F I N A N C I N G O F T H E

D I S T R I C T C O U R T S

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P U B L I C D E F E N S E S Y S T E M

PRESENTATION BEFORE THE JOINT LEGISLATIVE COMMISSION ON PLANNING AND FISCAL POLICY

DECEMBER 21, 1988

- **SUMMARY OF THE ISSUES AND RECOMMENDATIONS**
- **ASSOCIATION OF MINNESOTA COUNTIES**
- **ADVISORY COUNCIL ON STATE-LOCAL RELATIONS (ACSLR)**
- **STATE BOARD OF PUBLIC DEFENSE**
- **SUPREME COURT TASK FORCE ON FINANCING OF THE TRIAL COURTS**

FEB 8 1989

THE FINANCING OF MINNESOTA'S DISTRICT COURTS AND PUBLIC DEFENSE SYSTEM

PROPOSAL:

The state should assume a greater role in the financing of Minnesta's District Courts and public defense system.

BACKGROUND:

The system Minnesota currently uses for financing its District Courts and public defense system raises many significant issues.

- Should the third branch of state government rely primarily on local property taxes for its resources?
- Does an overreliance on local property taxes hinder Minnesota's effort to provide equality of services throughout its District Courts and public defense system?
- Should elected county officials be held accountable for property taxes levied to support the District Courts and public defense system when they have little authority over many of the spending decisions for these services?
- District Court employees are hired and supervised by state employees (a judge or district administrator), but paid by the county. Who is the employer for liability purposes.

Two committees have been working to address these and other issues relating to the financing of Minnesota's District Courts and public defense system.

- The Supreme Court Task Force on the Financing of the Trial Courts was established by the Supreme Court on July 20, 1988.
- The Governor's Advisory Council on State-Local Relations (ACSLR) began its study of the structure Minnesota uses to finance its District Courts and public defense system on July 6, 1988.
- Representatives of the Supreme Court, the District Court judges and administrators, the counties, the State Board of Public Defense, the executive branch of government, the legislature, the Bar Association, and the cities participated in one or both studies.

RECOMMENDATIONS:

Both the Supreme Court Task Force and the ACSLR have concluded that Minnesota should change its system for financing the District Courts and public defense system.

Having studied a number of alternative systems for financing the District Courts and public defense system, the Supreme Court Task Force recommends:

- During the 1990-91 biennium, the state should assume responsibility for financing the District Offices of the District Courts, the salaries and benefits of court reporters, law clerks and judicial officers/referees, felony, gross misdemeanor, misdemeanor and juvenile public defense services in the second and fourth judicial districts, and felony and gross misdemeanor public defense services in the other eight districts.

- In subsequent bienniums, the state should assume responsibility for all other county-financed public defense activities.

- The task force should continue to study the need for and benefit of increased state responsibilities for financing additional Trial Court services in the future.

The ACSLR concurs with the recommendations of the Supreme Court Task Force, with several modifications.

- The state should also assume responsibility for all jury and witness fees during the 1990-91 biennium.

- Certain court-generated fee and fine revenues currently collected by the counties should be transferred to the state.

- The state should eventually assume responsibility for financing all District Court activities.

FISCAL IMPLICATIONS

Based on the recommendations of the Supreme Court Task Force and the ACSLR, the additional cost to the state for District Court and public defense services during the next biennium would be $40 million to $45 million. These costs break out as follows.

District Court expenses recommended for state financing by the Supreme Court Task Force	$41,802,210
Jury and witness fees (ACSLR proposal only)	$ 5,228,892
Second and fourth district public defense costs	$16,457,100
Public defense costs in other eight districts	$ 8,583,400
New state revenues transferred from counties	($26,141,900)
TOTAL BIENNIAL COST	$45,929,702

THE TOTAL BIENNIAL COST OF THIS PACKAGE COULD BE ADJUSTED BY MODIFYING SPECIFICS OF THE PROPOSALS.

ASSOCIATION OF
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POSITION PAPER: TRIAL COURT FINANCING AND ADMINISTRATION

In January, 1988, the Association of Minnesota Counties adopted a strong policy in favor of a state takeover of the financing and administration of the trial court system and in favor of state financing of the state public defender system.

There are four major reasons why AMC supports trial court financing and administration by the state:

1. Property Tax Relief

Counties advocate state assumption of costs of the court as a method of delivering property tax relief.

In Minnesota, approximately 75 percent of the costs of the trial court system (approximately $63 million in calendar year 1987, not including capital costs) are financed with county property tax dollars. Included in that 75 percent figure are generally all costs associated with the trial court system except judges' and district administrators' salaries. The cost of district public defenders are borne virtually completely at the local level.

A consensus has developed among county officials and others that the state ought to accept financial responsibility for the trial court system. This is because there is evidence that the inequality in county tax bases has often resulted in either

disproportionately high (or low) tax burdens to finance an adequate system, or inequality in levels of service.

As with education, the state should bear the responsibility to assure an equitable level of judicial services to all persons in the state regardless of where they may happen to live. This goal cannot be attained without a major infusion of state tax dollars into the system for financing the district courts.

2. Better Administered and More Equitable System of Justice

Many county officials and others believe that state financing and administration of the district courts is the next logical step in the movement for court reform in Minnesota. The recent unification of the trial bench has added impetus to the movement for further change.

As long as the justice system is heavily financed with property tax dollars, reforms in structure, budgeting and personnel administration are made much more difficult, if not impossible.

As long ago as 1976, the Select Committee on the Judicial System agreed that state financing is an essential element for improving the judicial branch:

"During the course of the Committee's two-year study, one fact became first apparent and then pre-eminent: to bring the quality of judicial service to a high standard in all counties throughout the state and to maintain that standard in the future, an ongoing source of funding must exist. It also became apparent that the county cannot be this source.

The property tax base varies far too greatly from county to county to ensure equal resources and thus delivery of services. Levy limits are placed by the Legislature on the county's ability to tax. Demands for county services increase and yet so do the number of programs or services created by the Legislature that require county funding. The state is the logical source of funds to accomplish equality of service throughout Minnesota as well as increased quality. Not only is it logical, it is equitable. The judiciary is one of three co-equal branches of government and has a constitutional charge to administer justice to the citizens of Minnesota. Yet of the three co-equal branches, the judiciary is the only one which must go to the counties for the majority of its funding." (emphasis added)

2. Budgetary Accountability

County commissioners have struggled for several years to limit increases in county spending so as to comply with laws prohibiting annual property tax levy increases (with a few specific exceptions) of greater than 3 or 4 percent.

