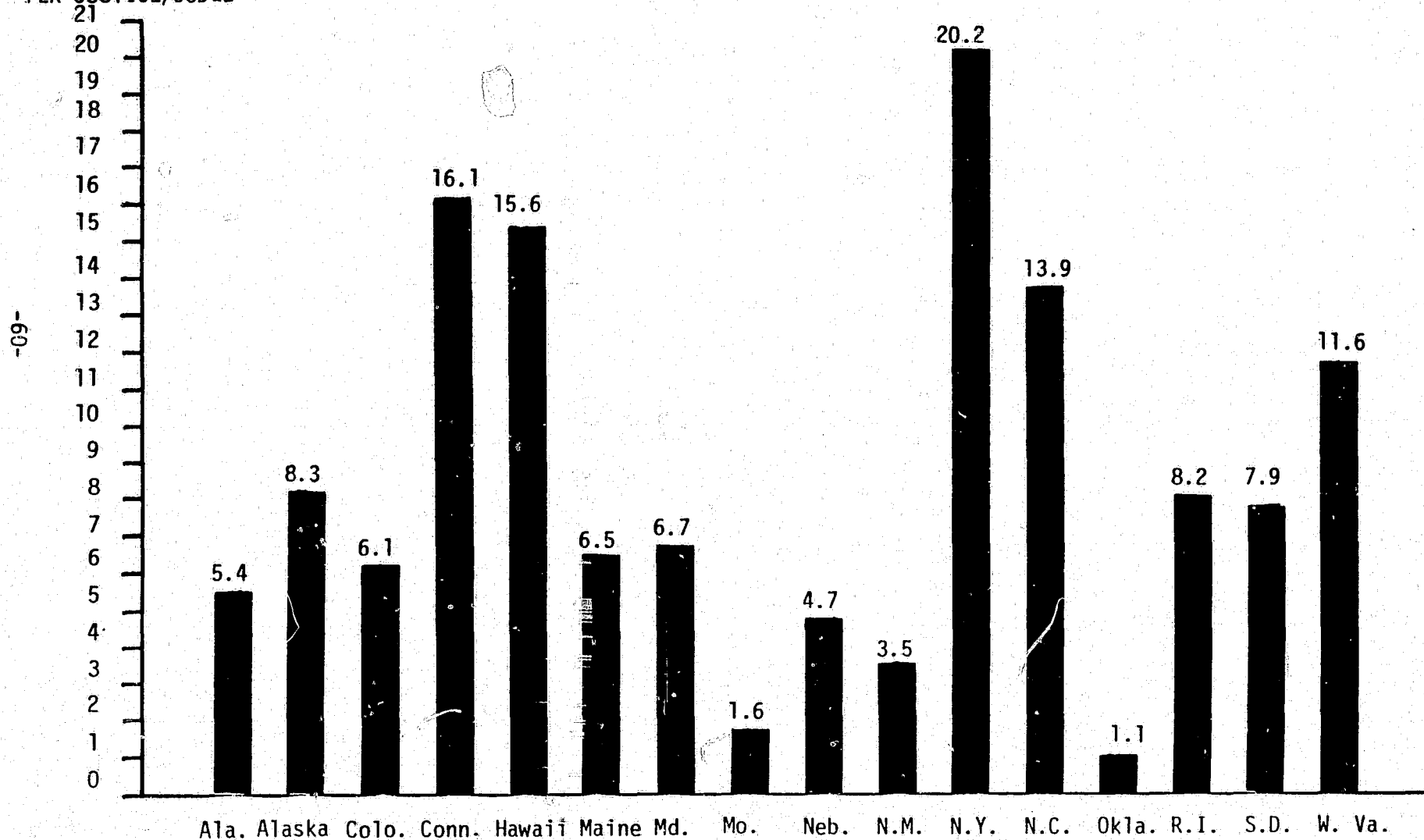
State	All Judges and Justices <sup>a</sup>	Full Time Staff <sup>a</sup>	Average Staff per Judge/Justice
Alabama	218	1,168	5.4
Alaska	42	350	8.3
Colorado	216.3	1,327.4	6.1
Connecticut	122	1,958	16.1
Hawaii	48	747	15.6
Maine	41	266	6.5
Maryland	255	1,714	6.7
Missouri	326	507.1	1.6
Nebraska	108	509.5	4.7
New Mexico	125	441.5	3.5
New York	577	11,641	20.2
North Carolina	212	2,957	13.9
Oklahoma	212	223.5	1.1
Rhode Island	44	362	8.2
South Dakota	54	430.1	7.9
Vermont	44	176	4.0
West Virginia	63	731	11.6
Total	2,707.3	25,509.1	141.4
Mean	159.3	1,500.5	8.3
Median	122	509.5	6.7
Range: High	577	11,641	20.2
Low	41	176	1.1

a. Does not include justices of the peace, municipal court judges, or special court judges, and their staffs who are not state funded.

FIGURE 4

COMPARISON OF AVERAGE SUPPORT STAFF PER JUSTICE OR JUDGE  
IN STATE FUNDED JUDICIAL SYSTEMS  
FY 1979

AVERAGE TOTAL  
SUPPORT STAFF  
PER JUSTICE/JUDGE



- a. Includes personnel in state and local administrators' offices, and direct staff support such as reporters, bailiffs, and so forth. Vermont is not included above because the information was received after this graph was completed.

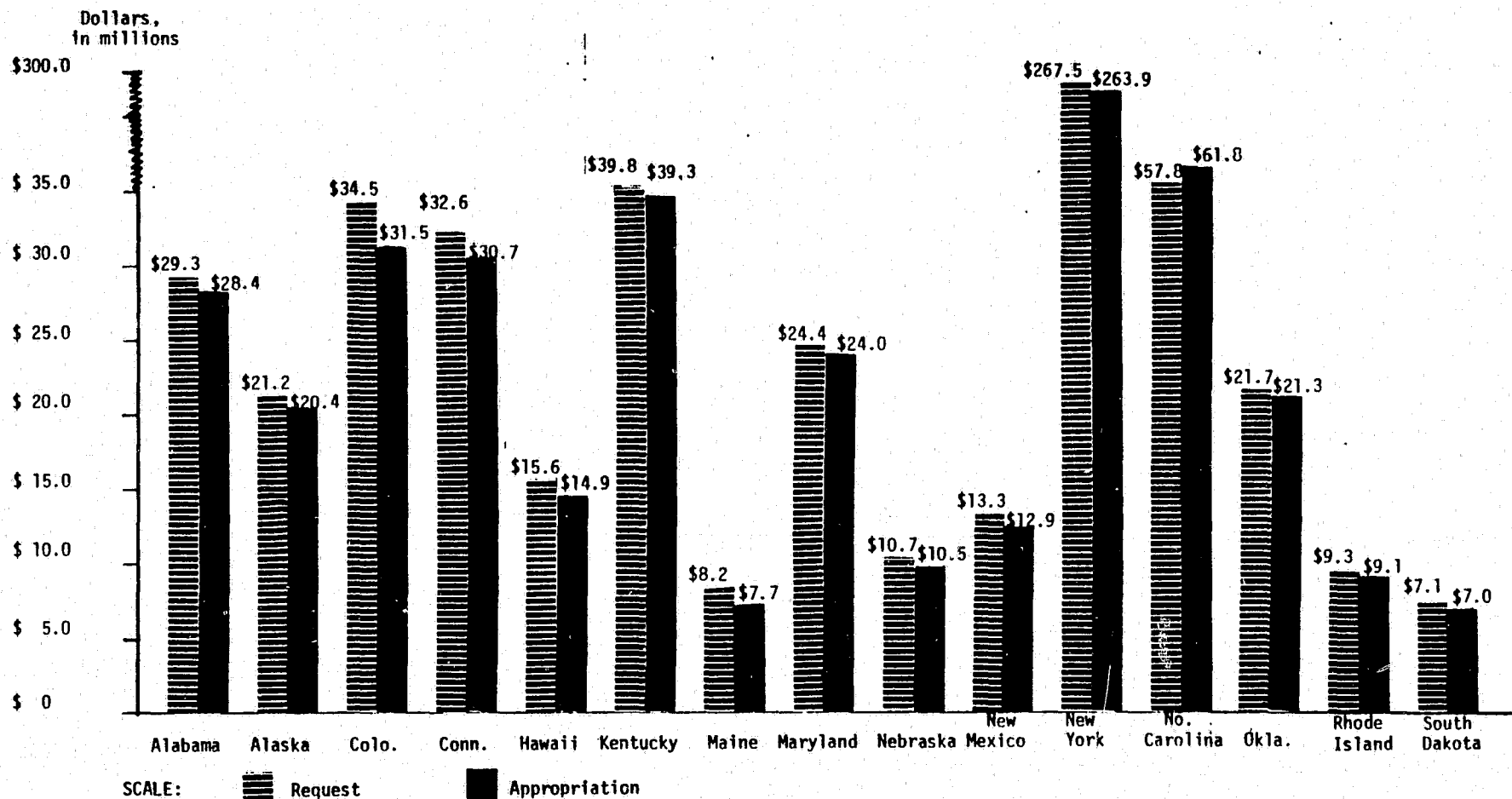
TABLE IX  
COMPARISON OF BUDGET REQUESTS AND APPROPRIATIONS FY 1979

State	Total Budget Request	Total Appropriation	Difference	
			Amount	Percent
Alabama	\$ 29,378,429	\$ 28,409,600	\$ -968,829	-3.3%
Alaska	21,269,700	20,482,300	-787,400	-3.7%
Colorado	34,559,910	31,586,869	-2,973,041	-8.6%
Connecticut	32,697,000	30,708,000	-1,989,000	-6.1%
Hawaii	15,662,841	14,981,301	-681,540	-4.4%
Kansas	7,995,320 <sup>a</sup>	15,497,135 <sup>a</sup>	7,501,815 <sup>a</sup>	93.8% <sup>a</sup>
Kentucky	39,803,901 <sup>b</sup>	39,390,100 <sup>b</sup>	-413,801	-1.0%
Maine	8,271,854	7,797,620	-474,234	-5.8%
Maryland	24,441,666	24,028,664 <sup>c</sup>	-413,002	-1.7%
Missouri	14,172,380 <sup>a</sup>	17,461,036 <sup>a</sup>	3,288,656 <sup>a</sup>	23.2% <sup>a</sup>
Nebraska	10,761,583	10,551,086	-210,497	-2.0%
New Mexico	13,361,800	12,971,000	-390,800	-2.9%
New York	267,581,787 <sup>d</sup>	263,993,391 <sup>d</sup>	-3,588,396	-1.3%
North Carolina	57,892,599	61,841,751	3,949,152	6.8%
Oklahoma	21,721,896	21,339,485	-382,411	-1.8%
Rhode Island	9,335,865	9,156,969	-178,896	-1.9%
South Dakota	7,144,980 <sup>e</sup>	7,027,709 <sup>e</sup>	-117,271	-1.6%
Vermont	3,688,360 <sup>f</sup>	3,643,350 <sup>f</sup>	-45,010	-1.2%
West Virginia	14,726,046 <sup>a</sup>	14,726,046 <sup>a</sup>	0 <sup>a</sup>	0 <sup>a</sup>
Total	634,467,917	735,593,412	1,125,495	76.5%
Mean	37,348,386	36,744,325	-604,061	-3.38%
Median	21,495,798	20,910,893	-413,402	-2.45%
Range: High	267,581,787	263,993,391	7,501,815	93.8%
Low	3,688,360	3,643,350	-3,588,396	-8.6%

- a. Due to unusual circumstances, the budget appropriation equalled or greatly exceeded the request in these states. These data were not included in calculating the difference (both amount and percent), the averages, and the range.
- b. The budget and appropriation items include the total state watch and facilities costs.
- c. The FY 79 appropriation also included \$425,968 for affiliated agencies for Maryland's appellate courts, which could not be included in this table due to the lack of comparable information on the FY 79 budget request in this area.
- d. The New York data were available only with the local chargeback and user fees included. These figures could not accurately be separated from the totals for use in this table.
- e. These figures represent 75 percent of the total cost for the South Dakota judicial system. The additional 25 percent of the costs are paid by the counties.
- f. All clerical assistance, facilities, and operating expenses of the clerk's office in the Vermont superior courts are county funded, as are all court facilities, except district courts located outside of the county courthouse.

FIGURE 5

COMPARISON OF FY 1979 BUDGET REQUESTS AND APPROPRIATIONS



Note: Due to lack of appropriate information, Kansas, Missouri, and West Virginia are excluded from this graph. Also, the vertical axis is scaled unevenly from \$35.0 to \$300.0 million to accommodate the information from New York. Vermont is not included above because the information was received after this graph was completed.

TABLE X  
PERCENTAGE DISTRIBUTION OF FINES AND FEES TO STATE AND LOCAL FUNDS,  
BY STATE FUNDED JUDICIAL SYSTEMS

State	APPELLATE COURTS				TRIAL COURTS									
	Last Resort		Intermediate		General Juris.		Limited Juris.		Special Courts		Municipal		COURT SERVICES	
	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local
Alabama	100%	0%	100%	0%	80%	20%	0%	100%	0%	100%	0%	100%	0%	0%
Alaska	100	0	0	0	99 <sup>a</sup>	10	0	0	0	0	0	0	0	0
Colorado	100	0	100	0	100	0	91 <sup>b</sup>	9	100	0	0	100	100	0
Delaware	100	0	0	0	100 <sup>c</sup>	0	0	0	0	0	0	100	0	0
Hawaii	100	0	100	0	100	0	100	0	100	0	0	0	100	0
Kentucky	100	0	100	0	100	0	100	0	0	0	0	0	0	0
Maine	100	0	0	0	100	0	100	0	0	100	0	0	0	0
Maryland	100	0	100	0	d	d	100	0	0	100	0	0	100	0
Missouri	100	0	100	0	80 <sup>e</sup>	20	0	0	0	0	0	0	0	0
Nebraska	100	0	0	0	0	100	40	60	100	0	0	100	0	0
New York	100	0	100	0	f	f	f	f	f	f	f	f	f	f
North Carolina	100	0	0	0	49.89	50.11	49.89	50.11	0	0	0	0	0	0
South Dakota	100	0	0	0	0 <sup>g</sup>	100	0 <sup>g</sup>	100	0	0	0	0	0	0
West Virginia	100	0	0	0	0	100	40 <sup>h</sup>	60	0	0	0	0	0	0

- a. 100% of all fees are paid to the state.  
b. 50% of the D.U.I. fines (inside the city limits) are paid to the State Highway Users Fund; the municipalities receive the other 50%.  
c. Interest collected by the Court of Chancery in New Castle County is split 50/50 between the state and county.  
d. 100% of all fines are paid to the state, while 100% of all fees go to counties; exceptions depend upon the type of case involved.  
e. Circuit fees are divided between the state and counties on a 50/50 or 80/20 ratio, depending on the type of case involved.  
f. 100% of all fees go to the state and 100% of the fines are paid to local governments by the general, limited and special jurisdiction courts. The justices of the peace courts, which were not included in this table, transmit 100% of their fees to local government and also the majority of fines, except for violations of special state statutes, such as the Environmental Conservation law, which are payable to the state, with the local government receiving a handling fee of five dollars. Court services are not under the control of the judicial system.  
g. 35% of municipal ordinance fines are paid to the state.  
h. 100% of all fines are paid to local governments.

## VII

### SITE VISITS IN FIVE STATES

#### Introduction

Five states, as discussed in Part I, were selected for site visits: Colorado, Connecticut, Kentucky, New Mexico, and South Dakota. These site visits, even though limited to two or three days by the time and funds available, were very helpful in providing the study team with a greater understanding of judicial system operations, relationships, and problems than could be gleaned from the questionnaire and follow-up questions and responses. The study team conducted a large number of interviews, but it was not possible to interview trial judges and administrators in all areas of the states visited, nor was it possible to include executive and legislative branch officials. The findings and observations should be viewed with these limitations in mind.

All five of these states have experienced significant change in judicial system structure and operations within the last 10 to 12 years. In three states (Connecticut, Kentucky, and South Dakota) substantial structural changes have been quite recent. In Kentucky and South Dakota, structural change and state funding took place at the same time. As many judicial administration students and practitioners have observed, transition is a lengthy and often painful process. A number of interview responses reflected transitional trauma and appeared to be more reactive to changes in authority, structure, and organization than to state funding per se.

These five states differ in many respects, such as population and area, court system organization, political and governmental environment, and the length of the time the system has been state funded. Yet, there are some findings and observations common to all or most of these states.

In all five, there seemed to be general acceptance of state funding and endorsement of the concept, although it appeared that the degree of acceptance may be related to the length of time state funding has been in existence. Along with endorsement of state funding, the complaint was made that the funding level was insufficient or might soon become so. A non-understanding legislature was depicted as the culprit, but some blamed the state court administrator's office or administrative office of the courts for the way in which legislative communications (especially on funding) were being handled.

The lack of legislative understanding was also seen in all states, except Connecticut, to be caused in part by lack of legislative contact by trial judges at the state level. This view is in keeping with the feeling expressed by many local court officials that there was insufficient local participation in the budget process and in fiscal administration. This view is particularly ironic in Colorado, because there appears to be greater local participation in that state than in any other. For example, it is the only state where local courts can expend their operating funds directly, in contrast with the others, where even pencils and legal pads must usually be purchased centrally.



Central purchasing practices were often cited by trial court interviewees as a reason why there should be more local involvement. There is too much red tape; one can not get what one wants; and it takes too long to get it. There was also a great deal of concern expressed over the lack of information on appropriation allocations and accounting status.

Extensive executive branch involvement either in the budget process, fiscal administration, or both was mentioned in each state except Colorado. This involvement has been dealt with in a pragmatic way, and direct confrontation has been avoided in most instances

In all states, except Connecticut, the provision and maintenance of facilities is or has been a problem. This is especially the case in states where facilities are a county responsibility, wholly or in part. Connecticut builds and maintains court facilities and has avoided potential confrontation in this way.

The state court administrator's office or administrative office of the courts is seen in conflicting ways by local court officials. The technical assistance and other services provided by the state office are appreciated. At the same time, fear is expressed over dominance by the state court administrator's office or administrative office of the courts. The view is also expressed that the state office is not sufficiently familiar with or understanding of trial court operations and problems.

These attitudes expressed by trial judges and administrators towards central authority and staff are not surprising. In any large organization or enterprise, those in the field often wonder about the level of understanding, problem familiarity, and decisions made by headquarters or the home office. This situation can be a healthy one for the system if there is good communication at all levels, free and open constructive discussion, and airing of points of view aimed at resolving problems and improving operations. It becomes dysfunctional only if different positions and viewpoints become polarized, discussion is limited, and the effective functioning of the system becomes subordinate to rigidity and parochialism. The study team is of the opinion that many interviewees in each state visited are aware of different perspectives and perceived problems within the system and have or are developing ways in which these can be aired and resolved constructively.

## Colorado

### Introduction

Colorado's court system, with certain exceptions became state funded on January 1, 1970. The exceptions are facilities, the county court of the city and county of Denver, and municipal courts. Municipal courts have only municipal ordinance violation jurisdiction, and the Denver county court's caseload is primarily ordinance violations, even though it has the same state jurisdiction as other county courts.

State funding was the last in a series of events which reorganized the Colorado judicial system. A constitutional amendment, adopted in 1962 and effective in January 1965, eliminated justices of the peace, created a new county court system to handle limited jurisdiction, expanded the jurisdiction of the district court (general jurisdiction), and gave the supreme court broad rule-making authority. A 1966 constitutional amendment, effective in January 1967, provided merit selection of all state judges instead of partisan election, designated the chief justice as executive head of the system, authorized the chief justice to appoint chief judges and delegate administrative authority to them, and created a judicial disciplinary commission.

An intermediate court of appeals and a state-wide public defenders system (both effective January 1970) were created by statute in 1969 at the same time that the legislation providing for state funding was adopted.

### General Attitudes Toward the System

Value of and Problems with the State Funded System. In general, the judges and administrators of the Colorado Judicial system feel that state funding is more effective and responsive than was the locally-funded system. All who were interviewed felt that improvements can and should still be made in the current system. The scope, extent, and degree of the improvements varied.

Those who were the most critical of the state-funded system were the ones who felt excluded from the process. Also, critical comments came from judges and administrators from metropolitan courts, who feel the statewide judicial system is being assisted at the expense of their courts.

The Advantages. The state-funded system was perceived by a majority of those interviewed to have several advantages over a locally funded system:

- 1) Services are provided statewide. on a more equitable basis, regardless of the wealth in the local community.
- 2) Greater uniformity and standardization of policies and procedures are possible.
- 3) Centralized planning and budgeting enable better preparation for both present and future problems on a system-wide basis.

- 4) The system is able to mobilize its resources more effectively to deal with any crisis or problem that arises. Central control enables more effective responses under such circumstances.
- 5) Greater financial resources are available from a state tax structure.
- 6) Many districts can obtain more professional and well-qualified staff, because the salaries and benefits are better now than existed previously.

The Disadvantages and Problems. The primary disadvantages mentioned in the interviews include:

- 1) Inadequate appropriations of funds by the legislature are felt statewide.
- 2) The large bureaucratic structure of the state-funded system is time consuming.
- 3) Judges are isolated from the community.
- 4) Flexibility and local autonomy is lacking in some respects, especially in the budget process.

#### State - Local Relations

Better cooperation, communication, and increased involvement of the judicial districts in all areas of the judicial department's operations and budget process are seen as critical needs. More careful analysis of the prospective impact of studies, models, and other budgetary tools is also seen as a need, especially in districts where such tools are expected to have a negative impact on their funding or staffing level, e.g., Denver district court.

Greater local autonomy and control of the district budgets are desired. The judicial districts would prefer to have one solid budget allocation made by the state court administrator's office at the beginning of the fiscal year and to be held accountable for any overexpenditures. More equitable budget allocations are desired, as well as more timely information on the reasons for the allocation by the state court administrator's office. The districts feel that efficient courts are penalized while fiscally unsound districts are rewarded by reallocation of the budget each fiscal year.

Problems in the fiscal administration areas are primarily only with the purchasing and inventory control systems. The major complaints are the inflexibility and time-consuming nature of both systems.

The relationship between judicial districts and the state court administrator's office ranges from excellent to poor. To a large extent, the personalities involved affect the relationship more than do basic problems with the system.

**CONTINUED**

**1 OF 3**

In general, the difficult nature of the state court administrator's position is understood and appreciated by the judicial districts, with some exceptions. Where the pressures of the job are better understood, less criticism is expressed of the state court administrator's office. Also, some of the sources of complaints with the current state-funded system seem to relate more to specific experiences under particular circumstances which influence the general attitude of the person toward the system. For example, one of the judges obviously resents any central control, because he had virtually unlimited power under the locally-funded system that existed before. Also, complaints about the system by one of the clerks relate more to problems with the personal style of the district administrator than to the state-funded system per se.

#### Intergovernmental Relations

Difficulties with the general assembly, particularly as to budget matters were expressed as a major concern by everyone. The primary problems was seen as an apparent lack of knowledge and understanding of the judicial system by both the public and the general assembly. Many felt that the viability of the system depends on improved public relations, increased credibility, and better justification and legislative acceptance of budget needs.

No problems were perceived in relationships with the executive branch, probably because the executive branch is not directly involved in the budget process. Relationships are limited to operational areas not affecting the judicial system budget or policy decisions.

Recommended Changes and Improvements. Recommendations for changes and improvements in legislative relationships varied with the individuals interviewed. Among the more common recommendations were:

- 1) The position of court information officer should be created to improve the court's image with the public and legislature.
- 2) Increased public contact with the judicial system should be developed through citizen committees.
- 3) Judges should be more involved in the community.
- 4) District and county judges and administrators should meet with local legislators under policy guidelines established by the chief justice, supreme court, and state court administrator.
- 5) Judges should assist the chief justice and state court administrator in addressing legislators on key problems facing the judiciary.
- 6) Judges and administrators from the districts should have the opportunity to review the final budget request by the judicial department prior to its submission to the joint budget committee.

- 6) Representatives from the judicial districts should be selected by the chief justice and state court administrator to be present at the budget hearing with the joint budget committee. This would assist in giving the impression of unity within the judicial system to the legislature.

### Summary

Few problems are perceived with respect to the operational systems and the assistance provided to the judicial districts by the state court administrator's office. The major complaints of the judges and staff related to: 1) lack of local autonomy (too much central control) of the budget; 2) apparent ineffectiveness of the judicial department in the legislative (budget) process; and 3) lack of public and legislative knowledge about the courts and their operations and needs. In part, these complaints appear to stem from a lack of local understanding of the legislative process and the degree of accountability imposed by the legislature.

### Connecticut

#### Introduction

Connecticut's court system is probably the most unified in the country, particularly since the implementation on July 1, 1978 of legislation which created a single-tier, fully centralized trial court system. As of that date, the court of common pleas and the juvenile court were abolished and merged into the superior court, giving that court jurisdiction over all matters except for probate.

The gradual evolution of the Connecticut courts to the present structure has included incremental steps which extend back at least as far as 1942, the date of creation of the statewide juvenile court as the first state-funded juvenile court in the country.

In 1960, Connecticut abolished county government, and the state, consequently, took over funding of the superior courts and the court of common pleas, effective in 1961. That year was also the date the circuit court was established to replace all municipal and trial justice courts. On December 31, 1974, circuit court was abolished and its functions assumed by the court of common pleas. With the changes that occurred in 1978 and the way the system is administered, the Connecticut's court system, more than any other in the nation, resembles the classic model of the unified court system first postulated in earlier years by Roscoe Pound.

The unified Connecticut court system employs approximately 2,000 full-time persons, including judges, prosecutors, judicial support personnel, and adult and juvenile probation officers. Court administration is statewide under the supreme court, with supervisory responsibility residing in a chief court administrator who is a member of the supreme court (but no longer has to be).

Statewide administration includes: caseflow management, facilities management, personnel administration, purchasing, all fiscal functions, jury administration, legal research and legislative analysis, continuing education, data processing, forms and records management, research and planning, grants reporting, coordination of court reporters and interpreters, and statistical analysis. Day-to-day administration of the court locations in each judicial district is the responsibility of an administrative judge, who is appointed by the chief court administrator. The administrative judges' primary responsibility is caseflow management.

As noted above, adult probation is a responsibility of the judicial department, but only since January 1, 1979. It formerly was an executive branch responsibility. The director of adult probation, who is responsible for overall supervision of the program, reports to the chief justice through the chief court administrator.

The division of criminal justice, the state's prosecuting agency, is a division of the judicial department. The administrative head of the division is the chief state's attorney, who is appointed by the chief justice. This unique arrangement is an interesting operation, particularly when its existence is examined under traditional separation of powers concepts and theories.

#### General Attitudes Towards the System

As stated earlier, Connecticut has a recent history of court improvement and reform, particularly in court unification and state funding. Connecticut was the first state, except for Hawaii and Alaska, to effectuate total state funding of all its courts, achieving that status in 1961. Everyone interviewed seemed satisfied with the system of funding, if not with the results, and none expressed the thought that any change in the method of funding was needed.

The budget process described below seemed satisfactory to most persons interviewed, but concerns were expressed several times, particularly by support staff that a better accounting system, with more frequent fiscal reports was necessary for more effective management. The executive secretary indicated that requests for data have not been made. If requested, data would be made available.

State funding is seen as the best way to attract and maintain staff quality, which, according to several observers, improved in the early 1960's with the advent of state funding.

Because the system has been in effect for 18 years, no one was able to relate transitional problems, if any occurred. No judges currently sitting on the trial bench were there prior to state funding, and all interviewed expressed satisfaction with its operation.

#### State - Local Relations

Because Connecticut's courts are state funded and counties per se do not exist, a classic state-local relationship does not exist. With 58 court locations and 11 districts divided into 21 geographic areas, an informal state-local dialogue takes place.

Day-to-day operations are handled locally under the direction and guidance of an administrative judge appointed by the chief court administrator. There seems to be general agreement that the state is aware of local problems, perhaps because of the existence of the judges' executive committee at the state level and because of constant communication with the chief court administrator's office.

The executive committee meets at the call of the chairman to discuss matters of statewide policy in lieu of action by the entire bench. Its chairman is currently the chief court administrator, and the committee is composed of 13-14 judges at any particular time. Among items it considers are personnel policies, including leave regulations, requests for additional personnel, approval of new employees, and overall administrative matters.

One problem identified by local court officials was the process used to order supplies and equipment. Expendable supplies are ordered by the court locations no more than twice a year. The state will not take orders at any other time. The state office indicated that necessary interim orders are accepted, but court locations are encouraged to keep these to a minimum. This creates a problem when a local court underestimates its needs. If the estimate is off, the only alternative is to borrow from another court. With capital outlay for equipment and major purchases, the complaint seemed to be the lack of definitive procedures by which the validity of the request would be judged.

Almost all persons interviewed expressed satisfaction with the courts' budget process and seemed to believe that it is responsive to both state and local needs. The budget process, while systematic, has little local input during its preparation. The office of chief court administrator and the executive secretary prepare the budget, based on current expenditure patterns, case-load projections, and informal conversations with local officials. State department heads are interviewed formally to ascertain their needs. Because of the uncertain nature of caseloads and process, budget estimates are difficult to make and subject to variables, e.g., lengthy cases. This is not always understood by persons outside the court system.

Once complete, the budget is submitted to the executive branch budget office for review and comment. It then goes to the legislature for action, with recommendations from the executive on the validity of the judicial requests. The legislature holds hearings on the budget, at which time presentations are made by the chief court administrator and selected department heads.

After an appropriation is received from the legislature, local allotments are generally based on the factors which supported the initial budget request. The appropriation is divided among three accounts: personnel services, other expenses, and equipment, permitting flexibility in actual expenditures. Transfers between accounts can be made subject to certain restraints.

#### Intergovernmental Relations

The fallout from Proposition 13 has come to Connecticut. This fact is particularly disturbing to a judiciary which has not seen its budget increase at the same rate as executive agencies over the past several years. In past years this fact has been of little concern, because the judicial budget always had a surplus at the end of the fiscal year. This year this will not be the case, and, in fact, it is estimated that, without a supplemental appropriation the judiciary would overspend its budget by \$1.6 million.



There appears to be a lack of understanding by the legislature and its staff concerning increased court expenditures and the constitutional mandates under which courts operate. Judicial officials attribute the increases to unique cases, such as one which required the calling of 1900 jurors and the fact that, since July 1, 1978, courts have tried cases five days per week as opposed to the old four day a week schedule. Dispositions have increased appreciably since trial court unification, resulting in many more trials (especially jury trials) causing more expense.

The uncertainty of the judicial budget process and the need for stability to insure good court management is being threatened even more during the current legislative session, because of the requirement that the court budget, like that of executive agencies, reflects a two percent across the board reduction for vacancy savings. Faced with a \$1.6 million shortage this fiscal year, an additional revenue loss of two percent of the total budget would be disastrous, according to most judicial officials.

Again, on this issue particularly, judicial officials allege that the legislature and its staff do not understand the need for flexibility within a judicial budget which always faces unknowns such as extended cases, retirements, and unexpected caseload increases. Thus, in view of the present governmental climate today, Connecticut's judiciary sees its major problem as decreasing funds to respond to increasing and more complex caseloads. It is the judiciary's view that providing meaningful access to justice requires acceleration of case dispositions, which raises costs (jurors, witness fees, etc.). A more leisurely pace will reduce these costs, but also reduce effectiveness of the system.

In making its case to the legislature, the judiciary relies on the chief court administrator, the executive secretary, and their staff. Individual judges do not appear before the legislature or its committees, but judicial agency heads, such as the director of adult probation and the restitution administrator do appear to explain their portion of the budget.

Relations with executive branch agencies are perceived to be good, with no major problems recited by anyone interviewed during the course of the on-site visit.

### Conclusion

With the advent of the one-tier trial court and the assimilation of adult probation into the judiciary, Connecticut, as previously stated, now has what may be the nation's most unified court system. The system seems to operate effectively and efficiently and to satisfy the needs of judicial officials and the public at all levels.

Problems with the legislature appear to be no more critical in Connecticut than in other states visited. Rather the problems encountered by Connecticut's courts seem to be symbolic of court - legislative relations nation-wide, when legislatures are demanding more accountability from courts about how they spend their appropriations. Connecticut believes that a state-funded system is the best, most satisfactory system to respond to such concerns.

## Kentucky

### Introduction

At the November 1975 general election, the voters of Kentucky approved the creation of a new judicial system by amending the state constitution to establish a statewide court of justice. The new system with two appellate and two trial courts replaced one which had several trial courts; a large number of part time, non-lawyer judges; overlapping jurisdiction; and a fragmented method of funding.

Implementation of the new system began on January 1, 1976, with the creation of the supreme court, court of appeals, circuit courts, and district courts. Implementing legislation was passed by the 1976 legislature which placed Kentucky in the vanguard of judicial improvement.

Legislation was enacted which: 1) assisted the supreme court and court of appeals to become operational; 2) established judicial nominating commission(s) and a judicial retirement and removal commission; 3) set up non-partisan judicial election laws; 4) provided improved administrative support for the judiciary; 5) updated the judicial retirement system; 6) raised judicial salaries; and 7) approved the first statewide judicial budget.

Implementation of the district court (limited jurisdiction) was assisted by legislation passed by a special session of the legislature in December, 1976.

Judicial administrative responsibility is unified under the supreme court through the executive authority of the chief justice and extends to all courts in the state. The chief justice is assisted in his administrative duties by the administrative office of the courts (AOC). The administrative office of the courts is the fiscal arm of the court system and is responsible for budget preparation, accounting, judicial personnel, purchasing, auditing, and data processing. In addition, the administrative office of the court administers the state pre-trial services, records management, facilities planning, legal research, and legislative drafting, public information, judicial education, and court statistics programs.

Because court reorganization and state funding took place at the same time, the two cannot be separated for discussion purposes. Responses to questions related directly to state funding were usually perceived and answered in a way that reorganization became a related issue.

### General Attitudes Toward the System

The advent of the unified court of justice and state funding is viewed by a number of interviewees as a mixed blessing. The system is doing what it was designed to do, i.e. deliver justice in an equitable and efficient manner. In the eyes of one close observer of the system's operation, "the system is yet to be tested, and the jury is still out."

The supreme court is exercising a great deal of control over the system and taking a fairly active role in setting administrative policy. The chief justice is the spokesman for the court and has issued an order prohibiting contacts with legislators by local judges and court officials.

This order has created some concern on the part of some local judicial officials, particularly circuit judges and the elected clerks, who believe that neither legislators nor state judicial officials understand local court problems. They perceive that the unified, state-funded system has lessened the judiciary's ability to cope with ever expanding caseloads, particularly in the Louisville and Lexington metropolitan areas.

Personnel Rules. Even with these negative feelings, almost all local judicial officials agreed that state funding seems to be assisting in attracting better, more qualified staff. The personnel rules provide a standard set of regulations for all employees and assist in hiring and retaining qualified employees. In short, state funding is doing away with the patronage system that existed under local funding.

Pre-Trial Release. One of the most striking examples of the system's effectiveness is the state's pre-trial release program which began operation under the court system in July, 1976 and did away with the bail bond business. This action was mandated by the legislature only six weeks before its effective date, posing a possible major crisis for the infant court of justice. The system responded, and, within those six weeks, the administrative office of the courts found facilities, adopted operating standards, and hired over 100 qualified persons statewide to staff the program. Today, the program is recognized both in-state and nationally as a model program which provides better information about defendants, allowing judges to make better release decisions.

Crises Response. At the state level, the court system is seen as being very responsive to crisis at all levels of the system, if an emergency arises. The most cited example occurred just prior to the effective date of the legislation creating the new district court January 1, 1978. Prior to that date, the supreme court had adopted procedural rules governing the court's operations including a mandate that uniform forms be used statewide.

The contract to print the new forms was awarded to a Boston, Massachusetts firm. Towards the end of December, it became evident that, unless special steps were taken, the new required forms would not be available on the first day of business for the district court, January 3, 1979. The administrative office of the courts stepped into the breach, chartered a plane to fly the forms from Boston, sorted the forms into packets for each court, and hired trucks for delivery around the state.

State court officials believe the new system is more responsive to problems caused by disproportionate caseloads and judicial vacancies than the old one ever could be.

Budget Preparation. State court officials admit that, because of time pressures, the initial state judicial budget was not responsive to all local needs, but they allege that the process being developed to prepare the 1980-82 budget should answer the criticism voiced by local judicial officials.

Whether the new budget process will provide for more than limited local involvement remains to be seen. There appears to be a difference of opinion within the administrative office of the courts as to the extent and kind of local participation in budget preparation, but the issue has been resolved, according to recent reports, and meetings have been held with judges, clerks, and others.<sup>28</sup>

A further problem may be lack of trial court administrators. There are very few of these, and some administrative office of the courts' staff expressed the view that the lack of professional administrative skills at the trial court level limits the usefulness of local involvement in the budget process.

Local Views. Most local court officials interviewed disputed the fact that a state-funded system was more responsive to local judicial needs. One judge called administrative office of the courts' responsiveness "less than ideal," alleging that a new super state bureaucracy had replaced smaller, more responsive local ones. Another stated that the administrative office of the courts never contacted local courts to find out their problems.

Another complained that the administrative office of the courts was unresponsive to local personnel needs in the face of severe understaffing problems and that the administrative office of the courts priorities were equipment, technology, and facilities as opposed to people. All suggested that the system would be more responsive, if trial judges, clerks, and other local officials could deal directly with their legislators and express their local needs as opposed to statewide priorities.

Even in the face of these criticisms, almost all local judicial officials interviewed agreed that, taken as a whole, the state system probably was responsive to the total needs of all courts statewide and that it was only the metropolitan courts that fared somewhat worse under the new system. Those at the state level point out that the metropolitan courts receive the proportion of funds reflected by their share of the caseload. They state further that some smaller counties feel the metropolitan courts get too large an allotment.

Regional Administration. In an attempt to be more responsive to local needs, the administrative office of the courts, under a mandate from the supreme court, has been conducting an experiment in regional administration. This project began on January 2, 1978.

The success of the program is evidenced by the fact that it is being expanded statewide in 1979 with the creation of 10 regions. The program's four major goals are: 1) to equalize work among judges within regions; 2) to expedite disposition of litigation within regions; 3) to promote uniform practices, both regionally and statewide; and 4) to increase the administrative office of the courts' responsiveness to the needs of trial courts.

Remaining Problems. Almost everyone interviewed cited several problems that unification and state funding had not solved, including: inadequate judicial salaries, inadequate computer support and applications, employee turnover because of low salaries, and maldistribution of judges and caseloads. All judges

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28. Letter, June 7, 1979 from William C. Davis, Director, Administrative Office of the Courts.

received a \$9,000 raise in 1976, and another is anticipated in 1980. Redistribution of judges and caseloads requires legislative action. A proposal to remedy these problems was defeated, apparently because the legislature was reluctant to alter political boundaries.

Another recurring problem is the provision of court facilities. These are provided locally, but rented by the judicial system. It has taken time to work out an acceptable rental payment formula, and some counties are still not satisfied. The amount appropriated for this purpose has been insufficient in the administrative office of the courts' view, and the executive branch facilities staff has not been helpful in negotiations. (See discussion in a following section.)

Transition Problems. Many of those interviewed stated that the transition time was much too short. The constitutional amendment was passed in November, 1975, with an effective date of January 1, 1976, allowing just 60 days for the preparation of implementing legislation. It took a major effort to get the job done, but a number of problems were not addressed. One official at the state level estimated it will take another two or three legislative sessions to iron out the problems engendered by the short transition time.

State-Local Relations. The interviews indicated that, generally, the new unified, state-funded court system is perceived to be an improvement over the old fragmented system. The administrative office of the courts was credited with being concerned about state-local relations. Nevertheless, the new system is not without problems according to the interviews, including: 1) budget preparation procedures; 2) courthouse facility management (including rentals already discussed); 3) purchasing practices and procedures; 4) accounting practices and procedures; and 5) personnel rules and regulations.

Budget Process. Almost all local court officials interviewed felt that their lack of participation in the budget process was a major problem that needed to be addressed. This problem is compounded, because local courts have not received timely information about what has been allocated to them. In fact, from a preliminary examination of the accounting system, it doesn't appear that it is presently designed to yield fiscal information easily in this form.

The administrative office of the courts' plans for local involvement in budget preparation have already been mentioned. The administrative office of the courts' staff members involved in budget preparation and fiscal management are well-qualified, competent professionals, but many of them have executive branch experience and orientation. In Kentucky, this orientation is centralization. Many trial court officials interviewed seemed unaware of the administrative office of the courts' budget process plans for the upcoming biennium.

Facilities. Until the present formula for rental payments was worked out, some counties were reluctant to provide proper facility maintenance or make improvements. The state now pays the counties annually four percent of the capital

cost of the facilities housing the court. This payment is to be used for facility maintenance and operation, as well as to provide seed money for facility improvement, modernization, and future construction. Presumably, the problem is now solved or under control, if the legislature appropriates enough money to apply this payment schedule statewide.

Purchasing Procedures. Purchasing regulations and administrative office of the courts' control were also cited by most local judicial officials as a continuing problem. All purchases for equipment or consumable supplies must be approved by and shipped from the administrative office of the courts. The administrative office of the courts maintains its own supply warehouse, as well as using the executive branch's central stores for certain purchases. The administrative office of the courts' rules and regulations which essentially follow those of the executive branch are viewed by most local courts as excessively bureaucratic. Most would prefer to be able to make purchases locally, particularly in emergency situations. The purchasing procedures complained of follow state law which applies to the judicial branch, as well as executive agencies.

Some of those interviewed cited delays in obtaining supplies and equipment from the administrative office of the courts. Others indicated they were unable to get what they ordered. It was hard to tell the extent to which dissatisfaction with purchasing practices resulted from not being able to buy from local merchants who could provide election support. It was also hard to tell the extent to which purchasing procedures were used as a symbol for dissatisfaction with the system as a whole.

Accounting System and Records. Under the old court system, the clerk's office was fee supported, with no responsibility to the state. The new accounting system caused some initial problems during the early period of transition. These have been worked out with the assistance of the administrative office of the courts' training staff.

There is a remaining problem resulting from divided responsibility for equipment and furniture inventory maintenance. Presumably, the counties still own the furniture and equipment that was in the courts when the new system was created and state funding began, and the state owns everything purchased since then. An inventory of each was made, but some of it got lost in the Kentucky river flood of a year ago, when the lower part of the building was under water. Consequently, there is still some dispute over who owns what and who is responsible for repairs, depending on who is supposed to own the furniture or equipment needing repair.

Personnel. Personnel problems were a concern of most of the local judicial officials interviewed. The judiciary follows the state executive personnel system on a voluntary basis. One half of the employees occupy the lowest paying clerical range, which apparently has caused retention problems in some circuit court clerks' offices and on some district courts' support staffs. Local officials were also concerned because the state-dominated budget process gave local courts little chance to express support staff needs.

In summary, state-local relations are perceived to be getting less strained as the system begins to shake out its initial operating bugs. The budgeting

process remains a major obstacle to good relations. The plans of the administrative office of the courts to involve local officials in the process could be an important step in improving relationships. This improvement would assist the administrative office of the court and the supreme court in their other administrative activities.

### Intergovernmental Relations

Executive. Kentucky's state government is dominated by the office of governor, perhaps because the legislature only meets every two years for a short time. Executive dominance is seen as a potential danger by many judicial officials, primarily because the court budget requires executive approval before legislative submission and because executive processes, procedures, and regulations dominate fiscal administration in the courts. Nevertheless, executive domination seems to be accepted, because it is a governmental way of life in Kentucky.

Relationships with executive agencies are generally good. The fact that the administrative office of the courts has a number of staff members who used to work for the executive branch has helped. Even so, there are some executive branch officials who feel the administrative office of the courts does not follow the law in all of its day-to-day operations. Differing interpretations of statute and executive relations has fostered this belief. The avoidance of political patronage in hiring court employees has also caused some executive branch irritation.

Legislative. The courts rely primarily on the supreme court and the administrative office of the courts in dealing with the legislature. As previously noted, the chief justice has ordered local judges and other court officials to have no contact with legislators. He issued the order, because he believes that policy matters should be articulated only by those who set it--the supreme court. There is much objection to this order, but it is being followed, primarily because of fear of the judicial disciplinary commission.

## New Mexico

### Introduction

The New Mexico court system consists of two appellate courts and trial courts of general (district) and limited (magistrate) jurisdiction. There are three trial courts which are locally funded: a probate court in each county, municipal courts (ordinance violation jurisdiction only), and one small claims court in Bernalillo County (Albuquerque).

A new magistrate court system was established in New Mexico in January, 1969 following a constitutional amendment and implementing legislation. Legislation was also adopted in 1968 which provided for state funding of both the district and magistrate courts. Juvenile probation services are state funded as part of the district court.

The administrative office of the courts has supervision and control of the administration of the magistrate courts. The 13 district courts, however, are autonomous and viewed as individual state agencies. The budgets are submitted to the administrative office of the courts for its review, modification, and presentation to the supreme court for review and approval prior to submission to the department of finance and administration (DFA) and to the legislative finance committee (LFC). Each district budget is considered separately, and auditing is performed by the executive branch.

The judicial budget is submitted simultaneously to the DFA which provides executive branch analysis and to the LFC. The administrative office of the courts is informed of gubernatorial decisions, but does not receive information from the LFC until the first day of the legislative session. There are no formal hearings with the Senate Finance Committee, unless the director of the administrative office of the courts is specifically called to testify. If no concurrence is reached between the committees, the bill is sent to conference committee. Once the bill is presented to the legislature as a whole, acceptance can usually be expected.

#### General Attitude Toward the System

There was general agreement among those interviewed that the effectiveness of the courts had been increased through provision of state funding. Although problems were cited and will be reported in a later section, interviewees felt that the concept of state funding works reasonably well. On the local level, it was stated that centralization has resulted in better budget preparation. Some felt that, although the process is time consuming, budget submission to the AOC, the DFA, and the LFC provides needed checks and balances among the branches of government. Others thought that it was too time consuming and much too bureaucratic. Still others observed that, because requests must be justified, there is less waste, a better return on the tax dollars spent for court operations, and accountability has been increased. Furthermore, there is a more equitable distribution of resources, and the courts do not have to depend on county funds which may or may not be available, depending on the wealth of a given area. The state has greater resources, while the counties must depend on the property tax. The end result has been a more uniform system of justice.

Effectiveness has also been increased, because, through centralization, judges can be assigned to courts that are struggling with heavy backlogs, experiencing protracted cases, or compensating for sudden or prolonged illness of judicial officers. While it was felt that more judges were needed, referees have been employed in some districts.

State funding has also resulted in better planning, according to some local officials. This area is steadily improving, but it was felt that the courts could no longer haphazardly create new programs and new program areas without knowing all of the ramifications and predicting future requirements. It was felt that the administrative office of the courts had been helpful in this area and will be able to increase that effectiveness through the use of the newly hired management analyst.



The effectiveness of the system was generally supported by those interviewed at the state level, although there was some concern over the level of funding. It was stated that the judiciary attempts to submit a budget which can be justified in all areas. That document is then subject to review and reduction by both the executive and legislative branches. One court official felt that there may have been more leeway with county funding, but that the present system offers many other advantages. Furthermore, counties are in financial difficulties now, and courts would not be funded anywhere near the present level. A question of separation of powers was raised relevant to the process of budget submission. Further, there are problems due to the philosophical make-up of a particular legislature, and the court system is subject to those attitudes, which are reflected in the level of funding.

The problems which were expressed were, generally, not a result of state funding, per se, but rather of the administrative composition of the court system. Cited as areas in which improvements could be made were centralization of the district court budgets, implementation of an inventory control system which would allow centralized purchasing for both the magistrate and district courts, and provision of greater technical assistance to local courts.

The system of elected judges creates some problems for a court system which is centralized. In many instances, the judges feel that their responsibility is to their constituents, and circumvention of the administrative office of the courts is not all that uncommon. It affects the personnel system, because decisions may not always be made in a rational manner. This was the first year in which judges were asked by the supreme court not to attend legislative hearings, but they were encouraged to contact their legislators in their home communities, whether in or out of session.

Local court interviewees differed in their views of the responsiveness of the system. Some felt that their needs are considered by the AOC, particularly if requests are documented and justified. Others felt that the needs of their particular courts were not understood at the state level and that communication could be improved. A few stated that, prior to state funding, some counties were more responsive to the needs of the courts as a result of their local visibility and investment. It was generally felt that the provision of more technical assistance by the AOC would be a positive step towards increasing communication.

#### State - Local Relations

The comments received from both state and local court officials about state - local relations cited different problems, but concurred that there is a need for better communication. Both sources indicated that the balance is a difficult one to maintain. The local courts appear to want more technical assistance, but resist undue interference by the AOC. The AOC echoed this feeling and didn't want trial court personnel to feel that the AOC was dictating policy.

The problems identified by interviewees at the local level included the

need for more site visits. It was felt that greater field exposure would result in a better understanding of local court needs. It would provide a means by which ideas could be exchanged. Several people felt that the budgetary process would be improved, if they were informed of changes in their request and the reasons why those changes were made. Some felt that the AOC should be a more visible advocate for the local courts. Concern was expressed on the salary level for court personnel. Some felt that the salaries weren't competitive and resulted in a high rate of turnover. Centralized purchasing was resisted by some and supported by others. Implementation of new programs will require greater communication, as will satisfactory use of the personnel system. The need for uniform statistics and reporting was cited.

While there are problems, it was felt by many that the AOC was cooperative and that, generally, the process was working quite well. It was stated that the AOC generally meets the needs of the trial courts. Interviewees pointed out that the AOC had been very responsive in transferring judges and helping with budgetary problems. It was felt that regular meetings with the supreme court, the director of the AOC, and the presiding judges would be helpful, although there was some opposition to this idea.

The same need for greater communication was expressed by several interviewees at the state level. They explained that they are in a difficult position. The AOC is in the middle between the legislature and the courts. The former blames the AOC for inefficient court operations and not exercising enough control. The latter blame the AOC for exercising too much control. While this office must establish credibility with the courts, it must implement decisions made by the executive branch or the legislative branch which can affect the budget, as well as the internal operations of local courts.

A major communication problem was voiced by the magistrate court personnel interviewed. The magistrate courts have only limited budget involvement and find it difficult to find out what has been allocated. They inform the AOC of magistrate court needs in June, but don't prepare a budget or even place unit prices on the request, because these are not known locally. Requests for new employees is by letter, the process is informal, and responses are intermittent.

The magistrate court funding problem led in part to the introduction of legislation in the current session which would combine the Albuquerque municipal court and the Bernalillo County magistrate court. The bill would create a metropolitan court commission which would make a study and recommend to the governor the best method of consolidating and funding the functions of the separate courts. The study report would be required on January 1, 1980, and, presumably, the new court would begin operation on July 1, 1980.<sup>29</sup>

Another problem is anticipated relevant to local funding of facilities. The legislature is reluctant to allocate funds for additional judgeships, if there are not adequate facilities. The counties are reluctant to add facilities if there is no assurance of new judgeships. It is likely that the counties will become more resistant to providing additional space at the district level. It is anticipated that there will be more problems in this area in the future, with possible attempts to provide some sort of state payment for this purpose.

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29. This legislation was adopted in the 1979 session.

## Intergovernmental Relations

The fact that local court officials do not feel removed from the legislative process may be explained by the administrative structure of the court system. First, the judges are elected and have a commonality with other elected officials. Secondly, the district courts are considered to be autonomous state agencies and are accountable to the state auditing process. It is, therefore, important that they maintain communication with the other branches. Although the supreme court requested that judges not appear at legislative hearings this year, they are encouraged to contact them in their home communities. It was stated that this contact was maintained with local legislators and was generally positive.

At the state level, concern was expressed over the level of funding and the fact that the judiciary has been unable to bring judicial employee salary classifications into parity with those of the executive branch.

The fact that the district courts submit separate budgets and that the department of financial administration maintains all fiscal records has been a cause for some concern, because it diminishes or could diminish the authority and responsibility of the supreme court and chief justice for administering the system. The intrusion of the executive branch into the budget process and fiscal administration was mandated by the 1968 legislature. It is a source of concern at the state level, but the judiciary has been reluctant to assert its independence, because the governor's office is now more cooperative and also the DFA often may recommend a higher funding level than the LFC. (This year, the districts requested a 6.8 percent increase, the AOC reduced this (\$360,000) to six percent, the DFA was recommending 3.4 percent at the time of the site visit, and the LFC was recommending two percent.)

Local court officials, at least in some parts of the state, have established direct relationships with DFA staff. Separate funding of each judicial district encourages this practice.

## South Dakota

### Introduction

The unified judicial system was adopted through passage of a constitutional amendment in 1972. The system became operational in January 1975, at the same time that state funding took effect. The unified judicial system consists of the supreme court and the circuit court. Minor matters are heard by magistrates, who are part of the circuit court. There are both full-time and part-time magistrates, more than half of whom are not lawyers. The new system replaced several layers and kinds of trial courts, including county and municipal courts and justices of the peace.

State funding has been assumed gradually; counties still pay 25 percent of the cost of those functions and items for which the state is responsible. In addition, the counties bear the total cost of facilities, witness and jury fees, and payment for indigent defense.

As in Kentucky, court reorganization and state funding took place at the same time. It was, therefore, almost impossible to separate the two during the interviews. Only a few responses related directly to funding alone.

#### General Attitudes Toward the System

Several people interviewed at the state level were of the opinion that the state funded court system was working quite well, but it was not quite as effective as one might expect. Statements were made that centralization has discouraged innovation, because it is highly structured. Changes appear to be difficult to make, but this is not entirely negative, because it has provided a period of stability during which it has been possible to implement the system. Greater flexibility is anticipated in the future.

There are both advantages and disadvantages to unification. Prior to implementation, the court structure and its operation and administration were highly fragmented. Patronage was not uncommon, and there was less flexibility in the personnel system. These conditions have been improved. Because there is better supervisory control and data collection, it is now possible to ascertain trends, resulting in better resource use and allocation.

Other changes include an improved personnel system which provides a more rational pay structure for employees. Training is provided for court personnel and judges, and it is possible to equalize the workload.

It was generally felt by those interviewed at the state level that services had improved throughout the system. Financing is more effective, and state funding has made it possible to provide uniform and equitable services. The new system provides greater accountability and increased professionalism. The system has had a budgetary increase of only six percent each year for the last three years, when the annual cost increase was eighteen percent prior to that time.

Interviewees at the local level felt that the system provides flexibility. It is easier to work with the state court administrator's office than it is to deal with numerous county commissioners. It was noted that the quality of employees has improved, and the training provided by the administrator's office contributes to their continued growth. Centralization has provided uniformity in cost practices, hiring practices, and procedural matters. The accounting system is uniform and is viewed as exceptional. There was some complaint about excessive bureaucracy. A few interviewees mentioned that they didn't realize that the new system would require such an extensive administrative apparatus.

Inability to make changes in the system was identified as a problem by some interviewed at both the state and local level. It was noted that it is difficult to initiate new programs in the middle of a fiscal year. In addition, there is a tendency for people on the local level to defer to the needs of the supreme court and the SCA, because they must consider the needs of the system and the effect of programmatic implementation on the total state. Local initiative tends to be discouraged. It was noted that this problem is one which is expected to lessen as the system becomes more mature.

Staffing problems were explained and related to the fact that very few people anticipated the amount of work which would be involved during the transition from the old to the new system. Retrospectively, it was stated that it might have been better to take time gathering ideas and information from local lawyers and judges rather than trying arbitrarily to decide on the number of circuits and circuit judges which were needed. Since this wasn't done, the system is now overjudged in some areas. In addition, it was suggested that a state administrator should have been hired immediately following the passage of the amendment rather than several months later. Earlier hiring would have avoided some transition problems.

Other problems which were cited include: the lack of accessibility of the magistrate courts; communication among the court system, local officials, and the bar; inaccurate data; need for more localized training; more field visits by members of the SCA office; and greater technical assistance, particularly in the area of budget preparation and personnel regulations.

It was generally felt that the system was able to respond quickly to situations which placed excessive demands on the courts. Cited as an example was the way in which the judiciary handled the AIM trials.

#### State - Local Relations

Some state level interviewees felt that greater communication was needed with the local courts. There are monthly meetings with the presiding judges, and they have assisted in policy-making decisions. Individual judges in the circuits are not necessarily involved, and this was a concern. In order to build credibility, it is necessary for people working in the courts to understand the problems of administering a state-wide system. Likewise, it is important that the state office understand regional and local difficulties, and state staff should spend more time in the field.

Also cited was the need to provide more information to local courts on the budgetary process and the reasons for decisions. This will become increasingly important, if the legislature moves more toward a line-item budget, and funding becomes more difficult. Adequate planning will be critical, because it may no longer be possible to revert funds. There is growing reluctance by county officials to improve or build court facilities. This is an issue that may require legislative attention in the next few years. This is another reason for more extensive local involvement in planning and the budget process.

Some local court officials stated that they wished the SCA's office was more of an advocate for the needs of the courts than it sometimes appeared to be. A more in-depth analysis of the budget and its components would be helpful. The monthly meetings of the presiding judges are thought to be very useful, particularly to avoid the feeling of dominance by the state office. It was stated that the SCA staff has been particularly helpful with audits and with the establishment of the accounting system.

Both state and local interviewees expressed the belief that there was no need to add trial court administrators in the several circuits without them. At the same time, the complaint was voiced that presiding judges have a heavy administrative burden imposed by the new system.

Complaints were heard from local court officials about purchasing practices. It's hard to get what they want, and it takes too long to get it. The need for statewide record standardization was also voiced. Trial judges interviewed indicated mixed feelings toward the SCA at the trial court level. On the one hand, they appreciate technical assistance, On the other, they fear being taken over.

### Intergovernmental Relations

Relationships with the executive branch are improving. Two years ago, there was an extensive dispute between the judicial and executive branches over which one should provide probation services, with the judiciary trying to keep this function under state funding. The judicial branch won this fight in the legislature, but it had a chilling effect on judicial - executive relationships. This is important, because the judiciary participates in the executive branch budget process and is subject to many executive branch fiscal procedures and regulations.

The judicial branch at first deviated from executive branch practices and regulations on reimbursement for travel expenses and also for payment of unused sick leave upon termination of employment. Some legislators raised questions, so the court system adopted executive branch regulations to avoid potential problems.

A number of interviewees at the state level felt that there was an excessive amount of executive branch interference, but a go-slow, cooperative attitude seems to prevail, with the hope that there will be greater comity now that some time has elapsed since the probation issue was decided.

The relationship with the legislature is better than it has been with the executive branch, although there are some legislators who are less than friendly. Part of the problem is that the judicial system has not done an adequate job in explaining its operations either to the public or to the legislature. The judicial system has become more visible to the legislature because of state funding, and this visibility has raised unjustified suspicions of the system by some legislators. Attempts at confrontation have been defused to avoid conflict.

South Dakota is experiencing some of the Proposition 13 philosophical fallout, and the appropriation process reflects this. The legislature appears to be moving more to line item appropriations and more tightly imposed funding controls and limitations.

Trial judges no longer appear before legislative committees unless requested and unless approved by the supreme court. This has caused some resentment among some trial judges, who feel removed from the process, even though there is contact at the community level.

The problem of providing facilities has already been mentioned. There is county government concern over two other issues. The first is that counties do not receive an itemized accounting of what their twenty-five percent cost

share covers. The second is that the counties are objecting to the cost of court-appointed counsel, which is still their responsibility. Whether these issues will result in a higher or expanded level of state funding cannot be determined at this time.

The chief municipal government complaint voiced was the lack of accessibility of magistrates and the resulting inconvenience caused both citizens and municipal law enforcement officers. This problem seems to have been worked out, but municipal officials would like to have closer local contact and meetings with judges and magistrates to discuss matters of mutual interest and prevent problems from arising.

APPENDICES



## APPENDIX A

### Annotated Bibliography: Articles and Books Relating to Court Funding

American Judicature Society. Financing Massachusetts Courts. Massachusetts: Massachusetts Bar Association, 1974.

"Recommendations for comprehensive reform in budgeting, court financing, and administration with the basic thrust being a unification of the financing and budgeting format for the entire state."<sup>1</sup>

American Judicature Society. Indiana Trial Courts -- Strategy for Cohesive Change. Washington, D.C.: Law Enforcement Assistance Administration, 1976.

"Final report on a project to develop a practicable organizational plan for the Indiana Trial Court System through an examination of the courts' jurisdiction, financing, functions, procedures, and staffing."<sup>2</sup>

Ashman, Allan and Parness, Jeffrey A. "Concept of a Unified Court System." DePaul Law Review 24 (Fall 1974): 1-41.

Discusses basic principles of a unified court system including state assumption of funding. The article reviews some of the factors influencing the adoption of a unified court system by a state, including the demographic features of the state, political, cultural and historical factors, and the balance of governmental power. The authors conclude with the statement that the unification concept should not be construed narrowly, but should contain the elements of both flexibility and gradual implementation.

Baar, Carl. Separate but Subservient -- Court Budgeting in the American States. Massachusetts: Heath Lexington Books, 1975.

"This study describes the budgetary processes of state court systems, analyzes trends in court budgeting, and makes recommendations for improvement in the process."<sup>3</sup>

Baar, Carl. "Limited Trend Toward State Court Financing." Judicature 58 (February 1975): 323-329

A comprehensive discussion of the problems evident in the current attempt by the courts to increase state funding and institute unitary budgeting. The article provides a table which illustrates the percentage of and identifies the increase in that funding since 1968. Baar indicates that increased state funding is the most important issue while unitary budgeting is secondary.

Baar, Ellen and Baar, Carl. "Judges as Middlemen?" Justice System Journal 2 (Spring 1977): 210-225

The article focuses on the relationship between the legislative and

the judicial branches and the ability of the courts to obtain resources needed for effective operation. A study was completed which sought to determine who is responsible for representing the interests of the judicial branch to the legislature. The authors concluded that this relationship could be hampered if persons were selected who were unable to promote an effective relationship with the legislative branch of government. It is believed that the judiciary will be unable to obtain needed resources unless more extensive communication channels are developed with the legislature.

Berkson, Larry C. "Unified Court Systems -- A Ranking of the States." Justice System Journal 3 (Spring 1978): 244-280.

"Development of a system for ranking the degree of unity and centralization in the court systems of the 50 states, based on a review of the literature, is discussed, and state rankings are presented."<sup>4</sup>

Berkson, Larry C. "The Emerging Ideal of Court Unification." Judicature 60 (March 1977): 372-381.

The author presents an historic overview of models for state court organization, rule-making authority, centralized management, court budgeting and financing. While the ideal form of court unification would appear to comprise all of these elements, the author calls for empirical examination of the consequences.

Berkson, Larry; Carbon, Susan; and Rosenbaum, Judith. "Organizing the State Courts: Is Structured Consolidation Justified?" Brooklyn Law Review 45 (Fall 1978): 1-28.

This article discusses court structure across the country and the debate over consolidation. Included in the article is discussion on the following topics: loss of localism versus flexibility, personnel problems versus efficient personnel management, and increased costs versus decreased costs.

Brennan, James T. "Judicial Fiscal Independence." University of Florida Law Review 23 (Winter 1971): 277-288.