In this environment, a court budget increase of 15, 10 or even 5 percent becomes very painful to reconcile with other county needs. Some other portion of the county budget must be cut in order for the county to stay within the 3 or 4 percent levy limit. While county officials concede that court budget increases may well be justified in many instances, county commissioners are understandably frustrated by a system wherein they have no ultimate authority to control increases in court

expenditures but yet are held politically accountable for raising property taxes or cutting county spending on other programs.

Counties believe that with a state-financed system, there will be improved budgetary accountability for court expenditures. Counties will no longer be a mere conduit for court-ordered expenditure increases.

4. Personnel Administration, or "Whose employees are these, anyway?"

Almost all county officials are aware of instances where a problem has been created because of confusion over the status of some employees. For example, there has been litigation concerning whether a guardian ad litem is a county or a court employee for purposes of tort liability. Other cases have examined employee status for purposes of workers compensation coverage.

The advent of comparable worth exacerbated problems that have always existed regarding appropriate salary levels for county employees who are court employees in the sense that they are hired, fired and supervised by judges or court administrators. Salary and budget appeals by court administrators have occurred in several counties, and the results have reminded county commissioners that they have very limited authority to set salaries of those county employees who serve the courts.

Since county authority regarding personnel administration is already heavily circumscribed, it makes sense to establish clear authority for all personnel administration of court employees at the state level.

PFA/sf - 12/88

COUNTIES

ASSOCIATION OF
MINNESOTA COUNTIES
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TESTIMONY OF COMMISSIONER PAUL MCALPINE

TO THE JOINT LEGISLATIVE FISCAL COMMITTEE

DECEMBER 21, 1988

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE.

MY NAME IS PAUL MCALPINE, AND I AM PRESIDENT OF THE ASSOCIATION OF MINNESOTA COUNTIES AND A COUNTY COMMISSIONER FROM WRIGHT COUNTY.

AS A REPRESENTATIVE OF MINNESOTA COUNTIES, I AM HERE TODAY TO TELL YOU THAT WE STRONGLY SUPPORT REFORM IN THE FINANCING AND ADMINISTRATION OF THE TRIAL COURT SYSTEM IN MINNESOTA. WE FURTHER SUPPORT STATE FUNDING OF THE COSTS ASSOCIATED WITH THE STATE BOARD OF PUBLIC DEFENSE.

THE ASSOCIATION OF MINNESOTA COUNTIES HAS WORKED CLOSELY WITH BOTH THE GOVERNOR'S ADVISORY COUNCIL ON STATE-LOCAL RELATIONS AND THE

SUPREME COURT TASK FORCE ON THE FINANCING OF THE TRIAL COURTS. WE HOPE THE LEGISLATURE WILL JOIN WITH COUNTIES, THE JUDICIARY AND THE ADMINISTRATION TO WORK TOGETHER TO IMPLEMENT A BETTER SYSTEM FOR PAYING FOR AND DELIVERING JUSTICE IN MINNESOTA.

THIS ISSUE STARTED TO RECEIVE LEGISLATIVE ATTENTION LAST YEAR LARGELY DUE TO GROWING FRUSTRATIONS AT THE COUNTY LEVEL WITH THE PRESENT SYSTEM. THESE ARE JUST SOME OF THE PROBLEMS THAT CURRENTLY EXIST:

1) COUNTIES ARE BEING ASKED TO FINANCE INCREASING COURT AND PUBLIC DEFENDER BUDGETS AND AT THE SAME TIME LIVE WITHIN STRICTER AND STRICTER LEVY LIMITS. THIS FORCES RE-ORDERING OF COUNTY BUDGET PRIORITIES DUE TO JUDICIAL BRANCH DECISIONS.

2) SOME COURT ADMINISTRATORS HAVE SUCCESSFULLY EXERCISED THEIR STATUTORY RIGHT TO APPEAL THEIR SALARIES TO DISTRICT COURT, AND THUS CREATED

PROBLEMS WITH OTHER COUNTY SALARY LEVELS AS WELL AS IMPLEMENTATION OF COMPARABLE WORTH.

3) JUDICIAL DISTRICT BUDGETS ARE ASSESSED BACK TO COUNTIES ON A PER CAPITA BASIS, PUTTING PARTICULAR STRESS ON LOW TAX BASE COUNTIES WHO MIGHT BE PART OF A GROWING JUDICIAL DISTRICT.

4) LAWSUITS ARISE PERIODICALLY BECAUSE IT IS UNCLEAR WHO THE EMPLOYER OF COURT EMPLOYEES IS FOR LIABILITY AND OTHER PURPOSES.

WE REALIZE THAT STATE FUNDS FOR NEW EXPENDITURES ARE VERY LIMITED. NONETHELESS, WE HOPE THAT YOU GIVE HIGH PRIORITY TO INITIATIVES TO INCREASE STATE FUNDING OF THE COURTS AND THE PUBLIC DEFENDER. HIGH PRIORITY IS WARRANTED BECAUSE YOU CAN ACHIEVE FOUR IMPORTANT OBJECTIVES: PROPERTY TAX RELIEF, A MORE EQUITABLE JUSTICE SYSTEM, INCREASED BUDGETARY ACCOUNTABILITY, AND LESS CONFUSING PERSONNEL ADMINISTRATION.

FIRST - PROPERTY TAX RELIEF. COUNTY PROPERTY TAXPAYERS - AND THAT INCLUDES ALL PROPERTY TAXPAYERS - WOULD NO LONGER HAVE TO BEAR THE BURDEN OF FINANCING OVER 75 PERCENT OF THE TOTAL COSTS OF THE TRIAL COURT SYSTEM.