The article discusses the implications on judicial independence resulting from legislative and executive control over the judicial budget and budgeting procedures. The conflict arises when increased demands are placed on the courts which, due to local funding and dependence on a tax structure which limits available resources, have not received adequate funding. The article explores the impact of various court decisions which have asserted the judiciary's right to fiscal independence based on its inherent powers. The author argues that such assertions, without consideration being given to the concept of checks and balances, are dangerous. The judiciary seems to ignore the constitutional duties of the other two branches of government. Effective government depends on a balanced approach in all matters, including budgetary problems.

Buckles, Stephen G. and Parkison, James M. "Cost Analysis of Court Systems: A Case Study." State Court Journal (Winter 1978): 13-20.

This article presents the experience of applying the planning-programming-budgeting system (PPBS) model to the Missouri circuit courts. Definitions of court functions and costs, data collection and interpretation, cost allocation results, and cost differences among courts are discussed.

Burke, John F. "The Inherent Powers of the Courts." Judicature 57 (January 1974): 246-250.

This article discusses O'Coins, Inc. v. Treasurer of the County of Worcester, 287 N.E. 2d 608 (1972) which involves the exercise of the inherent powers doctrine to secure needed equipment (a tape recorder) in order to allow a trial to proceed. The author outlines the procedures promulgated by the Massachusetts Supreme Court for judges wishing to exercise their inherent powers. State financing is not specifically discussed.

Burke, Louis H. "The New Standards of Judicial Administration: Time Now for Implementation." American Bar Association Journal 62 (September 1976): 1172-75.

The article reviews the work of the Commission on Standards of Judicial Administration of the American Bar Association in its formulation of standards for court organization, procedure and management. The author summarizes the changing nature of court work in the last century and the reasons for the formation of the commission. The commission's work on standards for court organization, trial courts, and appellate courts is discussed. The author believes that the approach taken by the commission enhances the probability of constructive improvements through the use of flexible principles, proven techniques and practices in judicial administration, the use of existing research and data on judicial administration, and the involvement of the entire membership in the review of the standards. With the establishment of the standards, only the issue of effective implementation remains.

Cameron, Charles Y. "Administration of the Unified Judicial System." Alabama Lawyer 38 (July 1977): 296-301.

Cameron summarizes the primary areas of responsibility of the Administrative Office of the Courts in Alabama in terms of the unified court system. The primary duties of his office are to provide budgetary, personnel and any other administrative support for the Chief Justice. Previous inequities in providing salaries and benefits for employees were rectified by the new system. In addition, a key area of responsibility for his office is in collection of management and case-load information. The data is needed for accountability and planning. He concludes with a lengthy discussion of the critical need for the court system to remain active in its own planning.

Carrigan, Jim R. Inherent Powers of the Courts. National College of the State Judiciary, (1973).

This pamphlet outlines areas of inherent powers and provides citations for further information. Areas addressed include the general rule,

the theoretical basis of inherent powers, forms of action, the scope of the power, and restrictions on the doctrine.

Clark, Tom C. "The Need for Judicial Reform." Washington Law Review 48 (August 1973): 806-810.

Justice Clark provides a critical review of the Washington State Court system. Among his criticisms are: the lack of managerial authority over the court system, the political nature of the judicial selection process, the lack of simple and effective disciplinary procedures, and the policy of judges being allowed to continue to practice law. He contends that the judicial system must improve the efficiency of its operations so injustice and public dissatisfaction are reduced.

Colton, M.S.; Fischer, V.; Jacoby, D.; Campion, W.; and Elkind, N. Court Administration in New Mexico. Virginia: National Center for State Courts, 1975.

"Studies were undertaken to examine the operation of the administrative office of the courts (AOC) in New Mexico in order to identify problem areas and recommend methods for their amelioration."<sup>5</sup>

Connors, John M. "Inherent Power of the Courts -- Management Tool or Rhetorical Weapon?" Justice System Journal 1 (Winter 1974): 63-72.

The article analyzes the Massachusetts Supreme Court decision in the case of O'Coins, Inc. v. Treasurer of the County of Worcester, 287 N.E. 2d 608 (1972). Connors argues that this action presents a credible case supporting the inherent powers of the courts but acknowledges the right of the legislature to enact laws which "declare or augment" that power as long as such legislation is reasonable. The author states that the case strengthened the administrative power of the courts in Massachusetts and that, as a result, this concept should be viewed as more than merely a tool for confrontation between the governmental branches.

"Courts of Justice, A Look at Kentucky's New Judicial System." Kentucky Legislative Research Committee, (July, 1977).

This report summarizes the essential changes which were made in the Kentucky judicial system resulting from the 1975 amendment to the state constitution. The primary changes involved creation of a unified system for operating and administering the courts. A system for merit selection of judges was developed along with a retirement and removal system. The jurisdiction and structure of all the courts was reviewed and redefined. The constitutional article provides for more flexibility.

Cox, Archibald. "The Report of the Governor's Committee on Judicial Needs." New York State Bar Journal 49 (August 1977): 374-377.

As Chairman of the Select Committee on Judicial Needs, the author defines delay and waste as the most serious problems of the courts. He cites six causes which include absence of effective management, fragmentation of jurisdiction and responsibility, failure to provide the judiciary with the tools of good management, imbalance of resources and

jurisdiction, insufficient number of judges, and lack of modern procedures and practices to govern the flow of cases. Recommendations of the committee include unification of the court system with the chief justice as executive head, creation of a state administrative office and submission of a single annual judicial budget. Also discussed are consolidation of the courts, jurisdiction changes, judicial manpower and other recommendations of the committee. Implementing legislation was filed as House Bill 4400.

"Criminal Costs Assessment in Missouri-Without Rhyme or Reason." Washington Law Quarterly 37 (1962): 76-118.

Provisions pertaining to the taxing of costs in Missouri is the primary subject of this article. The major areas addressed include the liability of state or county for costs, the liability of defendant for costs, liability of private persons, and methods of discharging liability.

Davis, Ridgway I. "Connecticut's Court Reorganization: A Move Toward Integration." National Civic Review 66 (December 1977): 547-552.

While specific information on court financing is not included in this article, the author does discuss the chronological sequence of events which led to the reorganization of the Connecticut courts. Included are stages of development and the political environment. Also discussed is the legislative concern of the fiscal impact of reorganization.

Desmond, Charles S. "Proposals for Judicial Reform in New York." Brooklyn Law Review 36 (Spring 1970): 339-41.

This article reviews suggestions for improvement of the New York judicial system which were promulgated by the 1967 New York State Constitutional Convention. Fourteen major points are listed and discussed by the author, including the recommendation that a state-wide court system be entirely financed by the state.

Ellis, D.J. "Court Reform in New York State: An Overview for 1975." Symposium in Judicial Administration; Hofstra Law Review 3 (Summer 1975): 663-700.

This article discusses court reform in New York including state financing of the judiciary. The Dominick Commission Report of 1973 recommended that one comprehensive budget be prepared by the chief administrative judge to be transmitted to the governor for submission to the legislature. The commission also proposed establishing a purpose accounting system giving the courts more discretion in allocation of funds and abolishing the detailed line-item control by the legislature. Presently, court financing is fragmented. The major courts are financed by fifty-nine different budgets while each of the villages, cities and towns have their own budgets.

Elston, James L. "Administration of the Courts in Arkansas: Challenge, Performance, and Prospects." Arkansas Law Review 30 (Fall 1976): 235-287.

Suggestions for court reform in Arkansas, including increased state funding are discussed. Presently, state support for courts in Arkansas is declining. The trial courts receive state support for judicial salaries, limited expenses and retirement benefits. Local appropriations cover approximately two-thirds of all the courts' expenditures. The

author suggests use of trial court administrators to improve the financial administration of the courts.

Erickson, Justice William H. "Will Colorado's Effort to Improve the Administration of Justice Help Montana? Montana Law Review 33 (1972): 52-62.

Justice Erickson reviews the historical problems which have confronted the court systems in the United States. He discusses in detail all of the steps which Colorado has taken to improve the judicial system including the creation of an intermediate appellate court, reorganization and unification of the system, establishment of the chief justice as executive head, creation of a judicial qualifications and disciplinary board and state funding of the courts. The author believes that confidence in the courts is essential and can be established only through a unified system and merit selection and tenure for judges.

Ferguson, Wm. Scott. "Judicial Financial Autonomy and Inherent Power." Cornell Law Review 57 (July 1972): 975-990.

The article reviews the basic standards and situations under which the judiciary has used the doctrine of inherent powers. The standards analyzed include the following: 1) practical necessity where inadequate appropriations would impair the operational effectiveness of the courts; 2) the court's power to decide its own fiscal needs and, if not reasonably met, its power to compel proper funding; 3) the responsibility of the funding body in providing for the reasonable and justifiable needs of the courts; 4) assessment of financial needs by the judiciary and the right to demand any needs it deems to be "reasonably necessary." The author notes that the standards progressed from a defensive to an offensive posture. The latest standard noted, i.e., reasonable necessity, is broader than the previous ones and includes the right to demand funds for legitimate, though non-essential, duties.

Flango, Victor E. "An Interstate Comparison of Expenditures for the Judiciary." State Court Journal (Spring 1979): 15-23.

The total state and local judicial expenditures, the percentage of state share of aggregate state and local expenditures, the total operating expenditures, the operating expenditures per capita as a percent of personal income, and general trial court salaries are compared in this article. A major theme in this article is that expenditures for the judiciary reflect the priority states place on courts.

Footlick, Jerrold K. "How Will the Courts be Managed?" Judicature 60 (August/September 1976): 78-83.

The article presents an overview of the role of the court administrator and the political environment in which he must work. The author includes interviews with an educator and with administrators. State funding is mentioned only in the context of the duties of this position.

Friesen, Ernest C. "Internal Organization and Procedures of the Courts." State Courts: A Blueprint for the Future (August 1978): 183-202.

Shifting patterns in court organization and procedures, judicial performance, court management and system finance, support staff and services, and caseload management are among the major issues addressed in this article.

Gallas, Geoff. "The Conventional Wisdom of State Court Administration: A Critical Assessment and Alternative Approach." Justice System Journal 2 (Spring 76): 35-56.

The author examines the concept of unified court systems. He disputes the value of the assumption that centralized, hierarchical, managerial control of local courts will improve operations. The author notes that centralization as a management theory is now less acceptable in business and government than it has been in the past. He stresses the need for management discretion at the local court level and the need for a planning, research and development role to be assumed by the state court administrative structure. The author recommends the use of an alternative approach (contingency theory) which deals with the complexities of court operations by considering the impact of four forces on the judicial system: environment, technology, human resources, and time.

Gazell, J.A. Future of State Court Management. New York: Kennikat Press, 1978.

The movement toward unification of state judiciaries, the progress toward statewide financing of all courts, and the emergence of state court personnel administration systems are examined.

Gazell, James A. "Lower-Court Unification in the American States." Arizona State Law Journal (1974): 653-687.

This article is a general discussion of court unification with emphasis placed on consolidation of the lower courts. Included is a table which uses 14 variables to identify states which are unified or partially unified. It also includes the names and addresses of state court administrators and administrative judges.

Gazell, James A. "State Judicial Financing: Preliminaries, Progress, Provisions and Prognosis." Kentucky Law Journal 63 (1974-75): 73-105.

This study looks at four major aspects of state judicial financing. Included is a definition of state court financing and its significance as part of the court unification movement. The various pros and cons are discussed. The article divides the sharing of court expenses into fourteen major categories and lists the involvement of each state in these categories. The author concludes with a brief prognosis of the future, stating that the movement toward even greater state assumption of judicial costs can be expected.

Grant, Ben Z. "Judicial Revision - No Sport for the Short-Winded." Texas Bar Journal 38 (October 1975): 807-814.

The author discusses the proposed Constitutional Article V which will reorganize the judicial system in Texas. At the time of writing, the judiciary accounted for three-tenths of one percent of the state budget. The new article places the responsibility for the circuit court system and the district attorneys on the state.

Greenhill, Joe R. and Odam, John W., Jr. "Judicial Reform of Our Texas Courts - A Reexamination of Three Important Aspects." Baylor Law Review 23 (Spring 1971): 204-226.

Three major aspects of court reform are discussed: a unified judiciary, selection and tenure of judges, and modern court administration.

The need for reform in these areas in the Texas judiciary is emphasized. The authors propose that a state court administrative office be established, with one of its responsibilities being the preparation and presentation of a unified budget for the entire court system. Other duties would include purchasing supplies, assuming responsibility for judicial expenditures and acting as a liaison between the legislature and judiciary in budgetary matters. The authors feel that a centralized budget would help maximize the use of judicial resources and the public's money.

Harpe, Richard F. "Kansas Court Costs: The Quality of Mercy is Strained." Washburn Law Journal 9 (1969): 87-100

This article examines the distinction between court costs and administrative expenses and explores the statutes in Kansas which ignore this distinction.

Hazard, Geoffrey C., Jr.; McNamara, Martin B.; and Sentilles, Irwin F., III. "Court Finance and Unitary Budgeting." Yale Law Journal 81 (June 1972): 1286-1301.

The article discusses the value of unitary budgeting by reviewing the reasons why undue reliance on the doctrine of inherent powers is impractical. The doctrine focuses only on obtaining funds rather than on using those funds in an efficient and effective manner. The authors contend that the financial problems of the courts are only manifestations of organizational and administrative problems. Through functional coordination of the judicial system, the budget becomes a useful tool for describing the activities of the system. Unitary budgeting constitutes a system in which all judicial costs are funded by the state in one budget and administered centrally by the judicial branch. The authors state that unitary budgeting provides a structure for establishing state-wide priorities for an otherwise fragmented court system.

Hazard, G.C., Jr., and McNamara, M.B. Court Financing and Unitary Budgeting. Washington, D.C.: American Bar Association, 1973.

"Two methods of achieving an adequate and rational judicial budget--the constitutional theory of inherent power and administrative concept of unitary budgeting."<sup>7</sup>

Heflin, Chief Justice Howell T. "The Judicial Article Implementation Act." Alabama Law Review 28 (Spring 1977): 215-241.

In 1973, Alabama adopted an amendment to its Constitution providing for changes in the judicial system. Among the numerous reforms discussed by the author is Article 16, which provides for state assumption of all court finances and expenses excluding probate and municipal courts. Full state funding was to be accomplished in three years.

Hoffman, Richard B. "New York State Court Financing: Developing the Centralized Process." State Court Journal (Winter 1979): 3-7.

Hoffman presents conclusions drawn from the reports of the



National Center for State Courts, New York State Court Financing Project. Issues addressed in this article include a description of the New York courts' budget cycle, the project approach, calculating court costs, and the role of revenue generated from the state's courts.

Institute of Judicial Administration. A Study of the Louisiana Court System. New York: March 1972.

This study makes specific recommendations for improvements in the organization and administrative structure of the Louisiana court system. The present system of financing the courts is analyzed, with recommendations made for improvement.

Irving, J.F. and Haynes, P. Report of the Special Study Team on LEAA Support of the State Courts. Washington, D.C.: Law Enforcement Assistance Administration, 1975.

"Research, findings and recommendations of a study of the structure and process by which federal support is provided, through LEAA, to the judicial components of state court systems."<sup>8</sup>

Judice, Raymond C. "The Texas Judicial System: Historical Development and Efforts Towards Court Modernization." South Texas Law Journal 14 (1973): 295-360.

An in-depth explanation of the Texas judicial system which reviews the historical environment during its inception, national trends towards court improvement, and the judicial article proposed in 1972.

"Judicial Power - The Inherent Powers of the Courts to Compel Funding for Their Own Needs." Washington Law Review 53 (Fall 1978): 331-348.

In the case of In re Juvenile Director, 87 Wn. 2d 232, 552 P.2d 163 (1976), the Washington Supreme Court held that the judiciary is empowered to set salaries when it could show by "clear, cogent, and convincing proof" that the salary increase was clearly necessary. The article analyzes the reasons for establishing this standard of proof, examines the standard and compares it with standards applied in other jurisdictions to compel funding under the doctrine of inherent powers. It also examines arguments for the liberal application of this doctrine as well as those opposed to that approach.

Kansas Judicial Study Advisory Committee. "Recommendations for Improving the Kansas Judicial System." Washburn Law Journal 13 (1974): 271-391.

The Kansas Judicial Study Advisory Committee was created to assist in the implementation of a revised judicial article and the committee's findings and recommendations are presented in this article. The organization and jurisdiction of the trial court, appellate review and procedure, the administration of the courts, the financing of the courts, and the qualifications, tenure, selection, and retirement of judges and nonjudicial personnel are among the major areas explored.

Kaufman, Honorable Irving R. "Judicial Reform in the Next Century."  
Stanford Law Review 29 (November 1976): 1-26.

While not addressing state funding specifically, this article identifies reform suggestions relating to delay and costs. Kaufman states that the courts' efficiency could be increased through adequate financing and staffing. The litigation process should be streamlined by simplifying procedures for smaller cases. Certain classes of cases should be diverted.

Kleps, Ralph N. "Can State Courts Receive Federal Help Without Federal Control?" Judicature 62 (March 1979): 370-371.

LEAA funding and the courts is the major topic of this article. Kleps addresses the issues of the helpfulness of LEAA funding and the flaws in the present LEAA program. The possibility of revenue sharing between federal and state government is discussed, along with recommendations for improving the present LEAA program.

Kleps, Ralph N. "Crisis Planning for Court Reorganization." Judicature 60 (January 1977): 268-271.

A discussion of the history and implementation of lower court reorganization in California which took effect in January 1977. The author refers to this as the first successful court reform in twenty-five years. It resulted in increased workloads for the part-time courts, law-trained judges in the justice courts, and state funding to help pay the salaries of justice court Judges.

Kleps, Ralph N. "State Court Modernization in the 1970's: Forces for Reform in California." Judicature 55 (March 1972): 292-297.

The author presents the organizational structure and funding methods of the California court system. He sees unification as having been initiated by the judicial council but identifies the need for centralized responsibility for judicial administration. To achieve efficiency in the judicial system, it must receive state funding.

Lawson, Harry O. Judicial System Finance and Administration. Report to the 46th General Assembly. Colorado, 1966.

This report addresses the factors involved in state assumption of the financial responsibility for the court system in Colorado. Several alternatives by which the state may finance the judicial system in lieu of undertaking total support are set forth in this report. Court personnel, administrative and fiscal control, court facilities, probation services, and counsel for indigent defendants are among the areas discussed.

Lawson, Harry O. Financing State Courts. Colorado: Office of the State Court Administrator, 1968.

This report presents 1970 cost estimates for the operation of

district and county courts, probation, juvenile detention, a state public defender system, and the additional budget required by the State court administrator's Office in light of state assumption of full fiscal responsibility for the Colorado judicial system.

Mabry, R.H. Expenditure Variation in the Public Provision of Judicial Service. Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1976.

"The determinants of demand for state and local judicial services are examined in a reduced forum model within a public choice framework to explain state-to-state variations in these expenditures."<sup>9</sup>

McConnell, E.B. Blueprint for the Development of the New Jersey Judicial System. Illinois: American Judicature Society, 1969.

"A review of the current New Jersey court system and plans for improving specific aspects of court structure, the judiciary, court personnel, facilities, financing, court management, calendaring, and probation."<sup>10</sup>

Miller, Linda L. "An Inevitable Clash of Power? Determining the Proper Role of the Legislature in the Administration of Justice." South Dakota Law Review 22 (Spring 1977): 387-406.

This article examines the rule-making section of the 1972 constitutional amendment for South Dakota. The author notes that the amendment granted the legislature authority in the administration of the judiciary by giving it authority to make rules for the court system. The extent and limits of that rule-making power are analyzed in detail. It is unclear which branch of government has final authority over judicial rules. Due to the limited resources available in a small state like South Dakota, the author believes that both branches should be able to modify any court rules which may be promulgated by the other branch.

National Criminal Justice Information & Statistics Service. Historical Statistics on Expenditure and Employment for the Criminal Justice System. Washington, D.C.: Law Enforcement Assistance Administration, 1975.

"This report provides expenditure data for fiscal years 1970-71, 1971-72, and 1972-73, and employment data for the month of October in 1971, 1972, and 1973."<sup>11</sup>

National Center for State Courts. Administrative Unification of the Maine State Courts. Colorado: Denver, 1975.

This report discusses recommendations and proposes statutes and rules to effectuate the proposed recommendations for administrative unification of the Maine state courts. Areas addressed include the following: state financing, judicial regions, facilities, and a central administrative office.

National Center for State Courts. State Courts: A Blueprint for the Future. Williamsburg, 1978.

This volume contains the proceedings from the conference, "State Courts: A Blueprint for the Future," held in March 1978 which brought together persons of diverse backgrounds and perspectives to consider major problems in court reform and solutions to these problems. The monographs presented at this conference and the discussions which took place are documented in this volume. Several of the monographs included concern court financing.

Novak, John E. "Courts and the American System of Government." State Courts: A Blueprint for the Future. (August 1978): 143-174.

This article discusses in depth three major topics: separation of powers, modification of the civil and criminal litigation system, and federalism. The lack of adequate court financing systems and the danger current financing systems pose to the independency and efficiency of state courts is discussed at length.

Reavley, Thomas M. "Court Improvement: The Texas Scene Updated." Texas Tech Law Review 9 (1977): 67-87.

This article reviews the various studies and proposals for restructuring the Texas judicial system since the Chief Justice's Task Force for Court Improvement presented a revision of the Judicial Article of the Texas Constitution in 1973. The author argues that the approach to the problems of the Texas judiciary has been piecemeal and, therefore, ineffective. He believes that the state trial courts must be treated as a single unit as must the entire appellate courts. The studies mentioned in the article should be used to confront the problems of the judicial system.

Rieke, Luvern V. "Unification, Funding, Discipline and Administration: Cornerstones for a New Judicial Article." Washington Law Review 48 (August 1973): 811-838.

This report explores provisions of the 1973 proposed judicial article for the Washington Constitution. The article highlights four aspects which include the unified judicial system, state funding of the judicial system, management and administration by the supreme court, and judicial selection and tenure. The author concludes that unification is a pre condition to the implementation of the other issues. The types of problems associated with local funding of the courts are examined. The article also discusses the historical and traditional reasons for judges' resisting administration. The need for adequate administrative support for the chief justice is stressed.

Roush, Charles D. "Financing the Judiciary: Time for a New Approach." Arizona State Law Journal 4 (1974): 639-651.

Lack of recognition of the judiciary as a separate and co-equal branch of government accounts for much of the inability of the judiciary to cope with modern problems and caseloads. Judges are hampered in their desires to update and modernize courts because of lack of funds.

The author discusses the need for greater legislative awareness of the financial needs of the courts, and proposes that total financial independence would enable judges properly to administer the judiciary.

Saari, David J. "Modern Court Management: Trends in Court Organization Concepts--1976." Justice System Journal 2 (Spring 1976): 19-33

The author is critical of the ABA Standards Relating to Court Organization and argues that they promote more bureaucracy and less flexibility. Saari maintains that the standards focus on the outdated closed-system model of organizations which has clear rules that govern decisions and behavior of all people in the organization. He contends that an open-system perspective should be taken in which the organization and its environment are seen as interdependent. This allows for greater flexibility and discretion. This perspective stresses the uncertainty which organizations face and the need to make adjustments through cooperative decision-making. Because of the nature of the courts, Saari believes that the open-system can best deal with the problems faced by the judiciary.

Saari, David J. "An Overview of Financing Justice in America." Judicature 50 (May 1967): 296-302.

In this article, Saari addresses court expenditures by states and localities, the tensions between taxpayers and litigants, and inter-governmental relations in financing justice. Courts as tax collectors and revenue producers are also discussed.

Scott, I.R. "Court Administration." Australian Law Journal 50 (January 1976): 30-36.

A comparative analysis of the implementation of court reform and judicial administration in England and Wales, Australia and the United States is presented in this article. Legislation cited includes the Victorian Courts Administration Bill 1975 which created the Office of Director of Court Administration in Australia and the Courts Act 1971 authorizing the Lord Chancellor to create a unified court service with trained personnel for the courts of England and Wales. Also included is a discussion of the LEAA Report on Courts (1973) and the ABA Report on Court Organization produced by the association's Commission on Standards Relating to Judicial Administration. Following an explanation of the need for court reform, a general summarization of the results is given.

Skoler, Daniel L. "Financing the Criminal Justice System." Judicature 66 (June/July 1976): 33-38.

The author presents a comparative analysis of the criminal justice fiscal reforms proposed by the President's Commission on Law Enforcement and Administration of Criminal Justice, the Advisory Commission on Intergovernmental Relations, the National Advisory Commission on Criminal Justice Standards and Goals and the ABA. He further examines the impact of these recommendations on state and local governments demonstrating that, if implemented, the state costs would nearly double while local expenditures would be reduced by 40%. The summarization presents advantages and disadvantages.

Special Society Report. "State Court Progress at a Glance." Judicature 56 (May 1973): 427-430.

This is a report of a survey conducted in 1973 delineating the make-up of state court systems in the following areas: merit plan, mandatory retirement age, judicial service after retirement, unified court system, unified bar, judicial compensation commission, office of state court administrator, 1972 ABA Code of Judicial Conduct and the rules of criminal and civil procedure. The existence or absence of these items is presented in a summary table.

Spector, Phillip L. "Financing the Courts Through Fees: Incentives and Equity in Civil Litigation." Judicature 58 (February 1975): 330-339.

This article explores several alternatives available for financing court systems from a no-fee and fully public-financed system to a system with high, cost-related fees.

State and Local Financing of the Courts. New York: New York University Institute of Judicial Administration, 1969.

"Report on Survey of state courts' budgetary systems, including roles of state and local governments, projects funded, and budgetary procedures."12

"State Court Assertion of Power to Determine and Demand Its Own Budget." University of Pennsylvania Law Review 120 (1972): 1187-1209.

This article reviews the effect of the Pennsylvania Supreme Court decisions in Commonwealth ex rel. Carroll v. Tate, 442 Pa. 45, 274 A. 2d 193, cert. denied, 402 U.S. 974 (1971) and Glancey v. Casey, 447 Pa. 77, 288 A. 2d 812 (1972). The author believes the long-term effects of Tate could be negative and that other courts should be wary of using the same approach. The article suggests four alternatives to a Tate argument: 1) reassign the courts from local to state funding in which a broader, more uniform tax base is available for their support; 2) create procedures which facilitate communication and cooperation between the judiciary and other branches; 3) remove judges from local politics; 4) realize that budgeting involves competition among governmental agencies for public funds and use an effective lobby such as the bar to obtain funds.

Strickler, Roberta. "Managing the Courts' Money: Financing Massachusetts Courts." Judicature 57 (May 1974): 450-455.

A study of funding and budgeting in Massachusetts performed by the American Judicature Society is discussed. It was recommended that the state assume all court costs and establish unitary budgeting in three phases over a three to five year period: Phase 1: State assumption of costs for the supreme, appeals, land and superior courts; Phase 2: State assumption of probate court costs; Phase 3: State assumption of district, municipal, juvenile and housing courts. The article presents a summarization of the problems with which court systems must deal in the process of reorganization.

Sweet, Linda F. "Anatomy of a 'Court Reform'." Judicature 62 (June/July 1978): 37-43.

While this article does not deal with state funding per se, it provides insight into the process involved in the defeat of the Proposal 13, Tennessee's proposed judicial article. The author follows the constitutional amendment from its inception to its demise and concludes that its defeat may have represented a victory for court reform in that state.

Tobin, Robert. Trial Court Management Series: Financial. American University Court Management Project. Washington, D.C., 1979.

This report is one of three reports in the Trial Court Management Series and gives an overview of court financial management and assesses the scope and effectiveness of financial management in a trial court. A significant portion of the report is dedicated to trial court budgeting including sections on budgetary guidelines, review of budget submissions, financial policy and strategy and budgetary presentation and monitoring.

Tolman, Leland L. "The Taxpayers' Stake in the Courts." The Annals of the American Academy of Political and Social Science 287 (May 1953): 127-140.

Tolman discusses the cost of the federal, state, and local court systems in this article. The main items of expense in the courts and determining cost per case are explored.

Ulbrich, H.H. and Maloney, M.T. Economic Investigation of State and Local Judicial Services -- Final Report. Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1976.

"Final report of a project established to conduct a systematic inquiry into the provision of judicial services by state and local governments."<sup>13</sup>

U.S. Department of Commerce, Bureau of the Census. Criminal Justice Expenditure and Employment for Selected Large Governmental Units 1967-68. Washington D.C., 1970.

"Financial statistics and personnel data on the police protection, judicial, and correctional activities of federal, state and selected large local governments."<sup>6</sup>

U.S. Department of Commerce, Bureau of Census. Expenditure and Employment Data for the Criminal Justice System 1976. National Criminal Justice and Statistics Service.

This document contains statistics on judicial expenditure by character and object, state, and type of government. Also included are statistics on direct current expenditures for judicial activities of state governments and judicial employment and payroll statistics.

Vanagunas, Stanley. "Sharing Crime Control Funds." Public Administration Review 32 (March 1972): 127-134.

An explanation of the 1971 Law Enforcement Revenue Sharing Act, including a discussion of the major changes in the Safe Street Act: comprehensive planning, special revenue sharing payments to local units of government, matching requirements and maintenance of effort. The article does not include specific information on state funding of courts.

#### OTHER ARTICLES

American Judicature Society. Modernizing Louisiana's Courts of Limited Jurisdiction: A Research Project in Conjunction with the Judicial Administrator, Louisiana Supreme Court. Chicago: American Judicature Society, 1973.

Arizona University. Twenty-second Arizona Town Hall on the Adequacy of the Arizona Court System, April 8-11, 1973, Research Report. Arizona: Arizona Academy, 1973.

Coldsnow, Robert A. "Court Unification--Judicial Reform Revisited--Part III." Journal of the Kansas Bar Association 45 (Summer 1976): 117-124.

Commission on Local Government. State Assumption of Costs for District Courts and Operations. Montana: Local Government Review Bulletin, 1977.

Kaufman, I.R. "Court Crisis: A Matter of Volume and Money." Judges' Journal 10 (1971): 49-51.

"Kentucky's New Court System: An Overview." Kentucky Bench and Bar 41 (April 1977):13.

Maine Legislative Research Committee. "Report on County Government and State Funding of the Court to the One Hundred and Sixth Legislature." Summary Report to the One Hundred and Sixth Legislature. 2 (January 1973): 30-62.

Martin, R. "Alabama's Courts -- Six Years of Change." Alabama Lawyer 38 (January 1977): 1-23.

"Massachusetts Citizen's Conference on Improving the Administration of Justice; Newton, Massachusetts, March 23-25, 1972-- A Summary of Discussions and Consensus Statements." Boston Bar Journal 14 (May 1972): 13-17.

New York State Commission on City Finances. State Assumption of Court, Probation and Correction Services in New York. New York: New York Temporary Commission on State and Local Finances, 1975.



Reath, H.T. Fiscal Freedom for the Courts: Separation of Powers Revisited.  
Philadelphia: 1972.

"State and Local Agencies Fund 90% C.J. Costs." Criminal Justice News-  
letter (November 1975): 4-5.

State Court Management Task Force. Unified Court System Budgeting Report.  
New York: Economic Development Council of New York City, 1974.

Utah Legislative Council. Utah Courts Tomorrow: Report and Recommendations  
of the Unified Court Advisory Committee. Salt Lake City: 1972.

Virginia Court System Study Commission. "The Court System of Virginia:  
A Report by the Virginia Court System Research Project." Report to the  
Governor and the General Assembly of Virginia, 1971.

#### FOOTNOTES

1. National Criminal Justice Reference Service, Court Budgets (Washington,  
D.C.: Law Enforcement Assistance Administration, 1978), p. 35.
2. Ibid., p. 83.
3. Ibid., p. 79.
4. Ibid., p. 115.
5. Ibid., p. 114
6. Ibid., p. 5.
7. Ibid., p. 21.
8. Ibid., p. 65.
9. Ibid., p. 108.
10. Ibid., p. 41.
11. Ibid., p. 62.
12. Ibid., P. 4.
13. Ibid., p. 90.

APPENDIX B  
STATE PROFILES

ALABAMA

I. General

A. Population (1976 estimate)	3,655,000
B. Square Miles	51,609
C. Number of Counties	67
D. S.M.S.A.'s	Birmingham 803,200
	Mobile 416,600
	Huntsville 288,200
	Montgomery 253,000
	Florence 123,800
	Anniston 113,600
	Gadsden 96,200

II. Courts

A. Appellate Courts

1. Court of Last Resort: Supreme Court - 9 justices
2. Intermediate Court: Court of Criminal Appeal - 5 justices  
Court of Civil Appeal - 3 justices

B. Trial Courts

1. General Jurisdiction - Circuit Court, 39 circuits, 112 judges
2. Limited Jurisdiction - District Court, 66 circuits, 89 judges
3. Special Courts - Probate Court, 67 circuits, 67 judges
4. Municipal Courts - 212 judges

C. Method of Judicial Selection

1. Appellate Courts
  - a) Last resort - partisan election
  - b) Intermediate - partisan election
2. Trial Courts
  - a) General jurisdiction - partisan election
  - b) Limited jurisdiction - partisan election
  - c) Special courts - partisan election
  - d) Municipal judges - city governing body appoints

D. Superintending Authority

1. The Chief Justice is the administrative head.
2. Justices of the Supreme Court have the power to review, countermand, override or amend any administrative decision by the Chief Justice or State Court Administrator.

E. Rule-Making Authority

The Supreme Court makes rules governing administration, practice, and procedure

## ALABAMA

### F. Selection of the Chief Justice.

Elected by other judges for 6 year term.

### G. Selection of Chief or Presiding Judge

1. General jurisdiction - In the circuit court he is elected by his peers for a 3-year term.
2. Limited jurisdiction - In district court he is appointed by the presiding circuit judge with advice and consent of the other circuit judges, 1 year term.

### H. Authority of Chief or Presiding Judge

The Circuit Court exercises general supervision over all other courts. The Presiding Judge has general supervision of the District Court subject to Supreme Court rule and the administrative authority of the Chief Justice. The Presiding Judge assigns judges within the circuit and exercises general supervision over all judges and court personnel except employees of the Clerk.

### I. Clerks of Court

1. Elected at circuit level.
2. Appointed in probate court by the judge.
3. If position exists on the district level, appointment is by the State Court Administrator with the advice and consent of district judges.

### J. State Court Administrator

1. Appointed by Chief Justice.
2. Duties - By statute:
  - a) Responsible for trial court administration unless the Chief Justice otherwise directs.
  - b) Collect fiscal and statistical data.
  - c) Determines state of dockets, evaluates practices and procedures and makes recommendations concerning the number of judges and other personnel.
  - d) Describes uniform administration and business methods, systems, forms and records.
  - e) Prepares and submits budget recommendation except for Appeals Court.
  - f) Investigates and makes recommendations for facilities.
  - g) Purchases and distributes equipment, books, etc.
  - h) Other duties as assigned.

### K. Trial Court Administrator

1. Appointed by the presiding circuit judge
2. Duties prescribed by the Presiding Circuit Judge and State Court Administrator.

## ALABAMA

### III. Funding

#### A. Appellate Courts

1. Court of last resort are state funded in the following areas; personnel, travel, capital outlay, facilities, operating expense, law library, and affiliated agencies identified as consisting of the Judicial Inquiry Commission, Judicial Compensation Commission, Judicial Conference and the Judicial System Study Commission.
2. Intermediate appellate courts are state funded in the same areas with the exception of affiliated agencies.

#### B. Trial Courts

1. Both the general jurisdiction and limited jurisdiction courts were state funded in the following areas;
  - a) personnel
  - b) travel
  - c) capital outlay
  - d) facilities
  - e) operating expenses
  - f) public defender system
  - g) jury fees
  - h) witness fees
  - i) indigent transcripts
  - j) sanity exam
  - k) service of process
  - l) law libraries
  - m) automated data processing
2. Probate (special court) and Municipal Court are locally funded with the exception of the public defender system in the Municipal Court.

#### C. State Administrative Office

The State Administrative Office receives state funds for the following: personnel, travel, capital outlay, facilities and all other functions.

#### D. Court Services

The following court services receive no funding under the judicial branch: adult and juvenile probation; juvenile detention; community corrections; purchase of services; domestic relations counseling and friends of the court.

### IV. Fine and Fee Distribution (State vs. Local)

The fine and fee distribution for appellate courts, i.e., last resort and intermediate is 100% state. In the Trial Courts of general and limited jurisdiction fines and fees are 80% state and 20% local. Special trial courts' fines and fees are 100% local. Municipal courts are also 100% local.

## ALABAMA

### V. Budget and Appropriation Procedures

- A. Initial preparation is done manually. For trial courts, initial preparation is done centrally. Each appellate court does its own.
- B. Final preparation is described as central preparation including modification or reduction of unit requests. Both the State Court Administrator and the Chief Justice have initial and final authority for central budget modification and reduction.
- C. Budget submission is to the executive branch which may recommend changes in the judicial budget. The changes are not binding on the legislative authority for the executive branch's role comes from practice and tradition. Determined by legislative rule, the committee of initial reference is the joint Budget or appropriations committee. Budget hearings are held before joint Appropriation Committee and Appropriation Committees in each House. Floor action changes in the form of reductions are usually made in committee recommendations.
- D. The final type of appropriation is usually program budget. The legislature does not limit F.T.E.'s. When the appropriation is less than the budget request, reallocation for the Trial Courts is determined by the State Court Administrator and the Chief Justice. Each Appellate Court has its own operation.
- E. Supplemental Appropriations are sometimes requested. In FY '78 supplemental appropriation equalled \$500,000.

### VI. Fiscal Administration

#### A. Executive Branch Involvement

The judicial branch's authority and responsibility are limited. The judicial branch uses the same chart of accounts as executive branch and its accounting system is integrated with the executive branch system.

The judicial branch maintains its own inventory records, has its own payroll and personnel records and procedures, and uses executive branch payroll procedures and payroll personnel record system. The basis for judicial branch authority and responsibility is the constitution and statutes.

#### B. Internal Judicial System Fiscal Authority and Responsibility

The State Court Administrator and Chief Justice have overall fiscal authority and responsibility and promulgate systemwide fiscal rules. All financial and personnel records are automated and maintained centrally except leave records. The judicial system payroll is prepared centrally with appellate courts preparing their own. All appropriated funds are retained centrally.

## ALABAMA

### C. Capital Outlay Purchasing Procedures

There is central authority to prescribe standardized forms, specifications for furniture, and uniform court records and procedures. Authority is exercised by the State Court Administrator, Chief Justice and the Supreme Court.

### D. Travel Authorization and Reimbursement

1. Central prior authorization for out-of-state travel is required for judges and other categories of personnel. The State Court Administrator and Chief Justice exercise this authority.
2. Local prior authorization is required for in-state travel for other categories of personnel. The chief or presiding judge has authorizing authority.
3. No prior authorization is required for in-state travel by judges.
4. Central approval and central payment of in-state and out of state travel reimbursement occur for judges and other categories of personnel.

### E. Pre, Internal and Post Audits

1. Pre Audit - central office has responsibility.
2. Post Audit - performed by the legislative auditor every 2 years.

## ALASKA

### I. General

A. Population (1976 estimate)	382,000
B. Square Miles	586,412
C. Number of Counties	29
D. S.M.S.A.'s	Anchorage 167,500

### II. Courts

#### A. Appellate Courts

1. Last Resort - Supreme Court, 5 justices

#### B. Trial Courts

1. General jurisdiction - Superior, 4 circuits, 20 judges
2. Limited jurisdiction - District
3. Magistrates - 55 judges

#### C. Method of Judicial Selection

1. Appellate Courts
  - a. Merit appointment
2. Trial Courts
  - a. Merit appointment

#### D. Superintending Authority

1. General Superintending Authority - Supreme Court
2. Rule Making Authority - Supreme Court
3. Selection of Administrative Justices and Judges
  - a. Chief Justices - elected by justices, 3 year term
  - b. Chief or Presiding Judges - general jurisdiction - appointed by Chief Justice, 1 year term, may repeat

#### E. Authority and Responsibility of Chief Judges

Authority and responsibility of chief or presiding judges - by court rules the chief or presiding judge supervises the administration of court units within his district.

#### F. State Court Administrator

1. Appointed by Supreme Court
2. Duties and responsibilities by court rule, the State Court Administrator has broad power to oversee all administrative aspects of trial court operations, including personnel, budget, calendaring, space management, etc.

#### G. Trial Court Administrator

1. Appointed by vote of judges within the district.
2. Responsibilities and duties - Presiding judge establishes

## ALASKA

job description for the trial court administration.

### H. Clerks of Court

#### 1. Appointed

## III. Funding

### A. Appellate Courts

State funding for the Supreme Court includes personnel, travel, capital outlay, facilities, operating expense, and law library.

### B. Trial Courts

State funding for the general jurisdiction trial court includes personnel, travel, capital outlay, facilities, operating expenses, court appointed counsel, jury fees, witness fees, indigent transcripts, sanity examinations, law libraries and automated data processing.

### C. State Administrative Office

The State Administrative Office is state funded for personnel, facilities, and capital outlay.

## IV. Distribution of Fines and Fees

100% of the fees for the appellate court are state.

90% of fines for the general jurisdiction trial court are state and 100% of the fees are state. 100% of the fees for the appellate court go to the general fund. 100% of the fines and fees for the general jurisdiction court go into the general fund.

## V. Budget and Appropriation Procedures

### A. Initial Preparation

The basic budget request is prepared manually. Both the central and local levels take part in the preparation. The local unit reviews the budget and makes changes or additions, and provides justification. Changes or additions made by the local unit must be accepted at the central (state) level.

### B. Final Budget Preparation

At the final stage, central preparation includes modification or reduction of unit requests. Final authority for central budget modification or reductions rests jointly with the State Court Administrator and Supreme Court.

### C. Budget Submission

The budget is not submitted to the Governor in the traditional



## ALASKA

sense. The budget is sent to the Governor for inclusion in the state budget. He passes it on intact without any comments. The executive branch may not recommend changes in the judicial budget. Authority for the executive branch's non-involvement is derived from agreement and practice and tradition.

The legislative committees of initial referral consist of the House and Senate Appropriation Committees as determined by statute. The budget hearings are held before these committees with the State Court Administrator and State Court Administrator's staff present. Floor action never changes committee recommendations.

### D. Final Appropriations

The type of final appropriation is lump sum. Also, the legislature can place limits on the number of employees that may be hired. When the appropriation is less than the budget request, the State Court Administrator determines reallocation through needs reassessment.

### E. Supplemental Appropriations

Supplemental appropriations are sometimes requested. In FY '79, a supplemental appropriation of \$581,000 was requested. In FY '78 no supplemental funds were requested.

## VI. Fiscal Administration

### A. Judicial Involvement in Fiscal Administration

The judicial branch's authority and response are limited. The judicial system does not have its own accounting system. The judicial branch uses the executive branch's accounting system, but is not subject to executive branch controls and procedures. Although the judicial branch has its own purchasing procedures, it sometimes uses the state purchasing offices. The judicial branch uses the executive branch's inventory and control system and procedures. The basis for judicial branch authority and responsibility is the constitution, statutes, supreme court order and practice and tradition. The judicial branch has considerable latitude, including, but not limited to, transfer of funds.

### B. Executive Branch Involvement in Judicial Fiscal Administration

The executive branch prescribes accounting systems and procedures. The executive branch's authority for involvement is derived from the constitution, statutes, administrative rule, and practice and tradition. The use of executive branch rules and procedures has

proven convenient for the judicial branch, and there has been no executive branch interference with internal operations and policies.

C. Internal Judicial System Fiscal Authority and Responsibility

Overall fiscal authority and responsibility is exercised by the State Court Administrator who also promulgates system-wide fiscal rules. The State Court Administrator also has authority for transferring funds among local units, as well as furniture, equipment, and court personnel (other than judges). Transfers of furniture, equipment and personnel may be permanent. Revenue, expenditure accounting and personnel records are maintained centrally. Trust fund records are maintained locally. The judicial payroll is prepared centrally. Centralized authority also exists to prescribe standardized forms and uniform court records and procedures.

D. Travel Authorization and Reimbursement

Central prior authorization is required for travel in-state and out of state for judges. Local authorization is required for in-state and out of state travel for other categories of personnel. Central approval and central payment of in-state and out-of-state travel for judges and other categories of personnel is required.

E. Pre, Internal and Post-Audits

The central office has responsibility for pre-audits. The judicial system has its own internal auditors. The legislative auditor performs the post-audit.

## COLORADO

### I. General

A. Population (1976 estimate)	2,583,000
B. Square Miles	104,247
C. Number of Counties	63
D. S.M.S.A.'s	Denver/Boulder 1,442,500 Colorado Springs 285,700 Pueblo 124,500 Fort Collins 120,700 Greeley 108,900

### II. Courts

#### A. Appellate Courts

1. Last Resort - Supreme Court, 7 justices
2. Intermediate - Court of Appeals, 3 circuits, 10 judges.

#### B. Trial Courts

1. General jurisdiction - District, 22 circuits, 105 judges
2. Limited jurisdiction - County, 63 circuits, 89.25 judges
3. Special courts - Superior, 1 circuit, 1 judge  
Probate, 1 circuit, 1 judge  
Juvenile, 1 circuit, 3 judges

#### C. Method of Judicial Selection

1. Appellate Courts
  - a) Last Resort - merit appointment
  - b) Intermediate - merit appointment
2. Trial Courts
  - a) General jurisdiction - merit appointment
  - b) Limited jurisdiction - merit appointment
  - c) Special Courts - merit appointment
  - d) Municipal Judges - selected by city/county councils.

#### D. Superintending Authority

1. General Superintendent Authority - Chief Justice
2. Rule Making Authority - Supreme Court

#### E. Selection of Administrative Justices and Judges

1. Chief Justice - selected by justices of Supreme Court, serves at pleasure of the majority of the court with no specified term.

## COLORADO

### 2. Chief or Presiding Judges

- a) General jurisdiction - appointed by Chief Justice, serves at pleasure of Chief Justice, no specified term.
- b) Limited jurisdiction - appointed by local Chief Judge, serves at his pleasure, no specified term.

### F. Authority and Responsibility of the Chief or Presiding Judges

Authority prescribed by Chief Justice consists of general administrative authority over the judicial district including assignment of judges, staff and overall budget and personnel responsibilities.

### G. State Court Administrator

1. Appointed by the Supreme Court, majority vote.
2. Position created by statute.
3. Responsibilities and duties include anything delegated by the Chief Justice pursuant to the guidelines and directives of the Chief Justice and Supreme Court.

### H. Trial Court Administrator

1. Appointed by Chief Judge of the judicial district.
2. Responsibility and duties - responsibilities delegated by Chief Judge of judicial district; evaluates needs of the district and makes recommendations for changes; planning; supervision of staff; directs budget and payroll; disseminates information on rule changes; source of support for clerks's office operation.

### I. Clerks of Court

1. Appointed.
2. Responsibilities and duties include: document processing, calendaring, record keeping; jury process; registry accounting; inventory; witness; litigants; personnel, etc.

## III. Funding

### A. Appellate Courts

The following functions are state funded for both courts of last resort and intermediate courts; personnel, travel, capital outlay, facilities, operating expense, and law library. The court of last resort is also funded for the Judicial Nominating Commission, Commission on Judicial Qualification, Annual Judicial Conference, and Jury Instruction Revision.

### B. Trial Courts

The following functions are state funded for the general jurisdiction, limited jurisdiction, and special courts; personnel, travel, capital outlay, facilities, operating expenses, court appointed counsel, jury fees (with the exception of the limited jurisdiction court), witness fees, indigent transcripts, sanity exam, service of process, law libraries and automated data processing.

## COLORADO

### C. State Administrative Office

The following functions are state funded; personnel, travel, capital outlay, facilities, judicial conferences, education and training, and retired judges.

### D. Court Services

Adult probation, juvenile probation, and psychiatric services are state funded in the following areas; personnel, travel, capital outlay, and operating expenses.

## IV. Budget and Appropriation Procedures

### A. Initial Preparation

1. Basic budget request is centrally prepared using automated data processing.
2. The local unit reviews, makes changes or additions, and provides justifications.

### B. Final Budget Preparation

1. Central modification occurs, including modification or reduction of unit requests. Initial authority for modification or reduction is with State Court Administrator, final authority rests with Chief Justice.

### C. Budget Submission

1. To the executive branch for review hearing.
2. Executive branch may recommend changes.
3. Executive branch's authority for involvement or non-involvement derived from constitution.
4. Legislative committee of initial referrals is joint budget or appropriations committee as determined by statute.
5. The legislature does not have to consider the Governor's recommendations.
6. Budget hearings held before joint appropriations committee with State Court Administrator, State Court Administrator's staff and Chief Justice present.

### D. Final Appropriations

1. Type - categorical, line item.
2. Judicial branch has limited authority to transfer funds

### E. Supplemental Appropriations

1. Always requested, in particular for court appointed counsel because of an insufficient base.
2. FY '79, \$2,837,584 requested  
FY '78, \$ 979,969 requested
3. FY '79, \$1,699,531 appropriated  
FY '78, \$ 488,904 appropriated

## COLORADO

### VI. Fiscal Administration

#### A. Executive Branch Involvement

1. Judicial branch has total authority for fiscal administration.
2. Judicial branch has its own fiscal rules which are similar to executive branch's.
3. Basis for judicial branch authority and responsibility is constitution and statute.
4. Basis for executive branch control or involvement is statute.

#### B. Internal Judicial System Fiscal Authority and Responsibility

1. By delegation from the Chief Justice, the State Court Administrator exercises overall fiscal authority and responsibility.
2. State Court Administrator exercises central authority to transfer funds among local units.
3. Financial and personnel records that are automated; staffing pattern, payroll, budget, equipment inventory, jury system, alimony and support. Local records are mainly manual.
4. Central records - all personnel files, accounting and overall budget information.
5. Funds for some purposes are distributed to local units for direct expenditure.

#### C. Pre, Internal and Post Audits

1. Central office has responsibility for pre-audit.
2. Judicial system has own internal auditors who report to the State Court Administrator. Internal auditor's functions; performance and fiscal audits, special investigations.
3. Post audits performed by legislative audit committee annually and includes performance audit.
4. Performance audit covers adherence to legislative intent on statutes, strict adherence to procedures. Performance audits usually do not look at efficiency.

## CONNECTICUT

### I. General

A. Population (1976 estimate)	3,117,000
B. Square Miles	5,009
C. Number of Counties	0
D. S.M.S.A.'s	
	Hartford-New Britain- Bristol
	1,060,400
	Bridgeport-Stamford-- Norwalk-Dansbury
	801,500
	New Haven, West Haven, Waterbury, Meriden
	761,000

### II. Courts

#### A. Appellate Courts

1. Last Resort- Supreme Court - 6 justices
2. Intermediate - Superior Court - 3 part-time judges (appellate division)

#### B. Trial Courts

1. General jurisdiction - Superior Court, 11 districts, 113 judges
2. Limited jurisdiction- none
3. Special Courts- Probate, 130 districts, 130 judges (locally funded)

#### C. Method of Judicial Selection

1. Last Resort - nominated by Governor and appointed by legislature
2. Intermediate - appointed by Chief Court Administrator from Superior Court bench
3. General jurisdiction - same as Court of Last Resort
4. Special Court - non-partisan election

#### D. Superintending Authority

1. Rule Making Authority
  - a. Administrative rules prescribed by Chief Court Administrator. Supreme court and superior court adopt their own procedural rules. A joint supreme court - superior court committee considers proposed rule changes and makes recommendations to the respective courts.
2. Selection of Administrative Justices, Judges
  - a. Chief Justice - nominated by Governor, appointed by legislature for 8 year term.
  - b. Administrative and Presiding Judges - appointed by Chief Court Administrator

#### E. State Court Administrator

1. Usually is a member of Supreme Court although a statute now makes

it possible to have a State Court Administrator who is not a justice of the court. The State Court Administrator is appointed by and serves at the pleasure of the Chief Justice. The incumbent was appointed by the governor for a full term.

2. Duties:

- a. Administrative director of judicial department
- b. Issues orders, requires reports, assigns judges and non-judicial personnel
- c. Appoints all administrative staff to serve at his pleasure
- d. Responsible for budget preparation and fiscal administration

F. Clerks of Court

Appointed

III. Funding

A. Appellate Courts

State funding for the court of last resort includes: personnel, travel, capital outlay, facilities, operating expenses, and law library. With the deletion of the law library, the categories are the same for the intermediate court.

B. Trial Courts

The general jurisdiction court is funded for the following: personnel, travel, capital outlay, facilities, operating expenses, court appointed counsel, jury fees, witness fees, indigent transcripts, sanity exam, service of process and automated data processing.

C. State Administrative Office

Funded for personnel, travel, capital outlay and facilities.

D. Court Services

Adult probation, juvenile probation, juvenile detention, domestic relations counseling are state funded for the following: personnel, travel, capital outlay, facilities and operating expenses.

IV. Fines and Fees

A. Appellate Courts

Last resort and intermediate: 100% general fund

B. Trial Courts

General jurisdiction 100% general fund

C. Court Services

Adult probation, juvenile probation, and juvenile detention 100% general fund



## CONNECTICUT

### D. Fines

The town where a traffic offense is committed receives 25% of the fines, except parking violations, for which the town receives 100%.

## V. Budget and Appropriation Procedures

### A. Initial Preparation

1. Basic budget request manually prepared at the central level.
2. Central acceptance, modification is made without further pre-submission contact with local unit.

### B. Final Preparation

1. Central preparation including modification or reduction of unit requests.

### C. Budget Submission

1. To executive branch
2. Executive branch may recommend changes that are not binding on legislature.
3. Authority for executive branch involvement or non-involvement is statutory.
4. Legislative committees of initial referral are joint budget or appropriations committee. Determination is by statute.
5. Budget hearing before joint appropriations committee with State Court Administrator and State Court Administrator's staff and Chief Justice present.
6. Occasionally, changes made in committee recommendations on the floor.

### D. Final Appropriation

1. Form - line item.
2. Legislature places limits on funded positions that can be hired.
3. Finance Advisory Committee made up of executive and legislative branch representatives must approve transfer of funds.
4. No formal reallocation procedures.

### E. Supplemental Appropriation

1. Sometimes requested.
2. FY '79 \$1.6 million will be expended.

## VI. Fiscal Administration

### A. Executive Branch Involvement

1. Judicial branch's authority and responsibility limited.
2. Judicial branch uses same but expanded chart of accounts as executive branch.
3. Accounting system is integrated but expanded with executive branch system.
4. Judicial branch has own purchasing procedures and maintains its own inventory records and controls.

## CONNECTICUT

5. Basis for judicial branch authority and responsibility: constitutional, statute, and practice and tradition.

### B. Internal Judicial System Fiscal Authority and Responsibility

1. State Court Administrator exercises overall fiscal authority and responsibility and promulgates systemwide fiscal rules.
2. All financial and personnel records are manual and centrally maintained.
3. All appropriated funds are retained centrally.

### C. Pre, Internal and Post-Audit

1. Central office has responsibility for pre-audit
2. Judicial system has own internal auditor who reports to Chief Court Administrator.
3. Post audit performed by legislative auditors, as they deem necessary. Post audit may include performance audit but this provision is relatively new.

## DELAWARE

### I. General

- A. Population (1976 estimate) 582,000
- B. Square Miles 2,057
- C. Number of Counties 3
- D. S.M.S.A.'s Wilmington, Del., N.J., Md. 519,000

### II. Courts

#### A. Appellate Courts

- 1. Court of Last Resort - Supreme Court, 5 justices
- 2. Intermediate - Superior Court, (general jurisdiction), 11 judges

#### B. Trial Courts

- 1. General jurisdiction (law) - Superior, 11 judges
- 2. General jurisdiction (equity) - 3 judges
- 3. Limited jurisdiction - Court of Common Pleas, 5 judges
- 4. Special Courts - Family, 12 judges
- 5. Justices of the Peace - 53 judges
- 6. Municipal Court (Wilmington) - 3 judges
- 7. Alderman's Court - 14 judges

#### C. Method of Judicial Selection

##### 1. Appellate Courts

- a. Last Resort - appointed by governor, consent of senate

##### 2. Trial Courts

- a. General jurisdiction - appointed by governor, consent of senate
- b. Limited jurisdiction - appointed by governor, consent of senate
- c. Special courts - appointed by governor, consent of senate
- d. Justice of peace - appointed by governor, consent of senate
- e. Municipal judges - appointed by governor, consent of senate
- f. Alderman - determined by municipality

#### D. Superintending Authority

Chief Justice is the administrative head of the system and has general administrative and supervisory power. Judicial conference studies system and makes recommendations.

#### E. Rule-Making Power

Supreme Court has administrative rule-making authority. Each type of court is empowered to make its own rules of practice and procedure, with the exception of Justices of the Peace who are subject to Supreme Court rule.

#### F. Selection of Chief Judge

Appointed by the Governor with consent of Senate, 12 year term.

## DELAWARE

### G. Selection of Chief or Presiding Judges

General jurisdiction - President judge of Superior Court and Chancellor of the Chancery Court appointed by Governor, 12 year term. Limited jurisdiction - Chief Judges of Common Pleas and Family Court are appointed by Governor, 12 year term.

### H. Clerks of Court

Elected - Superior Court  
Appointed - Other courts

### I. State Court Administrator

1. Appointed by and serves at pleasure of Chief Justice.
2. Authority and responsibility
  - a. Administrative Assistant to Chief Justice
  - b. Supervisor of Administrative Personnel of courts
  - c. Budget preparation and fiscal administrator
  - d. Collection of court statistics and preparation of annual report
  - e. Secretary of Judicial Council

### J. Trial Court Administrator

1. Appointed by Chief Judges in Superior Court and Court of Common Pleas. By Governor in Justice of the Peace Courts.
2. Responsibilities - general administration

## III. Funding

### A. Appellate Courts

The following functions are state funded in courts of last resort: personnel, travel, capital outlay, operating expense and judicial conference.

### B. Trial Courts

The following functions are state funded in general and limited jurisdiction courts, special courts, and justices of the peace: personnel, travel, capital outlay, operating expenses, juvenile probation, and pre-sentence investigations. The municipal and alderman's courts do not receive state funding.

## IV. Fines and Fees

In appellate courts of last resort, fines and fees are 100% state. 100% goes to the general fund.

In trial courts of general jurisdiction, fines and fees are 100% state. 100% goes to the general fund.

In municipal courts, fines and fees are 100% local. 100% goes to the general fund.

## DELAWARE

### V. Budget and Appropriation Procedures

#### A. Initial Preparation

1. The basic budget request is manually prepared.
2. The initial budget preparation is done locally by each court.

#### B. Final Budget Preparation

1. Each court submits its budget request to the director of the administrative office for final review and sign-off by the chief justice. The over-all judicial budget is then collated.
2. Formulae, staff ratios, weighted caseloads, etc. apparently are not used in determining budget allocations.

#### C. Budget Submission

1. The collated budget is submitted to the executive branch budget director. By law he can not make any changes in the budget, but must submit it as requested to the governor. The governor may recommend cuts.
2. The governor's recommended changes are transmitted to the individual courts by the administrative director, and the courts respond in preparation for the legislative budget hearings.
3. The committee of initial referral is the Joint Finance Committee. Budget hearings are held before the joint committee. The Chief judge of each court presents its own budget with assistance from the administrative director and his staff. The chief justice is usually present.

#### D. Final Appropriations

The type of final appropriation is line item. The legislature limits the number of employees that can be hired by limiting the number of F.T.E.'s. The judicial branch has unlimited authority to transfer funds.

#### E. Supplemental Appropriations

Are usually requested. In FY 78 \$75,000 was requested and \$120,000 was appropriated.

### VI. Fiscal Administration

#### A. Executive Branch Involvement

The judicial branch has total authority for fiscal administration except for the transfer of funds, which requires the approval of the budget director and the controller general. Such approval is normally given in recognition that the judiciary is a separate branch. The judicial branch follows state purchasing procedures and maintains its own inventory controls on furniture, equipment, etc. The basis for judicial branch authority and responsibility is the constitution.

DELAWARE

B. Internal Judicial System Fiscal Authority and Responsibility

The State Court Administrator exercises overall fiscal authority and responsibility. He also promulgates statewide fiscal rules, and his office handles the payroll for all courts, except the Superior court.

The Chief Justice has authority to transfer funds with approval, as indicated above.

All appropriated funds are retained at the central level.

C. Travel Authorization and Reimbursement

Central prior authorization is required for in-state and out of state travel by judges.

## HAWAII

### I. General

A. Population	887,000
B. Square Miles	6,450
C. Number of Counties	4
D. S.M.S.A.'s	Honolulu 718,400

### II. Courts

#### A. Appellate Courts

1. Last Resort - Supreme Court, 5 justices
2. Intermediate - Court of Appeal, 1 circuit, 3 judges

#### B. Trial Courts

1. General jurisdiction - Circuit Court, 4 circuits, 20 judges
2. Limited jurisdiction - District Court, 4 circuits, 18 judges
3. Special Courts - Land Court, 1 judge  
Tax Appeal Court, 1 judge

#### C. Method of Judicial Selection

##### 1. Appellate Courts

- a. Last Resort - merit appointment (Governor appoints with consent of Senate.)
- b. Intermediate - merit appointment (Governor appoints with consent of Senate.)

##### 2. Trial Courts

- a. General jurisdiction - merit appointment (Governor appoints with consent of Senate.)
- b. Limited jurisdiction - merit appointment (Chief Justice appoints.)

#### D. Superintending Authority

1. General Superintending Authority - Chief Justice
2. Rule Making - Supreme Court has power to promulgate rules and regulations for practice, procedure and administration.

#### E. Selection of Administrative Justices and Judges

1. Chief or Presiding Judges - general jurisdiction, appointed by Chief Justice.
2. Chief or Presiding Judges - limited jurisdiction, appointed by Chief Justice.

#### F. Authority and Responsibility of Chief or Presiding Judges

Administrative judges handle the daily activities of Court Administration which include calendaring, scheduling, staff assignments, and fiscal administration.

## HAWAII

### G. State Court Administrator

1. Appointed by the Chief Justice with the Supreme Court approval.
2. Authority, responsibilities and duties:
  - a. Examines administrative methods of courts and makes recommendations.
  - b. Collects and centralizes statistical data on court operations.
  - c. Budget preparation.
  - d. Fiscal administration.
  - e. Design and maintenance of information systems.
  - f. Personnel administration.
  - g. Other duties as assigned by Chief Justice.

### H. Trial Court Administrator

1. Appointed as a civil service position.
2. Responsibilities and duties:
  - a. Support the administrative judge.
  - b. Manage all filing operations.
  - c. Supervise the fiscal operations.

### I. Clerks of Court

Appointed.

## III. Funding

### A. Appellate Courts

Appellate Courts are state funded for the following: personnel, travel, capital outlay, facilities, operating expense, and law library.

### B. Trial Courts

General and limited jurisdiction courts and special courts are state funded for the following functions: personnel, travel, capital outlay, facilities and operating expenses. General and limited jurisdiction courts are also funded for court appointed counsel, jury fees, witness fees, indigent transcripts, sanity exam, service of process, law libraries and automated data processing.

### C. State Administrative Office

The state administrative office is state funded for personnel, travel, capital outlay and facilities.

### D. Court Services

Adult probation, juvenile probation and juvenile detention are state funded for personnel, travel, capital outlay, facilities and operating expenses.



## HAWAII

### E. Distribution of Fines and Fees

100% of the fines and fees for appellate and trial courts are state. 100% of these are also spent in the general fund.

## IV. Budget and Appropriation Procedures

### A. Initial Preparation

The basic budget is prepared manually. The central and local levels both participate in initial budget preparation. Specifically, each circuit and district prepares individual budgets.