COUNTY OFFICIALS BELIEVE THAT SINCE THE TRIAL COURT SYSTEM IS ESSENTIALLY A STATE SYSTEM, IT OUGHT TO BE FINANCED - IF NOT TOTALLY, AT LEAST SUBSTANTIALLY - WITH STATE REVENUES. CONTINUED HEAVY RELIANCE ON PROPERTY TAX DOLLARS TO FINANCE THE SYSTEM WILL MEAN CONTINUED INEQUITIES - EITHER IN TAX BURDENS OR IN LEVELS OF SERVICE.

THE SECOND OBJECTIVE IS A MORE EQUITABLE SYSTEM JUSTICE. MANY COUNTY OFFICIALS AND OTHERS BELIEVE THAT STATE FINANCING AND ADMINISTRATION OF THE DISTRICT COURTS IS THE NEXT LOGICAL STEP IN THE MOVEMENT FOR COURT REFORM IN MINNESOTA. THE RECENT UNIFICATION OF THE TRIAL BENCH HAS ADDED IMPETUS TO

THE MOVEMENT FOR FURTHER CHANGE. AS LONG AS THE JUSTICE SYSTEM IS HEAVILY FINANCED WITH PROPERTY TAX DOLLARS, REFORMS IN STRUCTURE, BUDGETING AND PERSONNEL ADMINISTRATION ARE MADE MUCH MORE DIFFICULT, IF NOT IMPOSSIBLE.

AS WITH EDUCATION, THE STATE SHOULD TRY TO ASSURE THAT ALL PEOPLE IN THE STATE RECEIVE AN EQUITABLE LEVEL OF JUDICIAL SERVICES REGARDLESS OF WHERE THEY MAY HAPPEN TO LIVE. THIS GOAL CANNOT BE ACHIEVED WITHOUT A MAJOR INFUSION OF STATE TAX DOLLARS INTO THE SYSTEM FOR FINANCING THE DISTRICT COURTS.

THE THIRD OBJECTIVE IS IMPROVED BUDGETARY ACCOUNTABILITY. COUNTIES BELIEVE THAT WITH A STATE-FINANCED SYSTEM, THERE WILL BE IMPROVED BUDGETARY ACCOUNTABILITY FOR COURT EXPENDITURES. COUNTIES WILL NO LONGER BE A MERE CONDUIT FOR COURT-ORDERED EXPENDITURE INCREASES.

FINALLY, WE HOPE THAT A REFORMED STATE SYSTEM HELP RESOLVE AT LEAST SOME PERSONNEL ADMINISTRATION ISSUES, AND PROVIDE ANSWERS TO THE QUESTION OF "WHOSE EMPLOYEES ARE THESE, ANYWAY?"

WE LOOK FORWARD TO WORKING WITH YOU TO PASS LEGISLATION THAT WILL ADDRESS COUNTIES' CONCERNS AND THAT WILL IMPROVE THE JUDICIAL SYSTEM AND THE PUBLIC DEFENDER SYSTEM FOR THE BENEFIT OF ALL MINNESOTANS.

THANK YOU.

ACSLR

ADVISORY COUNCIL ON STATE-LOCAL RELATIONS

REPORT TO THE GOVERNOR ON THE FINANCING OF MINNESOTA'S DISTRICT COURTS AND PUBLIC DEFENSE SYSTEM

DECEMBER 8, 1988

In July, 1988, the Governor's Advisory Council On State-Local Relations (ACSLR) began a study of the responsibilities of the state and Minnesota counties for financing Minnesota's District Courts and public defense services. The study was conducted by a committee of state and local government officials, including representatives of the executive and legislative branches of state government, representatives of county and city government, a representative of the State Court Administrator's Office, a representative of the Conference of Chief Judges, and a representative of the State Board of Public Defense. (See attached list of Committee members.)

The specific charge of the ACSLR Committee was threefold:

- The Committee was asked to consider whether the state should assume responsibility for financing a larger share of the cost of operating our District Courts;
- The Committee was also asked to consider whether the state should assume responsibility for financing a larger share of the cost of providing public defense services; and
- If the Committee determined the answer to one or both of the two preceeding questions is yes, the Committee was asked to develop a proposal for transferring financial responsibility for these services to the state.

This report contains the findings and recommendations of the Committee relative to the appropriate responsibilities of the state and county governments for financing Minnesota's District Courts and public defense systems.

<u>On December 8, 1988, the full ACSLR unanimously approved this report and forwarded its recommendations on to Governor Rudy Perpich.</u>

BACKGROUND

Before the ACSLR presents its findings and recommendations, it is important to review the two decades of history that have resulted in the demand for this study.

Minnesota's Judicial Court System Has Been Structurally Unified

Major reforms that have been made in Minnesota's Court system over the past 20 years have yielded substantial progress toward ensuring equality of justice for all citizens.

- Prior to 1971, Minnesota relied on a fragmented system of Justice Of The Peace Courts, Municipal Courts, Probate Courts and District Courts for its judicial system. This system was funded by fees, fines, and municipal and county revenue.

- In 1971, Minnesota began to unify its judicial courts system by merging the Justice of the Peace Courts, Municipal Courts, and Probate Courts into 84 County Court systems, funded by fees, fines and county revenue; the Act did not affect the courtres in Hennepin, Ramsey and Saint Louis counties.

- In 1974 and 1975, the courts in Hennepin, Ramsey and Saint Louis counties were merged into County Court systems.

- In 1977, a formal link between the District Courts and County Courts was forged, bringing all courts within the state under the administrative control of the Chief Justice of the Supreme Court assisted by the State Court Administrator and the Conference of Chief Judges. The salaries of all judges within the state were equalized at this time as well.

- In 1978, the state assumed responsibility for paying the salaries and expenses of all judges within Minnesota and the salaries of the 10 district court administrators.

- In 1987, Minnesota's entire lower court system was administratively unified through the completion of a multi-year effort to consolidate the 87 county courts into a system of 10 District Courts.

Minnesota Has Developed A Statewide System For The Provision Of Felony And Gross Misdemeanor Public Defense Services

The provision of public defense services for individuals accused of a felony or gross misdemeanor have likewise been unified through an eight year process of reform.

- Prior to 1981, the State Judicial Council was responsible for appointing the state public defender and most district public defenders. The Council also was responsible for general oversight of public defense services throughout the state. The Council was a part of the Judicial branch of government and, in addition to its public defense role, was responsible for the "continuous study of the organization, rules and methods and procedures and practice of the judicial system of the state." (Minnesota Statutes (1978) 483.02)

In 1981, the legislature created the State Board of Public Defense to assume the public defense responsibilities of the Judicial Council. The Board was not as closely linked to the Judicial Branch of Government as was the Judicial Council. It also had as its sole mission the oversight of public defense services throughout most of the judicial districts.

- In 1984, the State Board of Public Defense was empowered by the legislature to distribute appropriated money to non-profit criminal and juvenile defense corporations.

- In 1987, the powers of the State Board of Public Defense were significantly expanded. Amoung other things, the expanded powers of the Board enabled it to review and approve all District budgets for the provision of gross misdemeanor and felony public defense services in all judicial districts other than the second and fourth. The Board was also given authority to distribute any state funds appropriated for public defense services to the ten judicial districts.

[For a more detailed description of the current organization and funding structure of Minnesota's District Courts and public defense systems, see Appendix A of this Report.]

ACSLR FINDINGS

Most individuals familiar with Minnesota's District Courts and public defense systems would agree that the various reforms enacted over the past 20 years have yielded considerable improvements in our judicial and public defense systems. Minnesota has converted two largely fragmented systems for the administration of justice into statewide, unified structures.

However, the ACSLR believes further reform is necessary if Minnesota is to have truly unified District Courts and public defense systems. Specifically, Minnesota must alter the process it currently uses to finance its District Courts and public defense systems.

The ACSLR recognized that a Supreme Court Task Force On Financing And Control Of The Trial Courts had also been organized by the Minnesota Supreme Court to examine the same court financing issues. The ACSLR sought early on to establish a working relationship with the Supreme Court Task Force so the two groups would not needlessly duplicate each others efforts.

The ACSLR and the Supreme Court Task Force identified similar problems with the way Minnesota finances its District Courts and public defense systems. While Minnesota shifted the decision making authority for the District Courts and the public defense systems away from the counties to more centralized, unified systems, the counties continued to be responsible for paying the bills. Separating the decision-making responsibility for the systems from the financial responsibility for the systems is the source of many of the intergovernmental problems associated with the District Courts and public defense system.

The following are some of the major concerns state and local officials have identified relating to the administration and financing of our District Courts.

- The judiciary is one of the three branches of state government. There is a legitimate basis for questioning the appropriateness of county governments financing the majority of the costs associated with one of the three branches of state government.

- While Minnesota's efforts to unify its judicial system to help ensure equality of justice are laudatory, no system that is financed by 87 separate County Boards and a State Legislature can guarantee an equal level of service throughout the state. A 1978 report by the National Center for State Courts on Minnesota's attempt to unify its courts notes:

  > "The existing fragmented system of court finance makes impossible the execution of the Chief Justice's ultimate administrative authority precluding both the substantial movement toward statewide uniformity of administration envisioned by the Court Reorganization Act of 1977 and the ability to hold the Chief Justice accountable for the operations of the state court system."
  > (Quoted from the Proposed Report Of The Supreme Court Task Force On Financing And Control Of The Trial Courts, November 15, 1988.)

  Counties that have a healthy property tax base may be able to provide a higher level of District Court services than counties that are struggling with declining property values and troubled local economies.

- While major decisions regarding the level of service that is to be provided by the District Courts are being made by the State Legislature and the judiciary, counties are forced to pay the majority of the costs of these services. County officials are legitimately concerned about their inability to control these expenditures - expenditures for which they must remain accountable to the county taxpayers.

- The ability of Court Administrators to appeal their salaries threatens to undermine county officials' efforts to effectively implement county-wide comparable worth plans. A successful appeal by a Court Administrator may now have reprocussions throughout the entire county personnel system.

- Many District Court employees are directly or indirectly hired, supervised and fired by a District Court Administrator and/or the judges within a given District, all of whom are state employees. In a 1978 Supreme Court Decision (Kuehn v. State of Minnesota), the Supreme Court ruled that an individual who is hired, supervised and fired by a state employee is also a state employee for purposes of workers compensation, regardless of what level of government actually pays that individual's salary. This decision has further confused the legal status of many District Court employees, and created many unanswered liability questions.

- District Court costs that are rising at 10 to 15 percent per year are causing significant budget problems for county officials who must abide by a 3 percent cap on overall spending increases for the majority of the county's budget.

Many issues associated with the administration and financing of our District Courts are similar to the issues associated with the provision and financing of public defense services. As is the case with the District Courts, Minnesota's felony and gross misdemeanor public defense system separates the decision-making responsibility (vested in the State Board of Public Defense) from the financial responsibility (delegated to the counties). (This situation does not apply to public defense services in the second and fourth judicial districts, where the county is responsible for both the decision-making and the financing of the services.)

Unlike the District Courts system, the State Legislature has created a statewide administrative structure for the provision of felony and gross misdemeanor public defense services that would make a transition to a state-financed public defense system significantly easier. The State Board of Public Defense already has the legal authority to distribute state appropriated public defense funds throughout all ten judicial districts. Furthermore, since the state's public defense system retains the services of private attorneys for public defense services in eight of the ten judicial districts, there would be few employee-employer related problems to address prior to the transition to a state-financed system.

RECOMMENDATIONS

Minnesota's District Courts and public defense System should be financed and administered by the state.

That is the conclusion the ACSLR reached through its deliberations. The ACSLR also recognized that a proposed transition to a state-financed, state-administered District Court system raises many issues which must be resolved. However, over the past decade, many states have successfully completed similar transitions. The ACSLR is confident that, if all parties work together, a transition to state financing of Minnesota's District Courts and public defense systems can be accomplished with a minimum amount of disruption.

The ACSLR, working closely with the Supreme Court Task Force On Financing And Control Of The Trial Courts, also set out to address many of the issues which must be resolved prior to the implementation of state financing and administration of our District Courts and public defense systems. Early in the process, it was agreed that the Supreme Court Task Force would focus on the judicial policy issues relating to a transition to a state-financed District Courts system and the ACSLR would focus on the fiscal issues relating to the proposed transition. The

two primary fiscal issues that were to be addressed by the ACSLR included the source of state revenues that would be tapped to finance the District Courts and public defense systems and the disposition of court-generated fee and fine revenue under a state-financed District Court system.