### B. Final Budget Preparation

Final preparation includes central preparation with modification or reduction of units' requests. The State Court Administrator has the final authority for central budget modification or reduction.

### C. Budget Submission

An executive budget office hearing is not required. Also, the executive branch cannot recommend changes in the judicial budget. The judicial budget is not submitted to the executive branch, but the judiciary must notify the executive branch of the total request figure. Authority for executive branch non-involvement is derived from the constitution.

The judicial budget is introduced into both Houses. The respective judicial committees make reviews and refer to the financial committee with recommendations. Initial referral is determined by legislative rule. Budget hearings are held before the House Finance Committee and Senate Ways and Means Committee with the State Court Administrator present. Interestingly, floor action never changes the committee's recommendations. The legislature places limits on the number of employees that may be hired. The legislature subtracts anticipated savings in determining the appropriation for personnel.

The judiciary has eight budget programs categorized as the following:

- a. Court of Appeal
- b. Land Tax Court
- c. Circuit Courts
- d. Family Courts
- e. District Courts
- f. Administrative Director
- g. Law Library System
- h. Driver Education

## HAWAII

There is limited authority to transfer funds. Usually the judiciary must obtain a concurrence between the speaker of the house and president of the senate to move funds between budget programs.

### D. Supplemental Appropriations

Supplemental appropriations are usually requested. In FY '79 the supplemental request was \$600,000. Because of Hawaii's biennial budget system, supplemental requests usually occur in off years.

## VI. Fiscal Administration

### A. Judicial Branch Involvement in Fiscal Administration

The judicial branch has total authority for fiscal administration. The judicial branch uses the same chart of accounts as the executive branch and the accounting system is integrated with the executive branch system. Since it has its own purchasing procedures, the judicial branch never uses the state purchasing office. The judicial branch uses the executive branch's inventory control system and procedures. Judicial branch authority and responsibility are derived from the constitution and statutes. In comparison, the basis for executive branch involvement is statutory.

### B. Internal Judicial System Fiscal Authority and Responsibility

The State Court Administrator exercises overall fiscal authority and responsibility and promulgates systemwide fiscal rules. The State Court Administrator also has central authority to transfer funds among local units. Permanent transfer of furniture and equipment and personnel other than judges can also occur through the State Court Administrator's central authority. Expenditure reporting records are automated in this system. Accounting ledgers are manual. All financial records are maintained centrally. In addition, all appropriated funds are retained centrally.

### C. Travel Authorization and Reimbursement

Central prior authorization is required for travel in-state and out of state by judges and other categories of personnel. Local prior authorization is also required. Central approval and central payment of travel reimbursement occurs for in-state and out of state travel by both judges and other categories of personnel.

### D. Pre, Internal and Post Audits

The central office has responsibility for pre-audits. Hawaii does not have its own internal auditors. An elected or appointed State Auditor in the executive branch performs the post-audit every four years.

## KANSAS

### 1. General

A. Population (1976 estimate)	2,310,000
B. Square Miles	82,264
C. Number of Counties	105
D. S.M.S.A.'s	Kansas City (Missouri and Kansas) 1,278,100
	Wichita 391,900
	Topeka 180,619
	Lawrence 64,534

### II. Courts

#### A. Appellate Courts

1. Court of Last Resort - Supreme Court, 7 justices
2. Intermediate - Court of Appeals, 7 judges

#### B. Trial Courts

1. General jurisdiction - 70 district court judges, 29 districts
2. Limited jurisdiction (part of district court) - 66 associate district judges, 75 district magistrates
3. Municipal Courts - 369 judges (locally funded)

#### C. Method of Judicial Selection

1. Appellate
  - a. Last Resort - merit appointment
  - b. Intermediate - merit appointment
2. Trial
  - a. District Court - merit appointment (except for 7 districts where judges are elected)

#### D. Superintending Authority

Supreme Court has general administrative authority. Chief Justice is spokesman. Judicial Council advisory.

#### E. Rule-Making Power

Supreme Court has authority to promulgate rules of administration and practice procedures.

#### F. Selection of Justices and Judges

1. Chief Justice - seniority
2. Chief Judge, Court of Appeals, appointed by Supreme Court
3. Chief or Presiding Judge, general jurisdiction - appointed by Supreme Court, which solicits recommendations from district judges.

## KANSAS

### G. Authority and Responsibility of Chief or Presiding Judges

Responsible for all district operations subject to Supreme Court rules and guidelines.

### H. State Court Administrator

1. Appointed by and serves at pleasure of Chief Justice.
2. Duties:
  - a. Implements Supreme Court's policies and operates under supervision of Chief Justice.
  - b. Assists Supreme Court in fiscal matters.
  - c. Coordinates education programs.
  - d. Examines dockets, collects statistics and prepares annual report.

### I. Trial Court Administrator

1. Appointed by Administrative Judge with approval of other judges.
2. Duties:
  - a. Supervision and coordination of administrative activities and operation.
  - b. Supervision of non-judicial personnel.
  - c. Other duties as assigned.

### J. Clerks of Court

Appointed.

## III. Funding

### A. Appellate

The Court of Last Resort and Intermediate Court are state funded in the following areas: personnel, travel, capital outlay, facilities, operating expense and law library. In addition, the Court of Last Resort has funding for the Judicial Council and Judicial Qualification Committee, Judicial Nominating Committees, Board of Admissions and Bar Examinations, and annual judicial conference.

### B. Trial

District Court is state funded for the following: personnel, travel, and court appointed counsel for felonies. Personnel costs are being phased in to be completed by 6/30/81.

### C. State Administrative Office

Receives funds for: personnel, travel, capital outlay, facilities and training.

## IV. Budget and Appropriation Procedures

### A. Initial Preparation

Manually prepared by central unit and counties. Local unit reviews, makes changes or additions which must be approved at the central level.

## KANSAS

### B. Final Budget Preparation

Central preparation, including modification or reduction of unit requests can be made by the Supreme Court.

### C. Budget Submission

Executive branch may recommend changes.

### D. Legislative Branch

1. Can reduce the budget request.
2. Budget hearings are held before the Appropriations Committee in each House with the State Court Administrator, State Court Administrator's staff, and Chief Justice present.
3. Changes may be made in committee recommendation on the floor.

### E. Final Appropriation

1. Line item.
2. Legislature places limits on the number of employees that can be hired, limits FTE's.
3. Judicial branch doesn't have authority to transfer funds.
4. Supreme Court determines reallocation.

### F. Supplemental Appropriation

Supplemental appropriation almost never requested.

## V. Fiscal Administration

### A. Judicial Involvement in Fiscal Administration

Judicial branch's authority and responsibility are limited. Judicial branch uses same chart of accounts as executive branch. The accounting system is integrated with executive branch system. Basis for judicial branch authority and responsibility - constitution and statute.

### B. Executive Branch Involvement in Judicial Fiscal Administration

Basis for executive branch control or involvement - statute, practice and tradition.

### C. Internal Judicial System Fiscal Authority and Responsibility

1. Supreme Court has overall authority and responsibility and promulgates systemwide fiscal rules.
2. All financial and personnel records are manual.
3. Retention of funds.
  - a. All appropriated funds are retained at the central level.

## KANSAS

### D. Travel Authorization and Reimbursement

1. Central prior authority is required for travel out of state for judges and other categories of personnel.
2. No prior authority is required for in-state travel.

### E. Pre, Internal and Post-Audits

1. Division of Accounts and Reports preaudits all vouchers, usually does not require rigid adherence to administrative fiscal rules.
2. Judicial system doesn't have its own internal auditors.
3. Legislative auditor performs post-audit every two years.

## KENTUCKY

### I. General

A. Population (1976 estimate)		3,428,000
B. Square Miles		40,395
C. Number of Counties		120
D. S.M.S.A.'s	Louisville	884,200
	Lexington-	
	Fayette	290,500

### II. Courts

#### A. Appellate Courts

1. Last Resort - Supreme Court, 7 justices
2. Intermediate - Court of Appeals, 14 districts, 14 judges

#### B. Trial Courts

1. General jurisdiction - Circuit, 56 circuits, 87 judges
2. Limited jurisdiction - District, 56 circuits, 114 judges

#### C. Method of Judicial Selection

Selection for Appellate and Trial Court judges is non-partisan election.

#### D. Superintending Authority

1. General superintending authority - Chief Justice
2. Rule-making - Supreme Court has rule-making authority covering administration, practice and procedure.

#### E. Selection of Administrative Justices and Judges

1. Chief Justice - selected by court - 2 year term.
2. Chief or Presiding Judges - both general and limited jurisdiction selected by peers for 2 year terms.

#### F. State Court Administrator

1. Appointed by Chief Justice for 4 year term with advice and consent of Senate.
2. Responsibilities and duties - studies organization, operation, practice and procedures of judicial system and submits recommendations to the Supreme Court; also responsible for fiscal and personnel administration and duties assigned by Chief Justice.

## KENTUCKY

### III. Funding

#### A. Appellate Courts

Appellate Courts receive state funding for personnel, travel, capital outlay, facilities, operating expense and law library.

#### B. Trial Courts

Trial Courts receive state funding for personnel, travel, capital outlay, facilities, operating expenses, court appointed counsel, jury fees, witness fees, indigent transcripts, sanity exam, law library and automated data processing.

#### C. State Administrative Office

Receives state funding for personnel, travel, capital outlay, facilities and a pre-trial release program.

#### D. Distribution of Fines and Fees

100% of fines and fees are state in both Appellate and Trial Courts.

### IV. Budget and Appropriation Procedures

#### A. Judicial Preparation

The basic budget request is prepared manually. The central and local levels can take part in the initial preparation. Specifically, each local unit, consisting of the clerk and judge's office, has the option to prepare its own budget with assistance from the state office. The local unit reviews the budget and can make changes or additions, and provides justification. Central acceptance, modification, or rejection is made without further pre-submission contact with the local unit. Only selective hearings or contacts take place. The basis for the selective hearings is that justification of budget requests requires much communication between central and local units.

#### B. Final Budget Preparation

Final budget preparation consists of central preparation, including modification or reduction of unit requests. The state court administrator recommends modifications or reductions to the Supreme Court and Chief Justice. The Chief Justice has the final authority in regard to central budget modification or reduction. Formulae, staff ratios, weighted caseloads, etc., are used in determining budget allocations.



C. Budget Submission

Budget submission is to the executive branch. An executive budget office hearing is required. Review is similar to that which other agencies receive. The State Court Administrator, Chief Justice, trial judges and clerks are representatives for the judicial branch. The executive branch can recommend changes in the judicial budget, but these changes are not binding on the legislature. Authority for executive branch involvement is derived from practice and tradition.

The Joint Appropriations and Revenue Committee is the committee of initial referral as determined by practice and tradition. Budget hearings are held before the Joint Appropriations and Revenue Committee. Representatives at the budget hearing include: the State Court Administrator, State Court Administrator's staff, Chief Justice, and Chief Judges from the Appeals Court and Trial Courts. Changes are usually made on the floor in regard to committee recommendations.

D. Final Appropriations

The type of final appropriation is lump sum. The legislature does not place any limits on the number of employees that may be hired. If necessary, the State Court Administrator recommends reallocations to the Supreme Court. Supplemental appropriations are sometimes requested. In 1979, a supplemental request of \$1,200,000 was made. In 1978, the supplemental amount appropriated was zero.

VI. Fiscal Administration

A. Executive Branch Involvement in Fiscal Administration

The judicial branch has total authority for fiscal administration. The judicial branch uses the same chart of accounts as the executive branch and its accounting system is integrated with the executive branch system. Not having its own purchasing procedures, the judicial branch always uses the state purchasing office. The judicial branch maintains its own inventory records and has its own payroll and personnel records and procedures. Judicial branch authority and responsibility are derived from constitution, statute, supreme court order, and practice and tradition. In comparison, the basis for executive branch involvement and control is statute and administrative rule.

B. Internal Judicial System Fiscal Authority and Responsibility

The State Court Administrator exercises overall fiscal authority and responsibility. Based upon the recommendations of the State Court Administrator, the Supreme Court promulgates systemwide fiscal rules. There is central authority permanently to transfer furniture and equipment and court personnel other than judges from one location to another. Authority for transfer rests with the

## KENTUCKY

State Court Administrator. The State Court Administrator is also responsible for the creation and maintenance of accounting, payroll and related records. The following records are automated: budget, appropriations, fines and fees, and personnel. All financial and personnel records except clerk's expense listing forms are maintained centrally. All appropriated funds are retained at the central level. None are distributed to local units for direct expenditure. There is central authority to prescribe standardized forms and uniform court records and procedures.

### C. Pre, Internal, and Post Audits

The central office has the responsibility for pre-audits. The judicial system has its own internal auditors who report to the State Court Administrator. Elected or appointed state auditors in the executive branch perform the post-audits every one to two years.

## MAINE

### I. General

A. Population (1976 estimate)	1,070,000
B. Square Miles	33,215
C. Number of Counties	16
D. S.M.S.A.'s	Portland 230,000 Lewiston-Auburn 94,100

### II. Courts

#### A. Appellate Courts

1. Last Resort - Supreme Judicial Court, 7 justices

#### B. Trial Courts

1. General jurisdiction - Superior, 3 regions, 14 judges
2. Limited jurisdiction - District, 13 regions, 20 judges
3. Special courts - Probate, 16 judges

#### C. Method of Judicial Selection

1. Appellate Courts
  - a. Last resort - Governor appoints, legislature confirms
  - b. Intermediate - Governor appoints, legislature confirms
2. Trial Courts
  - a. General and limited jurisdiction - same method as appellate

#### D. Superintending Authority

1. General superintending authority - Chief Justice is head of the Judicial Department
2. Rule-making authority - Supreme Court

#### E. Selection of Administrative Justices and Judges

1. Chief Justice - appointed by Governor, confirmed by legislature
2. Regional or Presiding Justice - General jurisdiction - selected by Chief Justice and serves at his pleasure.
3. Chief or Presiding Judge - Limited jurisdiction - selected by Chief Justice and serves at his pleasure.

#### F. Authority and Responsibility of Regional Presiding Justices and Chief Judges

Operation and administration of Superior Courts in region and district courts. Authority and duties prescribed by Supreme Court and statutes.

## MAINE

### G. State Court Administrator

1. Chief Justice appoints, serves at his pleasure.
2. Carries on continuous survey and study of organization, operation, condition of business, and practice and procedures of judicial department.

### H. Trial Court Administrator

1. Appointed by State Court Administrator in consultation with regional presiding justice.
2. Duties and responsibilities - monitor and study administrative operations in the region and make recommendations to State Court Administrator and regional presiding justices. Also administers day-to-day operations.

### I. Clerks of Court

Appointed and are responsible for court clerical duties.

## III. Funding

### A. Appellate

Appellate court of last resort receives state funding for personnel, travel, capital outlay, operating expenses, and court appointed counsel.

### B. Trial

Trial courts of limited and general jurisdiction receive state funding for personnel, travel, capital outlay, operating expenses, court appointed counsel, jury fees, indigent transcripts and automated data processing. Limited jurisdiction trial court receives funding for facilities.

### C. State Administrative Office

State Administrative Office receives state funds for personnel, travel, capital outlay, facilities, and operating expenses.

## IV. Budget and Appropriation Procedures

### A. Initial Preparation

1. Is both automated and manual and is done centrally.
2. Central acceptance, notification or rejection is made without further contact with local unit.

### B. Final Budget Preparation

1. Authority for initial determination of modifications or reductions lies with the State Court Administrator, final authority with the Chief Justice and Chief Judge, district court.

## MAINE

### C. Budget Submission

1. Submission to executive branch for review and recommendations.
2. Executive branch may recommend changes but changes not binding on legislature.
3. Authority for executive branch derived from statute.
4. Budget hearings before Joint Appropriation Committee with State Court Administrator and State Court Administrator's staff present.

### D. Final Appropriations

1. Supplemental appropriations sometimes requested.
2. FY '78 \$300,000 requested - \$200,000 appropriated

### E. Fiscal Administration

1. Executive Branch Involvement
  - a. Accounting system integrated with executive branch system.
  - b. By choice judicial branch uses executive branch fiscal procedures.
  - c. Basis for judicial branch authority and responsibility - statute, practice and tradition.
2. Judicial Branch Authority and Responsibility
  - a. Executive branch must approve transfer of funds across categories.
  - b. Chief Justice exercises overall fiscal authority and responsibilities and promulgates systemwide fiscal rules.
  - c. All appropriated funds are retained centrally.
3. Pre, Internal and Post Audits
  - a. Central office is responsible for pre-audit.
  - b. Judicial system doesn't have own internal auditors.
  - c. Legislative audit performs post-audit, once per annum, which does not include performance auditing.

## MARYLAND

### I. General

A. Population	3,922,399
B. Square Miles	9,891
C. Number of Counties	23
D. S.M.S.A.'s	Washington D.C.-Md.-Va. 3,035,700 Baltimore 2,152,400 Wilmington, Del.-N.J.-Md. 519,000

### II. Courts

- A. Appellate Courts
  - 1. Court of Last Resort: Court of Appeals - 7 judges
  - 2. Intermediate Court: Court of Special Appeals - 6 circuits, 13 judges
- B. Trial Courts
  - 1. General jurisdiction- Circuit Court\*- 8 circuits, 90 judges (97 authorized as of 7/1/79)
  - 2. Limited jurisdiction- District Court, 12 divisions, 85 judges
  - 3. Special Courts- Orphans Court\*\*, 22 divisions, 66 judges
- C. Method of Judicial Selection
  - \*\*\*1. Appellate Court
    - a) Last resort- (retention) non-partisan election
    - b) Intermediate-(retention) non-partisan election
  - 2. Trial Courts
    - a) General jurisdiction- partisan election
    - b) Limited jurisdiction- appointed by governor with senate confirmation
    - c) Orphan's Court - partisan election

\*Six courts together have jurisdiction in Baltimore City similar to the circuit court elsewhere: Superior Court, Court of Common Pleas, Criminal Court of Baltimore, Baltimore City Court, Circuit Court of Baltimore, Circuit Court 2 of Baltimore.

\*\*In two counties, functions of this court are handled by circuit court. Juvenile is part of circuit court, except for one county where it is part of District Court.

\*\*\*There is a system of judicial nominating commissions in Maryland for all court levels except Orphan's Court. After initial appointment through this process, appellate court judges run for election on their records; circuit court judges run in a partisan election, district court judges are appointed or reappointed with confirmation by the senate.

D. Superintending Authority

The Chief Judge of the Court of Appeals is the administrative head of the judicial system pursuant to Article IV Section 18 of the Maryland Constitution.

E. Rule-making Authority

The Court of Appeals has rule-making authority in matters of practice, procedure, and administration.

F. Selection of Administrative Justices and Judges

1. Chief Judge- The Chief Judge is selected by the governor. There is no specific term but, generally, consistent with ten-year term of office.
2. Senior Chief Judge - general jurisdiction  
The Senior Chief Judge attains position by seniority, except in Baltimore, where the governor appoints the senior chief judge. The Circuit Administrative Judge is appointed by the Chief Judge of the Court of Appeals. The County Administrative Judge of the circuit court is appointed by the Circuit Administrative Judge with approval of the Chief Judge, Court of Appeals. There are no set terms.
3. Chief Judge - limited jurisdiction and special courts  
The Chief Judge of the District Court is appointed by the Chief Judge of the Court of Appeals. Chief Judge in the Orphan's Court attains position by seniority.

G. Authority of Chief or Presiding Judge

The authority for the Chief Judge, Court of Appeals is found in the Maryland Constitution, Art. IV, Section 18; Maryland Rules, Chapter 1200(Judicial Administration). Authority for the Circuit Administrative Judge is found in Maryland Rules, Chapter 1200 (Judicial Administration). The authority for the Chief Judge of the District Court is found in the Maryland Constitution, Courts and Judicial Proceedings Article, District Court Rules.

H. Appointment and Duties of State Court Administrator

The State Court Administrator is appointed by the Chief Judge, Court of Appeals. The primary responsibilities of the State Court Administrator include the following: 1) Examine the state of the dockets and make recommendations to the Chief Judge for expediting court business; 2) Assign judges; 3) Compile statistical data; 4) Prepare and submit the budget with approval of the Chief Judge; 5) Publish annual report; 6) Responsible for fiscal administration; 7) Other duties as assigned by the Chief Judge.

I. Appointment and Responsibilities of Trial Court Administrators

1. In three counties at the circuit level, trial court administrators are appointed directly by the bench with the

## MARYLAND

assistance of the State Court Administrator. In four circuits, the SCA conducts initial screening and submits a list of qualified candidates to the Circuit Administrative Judge.

2. In District Court, Administrators are called administrative clerks and are selected by District Court Administrative judges with the approval of the Chief Judge of the District Court.
3. Responsibilities vary from jurisdiction to jurisdiction. Generally, under direction of the administrative judge, and in varying degrees, trial court administrators perform functions relating to personnel administration, budgeting, facility planning, case assignment and scheduling, and jury selection and management.

### J. Clerks of Court - Selection and Responsibilities

1. Clerks of court are elected for the Circuit court and for the Supreme Bench of Baltimore City.
2. In District Court, clerks of court are appointed.
3. The court related duties of the clerks include keeping the docket, case files, and other records. In many counties at the circuit level, clerks are responsible for case assignment, case scheduling, and jury management. Non-court related duties of the clerks at the circuit level include recording deeds, issuing marriage and other licenses, and certifying election returns.

## III. Funding

### A. Appellate Courts

The Court of last resort and the intermediate appellate court are state funded in the following areas: personnel, travel, capital outlay, facilities, operating expenses, and law libraries. The court of last resort is also state funded in the following areas: State Board of Law Examiners, Standing Committee on Rules of the Court of Appeals, Commission on Judicial Disabilities, and the State Reporter.

### B. Trial Courts

1. The trial courts of general jurisdiction are state funded only for judges' salaries and travel expenses.
2. The trial courts of limited jurisdiction are state funded in the following areas: personnel, travel, capital outlay, facilities, operating expenses, witness fees, indigent transcripts, sanity exams, service of process, law libraries, and automated data processing.
3. The Orphan's Court receives no state funding.

### C. State Administrative Office

The State Administrative Office receives state funds for personnel, travel, capital outlay, and facilities. The budget of this office contains funds to support the clerk's office of the Juvenile Court in Baltimore City and ADP for the Supreme Bench of Baltimore City and Anne Arundel county.



D. Court Services

The following court services receive no funding under the judicial branch: adult and juvenile probation, juvenile detention, community corrections, psychologists, purchase of services, domestic relations counseling, and friends of the court.

IV. Fine and Fee Distribution (State vs. Local)

1. The fee distribution for both appellate courts is 100 percent state.
2. In the trial courts of general jurisdiction, 100 percent of the fines collected by the clerks of the circuit courts are distributed locally. Fees are retained by clerks to operate their offices but excess fees are paid to the state treasury. Fines collected by the Circuit Courts for cases originating in the District Court are remitted to the state.
3. The fine and fee distribution for the courts of limited jurisdiction is 100 percent state.

V. Budget and Appropriation Procedures

A. Initial Budget Preparation

Initial preparation is done manually. Each organizational unit (the court units which are state funded, i.e. appellate courts, district courts, etc.) submits a request to the State Administrative Office where it is consolidated.

B. Final Budget Preparation

Final preparation is done centrally, including modification or reduction of unit requests with the Chief Judge having final approval.

C. Budget Submission

1. The budget is submitted to the executive branch for review only.
2. Recommendations can be made by the executive branch but are not binding on the legislature. This authority is derived from the Constitution.
3. Determined by legislative rule, the legislative committees of initial referral are the House Appropriation Committee and the Senate Budget and Taxation Committee.
4. By constitutional provision, the legislature may increase or decrease the judiciary budget. Budget hearings are held before the Appropriation Committee in each house, with the State Court Administrator and staff, the Chief Judge of the Court of Appeals, the Chief Judge of the District Court and the Chairman of the Conference of Circuit Judges present. In general, the committees follow the recommendations of their fiscal analysts and the floor follows committee recommendations.

## MARYLAND

### D. Final Appropriations

1. The final appropriation form is a program, categorical, line item budget. The legislature can disapprove requests for additional positions and delete the funds, and it can abolish vacant positions, but it can also make increases.
2. The judicial branch has limited authority to transfer funds among programs with legislative budget amendment or notation (legislatively delegated pro forma).

### E. Supplemental Appropriations

Supplemental appropriations are usually requested in the categories of communications, supplies, and special services. In FY 1979, the supplemental request was \$196,000 preceded by a supplemental request and appropriation of \$47,500 in 1978.

## VI. Fiscal Administration

### A. Executive Branch Involvement

The judicial branch's authority and responsibility for fiscal administration is limited. The judicial branch uses the same chart of accounts as the executive branch, and the accounting system is integrated with the executive branch system.

### B. Internal Judicial System Fiscal Authority

1. Except in the District Court, the State Court Administrator, with approval of the Chief Judge, exercises overall fiscal authority and responsibility and promulgates systemwide fiscal rules.
2. Except in the District Court, funds can be transferred by the SCA with the approval of the Chief Judge of the Court of Appeals. Funds affecting the District Court can be transferred only with approval of the Chief Judge of the District Court.
3. The SCA can transfer furniture and personnel permanently with the approval of the Chief Judge of the Court of Appeals and the Chief Judge of the District Court (when a transfer affects the District Court).

### C. Capital Outlay Purchasing Procedures

1. All capital outlay purchases require central approval.
2. The SCA, subject to approval of the Chief Judge of the Court of Appeals and the Chief Judge of the District Court, can prescribe standardized forms, specifications for furniture, and uniform court records and procedures.

D. Travel Authorization and Reimbursement

1. In-state travel for judges is governed by Joint Travel Regulations issued by the Chief Justice of the Court of Appeals.
2. Central authorization is required for in and out of state travel by other personnel and out of state travel by judges. This authority is exercised by the SCA for non-judicial employees with approval of the Chief Judge of the Court of Appeals.
3. No prior authorization is required for in-state travel by judges. Depending on the extent of travel, no prior authorization is required for other categories of personnel.
4. Central approval and central payment of travel reimbursement is required for out of state travel by judges and for in and out of state travel for other personnel. Except in District Court, the SCA has this authority for non-judicial personnel and the Chief Judge of the Court of Appeals has overall authority.

E. Furniture and Equipment Inventory Control

1. Except in the District Court, the SCA, subject to approval of the Chief Judge of the Court of Appeals, has central authority for maintenance of a furniture and equipment inventory control. The Chief Judge of the District Court has this authority for that court.

F. Pre, Internal, and Post-Audits

1. Except for District Court, pre-audit responsibility for the central office lies with its own internal audit staff.
2. Post-audits are performed by the legislative auditor approximately once a year.

## MISSOURI

### I. General

A. Population	4,778,000										
B. Square Miles	69,686										
C. Number of Counties	114 plus 1 independent city										
D. S.M.S.A.'s	<table><tr><td>Kansas City</td><td>1,278,100</td></tr><tr><td>St. Louis</td><td>2,386,300</td></tr><tr><td>Springfield</td><td>186,400</td></tr><tr><td>St. Joseph</td><td>99,400</td></tr><tr><td>Columbia</td><td>85,700</td></tr></table>	Kansas City	1,278,100	St. Louis	2,386,300	Springfield	186,400	St. Joseph	99,400	Columbia	85,700
Kansas City	1,278,100										
St. Louis	2,386,300										
Springfield	186,400										
St. Joseph	99,400										
Columbia	85,700										

### II. Courts

#### A. Appellate

1. Supreme Court - 7 justices, 51.25 F.T.E.'s
2. Court of Appeals - 28 justices, 3 circuits (division), 98.8 F.T.E.'s

#### B. Trial Courts

1. Circuit Court - 300 judges (169 are associate judges)  
43 circuits
2. Municipal Courts - est. 400 judges

#### C. Method of Judicial Selection

1. Supreme Court and Court of Appeals judges are selected by merit appointment.
2. Circuit Court judges are selected either by partisan election or merit appointment under local option. At present, merit selection is used in the City of St. Louis, Clay County, Jackson County, Platte County, and St. Louis County.
3. Municipal Court judges are selected as provided by local ordinance or charter

#### D. Superintending Authority

The Supreme Court has general superintending authority over the judicial system, with the Chief Justice as the chief administrative officer of the system. The Judicial Conference studies all aspects of the system and makes recommendations to the legislature biennially.

#### E. Rule-Making Authority

The Supreme Court has the power to make rules of practice, procedure, and pleadings subject to annulment or amendment by a statute limited to that purpose. The Supreme Court may make rules on record keeping and may issue guidelines on salary ranges and classifications of non-statutory court personnel.

## MISSOURI

### F. Selection of Chief Justice

The Chief Justice of the Supreme Court is elected to a two-year term by the members of the Supreme Court on a rotation basis.

### G. Selection of Chief or Presiding Judge

The Circuit and Associate Circuit Judges of the Circuit Court in each circuit select the presiding judge for that circuit.

### H. Authority of Chief or Presiding Judges

He or she has, subject to Supreme Court rules and guidelines, authority over general administration, fiscal and budget control, limited personnel control (including sheriff), assignment of judges within the circuit, and records management.

### I. Clerks of Court

Clerks of Court are elected, except in Jackson and St. Louis Counties. In third or fourth class counties the court clerk is the recorder of deeds and maintains property records in addition to normal duties of records and accounts management.

### J. State Court Administrator

The State Court Administrator is appointed by the Supreme Court and serves at its pleasure.

Duties - See Rule 82.03 of MRCP

### K. Trial Court Administrator

As of July, 1979, there may be seven Trial Court Administrators, each to be appointed by the Circuit Judges of the court. (Appropriations and allocations decisions will determine whether there will be four or seven.)

## III. Funding

### A. Supreme Court and Court of Appeals

Both of the appellate courts are completely state funded.

### B. Circuit Court

The state funds the personnel of the judicial system as follows: judicial salaries; employees of chief circuit judges as of 7/1/79; court reporters' salaries; and other court personnel as specified in HB1634 will be state funded as of 7/1/81. The state also funds travel,

## MISSOURI

court-appointed counsel, public defenders, indigent transcripts, and part of the cost of sanity examinations. Automated data processing at the state level is also state funded, while ADP is locally funded by the trial courts.

### C. Administrative Office

The state administrative office is completely state funded.

### D. Court Services

The only court service that will be state funded as of 7/1/79 is one juvenile probation officer per circuit.

## IV. Fines and Fees

Fees collected at the appellate levels are all passed on to the state and deposited to general revenue. Fees at the circuit level are divided between the county and state at a 50/50 ratio or 80/20 ratio depending on the type of case involved. Effective July 1, 1981, the split will be 80% state, 20% local, regardless of type of case.

## V. Budget and Appropriation Procedures

### A. Initial Budget Preparation

All of the state budget is initially prepared centrally with the opportunity for circuit review and appeal. The circuit court budget committee, composed of presiding judges, makes the policy decisions on the circuit court budget.

### B. Final Budget Preparation

The Supreme Court has the final authority to make modifications of the local circuits' budgets, although the State Court Administrator and the Chief Justice make the initial determination prior to submission. Formulae are used on a limited basis in determining budget allocations.

### C. Budget Submission

The judiciary's budget is submitted to the executive branch according to statutory provisions. A budget review is conducted wherein the State Court Administrator and his staff discuss the budget with the governor's staff. If there is disagreement, a formal hearing can result. This review is similar to but less extensive than that done with executive agencies. The executive may recommend changes in the budget that are not binding on the legislature.

Upon submission to the legislature the budget is referred to both the House and Senate Appropriations Committees according to legislative rule. The legislature does not use the Governor's recommendations as a base and treats the budget like any other agency's. The State Court Administrator and his staff, the Chief Justice and other justices, the Chief Judges and administrators of the Court of Appeals, and the Chairman of the Circuit Budget Committee are all represented at the budget hearings. Appropriations Committees' recommendations are sometimes changed by the legislature as a whole.