The following recommendations outline general concepts for addressing many of the issues surrounding state-financed District Courts and public defense systems. Subject to the acceptance by the Governor, the ACSLR will work with the Supreme Court Task Force to draft legislation transforming these concepts into workable statutes.

Minnesota should proceed gradually toward the goal of state financing and administration of its District Courts and public defense systems.

The ACSLR and Supreme Court Task Force agreed that a transition to a state-financed District Court system should be planned carefully. Transferring financial and administrative responsibility for certain District Court activities to the state will require more planning and preparation than can be accomplished during the next six months. Therefore, a phased transition to state-financed and administered District Courts and public defense systems was determined to be most appropriate.

Since the statewide administrative structure for financing Minnesota's felony and gross misdemeanor public defense services is already in place, priority should be given to implementing statewide financing of these services for all judicial districts. There is no reasoned justification for the State Board of Public Defense to continue to fund the eight judicial districts through imposition of a "state imposed" property tax.

The Public Defenders' Offices in the second and fourth judicial districts, while providing services to felony and gross misdemeanor indigents, also provide them to clients charged with misdemeanors and juvenile offenses. Although it is not possible, at present, to determine the exact cost of providing legal defense services to indigents charged with misdemeanors or juvenile offenses, or those involved in civil commitments in eight of ten judicial districts in our state, those costs are known for the second and fourth judicial district public defenders' offices. Therefore, the ACSLR Committee believes the circumstances surrounding the provision of public defense services in the second and fourth judicial districts deserve special consideration. (This would not include civil commitment in these districts.)

Given the scope of the Public Defenders' Offices in the second and fourth judicial districts, it is difficult to identify the actual cost of providing felony and gross misdemeanor public defense services in those districts. Furthermore, there is no reason why the cost of providing misdemeanor, juvenile and family court public defense services in those districts could not be financed by the state effective January 1, 1990.

State financing of public defense services in the second and fourth districts raises concerns about accountability for the expenditure of state funds. If the state does not have administrative control over the provision of public defense services in the second and fourth judicial districts, it is questionable whether the state should assume responsibility for financing those services. As Minnesota public policy makers have learned from many of their past experiences, it is not advisable to separate the decision-making responsiblity for a service from the financial responsibility for a service.

The ACSLR therefore recommends that current legislation affecting the delivery of public defense services in the State of Minnesota be amended to include the public defender services of the second and fourth judicial districts, under the jurisdiction of the State Board of Public Defense. The ACSLR does not recommend, however, that the public defenders in these districts become state employees. Hennepin and Ramsey counties should be "host" counties to insure that issues of salary and employee benefit parity with prosecutors in these districts is maintained.

All costs associated with providing indigent public defense services for felonies, gross misdemeanors, misdemeanors and juveniles in the second and fourth judicial districts should be financed by the state commencing January 1, 1990. State assumption of the financing of juvenile, misdemeanor, paternity, non-support, contempt and civil commitments in all districts should commence July 1, 1991.

The ACSLR recommends that, effective January 1, 1990, the state also assume responsibility for financing the operations of the eight District Offices of the District Courts (excluding the second and fourth judicial districts), all jury fees and all witness fees paid by the District Court Administrators' Offices (including jury and witness fees paid in the second and fourth judicial districts). The salaries, benefits and expenses of all court reporters, law clerks, judicial officers/referees and District Office administrative staff should be included in the state assumption of District Office costs.

Since the second and fourth judicial districts do not have distinct District Offices, the ACSLR recommends that, effective January 1, 1990, the state only assume responsiblity for paying the salaries, benefits and expenses of all law clerks, court reporters, and judicial referees in those districts.

In addition to the aforementioned expenses, the ACSLR recommends that, effective January 1, 1990, the state assume responsibility for paying all expenses of District Court judges which are not currently paid by the state.

The ACSLR further recommends that the responsibility for all other non-capital District Court expenses, including the expenditures for misdemeanor, juvenile, paternity, non-support, contempt and civil commitment public defense, be transferred to the state on July 1, 1991. This transfer date will give the State Court Administrator's Office a sufficient amount of time to resolve the complex personnel and administrative management issues that must be addressed prior to the transfer of the remaining District Court functions to a state-financed District Court system. It will also give the State Board of Public Defense an opportunity to determine how misdemeanor, juvenile, paternity, non-support, contempt and civil commitment public defense services should be brought under its control in the other eight districts.

The ACSLR recommends that an extensive study be undertaken by the State Court Administrator's Office to determine if the state should assume responsiblity for all capital costs (or county reimbursement for space used) associated with the operations of the District Courts. Regardless of the outcome of that study, the transfer of capital costs to the state should not occur any earlier than July 1, 1993.

<u>Legislation transferring financial responsibility for the District Courts to the state must establish a specific timetable for the complete transition.</u>

While a phased transition to a state-financed District Court system is administratively necessary, the ACSLR strongly recommends that all phases of the transition be written into law during the 1989 legislative session. Passing legislation which only transfers financial responsibility for Phase One activities may make it more difficult to complete the transition. A partial transition to state financing (i.e. Phase One activities only), may create more problems than it would solve. Furthermore, the extensive planning that is required for the second phase of the transition demands that all parties are reasonable confident that the second phase will take place. This confidence can only be obtained by specifying in the initial legislation that all phases of the transition will occur.

The ACSLR further recommends that the legislation specify all second phase expenses, including any equalization of District Court employee salaries which may be necessary, be added to the District Courts' baseline budget for the 1991-93 state bienium.

<u>The state should finance the District Courts and public defense systems with general fund revenues.</u>

The ACSLR recommends that the District Courts and public defense systems be financed with an appropriation of state resources, coupled with fine and fee revenues that are now used for this purpose.

The ACSLR had initially considered recommending a direct link between the state's assumption of District Court/public defense expenditures and partial offsetting reductions in various revenue transfers from the state to local governments. While such a tradeoff may help simplify existing state-local fiscal relationships, the Committee decided not to make the recommendation. Establishing a direct link between state financing of the District Courts/public defense systems and reductions in state revenue transfers to local governments would needlessly complicate the transition to state financing of the two systems. While all local governments are likely to consider the impact of state financing of the District Courts/public defense systems on the overall state-local fiscal relationships, there is no need for establishing a specific link between the two issues in the legislation itself.

<u>District Court filing fee revenues should be deposited in the state's general fund.</u>

The ACSLR recommends that, effective January 1, 1990, all filing fees paid to the District Courts, with the exception of fees used to support county law libraries, be deposited in the state's general fund to help offset the costs of the District Court expenditures that are to be assumed by the state.

<u>A portion of all fine revenues currently retained by the counties should be deposited in the state's general fund.</u>

The ACSLR recommends that, effective January 1, 1990, a portion of the court-generated fine revenues that are currently retained by counties be deposited in the state's general fund to help offset the costs of the District Court expenditures that are to be assumed by the state.

Identifying the portion of the fine revenues that should be deposited in the state's general fund must recognize the differences between how fine revenues are currently distributed. (See Figure 1 for a detailed description of how these fine revenues are currently distributed.)

In principle, all fine revenues that are distributed to municipalities, counties and the state (state patrol fine revenues), which are implicitly used to offset the cost of police and prosecution activities, (including all fine revenues for violations of game and fish laws and water safety laws) should continue to be distributed to those jurisdictions. Fine revenues that are statutorily distributed to the arresting/citing and prosecuting jurisdictions provide a needed incentive for those jurisdictions to actively pursue their police/prosecution activities. Therefore, those fine revenues should not be diverted to the state.

FIGURE 1

DISPOSITION OF REVENUES DERIVED FROM COURT-IMPOSED FINES

TYPE OF OFFENSE	DISPOSITION OF FINE REVENUES
Parking Violation[1]	All fines are paid to the municipality in which the offense occurred.
State Patrol Citations - Guilty Plea/Outside Municipality	5/8 of the fine goes to the State Trunk Highway Fund; 3/8 of the fine goes to the County.
State Patrol Citations - City Attorney Prosecutes A Not Guilty Plea	1/3 of the fine goes to the State Trunk Highway Fund; 1/3 of the fine goes to the prosecuting jurisdiction; 1/3 of the fine goes to the County.
State Patrol Citations - Weight Restriction Violations	5/8 of the fine goes to Highway User Tax Dist. Fund; 3/8 of the fine goes to the County.
Fish & Wildlife Violations	1/2 of the fine goes to State Fish & Wildlife Fund; 1/2 of the fine goes to the County.
Boat & Water Safety Violations	1/2 of the fine goes to State Water Recreation Fund; 1/2 of the fine goes to the County.
All Other Traffic, Municipal & Criminal Violations[1]	1/3 of the fine goes to arresting jurisdiction; 1/3 of the fine goes to prosecuting jurisdiction; 1/3 of the fine goes to the County.
All Violations In Chisago County & City Officer Charges Violation	1/2 of the fine goes to municipality citing violation; 1/2 of the fine goes to the county.
All Violations In Chisago County Not Charged By City Officer[2]	All fines are retained by the county.
Parking, Traffic, Municipal & Criminal Violations in Hennepin County & City Prosecutes[2]	All fines are paid to the municipality in which the offense occurred.
State Law Violations in Hennepin County & County Prosecutes[2]	All fines are retained by the county.
Parking, Traffic, Municipal & Criminal Violations in Ramsey County & City Prosecutes[2]	1/2 of the fine goes to the municipality in which the offense occurred; 1/2 of the fine goes to the county.
State Law Violations in Ramsey County & County Prosecutes[2]	All fines are retained by the county.

1. Excluding violations occurring in Chisago, Hennepin and Ramsey Counties

2. Excluding violations cited/arrests made by the State Patrol

However, Minnesota Statutes also direct certain fine revenues to the general funds of the counties. [Minnesota Statutes (1986) 487.33, Subdivision 5 specifies that one-third of most fine revenues (excluding parking fines and fines for offenses cited by the Highway Patrol) be paid to the county treasurers of each county. This statute governs the distribution of fine revenues in 84 of the 87 counties. (Fine revenues in Hennepin, Ramsey and Chisago counties are governed by other statutes and Session Laws.) Fine revenues that currently are paid to the counties, and are unrelated to the counties role in apprehending/citing or prosecuting the offender, should be deposited in the state's general fund to help offset the costs of the District Court expenditures that are to be assumed by the state.

The distribution of fine revenues in the second judicial district presents a special circumstance which the Committee had to consider. Unlike most other counties that automatically receive one-third of most fine revenues (and do not receive any parking fine revenues), Ramsey county automatically receives one-half of most fine revenues, including parking fine revenues, that are paid to the second District Court Administrator. Considering this circumstance, the ACSLR recommends that only one-third of most second district fine revenues, and no parking fine revenues, be deposited in the state's general fund.

<u>All fees payable to the fourth District Court Administrator by the state, county or municipalities should be deposited in the state's general fund.</u>

The ACSLR recommends that, effective January 1, 1990, all fees paid to the fourth District Court Administrator by government entities that are entitled to court-imposed fine revenues be deposited in the state's general fund to help offset the costs of the District Court expenditures that are to be assumed by the state.

Unlike the other 87 counties, Hennepin County is not automatically entitled to a portion of the fine revenues collected by the Court Administrator. Instead, these fine revenues revert back to the jurisdiction responsible for the prosecution of the offender. Instead of receiving fine revenues to help offset the costs of District Court operations, Hennepin County is authorized to collect a statutorily mandated fee from the entitled recipients of the fine revenues. (See <u>Minnesota Statutes</u> (1986) 488A.03, Subdivision 11, paragraph (d) for details of the fee revenues referenced in this recommendation.) The ACSLR recommends these fees be deposited in the state's general fund effective January 1, 1990.

<u>All forfeitures of bail funds paid to Court Administrator's by individuals charged with the commission of a crime should be deposited in the state's general fund.</u>

The ACSLR recommends that, effective January 1, 1990, all bail funds forfeited by individuals charged with the commission of a crime be deposited in the state's general fund to help offset the costs of the District Court expenditures that are to be assumed by the state. These bail forfeitures currently

help offset District Court costs incurred when individuals fail to appear before the Court for trial. Therefore, under a state-financed District Court system, these funds should be deposited in the state's general fund.