## MISSOURI

### D. Final Appropriation

The final appropriation has two categories, personnel and equipment/expenses, and is a program appropriation. The legislature does place a limit on F.T.E.'s, but it is not resolved as to how binding this is. Only the legislature has the authority to transfer funds from one category to another. If the appropriation is less than the budget request the Supreme Court determines the reallocation of funds using different methods for different programs and sizes of cuts.

### E. Supplemental Appropriations

The judiciary usually needs to request supplemental appropriations, primarily to fund new legislation (pay raises, new judges, etc.).

## VI. Fiscal Administration

### A. Executive Branch Involvement

The judicial branch has limited authority and responsibility for fiscal administration. In general, the judiciary has parallel procedures and accounts with an integrated accounting system. Major differences include travel authorization, purchasing and personnel policies over which the judiciary has independent control. Nevertheless, the judiciary uses executive fiscal procedures and usually uses the state purchasing office. The judiciary's authority is restricted by the constitution and statutes.

The executive branch does not prescribe or control internal fund transfers, vouchers, purchasing, inventory, payroll, personnel, or audit procedures. This is based on practice and statutes.

### B. Internal Judicial System Fiscal Authority and Responsibility

The Supreme Court exercises overall fiscal authority and responsibility and promulgates systemwide fiscal rules. There is no central authority to transfer funds among local circuits, but this really depends upon the form of the appropriation. There is no authority to transfer equipment and non-judicial personnel between locations, except on a temporary basis.

The financial system records will be fully automated as of 7/1/79, but all other records are kept manually with the exception of local deviations in metropolitan areas. Central records are kept of public defender, appointed counsel, judges, court reporters, and juvenile officer payrolls. Local records are kept of operational expenses of lower courts, personnel for circuit clerks and staff, and appellate court personnel and operations records. These records are related to funding source.

The judicial system payroll is prepared centrally, except for the court of appeals and locally paid personnel.

## MISSOURI

All appropriated funds are retained at the central level, with the exception of the appellate courts which process payments from direct appropriation distributed for local expenditure. Funds are not pooled. No capital outlay purchases require central approval once the budget and allocation have been made.

There is central authority to prescribe standardized forms and uniform court records and procedures that is exercised by the State Court Administrator and the Supreme Court. There is no centralized bulk purchasing of forms, office supplies, etc. These are funded locally.

Depending on funding source, central or local authority is required to authorize all travel for all non-judicial personnel and for out of state travel by judges. The State Court Administrator and the Supreme Court exercise the central authority when it exists, and the Chief Judge and Court Administrator do so on the local level. Approval for reimbursement is handled in the same fashion.

There is central authority for designing and maintaining an inventory control system that is exercised by the State Court Administrator, for purchased property only.

Pre-audits are the responsibility of the local units. The judicial system does not have its own internal auditors. The executive state auditor performs post-audits every two years that include performance audits of administrative and fiscal procedures and policies.



## NEBRASKA

### I. General

A. Population	1,553,000
B. Square Miles	77,227
C. Number of Counties	93
D. S.M.S.A.'s	Omaha 581,400 Lincoln 182,900 Sioux City 119,800

### II. Courts

#### A. Appellate Courts

1. Supreme Court - 7 justices, 36.5 F.T.E.'s

#### B. Trial Courts

1. General jurisdiction - District Court, 45 judges, 21 districts
2. Limited jurisdiction - County Court, 43 full judges, 96 associate judges, 21 districts
3. Juvenile Court, 4 judges in 3 largest counties
4. Workmen's Compensation, 5 judges
5. Municipal Courts, 13 judges in Lincoln and Omaha only

#### C. Method of Judicial Selection

All judges on all courts are selected by merit appointment.

#### D. Superintending Authority

The chief justice is the executive head of the system and the Supreme Court has overall administrative policy-making authority.

#### E. Rule-Making Authority

The Supreme Court has rule-making authority over practice, procedure, and administration.

#### F. Selection of Chief Justice

The Chief Justice is appointed by the Governor from a list of three or more nominees submitted by a judicial nominating commission.

#### G. Selection of Chief Judges

Chief Judges of the District Court are elected, usually on an annual basis, by the judges in the district. All other Chief Judges are elected annually by the judges in the district or on the court as appropriate.

## NEBRASKA

### H. Authority and Responsibility of Chief Judges

The authority and responsibility of the Chief Judges are prescribed largely by tradition and custom on a local basis. In the larger District Courts, they control docket and assignment of cases. In County Courts he or she is responsible for assigning duties to associate judges.

### I. Clerks of Court

District Court clerks are elected, County Court clerks are appointed - neither has any non-court related duties.

### J. State Court Administrator

The state court administrator is appointed by and serves at the pleasure of the Chief Justice.

### K. Trial Court Administrator

There are two trial court administrators who are appointed by their judges. Responsible for budget and record systems.

## III. Funding

### A. Supreme Court

All expenses, salaries, and facilities of the Supreme Court, Judicial Nominating Commissions, Judicial Qualifications Commission, and Judicial Council are state funded.

### B. District Court

Judicial and court reporters' salaries and travel are state-funded, all other budget items are locally funded.

### C. County Court

All personnel and travel expenses are state funded, tape recording equipment is also state funded. All else is locally funded.

### D. Workman's Compensation Court

Workman's Compensation Court is entirely state funded.

### E. Juvenile Court

Juvenile Court judges and court reporters are state funded, all else is local.

### F. Municipal Courts

Municipal Courts are entirely locally funded.

## NEBRASKA

### G. State Administrative Office

The state administrative office is included in the overall Supreme Court budget allocation and thus is completely state funded.

### H. Court Services

Probation, adult and juvenile, is state funded, with the exception of the separate probation staffs of the Juvenile Courts in Douglas, Lancaster, and Sarpy Counties. Facilities for the state probation system are funded in a state-local mix.

## IV. Fines and Fees

All fines, except for truck overload fines, are sent to school funds. Overload fines go to state and county highway funds. Fees from the Supreme Court, County Court, and Workman's Compensation Court go to the general fund of the state. Fees from the District Court and separate Juvenile Courts go to the counties. Fees from Municipal Courts go to the cities.

## V. Budget and Appropriation Procedures

### A. Initial Budget Preparation

The state judicial budget is prepared centrally by the state court administrator who meets with the judges in each district to review local needs. The budget is prepared without further contact with the local courts after these meetings.

### B. Final Budget Preparation

Central preparation of the budget includes modification or reduction of local unit requests. The statutes give this authority to the Supreme Court, but in reality it is the state court administrator who exercises this power. This process is done with the use of various formulae to assist in the allocation of resources.

### C. Budget Submission

Prior to submission of the budget to the legislature the budget is reviewed by the executive branch. The state court administrator meets with executive budget analysts, but no formal hearing is required. The executive may recommend changes, but the legislature sometimes ignores and always is free to make its own changes on the request. There are conflicting constitutional bases for the executive's involvement which have not been resolved.

The budget is submitted to the legislature and referred to the Appropriations Committee of the unicameral body. This referral is determined by statute. The legislature's role is similar to that which it has with executive branch agencies. Budget hearings before the appropriations committee are attended by the state court administrator, the Chief Justice on an irregular basis, and the President of the County Judges Association if it is deemed to be helpful.

## NEBRASKA

The Appropriations Committee's recommendations are sometimes modified on the floor.

### D. Final Appropriation

The final appropriation that is made is program based, with the county court system constituting a single lump sum program. The legislature sometimes puts a limit on the hiring of employees through a limit on personal services expenditures. The legislature does not usually include anticipated vacancy savings in its calculations.

If there is a need to transfer funds from one program to another, this requires legislative approval. If the appropriation is less than the budget request, the state court administration determines the reallocation based upon a needs reassessment.

### E. Supplemental Appropriation

Supplemental appropriations are sometimes requested, but haven't been for the past three years.

## VI. Fiscal Administration

The judicial branch has total authority for fiscal administration. It does, however, use the executive branch accounting system, but is not subject to executive controls and procedures. The judicial branch also uses executive payroll procedures but maintains its own payroll and personnel records. The judiciary also follows state purchasing procedures but is not bound by them. Separate inventory records are kept. The judiciary's and executive's authority are based upon practice/tradition by the former and statutes by the latter. The executive involvement is similar to that which it has with the legislative branch.

Internally, the state court administrator has broad authority over fiscal procedures. He may promulgate systemwide rules, transfer funds among local units and transfer recording equipment and personnel permanently from one location to another. He is also responsible for the creation and maintenance of accounting, payroll, and related records. Automated payroll, appropriations, and expenditure records are kept centrally. Manual personnel records are also kept centrally. All local records of finances and personnel are recorded manually.

Central approval by the state court administrator is required for all expenditures from state appropriations. The judicial system payroll is prepared centrally. All appropriated funds are retained at the state level. The only capital outlay for local courts that is centrally controlled is for recording equipment. There is, however, central authority for prescribing standardized forms and uniform court records and procedures that is exercised by the state court administrator or the Supreme Court (depends upon clout needed). Some bulk purchasing of forms and supplies is done at the central level for outstate

## NEBRASKA

counties.

Out of state travel approval is required from the state court administrator for all personnel, including judges. Local approval by a Chief Judge is required for in-state travel by non-judicial personnel. Central approval and payment of travel reimbursement for all travel is required by the state court administrator.

Central authority for inventory control is exercised by the state court administrator over tape recorders only.

The central office has the responsibility for pre-audits. Central office staff perform partial internal audit functions as needed and work closely with the independent State Auditor. The State Auditor performs post-audits on an annual basis and by special request. Performance audits are not done.

## NEW MEXICO

### I. General

A. Population	1,168,000
B. Square Miles	121,666
C. Number of Counties	32
D. S.M.S.A.'s	Albuquerque 388,200

### II. Courts

#### A. Appellate Courts

1. Supreme Court - 5 justices, 17 F.T.E.'s
2. Court of Appeals - 7 judges, 22 F.T.E.'s

#### B. Trial Courts

1. General jurisdiction - District Court, 42 judges, 13 districts
2. Limited jurisdiction - Magistrate Court, 71 judges, 71 districts
3. Limited jurisdiction - Probate Court, 32 judges, 32 districts
4. Municipal Court - 83 judges

#### C. Method of Judicial Selection

All judges on all courts are elected in partisan elections.

#### D. Superintending Authority

The Supreme Court has superintending authority over all other courts and the Chief Justice is the head of the judicial branch. There is a Judicial Conference and Council that study and recommend improvements annually to the Supreme Court, governor, and legislature.

#### E. Rule-Making Authority

The Supreme Court has the authority to promulgate rules of practice, procedure, and administration. Local rules are permitted if they are not inconsistent with the rules of the Supreme Court.

#### F. Selection of Chief Justice

The Chief Justice of the Supreme Court is elected by the other justices biennially.

#### G. Selection of Presiding Judges

The Presiding Judge of the District Court is of Division One (elected to it by voters) unless otherwise designated by District Court rule.

## NEW MEXICO

### H. Authority of Presiding Judges

Chief Judges are to preside over the court and be the court's spokesperson.

### I. Clerks of Court

Court clerks of all but the Probate Courts are appointed and have non-court related duties. Probate Court Clerks are the local county clerks, who are elected.

### J. State Court Administrator

The State Court Administrator is appointed by the Supreme Court and has the following duties: supervise administrative matters; prepare annual report; prepare budget; fiscal administration; personnel administration; records management; coordinate juvenile probation; operate statistical and information system; and conduct internal audits.

### K. Trial Court Administrator

At present, there is only one administrator in Albuquerque who is appointed by the judges of the District Court. His responsibilities are to recruit and select personnel under plan, supervise staff, and prepare and monitor the budget.

## III. Funding

### A. Appellate Level

Both the Supreme Court and the Court of Appeals are completely state funded.

### B. Trial Level

Both the District and Magistrate Courts are completely state funded, with the exception of facilities. Probate and Municipal courts are locally funded.

### C. State Administrative Office

The state administrative office is completely state funded.

### D. Court Services

The only court service that is state funded is juvenile probation.

## IV. Fines and Fees

The fines and fees from the Appellate Courts and the District and Magistrate Courts are given to the state. 24% is deposited into the general fund and 76% into the school fund from the Magistrate Courts' fines and fees. 100% of others go into the general fund.

## NEW MEXICO

### V. Budget and Appropriation Procedures

#### A. Initial Budget Preparation

Initially each District Court and Appellate Court prepares its own budget. The administrative office prepares the Magistrate Court's budget. The AOC staff assists district court personnel in initial budget preparation.

#### B. Final Budget Preparation

Central modification of unit budget requests are made. All courts are informed by phone and mail of these, and hearings are held, if there are disagreements. The state court administrator makes these determinations initially, but the Supreme Court has the final authority. Formulae are used to determine budget allocations. If a district court is not satisfied after a hearing with the AOC, it can request an additional hearing with the Supreme Court.

#### C. Budget Submission

The judicial budget requests are submitted simultaneously to the Executive Budget Office and the interim Legislative Finance Committee 4 1/2 months prior to the start of the annual legislative session. An executive budget hearing is required by statute and is attended by the state court administrator and his staff. The executive may make recommendations for changes in the budget, but these are not binding on the legislature.

Once the legislative session begins, the budget is referred to both the House and State Appropriations Committees according to statute. These committees continue the hearings that already have been initiated by the Legislative Finance Committee. The state court administrator and his staff represent the judiciary at these hearings. The legislature has no restrictions on its actions and deals with the judicial budget in a similar fashion to its role with executive branch agencies. During floor action changes in the committee's recommendations are almost never made.

#### D. Final Appropriation

The type of final appropriation is lump sum to each judicial agency (each district gets its own separate appropriation) with category expenditures governed by "legislative intent" with executive approval of the operating budget. On occasion the legislature includes vacancy savings in determining personnel appropriations. This may cause the Governor to seek a supplemental deficiency appropriation.

The judicial branch has the authority to transfer funds between categories within each agency's budget with executive approval.

If the appropriation is less than the budget request the presiding judge of each agency and the state court administrator reallocate according to a needs reassessment.



## NEW MEXICO

### E. Supplemental Appropriations

Supplemental appropriations are sometimes requested and received.

## IV. Fiscal Administration

### A. Executive Branch Involvement

The executive branch is fairly heavily involved in the fiscal administration of the judicial branch. The court's accounting system is integrated into the executive branch system and the executive branch must approve all transfers of funds and vouchers. The involvement is based in statute. Although the judicial branch has its own purchasing, personnel, and payroll procedures, they all are based on executive procedures. The state purchasing office is never used. The executive does not have a similar fiscal control over the legislature.

### B. Internal Judicial System Fiscal Authority and Responsibility

The state court administrator exercises overall fiscal authority and responsibility and promulgates systemwide fiscal rules. Although there is no central authority to transfer funds among local units, within the magistrate system the state court administrator may transfer personnel and equipment.

Each judicial agency prepares its own payroll, with Magistrate Court payroll being done centrally. All appropriated funds are retained by the state and are paid out by vouchers to individual court agencies by the executive Department of Finances. Jury, witness, and reporter expenses are pooled and administered by the administrative office of the courts.

All capital outlay purchases greater than \$750.00 require the placement of orders or bids. There is central authority vested in the State Court Administrator to prescribe standardized forms and uniform court records and procedures. Currently, there is central bulk purchasing of forms and supplies for the Magistrate Courts and local purchasing for the district courts. Next year plans are for centralizing all purchasing.

Local and central authorization is required for out of state travel, only local is needed for in-state. Central and local reimbursement is similarly split, but for Magistrate system all reimbursements are done centrally and approved by the state court administrator.

The judicial system has its own internal auditors who report to the state court administrator. They audit the Magistrate Court system's records. The executive State Auditor does post-audits on an annual basis. This does not include performance audits.

## NEW YORK

### I. General

A.	Population	18,241,266
B.	Square Miles	47,831
C.	Number of Counties	62
D.	S.M.S.A.'s	New York, N.Y. N.J. 9,526,700 Nassau Suffolk 2,675,300 Buffalo 1,320,900 Rochester 972,300 Albany-Schenectady- Troy 793,300 Syracuse 651,400 Utica-Rome 332,100 Binghamton ,N.Y. Pa. 307,300 Poughkeepsie 235,100 Elmira 99,400

### II. Courts

#### A. Appellate Courts

1. Court of Last Resort: Court of Appeals - 7 justices
2. Intermediate Court: Appellate Division - 4 divisions  
24 justices (12 additional judges appointed based on workload).

#### B. Trial Courts

1. General Jurisdiction - Supreme Court, 11 circuits, 315 judges\*
2. Limited Jurisdiction - County Court, 57 circuits (each county outside New York City), 59 judges\*\*
3. Special Courts
  - a) Family Court, 57 divisions, 107 judges\*\*
  - b) Surrogates Court, 62 divisions, 35 judges\*\*
  - c) Claims Court, statewide, 17 judges
4. Justices of the Peace - Town and Village Courts, 2,455 judges for the recovery of money or chattels where the amount sought to be recovered or value of the property does not exceed \$3,000 also have trial jurisdiction of misdemeanors and petty offenses and preliminary jurisdiction of felonies.
5. Municipal Courts - 417 judges\*\*\*  
Jurisdiction - in civil cases district courts have jurisdiction of actions for the recovery of money or chattels where the amount sought does not exceed \$6,000. City courts have jurisdiction where the amount sought does not exceed the sum provided by local law. Jurisdiction for criminal cases is the same as the Town and Village Courts.

\* Includes 251 Supreme Court Justices, 30 Court of Claims judges serving on the Supreme Court, and 34 retired justices certificated for additional service.

\*\* In addition, 44 judges serve in more than one of these courts in counties with smaller populations

\*\*\* Includes 49 District Court Judges

C. Method of Judicial Selection

1. Appellate Courts
  - a) Last resort - merit appointment
  - b) Intermediate - appointed by governor from elected Supreme Court Justices
2. Trial Courts
  - a) General jurisdiction - partisan election
  - b) Limited jurisdiction - partisan election
  - c) Special courts - partisan election. In the Court of Claims and the Family Courts, judges in New York City are appointed
  - d) Justice of the Peace - partisan election
  - e) Municipal judges - most by partisan election and some by appointment.

D. Superintending Authority

1. General superintending authority lies with the Chief Administrator of the Courts on behalf of the Chief Judge of the Court of Appeals.
2. Rule making Authority in Administrative areas is vested in the Chief Administrator of the Courts. Where the legislature delegates authority to regulate practices and procedures in litigation to Chief Administrator, advice and consent of the Administrative Board is required.
3. Selection of Administrative Justices and Judges
  - a) 14 years or until age 70.
  - b) No chief or presiding judges for general or limited jurisdiction courts.

E. Authority and Responsibility of Chief Judge

1. Authority prescribed by constitution and supplemented by statute.

F. State Court Administrator

1. The SCA is appointed by the Chief Judge with the advice and consent of the Administrative Board of the Courts.
2. The authority of the SCA is delegated by the Chief Judge and limited by standards and administrative policies which must be approved by the Court of Appeals.

G. Trial Court Administrator

1. District Administrative judges are appointed by the Chief Administrator with the approval of the Chief Judge.
2. District Administrative judges have responsibility for the daily operations of the courts within their districts, in accordance with court system standards and policies.

**CONTINUED**

**2 OF 3**

H. Clerks of Court

1. Clerks are appointed and elected.
2. Responsibilities include supervising the court clerical staff and serving as registrars.

III. Funding

A. Appellate Courts

1. The court of last resort is funded by the state in the following areas: personnel, travel, capital outlay, facilities, operating expenses, law library, and affiliated agencies.
2. The Intermediate Court receives state funding in the following areas: personnel, travel, capital outlay, operating expenses, law library, Attorney Bar and Discipline Programs, Mental Health Information Service, and legal representation of children in Family Court.

B. Trial Courts

The trial courts of general and limited jurisdiction, the special courts and the municipal courts (but not the town and village courts) are state funded in the following areas: personnel, travel, capital outlay, operating expenses, jury fees, witness fees, law libraries, and automated data processing.

C. State Administrative Office

The state administrative office receives state funds for personnel, travel, capital outlay and facilities.

IV. Distribution of Fines and Fees

- A. 100 percent of the fines and fees from both appellate courts are to the state.
- B. 100 percent of the fees from the courts of general and limited jurisdiction courts, the special courts, and the municipal courts go to the state, while 100 percent of the fines from these courts are to local government.
- C. Fines and fees from justice of the peace courts are 100 percent to local government.

V. Budget and Appropriation Procedures

A. Initial Preparation

The basic budget request is prepared by each court in each locality

and is done both manually and with automated data processing.

B. Final Budget Preparation

The final budget is prepared centrally, with the State Court Administrator having authority to make initial determinations prior to submission. The final authority for central budget modification rests with the Chief Judge of the Court of Appeals as approved by the entire Court of Appeals.

C. Budget Submission

The budget is submitted to the executive branch for inclusion without change. According to the constitution, the executive branch may only comment on the budget. From practice or tradition, the initial committees of referral are the house and senate appropriation committees. Budget hearings are held before the Joint Appropriation Committee with the State Court Administrator and staff present. The budget request cannot be reduced by the legislature.

D. Final Appropriation

1. The final appropriation is a lump sum with no limits placed on the number of employees that may be hired.
2. The legislature subtracts anticipated vacancy savings in determining the appropriations for personnel, merit increases, cost of living increases, and reclassifications. Should the appropriation be deficient, the SCA, by delegation of the Chief Judge, reallocates funds on the basis of needs reassessment.

E. Supplemental Appropriation

Supplemental appropriations are usually requested for unanticipated circumstances occurring after original budget submission. The supplemental request in FY'79 was \$18,669,802, which included a judicial salary increase proposal that was not acted upon.

VI. Fiscal Administration

A. Executive Branch Involvement

1. The judicial branch has total authority for fiscal administration. The judicial branch uses the same chart of accounts as the executive branch and the accounting system is integrated with the executive branch, but is not subject to executive controls and procedures. Fiscal rules are similar to executive branch rules.
2. The judicial branch has its own purchasing procedures, maintains its own inventory, payroll, and personnel records, but uses executive branch procedures. This authority is found in the Constitution, statutes, and case law.

B. Internal Judicial System Fiscal Authority and Responsibility

1. The SCA has overall fiscal authority, promulgates systemwide fiscal rules, has the authority to transfer funds among local units, and can make the permanent transfer of equipment and personnel from one location to another.
2. The creation and maintenance of records are the responsibility of the SCA. All financial, personnel, and payroll records are automated and maintained centrally.
3. Only the SCA can approve the local transfer of funds across categories, and all appropriated funds are retained at the state level.

C. Capital Outlay Purchasing Procedures

All capital outlay purchases of more than \$100 require placement of orders or bids. The SCA can prescribe standardized forms, specifications for furniture, and uniform court records and procedures. Both central and local purchasing of forms, office supplies, etc., are used.

D. Travel Authorization and Reimbursement

1. The SCA must give prior authorization for the out of state travel of judges and other personnel.
2. Prior authorization for in-state travel of judges and other personnel is required by administrative judges in local areas.
3. The SCA approves payment of travel reimbursement for out of state travel by judges and other personnel.
4. Local approval and central payment of travel reimbursement is made for in-state travel of judges and other personnel.

E. Pre, Internal, and Post-Audits

1. The State Department of Audit and Control has responsibility for pre-audits.
2. Financial post audits are performed approximately every two years by the State Auditor in the executive branch at the judiciary's request.

## NORTH CAROLINA

### I. General

A. Population	5,469,000	
B. Square Miles	52,586	
C. Number of Counties	100	
D. S.M.S.A.'s		
	Greensboro/Winston-Salem/	
	High Point	769,200
	Charlotte/Gastonia	594,700
	Raleigh-Durham	480,000
	Asheville	168,300
	Wilmington	129,600

### II. Courts

#### A. Appellate Courts

1. Supreme Court - 7 justices
2. Court of Appeals - 12 judges - sit in panels of three

#### B. Trial Courts

1. Superior (general jurisdiction)-33 districts, 66 judges
2. District (limited jurisdiction)-33 districts, 127 judges

#### C. Method of Judicial Selection

All judges on all four courts are selected by partisan election.

#### D. Superintending Authority

The Supreme Court has general administrative authority, but the ultimate authority is the Chief Justice.

#### E. Rule-Making Authority

All appellate rules are made by the Supreme Court, which also makes rules of practice. Rules of procedure are promulgated by the legislature.

#### F. Selection of Chief Justice

The Chief Justice of the Supreme Court is elected to an eight year term by the voters of the state.

#### G. Selection of Chief Judge

1. General jurisdiction - the Superior Court Judge who is senior in point of service is the Chief Judge.



## NORTH CAROLINA

2. Limited jurisdiction - the District Court Chief Judges are appointed by the Chief Justice.

### H. Authority or Responsibility of Chief Judges

The Chief Judges have general administrative authority over their courts subject to general supervision of the Chief Justice.

### I. Clerks of Court

The Superior Court Clerks are elected. They are responsible for maintaining records and act as ex-officio judges of probate.

## III. Scope of State Funding

### A. Appellate level

The Supreme Court and Court of Appeals are fully state funded.

### B. Trial level

Both the Superior and District Courts are state funded with the exception of facilities, sanity exams, and service of process.

### C. State Administrator's Office

The State Administrator's Office is state funded.

### D. Court Services

The only court service that is state funded is juvenile probation, with the exception of its facilities.

## IV. Fines and Fees

In FY 1978, \$46.2 million was collected; \$23.1 million went to local government, and the other \$23.1 million was distributed to the state general and special funds.

## V. Budget and Appropriation Procedures

### A. Initial Budget Preparation

The central office initially prepares the judicial system's budget.

### B. Final Budget Preparation

The state court administrator and the Chief Justice make any modifications without any further contact with the local courts. Formulae are not used as a basis for these budget allocations.

### C. Budget Submission

The judicial budget is submitted to the executive branch and a hearing similar to other agencies with the Administrative Office of the Courts Director is required. The executive may recommend changes in the budget,

## NORTH CAROLINA

but these are not binding on the legislature. The executive involvement is based in statute.

Upon submission to the legislature the budget is referred to each house's appropriation committee by the presiding officers of the House and Senate. The legislature's role is similar to its role with other agencies. The state court administrator is the judicial branch representative at the budget hearings. Floor action never changes committee recommendations.

### D. Final Appropriations

The type of appropriation is line item and program. New employees' positions must be specifically approved and included in the expansion budget. Vacancy savings are not included in the final appropriation. Statute requires that the judicial branch, when transferring funds, must have executive approval. If the appropriation is less than the budget request, the State Court Administrator uses a needs reassessment to reallocate resources.

### E. Supplemental Appropriations

The judicial branch sometimes requests supplemental appropriations, but has not done so for FY '78 and FY '79.

## IV. Fiscal Administration

### A. Executive Branch Involvement

The judicial branch has a limited authority and responsibility over fiscal administration vis a vis the executive branch. The judiciary uses the same chart of accounts but has its own fiscal rules and purchasing procedures. The judiciary usually uses the state purchasing office and follows state procedures. The judiciary has its own payroll and personnel records but uses executive payroll procedures. These responsibilities and authority are based in the constitution and statutes.

### B. Internal Judicial System Fiscal Authority and Responsibility

The State Court Administrator exercises overall fiscal authority and responsibility and promulgates systemwide fiscal rules. Since local units don't make expenditures, there is central authority to transfer funds and equipment/furniture. All financial and personnel records are maintained manually in the central office. The payroll is prepared centrally. All funds are retained centrally. All capital outlay purchases and inventory control are made and done centrally. The State Court Administrator exercises authority in all of these areas.

The State Court Administrator must approve all non-routine in-state and all out of state travel by all personnel. Central approval is accompanied by central reimbursement procedures.

## NORTH CAROLINA

Pre-audits are conducted by the central office. There is a controller in the central office who does internal audits. Post-audits are conducted by the executive State Auditor on an annual basis.

## OKLAHOMA

### I. General

A. Population	2,766,000
B. Square Miles	69,919
C. Number of Counties	77
D. S.M.S.A.'s	Oklahoma City 760,400 Tulsa 595,600

### II. Courts

#### A. Appellate Courts

1. Supreme Court - 9 justices
2. Court of Criminal Appeals- 3 justices - 55.5 F.T.E.'s
3. Court of Appeals - 6 judges, 2 circuits - 10 F.T.E.'s

#### B. Trial Courts

1. District Court - 69 full district judges  
77 associate district judges  
48 special judges  
25 districts
2. Municipal Criminal Court
3. Municipal Court Not of Record

#### C. Judicial Selection

1. Appellate Courts - all by merit appointment
2. Trial
  - a) District Court - non-partisan election
  - b) Municipal Courts - appointed by municipal governing body

#### D. General Superintending Authority

The Supreme Court has general superintending authority over the system, but the Chief Justice exercises this authority in accordance with Supreme Court rule.

#### E. Rule Making

The Supreme Court has rule-making authority in rules of practice, procedure, and administration.

#### F. Selection of Chief Justice

The Chief Justice of the Supreme Court is selected by the court for a two-year term.

## OKLAHOMA

### G. Selection of Presiding Judge

The district and associate district judges in each of nine regions select a regional Presiding Judge to serve at their pleasure.

### H. Authority/Responsibility of Presiding Judge

Each of the nine regional Presiding Judges has general administrative authority and selects a Chief Judge for each district with more than one judge.

### I. Clerks of Court

District Court Clerks are elected, Municipal Court Clerks are appointed.

### J. Supreme Court Administrator

The Supreme Court appoints the State Court Administrator who serves at its pleasure. The State Court Administrator assists the court in its administrative duties and prepares the annual report.

### K. Trial Court Administrator

In Oklahoma and Tulsa counties only appointed by the court. Assists the Presiding Judge in caseload, jury and personnel management.

## III. Funding

### A. Appellate Courts

All three of the Appellate Courts are completely state funded.

### B. Trial Courts

The District Court is funded almost entirely (except ADP) by state appropriations and by a fund generated by fines, fees, costs, and forfeitures. Part of the personnel cost in the Court Clerk's Office and facilities in some counties are county funded. The Municipal Courts are locally funded.

### C. Administrative Office

The administrative office is completely state funded.

### D. Court Services

No court services are state funded (through the judiciary).

## IV. Fines and Fees

There is a complicated distribution of fines and fees to state and local funds to finance the judicial system.

## OKLAHOMA

### V. Budget and Appropriation Procedures

#### A. Initial Budget Preparation

There is central preparation of the initial budget for appropriated funds and local preparation in each District Court for funds taken from local court funds (generated by fines and fees).

#### B. Final Budget Preparation

The separate central and local budgets for each type of funding are submitted separately. The central budget is prepared without consultation with the local courts beyond the initial phase. Prior to submission the State Court Administrator has the initial and the Chief Justice the final authority to modify or reduce the local budget requests for legislative appropriations. Formulae are not used.

#### C. Budget Submission

Oklahoma statute provides for a required submission of the judicial budget to the executive branch. A hearing is also required that the State Court Administrator attends. If the executive recommends any changes to the legislature they are not binding. Legislative rule states that the budget is to be submitted to the House Appropriations Committee.

Statute states that the judicial budget request cannot be reduced. Budget hearings are held before both appropriations committees where the State Court Administrator is the only representative of the judiciary. Committee recommendations are sometimes changed on the floor, but only if they are still within the required balanced budget for the state.

#### D. Final Appropriation

The final appropriation type is categorical line item. Since each employee position is line itemized, limits are placed upon the number of F.T.E.'s within the judicial branch. Vacancy savings are not computed into the personnel appropriations. The judiciary has a limited authority to transfer funds with executive approval that is based in statute. Personnel amounts cannot be increased, but other items can be, up to 10%.

#### E. Supplemental Appropriation

Supplemental appropriations are sometimes requested but have not been for the last two fiscal years.