All expenditures made by the state for Phase 1 of the transition to state financing of the District Courts and public defense systems, which are not offset by transfers of fees and fines to the state's general fund, should be paid out of the state's general fund revenue and treated as state-paid property tax relief to the counties.

During the state's 1989-91 bienium, the costs of the District Courts and public defense activities that are to be transferred to the state will exceed the new fee and fine revenues deposited in the state's general fund by approximately $46 million. (See Appendix B for a detailed county-by-county breakdown of expenditures and revenues that are being transferred to the state during Phase 1 of the transition to state-financed District Courts and public defense systems.) The ACSLR recommends the state absorb these excess costs into its general fund as a means of delivering property tax relief to county taxpayers. The ACSLR further recommends that counties be required to reduce their total pay 1991 property tax levy by an amount equal to the net benefit it receives from the state's assumption of District Court and public defense costs.

SUMMARY

The ACSLR recognizes there is much work to be done if state financing of the District Courts and public defense systems is to be a reality. The ACSLR hopes its recommendations form a conceptual understanding by all parties involved of how the transition can be accomplished. The ACSLR is willing to continue to work to resolve the issues which must be addressed to make the transition to state financing of our District Courts and public defense systems as smooth as possible. It welcomes feedback from all interested parties.

PUBLIC DEFENSE

Membership (Including Alternates) Of The District Court/Public Defense Financing Committee Of The Advisory Council On State-Local Relations

MEMBERS

Peggy Addicks Assoc. of MN Counties	Hon. Kevin Burke Bd. of Public Defense	Hon. John Burger State Representative
Sue Dosal State Court Admin.	Hon. Bruce Douglas Conf. of Chief Judges	Julian Empson House Local/Urban Com
Hon. Sam Houston League of MN Cities	Hon. Paul McAlpine Assoc. of MN Counties (Co-chair of Committee)	Gary Pagel Metropolitan Council
Hon. Earl Renneke Minnesota Senator	Tom Triplett Comm. of Finance (Co-Chair of Committee)	

ALTERNATES AND INTERESTED PARTIES

Joel Jamnik League of MN Cities	Kevin Kajer House State Depts. Div.	Steve Nelson State Planning Agency
Hon. Peter Popovich MN Supreme Court	Judy Rehak State Court Admin.	Dick Scherman Bd. of Public Defense
Pam Wheelock Dept. of Finance		

WORKING GROUP PARTICIPANTS

Peggy Addicks Assoc. of MN Counties	Dana Frey Metro Inter-Counties	Laurie Hacking League of MN Cities
M.J. Hedstrom House Tax Committee	Joel Jamnik League of MN Cities	Dave Jensen Senate State Depts.
Kevin Kajer House State Depts.	Steve Nelson State Planning Agency	Bob Orth Metro Inter Counties
Jack Provo Fourth Dist. Admin.	Zora Radosovich Senate Tax Committee	Judy Rehak State Court Admin.
Dick Scherman Bd. of Public Defense	Jim Staebler Hennepin County	Pam Wheelock Dept. Of Finance

COMMITTEE MEETINGS

August 3, 1988 1:30-4:00 PM
September 14, 1988 1:30-3:30 PM
October 12, 1988 1:30-3:30 PM
November 9, 1988 1:00-3:00 PM
December 7, 1988 1:30-4:00 PM

WORKING GROUP MEETINGS

October 27, 1988 9:00-11:00 AM
November 3, 1988 9:00-11:00 AM

APPENDIX A

A description of Minnesota's existing structure for administering and financing its District Courts and public defense systems

District Courts In Minnesota

The Constitution of the State of Minnesota established the Judicial Branch of government, stipulating that there shall be a Supreme Court and a District Court of original jurisdiction. The Supreme Court shall oversee the operations of all other courts within the state. The Constitution also authorized the state legislature to establish a Court of Appeals, and other courts inferior to the District Court.

As a result of a number of reorganizations of the Minnesota Judiciary during the past two decades, Minnesota has a Court of Appeals to hear appeals from the District Courts, and has eliminated the municipal, probate and county courts below the level of the District Courts. (A Tax Court and a Worker's Compensation Court of Appeals continue to exist, however, these courts have statewide jurisdiction and all appeals go directly to the Minnesota Supreme Court. Because county governments are not involved in the provision or financing of these courts, this report will not address their organization or operations.)

There are ten judicial districts within the state under the administrative direction of the chief judge of each district. Districts 2 and 4 are single county districts (Hennepin and Ramsey counties). The other eight districts are composed of 4 to 17 counties each.

The number of judges serving each district is established by the state legislature, in consultation with the Minnesota Supreme Court. Judges may be assisted in the daily performance of their duties by law clerks and court reporters or electronic transcribers. The court reporters and law clerks may serve a single county or multiple counties within a judicial district.

A State Court Administrator assists the Chief Justice of the Supreme Court in carrying out his or her responsibility for the administration of all courts.

The day-to-day administrative activities of the District Courts within the ten Judicial Districts are handled by a District Administrators. The District Administrators develop district-wide budgets and manages all personnel and other administrative matters for the district as a whole. The District Administrators also coordinate the assignment of judges within the district.

The administration of District Court activities at the county level (District Court proceeding continue to be carried out within each county of the state) are handled by Court Administrators, formerly called District Court Clerks.

The operations of the State Court Administrator's office, the District Administrator's Office and the Court Administrator's Office are each funded through a separate budget. [In the second and fourth judicial districts (Ramsey and Hennepin counties), the District Administrator's Office and the Court Administrator's Office are one in the same, since these districts are single county judicial districts.]

Under this unified administrative structure, the responsibility for determining the level of judicial resources, and allocating those resourses throughout the ten judicial districts, rests with the Supreme Court aided by the State Court Administrator. The Supreme Court, with the assistance of the State Court Administrator, is responsible for coordinating the activities of all the courts to ensure uniformity in practice.