## OKLAHOMA

### VI. Fiscal Administration

#### A. Executive Branch Involvement

The judicial branch has limited authority for fiscal administration. The accounting system is integrated with the Executive Branch system for appropriated funds, but not from district court funds. The judiciary uses executive fiscal procedures and always uses the state purchasing office and procedures (except for local court funds). The judiciary also uses the executive payroll procedures and payroll personnel record system. All of this is based upon statute. The executive also has this kind of control over legislative expenditures and fiscal administration.

#### B. Internal Judicial System Fiscal Authority and Responsibility

The Chief Justice has overall fiscal authority and responsibility and the Supreme Court promulgates systemwide fiscal rules. There is no central authority to transfer funds, furniture and equipment, or personnel from one local unit to another.

The court clerk is responsible for creating and maintaining accounting, payroll and other fiscal records. These are automated in only two counties. All financial and personnel records relating to state-appropriated funds are maintained centrally. Central approval by the Chief Justice is required for local transfer of funds across capital outlay categories. The judicial system payroll is prepared centrally for state-appropriated funds. Almost all appropriated funds are retained centrally.

All capital outlay purchases require central approval but may be ordered locally with the proviso of orders or bids. Standardized forms, records, and procedures for capital outlay may be prescribed by the Supreme Court. There is no central bulk purchasing.

Central authorization is required prior to any out of state travel. Local prior authorization by the Presiding Judge is required for any travel. Reimbursement of all travel requires central approval by the Chief Justice.

There is no central responsibility for inventory control.

Pre-audits are the responsibility of the judicial districts. The judiciary does not have its own internal auditor and uses the executive state auditor for annual post audits. Performance audits are not conducted.

## RHODE ISLAND

### I. General

A. Population	927,000
B. Square Miles	1,214
C. Number of Counties	5
D. S.M.S.A.'s	Providence/Warwick/ Pawtucket - 846,300

### II. Courts

#### A. Appellate Courts

1. Supreme Court - 5 justices, 77 F.T.E.'s

#### B. Trial

1. General Jurisdiction - Superior Court, 17 judges, 4 divisions
2. Limited Jurisdiction - District Court, 13 judges, 8 districts
3. Family Court- 9 judges, 1 statewide court
4. Probate Court, not a state court, Municipal
5. Municipal Court, not a state court, Municipal

#### C. Method of Judicial Selection

1. Supreme Court - Selected by the legislature for life term.
2. Superior District/Family Courts - The Governor appoints and the Senate confirms.
3. Probate/Municipal Courts - Appointed by city or town council.

#### D. General Superintending Authority

The Supreme Court is the general policy-making body for the system with the Chief Justice as the executive head. There are three advisory bodies, the Judicial Conference, Judicial Council, and Judicial Planning Council.

#### E. Rule Making

The Supreme Court has overall rule-making authority. The Superior, District, and Family Courts make rules for their practice and procedure subject to approval by the Supreme Court.

#### F. Selection of Chief Justice

Elected by the state legislature with life tenure.

#### G. Selection of Presiding Justice/Chief Judges

The Presiding Justices of the Superior Court are appointed by the Governor, with Senate confirmation, to life tenure. The same is true for the Chief Judges of the District and Family Courts.



## RHODE ISLAND

### H. Authority of Presiding Justices/Chief Judges

Each is responsible for the general administration of his court. The Presiding Justices also oversee the District Courts.

### I. Clerks of Court

The clerks of the Superior and District Courts are appointed by the Governor with the advice and consent of the Senate.

The Clerk of the Family Court is part of the state administrative office and is appointed by the Chief Judge of the Family Court. These clerks have no non-court related duties.

### J. Supreme Court Administrator

The Supreme Court Administrator is appointed by the Chief Justice and serves at his pleasure. He assists the Chief Justice in general administration and in budget preparation, fiscal administration, statistics compilation, and preparation of the annual report.

### K. Trial Court Administrator

- A. Superior Court - Appointed by the Presiding Justice, and prepares local budget requests, collects statistics, and carries out general administration of the court.
- B. District Court - The Chief Judges appoint administrative assistants who have similar duties to the Superior Court Administrators.
- C. Family Court - Appointed by the Chief Judge, he or she has same duties as above.

## III. Funding

A. Supreme Court - The Supreme Court is completely state funded.

### B. Trial Courts

- 1. Superior Court/District Court/Family Court - All three of these courts are completely state funded.
- 2. Probate Court/Municipal Court - These courts are locally funded.

C. State Administrator's Office - All operations of the State Administrative Office are state funded.

D. Court Services - No court services receive state funding under the judicial branch.

## IV. Fines and Fees

Fines and fees from all state courts go to the state general fund.

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### V. Budget and Appropriation Procedures

#### A. Initial Budget Preparation

The initial budget preparation is done centrally, using automated data processing for comparative data from prior years. Local court requests are automatically included and selective hearings are held.

#### B. Final Budget Preparation

The final budget is also prepared centrally, and at this point modification or reduction of local court requests may be made by the State Court Administrator, with the ultimate authority in the Chief Justice to do so. Formulae are not used in budget allocations.

#### C. Budget Submission

The judicial budget is initially submitted to the Executive Branch for review. No hearing is required, and this occurs only as a matter of practice or tradition. Any recommended changes or reductions by the executive are not binding on the legislature. In fact, the legislature has restored virtually all executive cuts made in recent years.

Legislative rule determines that the budget be referred to the House Appropriations Committee initially in the legislature. The budget request can be reduced. Budget hearings are held before the appropriations committees of each house. The State Court Administrator and Trial Court Administrator may appear at these hearings depending on the subject and appropriation in question. Floor action never changes the committee recommendations.

#### D. Final Appropriation

The appropriation ~~type is line item.~~ Although the executive figures in vacancy savings in the personnel budget, the legislature does not. If the judiciary wants to transfer funds across items, executive approval is required but always has been granted. If the appropriation is less than the budget request, the State Court Administrator uses a needs reassessment to reallocate the resources.

#### E. Supplemental Appropriation

Supplemental appropriations are always requested for accounts running in the red in the spring of the fiscal year.

### VI. Fiscal Administration

#### A. Executive Branch Involvement

The executive branch involvement in judicial branch fiscal administration includes the judiciary's following executive accounting, purchasing, inventory and payroll procedures. The judiciary maintains its own

## RHODE ISLAND

records. The executive prescribes and performs internal audit procedures. This is based in statute. The executive does not exercise this kind of authority over legislative fiscal administration.

### B. Internal Judicial System Fiscal Authority and Responsibility

Overall fiscal authority and responsibility reside in the State Court Administrator and Chief Justice. The State Court Administrator promulgates systemwide fiscal rules. The State Court Administrator has the authority to transfer funds and equipment from one court to another.

The creation and maintenance of fiscal records is done at the local level, although all individual personnel records and purchase order records are maintained centrally. Payroll, personnel, authorization documents, and other financial statements are automated.

All local transfer of funds across categories require central approval by the State Court Administrator.

The judicial system payroll is prepared centrally with locally generated changes. All appropriated funds are retained centrally. All capital outlay purchases greater than \$50.00 require central approval. There is central authority to prescribe standardized forms, specifications, and records for the system in capital outlay by the State Court Administrator. There is central bulk purchasing of forms and office supplies, although if less than \$50.00 is involved, local courts may purchase own.

For travel authorization and reimbursement, central approval by the State Court Administrator is required before all out of state travel and for all reimbursement of in and out of state travel.

Pre-audits are the responsibility of the central state office. The system does not have its own internal auditors. Post-audits are performed by the legislative auditor and the executive auditor. The former does performance audits, the latter fiscal audits. They are supposed to be done annually, but are usually delayed.

## SOUTH DAKOTA

### I. General

- A. Population 686,000
- B. Square Miles 77,047
- C. Number of Counties 67
- D. S.M.S.A.'s Sioux Falls - 100,700

### II. Courts

#### A. Appellate Courts

- 1. Supreme Court - 5 justices, 14 F.T.E.'s

#### B. Trial Courts

- 1. Circuit Court - 36 judges, 8 circuits
- 2. Magistrate Court - part of Circuit Court, 33 judges (7 F.T.E., 12 P.T., 24 Lay)

#### C. Method of Judicial Selection

- 1. Supreme Court - Justices are elected in non-partisan election by individual district.
- 2. Circuit Court - Judges are elected in non-partisan elections. Magistrates are appointed by the Presiding Judge of the circuit.

#### D. General Superintending Authority

The Chief Justice is the administrative head of the system.

#### ~~E. Rule Making~~

The Supreme Court has the authority to make rules for the system.

#### F. Selection of Chief Justice

The Chief Justice of the Supreme Court is selected by the court for a four year term.

#### G. Selection of Presiding Judge

Presiding Judges of the Circuit Courts are selected by the Chief Justice and serve at his pleasure.

#### H. Authority of Presiding Judges

The authority of Presiding Judges is designated by court rule. Authority is over scheduling, judge assignment, calendar, clerks, personnel, court reports, and the Magistrate Court.

## SOUTH DAKOTA

### I. Clerks of Court

Clerks of the Circuit Court are appointed by the Presiding Circuit Judge and have no non-court related duties.

### J. Supreme Court Administrator

The Supreme Court Administrator is appointed by the Supreme Court and serves at its pleasure. He supervises the budget, personnel, legislative liaison, research, planning and provides general administrative and technical support.

### K. Trial Court Administrator

Trial Court Administrators oversee budget, personnel, caseflow, jury and information management, also court services operations. Trial court administrators are appointed by presiding judges.

## III. Funding

### A. Supreme Court

The Supreme Court is completely state funded.

### B. Circuit/Magistrate Court

The Circuit/Magistrate Court receives state funding for personnel, travel, capital outlay, operating expenses, automated data processing, and part of the expense of law libraries. All else is locally funded.

### C. State Administrative Office

The State Administrative Office is completely state funded.

### D. Court Services

Probation (adult and juvenile) and purchase of services receive state funding under the judicial branch.

## IV. Fines and Fees

All appellate fines and fees are paid to the state general fund, and all circuit fees and 65% of municipal ordinance fines go to local general funds. Fees and bond forfeitures go to local general funds. Fines for violations of statutes go to the state school fund.

## V. Budget and Appropriation Procedures

### A. Initial Budget Preparation

For state-funded budget items, the central office prepares the initial budget based upon automated comparative data. Local circuits review, modify, and provide justification for their review. Selective hearings with Presiding Judges are held with the State Court Administrator if they are requested.

## SOUTH DAKOTA

### B. Final Budget Preparation

The final budget preparation is done centrally, with modifications of local court requests. The State Court Administrator does this, but final authority rests with the Supreme Court. Caseload formulae are used as a basis for allocations.

### C. Budget Submission

In practice the judicial budget is submitted first to the executive branch for review. Hearings are required and the review is similar to that of executive agencies. The State Court Administrator represents the judicial branch. The executive may recommend changes, which are not binding on the legislature, but are usually followed. The authority for this executive involvement comes from statute, but the constitution states otherwise.

In the legislature the rules determine that the Joint Appropriations Committee is the committee of initial referral for the budget. The legislature has no restrictions on its consideration of the budget, but uses the Governor's recommendation as a base. The constitution states that the legislature "shall pay", but this is not followed in practice. Budget hearings are before the Joint Appropriations Committee and the State Court Administrator and the budget officer appear. The Chief Justice appears at the initial hearing. If the appropriation is less than the budget request, the State Court Administrator uses a needs reassessment to reallocate the resources. Once the general appropriations bill reaches the floor of the legislature it rarely has been modified.

### D. Final Appropriations

The type of appropriation that is made is program, with line itemizing of personal service and operating expenditures. The judiciary, with executive approval, may transfer funds within program and line items.

### E. Supplemental Appropriations

Supplemental appropriations are sometimes asked for as the need arises or to fund new legislation. There is no request this year and a small one last year.

## VI. Fiscal Administration

The judicial branch has its own rules, procedures and records, but they are based upon executive accounting, purchasing, inventory, and personnel procedures. The judiciary always uses the state purchasing office which must approve all purchases above \$50.00. Executive involvement is based in statute and practice. The same executive control is also exercised over the legislature. Executive branch approval is required for fund transfers between programs and between line items.

The State Court Administrator has overall fiscal authority and responsibility, may promulgate system-wide rules, and may transfer funds, F.T.E.'s, and equipment from one court to another.

## SOUTH DAKOTA

All financial and personnel records are automated and maintained centrally. Central approval by the State Court Administrator is required for local transfer of funds across categories. The system payroll is prepared centrally. All appropriated funds are retained at the state level.

The State Court Administrator approves all capital outlay purchases and requires the placement of orders or bids. He may also prescribe standardized forms, specifications, and uniform records and procedures in this area. There is central bulk purchasing of forms and office supplies, although local courts may make these purchases if they are less than \$50.00, and there is an emergency.

For in-state travel by all personnel, no central prior approval is required, but local approval with central reimbursement is required. For out-of-state travel, both local approval by the Presiding Judge and Trial Court Administrator and central approval by the Chief Justice and State Court Administrator are required both prior to the travel and for reimbursement.

There is central authority for the inventory control system in the hands of the State Court Administrator.

The central office and the state auditor have the responsibility for pre-audits. The judicial branch has no internal auditor. Post audits are performed by the legislative auditor biennially on state appropriated funds and by private auditing firms hired locally for locally funded items. Performance audits are not conducted.

## VERMONT

### I. General

A. Population	476,000
B. Square Miles	9,609
C. Number of Counties	14
D. S.M.S.A.'s	none

### II. Courts

#### A. Appellate Courts

1. Supreme Court - 5 justices - 9 F.T.E.'s

#### B. Trial Courts

1. Superior Court - 8 judges - 14 divisions
2. District Court - 12 judges - 16 districts
3. Probate Court - 19 judges - 19 districts

#### C. Method of Judicial Selection

1. All but Probate Court judges are appointed by the governor with consent of the Senate (from a Nominating Board list).
2. Probate Court judges are selected by partisan elections.

#### D. Superintending Authority

The Supreme Court has general administrative authority over the judicial system.

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#### E. Rule-Making Authority

The Supreme Court promulgates rules of practice, procedure and administration, subject to revision by the legislature.

#### F. Selection of Chief Justice

The selection of the Chief Justice is by the Governor.

#### G. Selection of Chief Judges

Selection of Chief Judges of the Superior Court is by seniority.

#### H. Authority of Chief Judge

Not indicated.



## VERMONT

### I. State Court Administrator

The State Court Administrator is appointed by the Supreme Court and also serves as the Clerk of the Supreme Court.

### J. Trial Court Administrator

There are no Trial Court Administrators in Vermont.

### K. Court Clerks

All Court Clerks are appointed.

## III. Funding

### A. Supreme Court

The Supreme Court is completely state funded.

### B. Trial Courts

1. Superior Court - The Superior Court is substantially state funded, with local funds contributing to personnel, travel, capital outlay, and facilities in various jurisdictions.
2. District Court - The District Court is almost completely state funded with the lone exception of some counties providing facilities, if available.

### C. State Administrative Office

The State Administrative Office is completely state funded.

### D. Court Services

~~No court services receive state funding under the judicial branch.~~

## IV. Fines and Fees

All fines and fees, except for some municipal ordinance cases, are deposited into the state general fund.

## V. Budget and Appropriation Procedures

### A. Initial Budget Preparation

The initial budget preparation of the judicial budget is done centrally, with some contact at judges' and clerks' meetings.

### B. Final Budget Preparation

The final budget is prepared centrally, with modification of local court requests being made by the authority of the Supreme Court. Caseload analysis formula is used to determine budget allocations.

## VERMONT

### C. Budget Submission

The judicial budget is submitted to the executive branch for review only, and no hearings are held. Any recommendations that may be made are not binding on the legislature.

The budget, according to legislative rule, is submitted to both the House and Senate Appropriations Committees. The legislature has a free hand in considering the budget, and hearings attended by the State Court Administrator, the State Court Administrator's staff, the Chief Justice, and Trial Court Judges are held before both appropriations and judiciary committees. Floor action usually changes committee recommendations.

### D. Final Appropriation

The final appropriation is split into personal services and operating expenses, and all courts are put into lump sum. There is a limit on F.T.E.'s, however. Vacancy savings are not included. The judiciary has the authority to transfer funds, with executive approval if it is over a specified amount. If the appropriation is less than requested, the State Court Administrator determines the reallocation if it is minor and the Supreme Court does if it is major. A needs reassessment is used to do this.

### E. Supplemental Appropriation

Supplemental appropriations are sometimes requested.

## VI. Fiscal Administration

### A. Executive Branch Involvement

The judicial branch maintains its own records, but in general relies upon and uses executive branch procedures. The executive approves all transfers of funds, approves all vouchers, prescribes accounting system, prescribes purchasing procedure, prescribes payroll procedures and records, prescribes pre-audit procedures, and prescribes internal audit procedures. Basis for all of this is in statute. The executive basically performs these functions for the legislative branch, also.

### B. Internal Judicial System Fiscal Authority and Responsibility

The Supreme Court exercises overall fiscal authority. There is central authority to transfer equipment and personnel permanently from one court to another.

Accounting and payroll records are maintained centrally. Financial records of money collected and paid out in each court are kept locally. No automated records are kept within the judiciary.

## VERMONT

The payroll is prepared centrally. Witness and juror fee funds are distributed locally, with the Superior Court having imprest procedures and the District Court revolving. All other funds are retained centrally.

All capital outlay of more than \$100.00 requires central approval. State forms and procedures are used. There is central bulk purchasing of forms and office supplies.

Central approval by the State Court Administrator or Chief Justice is required prior to out of state travel and for reimbursement. None is required for in-state travel.

The State Court Administrator maintains and designs the inventory control system.

Pre-audits are the responsibility of the central office. The office has one employee who does a limited amount of internal auditing and who reports to the Director of Administrative Services within the State Court Administrator's Office. The executive branch auditor conducts post audits. Performance audits are not conducted.

## WEST VIRGINIA

### I. General

A. Population	1,821,000
B. Square Miles	24,181
C. Number of Counties	55
D. S.M.S.A.'s	Huntington/Ashland- W. Va./Kentucky/Oh. 290,800 Charleston 254,600 Wheeling/W. Va./Oh. 181,300 Parkersburg/Marietta- W. Va./Oh. 152,400

### II. Courts

#### A. Appellate Courts

1. Supreme Court of Appeals - 5 justices, 39 F.T.E.'s

#### B. Trial Courts

1. General jurisdiction - Circuit Court, 60 judges, 31 circuits
2. Magistrate Court - 148 judges, 55 counties
3. Municipal Courts

#### C. Method of Judicial Selection

All judges are selected in partisan elections.

#### D. Superintending Authority

The Chief Justice of the Supreme Court is the administrative head of the system, but the Supreme Court exercises general supervisory control over all state courts. The Judicial Council acts in an advisory capacity.

#### E. Rule-Making Authority

The Supreme Court has rule-making authority over rules of practice, procedure, and administration.

#### F. Selection of Chief Justice

The Chief Justice is selected by the Supreme Court.

#### G. Selection of Chief Judges

The Chief Judges of the Circuit Court are selected by their peers. The Chief Magistrates are appointed by the Chief Judges of the Circuit Court.

## WEST VIRGINIA

### H. Authority and Responsibility of Chief Judges

The Chief Judges have general administrative responsibility for the circuits and for the Magistrate Courts within the circuits.

### I. Clerks of Court

The Circuit Court clerks are elected.

### J. State Court Administrator

The State Court Administrator is appointed by and serves at the pleasure of the Supreme Court. His responsibilities include personnel administration, budget preparation, fiscal administration, conducting studies, gathering and analyzing statistics, and direct supervision of non-judicial activities of court employees, with the exception of confidential employees.

### K. Trial Court Administrator

Although there is a provision for administrative assistants to the Chief Circuit Judges in the personnel manual, only one exists. He is selected by the entire seven-judge court, and manages the court's administrative activities and services, assigns personnel, procures equipment and supplies, and prepares the budget.

## III. Funding

### A. Supreme Court

The Supreme Court is state funded, except for facilities.

### B. Circuit Court

Except for facilities, the Clerk's Office and service of process, the Circuit Court is state funded.

### C. Magistrate Court

The state funds personnel, travel, capital outlay and operating expenses for the Magistrate Court.

### D. Municipal Courts

The Municipal Courts are completely locally funded.

### E. Administrative Office

Except for facilities, the state administrative office is state funded.

### F. Court Services

The budgets for the adult and juvenile probation services are state funded under the judicial department's budget (except for facilities) for the Circuit Court.

## WEST VIRGINIA

### IV. Fines and Fees

#### A. Supreme Court

All fees collected by the Supreme Court are deposited into the state general fund.

#### B. Circuit Court

All fines and fees collected by the Circuit Court are deposited into the local general funds.

#### C. Magistrate Court

Forty percent of the fees from the Magistrate Court go to the state general fund, sixty percent go to the local county general funds. All fines go to the local general funds.

### V. Budget and Appropriation Procedures

#### A. Initial and Final Preparation of Budget

The initial and final preparation of the budget is done centrally, taking into account local requests. There is no further pre-submission contact with the local courts. The Supreme Court has the authority to modify or reduce local requests. No formulae are used to determine budget allocations.

#### B. Budget Submission

The final budget is submitted to the executive branch for review only - no hearings are required. The executive may recommend changes, but only upward. The constitution prohibits the legislature from reducing the judicial budget.

The budget, upon submission to the legislature, is initially referred to the House and Senate Finance Committees according to legislative rule. The legislature's role is sharply limited. It must deal only with the governor's recommendations and may only raise the budget amounts. This is based upon the constitution and case law. If the legislature invites the judicial branch to budget hearings (before both finance committees), which usually does not occur, the State Court Administrator and his staff appear. Floor action almost never changes committee recommendations.

#### C. Final Appropriation

The final appropriation is in the form of line items. A limit on employees is done by limiting the number of F.T.E.'s. Vacancy savings are not included. The judiciary does have unlimited power to transfer funds between items.

## WEST VIRGINIA

### D. Supplemental Appropriation

Supplemental appropriations are sometimes requested, but have not been for the last two fiscal years.

## VI. Fiscal Administration

### A. Executive Branch Involvement

The judicial branch has total authority for fiscal administration, but nevertheless there is some procedures are based on those in the executive branch. The accounting system and the fiscal rules, although separate, are based upon the executive's, and thus are similar. The judiciary also follows state purchasing procedures, and the executive branch must approve all vouchers. But the judiciary maintains its own inventory records and controls and has its own payroll and personnel records and procedures. Executive involvement is based upon administrative rule, while judicial authority and responsibility are based upon the constitution, statutes, case law, Supreme Court order, and practice and tradition.

### B. Internal Judicial System Fiscal Authority and Responsibility

The State Court Administrator exercises overall fiscal authority and responsibility. The Supreme Court promulgates systemwide fiscal rules. The State Court Administrator has the central authority permanently to transfer funds, furniture and equipment, and court personnel from one location to another. The State Court Administrator is responsible for the creation and maintenance of accounting, personnel, and related records.

The judicial system payroll is prepared centrally, with locally generated changes.

# APPENDIX C

## STATE FUNDING QUESTIONNAIRE

### I. General Organization, structure, and administration

#### A. Courts

##### 1. Appellate

###### a. Last resort

Name

Number of Justices

###### b. Intermediate

Name

Number of Circuits  
or Divisions

Number of Judges

##### 2. Trial

Name

Number of Circuits  
or Divisions

Number of Judges

###### a. General Jurisdiction<sup>a</sup>

###### b. Limited Jurisdiction

###### c. Special Courts<sup>b</sup>

	Name	Number of Circuits or Divisions	Number of Judges
a. General Jurisdiction <sup>a</sup>			
b. Limited Jurisdiction			
c. Special Courts <sup>b</sup>	1)		
	2)		
	3)		

<sup>a</sup> If the state has only one level of trial courts, with associate judges or judicial officers, indicate under b below.

<sup>b</sup> i.e., Probate, Juvenile, etc. Exclude municipal courts.

###### d. Justices of the Peace

Number of Judges

Jurisdiction (Please describe)



e. Municipal Courts<sup>c</sup> \_\_\_\_\_  
Number of Judges

Jurisdiction (Please describe) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c Include police magistrate, city courts.

Method of Judicial Selection

1. Appellate (check the applicable box)

	Partisan Election	Non-Partisan Election	Merit Appointment	Appt. Other	(Please (Specify Other (Other)
a. Last Resort					
b. Intermediate					
2. Trial					
a. General Jurisdiction					
b. Limited Jurisdiction					
c. Special Courts					
d. Justices of the Peace					
e. Municipal Judges					

If "other" checked in any of the above boxes, please write name of court below and specify the method of selection employed.

\_\_\_\_\_  
\_\_\_\_\_

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C. General Administrative Authority (Please describe who or what is responsible for the authority or functions mentioned below)

1. General Superintendent authority or administrative authority and supervision \_\_\_\_\_

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2. Rule-making authority \_\_\_\_\_

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3. Selection of Administrative Justices and Judges (Please specify length of term.)

- a. Chief Justice: \_\_\_\_\_

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- b. Chief or Presiding Judges - General Jurisdiction: \_\_\_\_\_

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- c. Chief or Presiding Judges - Limited Jurisdiction - Other Courts; \_\_\_\_\_

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4. Authority and responsibility of the Chief or Presiding Judges and how prescribed or delegated \_\_\_\_\_

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5. State Court Administrator:

a. How is he/she appointed? \_\_\_\_\_

b. Please describe his/her authority, responsibilities and duties and how they are prescribed or delegated.

6. Trial Court Administrator:

a. How is he/she appointed? \_\_\_\_\_

b. Please describe his/her responsibilities and duties, and how they are prescribed or delegated.

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7. Clerks of the Court

a. Method of selection (Please check one)

1) elected \_\_\_\_\_

2) appointed \_\_\_\_\_

b. Duties and Responsibilities (Please describe)

1) Court Related \_\_\_\_\_

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2) Non-court Related \_\_\_\_\_

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II. Scope of State Funding

A. Courts: Indicate Activities funded<sup>a</sup>

1. Appellate

a. Last Resort (Please check one)

	<u>Receive State Funding</u>	<u>Do Not Receive State Funding</u>
Personnel	_____	_____
Travel	_____	_____
Capital Outlay	_____	_____
Facilities <sup>b</sup>	_____	_____
Operating expenses	_____	_____

a See attached list of definitions.

b Please use the following symbols to indicate what aspect(s) receive state funds. m = maintenance; r = rental; u = utilities; c = new construction; o = other (explain below)

	<u>Received State Funding</u>	<u>Do Not Receive State Funding</u>
Law Library	_____	_____
Affiliated Agencies	_____	_____

Identify any affiliated agencies included above

\_\_\_\_\_  
\_\_\_\_\_

Number of FTEs (including justices) \_\_\_\_\_

Budget requests

Budget Appropriation

Fiscal year '79 \_\_\_\_\_

Fiscal year '79 \_\_\_\_\_

Fiscal year '80 \_\_\_\_\_

b. Intermediate (Please check one)

	<u>Receive State Funding</u>	<u>Do Not Receive State Funding</u>
Personnel	_____	_____
Travel	_____	_____
Capital Outlay	_____	_____
Facilities <sup>b</sup>	_____	_____
Operating expenses	_____	_____
Law Library	_____	_____

Number of FTE (including judges) \_\_\_\_\_

Budget requests

Budget appropriation

Fiscal year '79 \_\_\_\_\_

Fiscal year '79 \_\_\_\_\_

Fiscal year '80 \_\_\_\_\_

Comments and Amplification: \_\_\_\_\_

a. See attached list of definitions

b. Please use the following symbols to indicate what aspect(s) receive state funds. m = maintenance; r = rental; u = utilities; c = new construction; o = other (explain below)

2. Trial

Received State Funding (Please check yes or no)\*

	Gen. Juris.		Limited Juris.		Special Courts		Justices of Peace		Municipal	
	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>
Personnel										
Travel										
Capital Outlay										
Facilities <sup>b</sup>										
Operating expenses										
Court-Appointed Counsel										
Jury Fees										
Witness Fees										
Indigent Transcripts										
Sanity Exam										
Service of Process										
Law Libraries										
Automated Data Processing										

\* If only part of a category is state-funded, then explain in the comments section.



B. State Administrative Office (Please check one)\*

	<u>Receive State Funds</u>	<u>Do Not Receive State Funds</u>
Personnel	_____	_____
Travel	_____	_____
Capital Outlay	_____	_____
Facilities	_____	_____
Operating expenses	_____	_____
Special Purposes (Please list below)	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Number of FTEs \_\_\_\_\_

Budget Requests

Fiscal Year '79 \_\_\_\_\_

Fiscal Year '80 \_\_\_\_\_

Budget Appropriation

Fiscal Year '79 \_\_\_\_\_

Comments and Amplification: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* If only part of a category is state-funded, then explain in the comments section.



# C. Court Services

Receive State Funding Under Judicial Branch (Please check Yes or No)\*  
Other (unless already included)

	Adult Probation		Juvenile Probation		Juvenile Detention		Community Corrections		Psychologists		Purchase of Funds		Domestic Relations Counselors		Friends of Court		Other	
	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>Y</u>	<u>N</u>
Personnel																		
Travel																		
Capital Outlay																		
Facilities <sup>b</sup>																		
Operating Expenses																		
Number of FTEs																		
Budget Requests																		
Fiscal Year '79																		
Fiscal Year '80																		
Budget Requests																		
Fiscal Year '79																		

<sup>a</sup> See attached list of definitions

\* If only part of a category is state-funded, then explain in the comments section.

Comments and Amplification: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. What Courts or court functions or services are NOT state funded? (and have not been clearly indicated by the answers above.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

E. Distribution of fines and fees.

1. Courts	State (%)	Local (%)
a. Appellate		
1) Last resort	_____	_____
2) Intermediate	_____	_____
b. Trial		
1) General Jurisdiction	_____	_____
2) Limited Jurisdiction	_____	_____
3) Special Courts	_____	_____
4) Justices of Peace	_____	_____
5) Municipal Courts	_____	_____
2. Court Services		
a. Adult Probation	_____	_____
b. Juvenile Probation	_____	_____
c. Juvenile Probation	_____	_____
d. Community Corrections	_____	_____
e. Other(specify)	_____	_____

Of the money from fines and fees allocated as state or local, how is the money spent?

	<u>STATE</u>		<u>LOCAL</u>	
	General Fund %	Other % (Please Specify)	General Fund %	Other % (Please Specify)
Courts				
Appellate				
Last Resort				
Intermediate				
Trial				
Gen. Jurisdiction				
Limited Jurisdiction				
Special Courts				
Justices of Peace				
Municipal Courts				
Court Services				
Adult Probation				
Juvenile Probation				
Juvenile Detention				
Comm. Corrections				
Other (specify)				

Comments and Amplification: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### III. Budget and Appropriation Procedures

#### A. Initial Preparation:

1. How is the basic budget request and comparative data for prior years prepared?

1 = Automated Data Processing \_\_\_\_\_

2 = Manual Preparation \_\_\_\_\_

2. Who does the initial budget preparation?

1 = Central \_\_\_\_\_

2 = Local \_\_\_\_\_

3 = Other (specify) \_\_\_\_\_

- a. If local preparation, what constitutes a unit? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### B. Involvement of local units in process after initial preparation and prior to submission:

1. Define the local unit, i.e., trial court, district court, etc. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. If centrally prepared initially (please check one or more of the following as appropriate)

- a. Local unit reviews, makes changes or additions, and provides

justification \_\_\_\_\_

- b. Local unit changes or additions must be accepted at the central (state) level \_\_\_\_\_
- c. Local unit changes may be accepted or rejected at the central (state) level \_\_\_\_\_
- d. Central acceptance, modification, or rejection is made without further pre-submission contact with local unit \_\_\_\_\_
- e. Central acceptance, modification, or rejection is made after a hearing or other pre-submission contact with local unit \_\_\_\_\_

1) If hearings are held: (Please check)

1 = hearings held with all units \_\_\_\_\_

2 = only selective hearings or contacts \_\_\_\_\_

If selective hearings are held, explain  
the basis for selection

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C. Final Budget Preparation:

1. Which of the following statements accurately describes your final budget preparation? (Please check)

1 = central preparation, including modification or  
reduction of unit requests \_\_\_\_\_

2 = central collation of local unit requests, no  
authority to modify or reduce \_\_\_\_\_

3 = local unit budget submitted separately \_\_\_\_\_

4 = external preparation (by executive branch) \_\_\_\_\_

5 = other(specify \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. If central budget modification or reduction can be made, who has the authority to make the initial determination prior to submission?

1 = State Court Administrator \_\_\_\_\_

2 = Supreme Court \_\_\_\_\_

3 = Chief Justice \_\_\_\_\_

4 = Committee of judges \_\_\_\_\_

5 = Judicial Council \_\_\_\_\_

6 = Other(specify) \_\_\_\_\_  
\_\_\_\_\_

3. If central budget modification or reduction can be made, who has the final authority?

1 = State Court Administrator \_\_\_\_\_

2 = Supreme Court \_\_\_\_\_

3 = Chief Justice \_\_\_\_\_

4 = Committee of judges \_\_\_\_\_

5 = Judicial Council \_\_\_\_\_

6 = Other(specify) \_\_\_\_\_  
\_\_\_\_\_

4. Are formulae, staff ratios, weighted caseloads, etc. used in determining budget allocations?

Yes \_\_\_\_\_ No \_\_\_\_\_

- a. If yes, please describe and give examples:

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D. Budget submission:

Yes      No      Review Only

1. To Executive branch

\_\_\_\_\_

2. Executive Budget office hearing required?

\_\_\_\_\_

If yes:

- a. Review is similar to other agencies

\_\_\_\_\_

- b. Less extensive than other agencies

\_\_\_\_\_

- c. Who represents the Judicial branch?

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- d. The Executive Branch may recommend changes in the Judicial Budget

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, are these changes

- a) Binding on the legislature

\_\_\_\_\_

- b) Not binding on the legislature

\_\_\_\_\_

- c) Ignored by the legislature

\_\_\_\_\_



e. Authority for Executive Branch involvement or non-involvement is derived from: (Please check)

1 = Constitution \_\_\_\_\_

2 = Statute \_\_\_\_\_

3 = Agreement \_\_\_\_\_

4 = Case Law \_\_\_\_\_

5 = Practice or tradition \_\_\_\_\_

6 = Other (specify) \_\_\_\_\_

3. To Legislative Branch:

a. What is the legislative committee of initial referral?

1 = Joint Budget or Appropriations Committee \_\_\_\_\_

2 = House Appropriation Committee \_\_\_\_\_

3 = Senate Appropriation Committee \_\_\_\_\_

4 = Other (specify) \_\_\_\_\_

b. How is the Committee of Initial Referral determined?

1 = Statute \_\_\_\_\_

2 = Legislative rule \_\_\_\_\_

3 = Practice or tradition \_\_\_\_\_

4 = Other (specify) \_\_\_\_\_

c. Restrictions on legislature's role in the budgetary process:

	<u>Yes</u>	<u>No</u>
1) Is similar to its role with Executive branch agencies	_____	_____
2) Must deal only with governor's recommendations	_____	_____

- |  | <u>Yes</u> | <u>No</u> |
|--|------------|-----------|
| If yes,  |            |           |
| a) may raise only  | _____      | _____     |
| b) may lower only  | _____      | _____     |
| c) No restriction,<br>except Governor's recommendations<br>are the base for legislative<br>consideration | _____      | _____     |
| 3) No restrictions   | _____      | _____     |
| 4) Budget request cannot be reduced.   | _____      | _____     |

If yes: Source

1 = Constitutional

2 = Statutory

3 = Case Law

4 = Other (specify) \_\_\_\_\_

- |                          | <u>Yes</u> | <u>No</u> |
|--------------------------|------------|-----------|
| 5) Sum sufficient budget | _____      | _____     |

If yes: Source

1 = Constitutional \_\_\_\_\_

2 = Statutory \_\_\_\_\_

3 = Case Law \_\_\_\_\_

6) Other (specify) \_\_\_\_\_

d. Budget hearings are held before:

1 = Joint Appropriation Committee \_\_\_\_\_

2 = Appropriation Committees in each house \_\_\_\_\_

3 = Subject matter committees in each house (specify) \_\_\_\_\_

4 = Sub-committee of subject matter committees in  
each house (specify) \_\_\_\_\_

5 = Other (specify) \_\_\_\_\_

e. Judicial Branch representatives at budget hearing: (Check which of  
the following apply).

1 = State Court Administrator \_\_\_\_\_

2 = State Court Administration Staff \_\_\_\_\_

3 = Chief Justice \_\_\_\_\_

4 = Other member(s) of Supreme Court \_\_\_\_\_

5 = Court of Appeals

Chief Judge(s) \_\_\_\_\_

Administrator(s) \_\_\_\_\_

Other \_\_\_\_\_

6 = Trial Courts

Chief Judge(s) \_\_\_\_\_

Administrator(s) \_\_\_\_\_

Other \_\_\_\_\_

If Chief Judge(s) appears, do all appear or how are they selected? \_\_\_\_\_

If trial court administrators appear, do all appear or how are  
they selected? \_\_\_\_\_

c. If required, by what source?

1 = Constitution \_\_\_\_\_

2 = Statute \_\_\_\_\_

3 = Practice or tradition \_\_\_\_\_

4 = Other (specify) \_\_\_\_\_

d. If limited, does the limitation apply to specific categories or line items?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, which ones \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. If appropriation is less than budget request, who determines reallocation?

1 - State Court Administrator \_\_\_\_\_

2 = Supreme Court \_\_\_\_\_

3 = Chief Justice \_\_\_\_\_

4 = Committee of Judges \_\_\_\_\_

5 = Judicial Council \_\_\_\_\_

6 = Other (specify) \_\_\_\_\_

4. If appropriation is less than budget request, what bases are used for reallocation:

1 = needs reassessment \_\_\_\_\_

2 = through formula reapplication \_\_\_\_\_

3 = other (specify) \_\_\_\_\_

\_\_\_\_\_

f. Floor action:

Are changes made in committee recommendations?

1 = Usually \_\_\_\_\_

2 = Sometimes \_\_\_\_\_

3 = Never \_\_\_\_\_

If answered '1' or '2' above, what are the typical circumstances?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

E. Final Appropriations:

1. Type of Appropriation: (check which of the following apply)

a. Lump sum \_\_\_\_\_

b. Categorical \_\_\_\_\_

c. Line item \_\_\_\_\_

d. Program \_\_\_\_\_

e. Other (specify) \_\_\_\_\_

2. If categorical or line item are used, does the judicial branch have the authority to transfer funds?

Yes \_\_\_\_\_ No \_\_\_\_\_

a. If yes, is this authority

Limited \_\_\_\_\_ Unlimited \_\_\_\_\_

b. If Limited;

Yes

No

1) Is legislative approval required? \_\_\_\_\_

2) Is Executive approval required? \_\_\_\_\_

F. Supplemental Appropriations:

1. Are supplemental or deficiency appropriations requested?

1 = Always \_\_\_\_\_

2 = Usually \_\_\_\_\_

3 = Sometimes \_\_\_\_\_

4 = Never \_\_\_\_\_

2. If answered '1' or '2', for what categories or functions are these funds requested? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. What is the supplemental request in fiscal year '79 (or what was it in fiscal year '78)? FY '79 \_\_\_\_\_

FT '78 \_\_\_\_\_

4. What was the amount appropriated? FY '78 \_\_\_\_\_

5. If the amount was less than requested, how was the remaining deficiency handled? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### IV FISCAL ADMINISTRATION

##### A. Executive Branch Involvement in Fiscal Administration

Which ones of the following statements accurately describes the relationship between the judicial and executive branches relevant to fiscal administration? (Please check)

##### 1. Judicial branch has total authority

a. Judicial branch has own accounting system \_\_\_\_\_

yes no

1) Uses same chart of  
accounts as executive  
branch \_\_\_\_\_

2) Accounting system is  
integrated with execu-  
tive branch system \_\_\_\_\_

b. Judicial branch uses executive branch accounting  
system, but is not subject to executive branch  
controls and procedures \_\_\_\_\_

c. Judicial branch has its own fiscal rules, which  
are similar to those of the executive branch \_\_\_\_\_

1) If similar, why were separate rules adopted?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d. Judicial branch has its own fiscal rules which are  
different from those of the executive branch \_\_\_\_\_

1) If different, what are the major areas of  
difference, i.e. travel reimbursement limits,  
purchasing, etc. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

e. Judicial branch has its own fiscal procedures \_\_\_\_\_

f. Judicial branch uses executive branch fiscal pro-  
cedures \_\_\_\_\_

g. Judicial branch has its own purchasing procedures.

1) Uses state purchasing office:

a) never

b) sometimes

c) usually

d) always

e) depends on dollar value of item(s) being  
purchased (explain) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

h. Judicial branch follows state purchasing procedures

i. Judicial branch maintains its own inventory records and controls on furniture, equipment, etc.

j. Judicial branch uses executive branch inventory control system and procedures

k. Judicial branch has its own payroll and personnel records and procedures

l. Judicial branch uses executive branch payroll procedures, but maintains its own payroll and personnel records

m. Judicial branch uses executive branch payroll procedures and payroll personnel record system

n. Basis for judicial branch authority and responsibility:

1) Constitution

2) Statute

3) Case Law

4) Supreme Court Order

5) Practice & Tradition



6) Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Judicial branch authority and responsibility  
is limited

- a. Executive branch must approve transfer of funds  
across categories \_\_\_\_\_
- b. Executive branch must approve all vouchers \_\_\_\_\_
- c. Executive branch prescribes accounting systems  
and procedures \_\_\_\_\_
- d. Executive branch prescribes purchasing pro-  
cedures \_\_\_\_\_
  - 1) Approves all purchases \_\_\_\_\_
  - 2) Approves all purchases above \$ \_\_\_\_\_
  - 3) Does not approve purchases \_\_\_\_\_
- e. Executive branch prescribes \_\_\_\_\_, maintains \_\_\_\_\_,  
approves inventory control procedures \_\_\_\_\_
- f. Executive branch prescribes \_\_\_\_\_, maintains \_\_\_\_\_,  
approves \_\_\_\_\_
  - 1) Payroll procedures \_\_\_\_\_
  - 2) Payroll records \_\_\_\_\_
  - 3) Personnel records \_\_\_\_\_
- g. Executive branch prescribes \_\_\_\_\_, performs \_\_\_\_\_,  
pre-audit procedures \_\_\_\_\_
- h. Executive branch prescribes \_\_\_\_\_, performs \_\_\_\_\_,  
internal audit procedures. \_\_\_\_\_
- i. Basis for executive branch control or involvement:
  - 1) Constitutional \_\_\_\_\_
  - 2) Statute \_\_\_\_\_
  - 3) Case Law \_\_\_\_\_
  - 4) Executive Order \_\_\_\_\_

- 5) Administrative Rule \_\_\_\_\_
- 6) Practice & tradition \_\_\_\_\_
- 7) Other \_\_\_\_\_

d. Does the executive branch exercise the same kind of fiscal control over legislative expenditures and fiscal administration?

B. Judicial System Fiscal Authority & Responsibility

1. Who exercises overall fiscal authority and responsibility

- a. State Court Administrator \_\_\_\_\_
- b. Chief Justice \_\_\_\_\_
- c. Supreme Court \_\_\_\_\_
- d. Judicial Council \_\_\_\_\_
- e. Other \_\_\_\_\_

2. Who promulgates system-wide fiscal rules

- a. State Court Administrator \_\_\_\_\_
- b. Chief Justice \_\_\_\_\_
- c. Supreme Court \_\_\_\_\_
- d. Judicial Council \_\_\_\_\_
- e. Other \_\_\_\_\_

3. Is there central authority to transfer funds among local units?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, who exercises this authority?

\_\_\_\_\_

4. Is there central authority to transfer furniture and equipment \_\_\_\_\_ court personnel (other than judges) \_\_\_\_\_ from one location to another?
- a. If so, may transfer of furniture and equipment be permanent? Yes \_\_\_\_\_ No \_\_\_\_\_
- b. If so, may transfer of personnel be permanent? Yes \_\_\_\_\_ No \_\_\_\_\_
- c. Who exercises central authority for transfer of furniture and equipment or personnel?
- 1) State Court Administrator \_\_\_\_\_
- 2) Chief Justice \_\_\_\_\_
- 3) Supreme Court \_\_\_\_\_
- 4) Judicial Council \_\_\_\_\_
- 5) Other \_\_\_\_\_
5. Who is responsible for the creation and maintenance of accounting, payroll and related records (including inventory control, court collected fines, fees, etc.)? \_\_\_\_\_
- a. Which financial and personnel records are automated? \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- b. Which financial and personnel records are manual? \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- c. Which financial and personnel records are maintained centrally? \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- d. Which financial and personnel records are maintained locally? \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

6. Is central approval required for local transfer of funds across categories? Yes \_\_\_\_\_ No \_\_\_\_\_

a. Is this approval required for all transfers?

Yes \_\_\_\_\_ No \_\_\_\_\_

b. If not, what kind of fund transfers require central approval?

\_\_\_\_\_  
\_\_\_\_\_

c. Who has the authority to approve?

- 1) State Court Administrator \_\_\_\_\_
- 2) Chief Justice \_\_\_\_\_
- 3) Supreme Court \_\_\_\_\_
- 4) Judicial Council \_\_\_\_\_
- 5) Other \_\_\_\_\_

d. What limits, if any, are placed on the local unit transfer of funds not requiring central approval?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. How is the judicial system payroll prepared?

- a. Centrally \_\_\_\_\_
- b. Centrally, with locally generated changes \_\_\_\_\_
- c. Centrally, with separate local unit payrolls \_\_\_\_\_
- d. Other \_\_\_\_\_

8. Retention of funds

a. All appropriated funds are retained at the central (state) level

Yes \_\_\_\_\_ No \_\_\_\_\_

b. Funds for some purposes are distributed to local units for direct expenditure

Yes \_\_\_\_\_ No \_\_\_\_\_

- 1) If yes, identify purposes \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 2) If yes, what is the distribution frequency? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 3) If yes, what is the procedure used, i.e., imprest or revolving fund?  
\_\_\_\_\_  
\_\_\_\_\_

9. Capital Outlay Purchasing Procedures

- a. All capital outlay purchase over \$ \_\_\_\_\_
  - 1) Requires central approval \_\_\_\_\_
  - 2) May be ordered locally \_\_\_\_\_
  - 3) Requires placement of orders or bids \_\_\_\_\_
- b. No capital outlay purchases require central approval once the item has been approved in the budget and the allocation made  
\_\_\_\_\_
- c. Other (please explain) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- d. There is central authority to prescribe
  - 1) Standardized forms Yes \_\_\_\_\_ No \_\_\_\_\_
  - 2) Specifications for furniture Yes \_\_\_\_\_ No \_\_\_\_\_
  - 3) Uniform court records and procedures Yes \_\_\_\_\_ No \_\_\_\_\_
  - 4) If yes, who exercises this authority?
    - a) State Court Administrator \_\_\_\_\_
    - b) Chief Justice \_\_\_\_\_

- c) Supreme Court \_\_\_\_\_
- d) Judicial Council \_\_\_\_\_
- e) Other \_\_\_\_\_

10. Other Purchasing Procedures

- a. Central, bulk purchasing of forms, office supplies, etc.

Yes \_\_\_\_\_ No \_\_\_\_\_

- b. Local purchasing of forms, office supplies, etc.

Yes \_\_\_\_\_ No \_\_\_\_\_

- c. Other (please explain) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

11. Travel authorization and reimbursement

- a. Central prior authorization is required for travel (please check)

	Judges	Other Categories of Personnel	Special Circumstances (explain)
In-State			
Out-of-State			

- 1) If prior central authorization is required, who exercises this authority?

- a) State Court Administrator \_\_\_\_\_
- b) Chief Justice \_\_\_\_\_
- c) Supreme Court \_\_\_\_\_
- d) Judicial Council \_\_\_\_\_
- e) Other \_\_\_\_\_

- 2) Does it differ depending on category of personnel, i.e., judges, others (please explain)?

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- b. Local prior authorization is required for travel (please check).

	Judges	Other Categories of Personnel	Special Circumstances (explain)
In-State			
Out-of-State			

- 1) If prior local authorization is required, who has the authority?

- a) Chief or presiding judge \_\_\_\_\_
- b) Court administrator \_\_\_\_\_
- c) Other \_\_\_\_\_

- 2) Does it differ depending on category of personnel, i.e., judges, other (please explain)?

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- c. No prior authorization is required for travel:

	Judges	Other Categories of Personnel	Special Circumstances (explain)
In-State			
Out-of-State			

- d. Central approval and central payment of travel reimbursement:

	Judges	Other Categories of Personnel	Special Circumstances (explain)
In-State			
Out-of-State			

- e. Central approval and local payment of travel reimbursement:

	Judges	Other Categories of Personnel	Special Circumstances (explain)
In-State			
Out-of-State			

1) If central approval of reimbursement is required, who has the authority?

- a) State Court Administrator \_\_\_\_\_
- b) Chief Justice \_\_\_\_\_
- c) Supreme Court \_\_\_\_\_
- d) Judicial Council \_\_\_\_\_
- e) Other \_\_\_\_\_

f. Local approval and central payment of travel reimbursement:

	Judges	Other Categories of Personnel	Special Circumstances (explain)
In-State			
Out-of-State			

g. Local approval and local payments of travel reimbursement:

	Judges	Other Categories of Personnel	Special Circumstances (explain)
In-State			
Out-of-State			

1) If local approval of reimbursement is required, who has the authority?

- a) Chief or presiding judge \_\_\_\_\_
- b) Court Administrator \_\_\_\_\_
- c) Other \_\_\_\_\_

2. Furniture and Equipment Inventory Control

a. Is there central authority and responsibility for the design and maintenance of a furniture and equipment inventory control system?

Yes \_\_\_\_\_ No \_\_\_\_\_

b. If so, who has this authority and responsibility?

- 1) State Court Administrator \_\_\_\_\_
- 2) Chief Justice \_\_\_\_\_
- 3) Supreme Court \_\_\_\_\_
- 4) Judicial Council \_\_\_\_\_



5) Other (explain) \_\_\_\_\_

13. Pre, Internal and Post Audits

a. Who has the responsibility for pre-audits?

1) Central Office \_\_\_\_\_

2) Judicial district or circuit \_\_\_\_\_

3) Local unit \_\_\_\_\_

4) Other \_\_\_\_\_

b. If the responsibility is divided among the central office, judicial district or circuit, and the local units (or any combination thereof) what is the basis for this decision? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Does the judicial system have its own internal auditors?

Yes \_\_\_\_\_ No \_\_\_\_\_

1) If so, to whom does the auditor report? \_\_\_\_\_  
\_\_\_\_\_

2) If yes, what are the internal auditor's functions? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d. Who performs post-audits?

1) Legislative Auditor \_\_\_\_\_

2) Elected or appointed State Auditor in  
Executive Branch \_\_\_\_\_

3) Private auditing firm hired by judicial  
system \_\_\_\_\_

4) Other \_\_\_\_\_

e. What is the frequency of the post-audits?  
\_\_\_\_\_  
\_\_\_\_\_

f. Do post audits include performance audits, as well as financial?

Yes \_\_\_\_\_ No \_\_\_\_\_

g. If so, what is covered by the performance audit?

## V. BACKGROUND INFORMATION

### A. Legislative Sessions

1. Frequency of regular sessions (check one):      annual

biennial

2. If regular annual sessions (check one):

a. One session restricted to financial matters only

b. One session restricted to financial matters plus governor's agenda

c. No restrictions

3. If regular annual sessions, can legislation introduced in the first session be carried over to the second, if not passed or killed?

Yes \_\_\_\_\_ No \_\_\_\_\_

## B. Initiation and Adoption of State Funding

1. State funding was part of a court reform or reorganization package?

Yes No

2. If yes, when was it enacted (check one)?

a. Same year as enabling legislation

b. Subsequent to enabling legislation

3. If adopted later, how much later? years

4. If state funding was not part of a court reform package, had such reform taken place prior to state funding?

Yes No

5. If yes, how many years before state funding was it adopted?

years

6. If state funding was not part of a court reform package:
- a. Who initiated and promoted the state funding concept? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. Why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. a. What year was state funding first proposed? \_\_\_\_\_  
b. What year was state funding first considered by the legislature? \_\_\_\_\_  
c. What year was state funding enacted? \_\_\_\_\_  
d. What year and month did state funding become effective? \_\_\_\_\_
8. a. State funding (check one): took place all at one time \_\_\_\_\_  
was phased in \_\_\_\_\_  
b. If phased in, briefly describe the process, indicating components, amount, or percentage as appropriate and phase-in intervals.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Indicate when State Court Administrator began work on implementation by checking one:
- a. when first proposed \_\_\_\_\_  
b. when first considered by legislature \_\_\_\_\_  
c. when state funding was adopted \_\_\_\_\_
10. Describe implementation steps, using dates in 8. above as applicable.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. List implementation steps carried out by in-house staff:

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12. List implementation steps carried out by consultants:

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13. How long did it take for state funding to become administratively operational

\_\_\_\_\_ years/months

14. a. Was the amount of lead time for implementation:

sufficient \_\_\_\_\_

insufficient \_\_\_\_\_

b. If insufficient, how much lead time was needed? \_\_\_\_\_

15. What were the major initial implementation problems and how were they handled?

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16. What were the major subsequent implementation problems and how were they handled?

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**SIZE AND COMPOSITION OF SCA STAFF**  
 (Indicate Number of FTE, Exclude SCA)

	Prior to State Funding	Added Initially Because of State Funding	Added Later Because of State Fund.	Present Staff
<u>Professional</u>				
Budget Fiscal				
Personnel				
Legal				
Planning				
Mgt.-Analysis <sup>a</sup>				
Stat. & Research				
ADP				
Training <sup>b</sup>				
Probation				
Other				
Sub-Total				
<u>Sec. &amp; Clerical</u>				
Secretarial				
Clerical				
Sub-Total				
TOTAL				

a. Include record management, field services, forms design, etc.

b. judge and non-judicial personnel.

## APPENDIX D

## STATE VISIT CHECK LIST

Interviewees

## A) State Level

- 1) Chief Justice
- 2) Other Justice(s)
- 3) SCA
- 4) Selected SCA Staff
  - a) budget
  - b) fiscal
  - c) personnel
  - d) training
  - e) legislative liaison
  - f) ancillary services (if applicable)
- 5) Legislative budget staff (if time)
- 6) Executive budget staff (if time)
- 7) Representatives from State Assn. of Local Governments (if time)

## B) Local Level

- 1) Chief or Presiding Judges
- 2) Other Judges
- 3) Trial Court Administrators
- 4) Court Clerks
- 5) Ancillary Services Admin.
- 6) Other

Topics for Discussion

I. Questions Relating to Questionnaire

A) Inconsistent Responses

B) Unclear Responses

C. Responses Requiring More Explanation in Depth



## II. Attitudes Toward the System, Generally

A) State Level

B) Local Level

C) External

1) Is the system effective?

a) Does it do what it is supposed to do?

b) Does it meet perceived needs?

c) Other criteria

2) Is the system responsive?

a) Does it adapt well to changing conditions?

b) Are changes easy or hard to make?

i) How is the need for change determined?

ii) Who makes the decisions?

c) Does the system encourage or discourage initiative?

d) Does the system respond well to crises?

(Note. Try to get concrete examples on 1) and 2), where possible.)

3) If system is not effective or responsive, what are the major reasons?

a) Is it the concept of state funding or the way it is administered?

b) Is it the level of funding or the way it is allocated?

c) Is it the division of funding between the state and counties (either proportion or functions funded)

d) Other

4) If state funding and closely related issues is not the problem, what is?

a) method of judicial selection

b) election of clerks

- c) personnel system
- d) court system organization or structure
- e) other
- 5) What are the major advantages and disadvantages (primarily with respect to funding) of the system compared to the way it used to be funded and administered.
  - a) Comments by those with direct experience under both
  - b) Comments by those whose direct experience is with current system.
- 6) What were major transitional problems, such as: time limits, inadequate resources (people-systems), inadequate processes and procedures, etc.
  - a) Comments by those with direct experience during transition
  - b) Comments by those with direct experience after transition

### III. Perception of State - Local Relationships

- A) State Level
- B) Local Level
- C) External
  - 1) Administration of the system, generally
  - 2) Administration re budget and fiscal matters (also personnel - if needed for background)
  - 3) Budget Preparation and Submission
    - a) Is the degree of state involvement satisfactory?
    - b) Is the degree of local involvement satisfactory?
    - c) What changes should be made? Why?
    - d) Are the lines of communication satisfactory between state and local levels?
      - i) as to initial budget request
      - ii) as to final budget request at state level and the reasons therefor
      - iii) as to the amount appropriated
      - iv) as to the appropriation allocation and the reasons therefor

- e) Is the communication process similar for other functions and activities or different?

4) Fiscal Administration

1) Generally

a) State-Local division of responsibility

- i) satisfactory or unsatisfactory
- ii) what should be changed - why?

b) purchasing

c) payroll

d) inventory control

e) audit

f) other

(Note: b) through f) use a) i) and ii) above)

IV. Perception of Judicial Branch Relationships with Legislative and Executive Branches

A) State Level

B) Local Level

1) Generally

2) Budget Process

3) Fiscal Administration - Accountability

4) Other

5) How far removed is the local level:

- a) from contact with the legislature
- b) from contact with the executive branch at state level

6) To what extent is removal seen as a problem by:

- a) local people
- b) state people

7) How far removed is the state level:

a) from contact with county commissioners or county legislative body

b) from prosecution, defense, local social agencies, etc.

8) To what extent is removal seen as a problem by:

a) local people

b) state people

## APPENDIX E

### List of Officials Interviewed During Site Visits

#### Colorado

##### Supreme Court

Chief Justice Paul V. Hodges  
Justice Edward E. Pringle (former Chief Justice)

##### Trial Judges

Chief Judge Daniel J. Shannon, 1st judicial district, Golden  
Chief Judge Joseph N. Lilly, 2nd judicial district, Denver  
Chief Judge Robert W. Johnson, 4th judicial district, Colorado Springs  
Chief Judge Dean Johnson, 13th judicial district, Fort Morgan  
Chief Judge Jean J. Jacabucci, 17th judicial district, Brighton

##### State Court Administrator's Office

James D. Thomas, State Court Administrator  
George C. James, Budget and Fiscal Officer

##### Trial Court Administrators

Daniel R. Vredenberg, 1st judicial district, Golden  
Dean A. Nakayama, 2nd judicial district, Denver  
Jack McLaughlin, 4th judicial district, Colorado Springs  
Bobbi Parker, 13th judicial district, Fort Morgan  
William Carpenter, 17th judicial district, Brighton

##### Court Clerks

Betty Van Pelt, Clerk of the District Court, 18th judicial district, Douglas  
County (Castle Rock)  
Virginia Schroeder, Clerk of the County Court, Adams County (Brighton)

Connecticut

Judges

Judge Maurice J. Sponzo, Deputy Chief Court Administrator, Hartford  
Administrative Judge Arthur H. Healey, New Haven  
Administrative Judge Henry J. Naruk, Middletown  
Administrative Judge Walter M. Picket, Jr., Waterbury

Office of the Chief Court Administrator

Joseph J. Keefe, Executive Secretary  
David M. Jackson, Executive Aide

Court Services

Terry S. Capsham, Director of Adult Probation  
Allen Green, Director of Restitution

Court Clerks

Chief Clerk Frank M. Goetz III, Middlebury

## Kentucky

### Supreme Court

Chief Justice John S. Palmore

### Trial Judges

Chief Judge L.T. Grant, 22nd judicial circuit, Lexington  
Chief Judge James S. Chenault, 25th judicial circuit, Richmond  
Judge Michael O. McDonald (former chief judge), 30th judicial circuit, Louisville  
Presiding Judge Michael B. Rooney, 22nd judicial district, Lexington  
Judge Julia K. Tackett, 22nd judicial district, Lexington  
Presiding Judge Robert E. Delahanty, 30th judicial district, Louisville

### Administrative Office of the Courts

William G. Davis, Administrative Director  
Nancy Lancaster, Information Officer  
Earl Herrick, Director of Auditing  
Jim Peel, Director, Division of Administrative Services  
Walter Gattis, Director of Personnel  
Marion Hubbard, Assistant Director of Personnel  
Dennis Scala, Director, Accounting and Purchasing  
John Kilkenny, Budget Analyst  
Ralph Conlee, Acting Director, Properties/Inventory  
Bud Eades, Director, Division of Court Services  
John Hendricks, Assistant Director, Pre-trial Release  
Ann Carrington, Field Services  
Larry Lewis, Manager, Research and Statistics  
Marian Landum, Research and Statistics  
Laura Cortese, Regional Administrator  
Mary Lloyd, Regional Administrator  
Robert P. Scherle, Director, Division of Education

### Trial Court Administrators

Donnie Taylor, Circuit Administrator, 22nd judicial circuit, Lexington  
Lewis P. McHenry, Jr., District Administrator, 30th judicial district, Louisville  
Roger T. Vize, District Administrator, 30th judicial district, Louisville

### Circuit Clerks

Robert M. True, Circuit Clerk, Fayette County, Lexington  
Paulie Miller, Circuit Clerk, Jefferson County, Louisville

## New Mexico

### Supreme Court

Chief Justice Dan Sosa, Jr.

Senior Justice John B. McManus, Jr. (former Chief Justice)

### Trial Judges

Presiding Judge Bruce C. Kaufman, 1st judicial district, Santa Fe

Presiding Judge Eugene Franchini, 2nd judicial district, Albuquerque

Judge Harry E. Stowers, Jr. (former presiding judge), 2nd judicial district,  
Albuquerque

### Administrative Office of the Courts

Larry D. Coughenour, Administrative Director

Edward J. Baca, Deputy Director

Jan Marsh Gasparich, Budget Officer

Sam Larcombe, Judicial Planner

Martha Marshall Goldi, Juvenile Probation Coordinator

John Dantis, Assistant Juvenile Probation Coordinator

### Court Administrators

Tom Ruiz, Acting District Court Administrator, 2nd judicial district, Albuquerque

### Juvenile Probation

Alfred M. Ortiz, Chief Juvenile Probation Officer, 1st judicial district,  
Santa Fe

George R. Gargoura, Chief Juvenile Probation Officer, 2nd judicial district,  
Albuquerque

Stephanie Price, Director of Adult Misdemeanor Services, Bernalillo County,  
Albuquerque

### Court Clerks

Dolores Lujan, District Court Clerk, 1st judicial district, Santa Fe

Bonnie G. Davies, Chief Clerk, Magistrate's Court, Bernalillo County, Albuquerque

### Others

E.J. Martinez, Accountant, 1st judicial district, Santa Fe

Ishmael Gallegos, Budget Officer, 2nd judicial district, Albuquerque



South Dakota

Supreme Court

Chief Justice Roger L. Woolman  
Justice Francis G. Dunn (former Chief Justice)

Trial Judges

Presiding Judge Robert Miller, 6th judicial circuit, Pierre  
Presiding Judge Marshall Young, 7th judicial circuit, Rapid City

State Court Administrator's Office

Mark G. Geddes, State Court Administrator  
Dan Schenk, Personnel Officer  
Jay Neuberger, Court Services Coordinator  
Jack Ellenberger, Budget Officer

Court Administrators

Jim Drabert, Circuit Administrator, 7th judicial circuit, Rapid City

Others

Wes Tschetter, Director, Legislative Research Council  
Robert Miller, South Dakota Municipal League  
Neal Strand, South Dakota County Commissioners' Association  
Don Naddy, South Dakota County Commissioners' Association

**END**