The primary responsibility for the administration and coordination of the District Court activities within a single judicial District rests with the Chief Judge and District Administrator of that district. The day-to-day administration of District Court activities within each county rests with the Court Administrator of that county. The District Court Administrator and the Court Administrator are appointed by the District Court judges within each district. The District Administrator reports to the Chief Judge of the district and serves at the pleasure of a majority of the judges of the district. The Court Administrator is supervised by the District Administrator, although the Court Administrator ultimately serves at the pleasure of a majority of the judges of the district as well.

The system Minnesota uses for financing its District Courts is equally complex. By statute, the state is responsible for paying all of the costs associated with the operations of the Supreme Court, the Court of Appeals and the State Court Administrator's office (including all personnel costs). In 1978, the state also assumed responsibility for paying the salaries and expenses of all Trial Court judges, and the salaries of the ten district administrators. The counties are responsible for paying all other District Court costs, including:

- the expenses of the district administrators and their office operating costs;
- the salaries and expenses of all law clerks, court reporters, and judicial officers and referees (judicial officials who are attorneys appointed by District Court Judges to hold certain judicial hearings, often dealing with matters involving juvenile offenders or family disputes);
- the operations of the court administrators' offices, including all personnel costs;

- misdemeanor, juvenile and civil commitment public defense services;

- jury and witness fees and expenses;

- the professional services necessary for certain judicial proceedings (i.e. language interpreters, medical/psychological exams and testimony, sheriff fees, etc.)

- operating expenses of the court, including the cost of all office and courtroom supplies and equipment; and

- capital costs associated with maintaining judicial operations, including the court administrators' offices, the courtrooms, and the judges' chambers.

Counties are responsible for paying the full cost of all of these services; however, because certain services benefit the entire district, while others are associated with operations within a single county, two separate methods have been devised for the payment of these costs. (These methods are only applicable to multi-county districts. The second and fourth districts pay all of the aforementioned costs directly.)

- District-wide services, such as the expenses and office budgets of the district administrators, and the salaries and expenses of law clerks and court reporters serving within the districts, are assessed back to all counties within each district, with each county paying a pro-rata share of the costs based on its population relative to the total population of the district.

- Services which are provided within a single county are paid directly by the County Board for that county. For these expenses, the Court Administrator submits a budget request to the County Board and the Board then sets the budget for the District Court operations within the county. Under Minnesota Statutes, court administrators may appeal the District Court budgets that are established by the County Boards. Court administrators may also appeal their salaries which are also set by the County Boards. Court Administrator appeals for a larger office budget or higher salary are heard by District Court judges who do not preside over the District in which the appeal is being made.

During 1988, counties budgeted approximately $75.5 million for District Court operations (excluding the cost of office space, court chambers and judges' chambers). The state budgeted $17.6 million in fiscal year 1988 for the salaries and expenses of District Court judges and the salaries of district administrators; an additional $2.3 million was budgeted by the state to support the operations of the State Court Administrator's Office - the Office which assists the Supreme Court in exercising general administrative oversight of Minnesota's entire District Court system. Total state and county budgets for operating the District Courts (excluding the cost of office space, court chambers and judges' chambers) during 1988 are $95.4 million, 79 percent of which are to be paid by the counties.

The District Court operations also generate a significant amount of revenue from court fees and surcharges and criminal, municipal and traffic fines. These revenues are distributed to the state, county and municipal governments within the state according to statutory formulas. In 1987, revenues generated through the District Courts totaled $67.2 million. Of the total revenues generated, counties received $29.9 million (44.3 percent), municipalities received $$23.0 million (34.0 percent), and the state received $14.6 million (21.6 percent).

PUBLIC DEFENSE SERVICES IN MINNESOTA

Under Minnesota law, all individuals accused of a misdemeanor, gross misdemeanor or felony are entitled to be represented by an attorney before, during and after their trial. Individuals undergoing civil commitment, paternity, non-support or contempt proceedings, and juveniles subject to judicial proceedings, are also entitled to representation by an attorney.

If an individual who is accused of a gross misdemeanor or felony can not afford the services of a private attorney, and is able to adequately demonstrate an inability to afford such services, the Court will appoint a public defender to represent the individual at all judicial proceedings.

Public Defense services for adults accused of a gross misdemeanor or felony are administered by the State Board of Public Defense in eight of Minnesota's ten judicial districts. [The 2nd and 4th judicial districts in Minnesota (Ramsey and Hennepin Counties) are not under the jurisdiction of the State Board of Public Defense. Public Defense Services in these judicial districts are provided directly by the county.]

The State Board of Public Defense is made up of a District Court Judge and four attorneys appointed by the Supreme Court and two public members appointed by the Governor. The state pays all administrative expenses of the State Board of Public Defense.

The State Board of Public Defense appoints a District Public Defender for each of the eight judicial districts under its jurisdiction. These District Public Defenders are then authorized to appoint Assistant District Public Defenders to assist them in the provision of public defense services throughout the district. In most cases, the District Public Defenders and the Assistant Public Defenders are private, practicing attorneys who perform their Public Defense roles on a part-time basis. Assistant Public Defenders agree to provide up to a set number of hours of public defense services during a particular year. Assistant Public Defenders are generally assigned to perform public defense services that are required in the county in which they reside, thus eliminating the need for a significant amount of travel by Assistant Public Defenders. During 1988, there are eight District Public Defenders and 115 Assistant Public Defenders serving Minnesota's eight judicial districts which are under the jurisdiction of the State Board of Public Defense.

Each year, the District Public Defender in each judicial district submits a budget to the State Board of Public Defense. The State Board distributes the proposed budgets of each district to the respective County Boards within the district for comment. The State Board then approves a budget for each district and assesses the costs of the budget back to the County Boards within the district. Each county within each district is responsible for paying a pro-rata share of the approved budget, based on its population relative to the total population of the entire district. If the approved budgets are not adequate to meet the actual demand for public defense services within a district, the counties within that district will be required to contribute additional funds for public defense services.

The total Public Defense budgets for the eight judicial districts under the jurisdiction of the State Board of Public Defense is $4.7 million for 1988. It is further estimated that Ramsey and Hennepin counties will spend a combined total of $4.0 million on public defense services for individuals accused of felonies and gross misdemeanors, bringing the total locally-financed budget for public defense services to $8.7 million in 1988.

The State Board of Public Defense also provides approximately $500,000-$700,000 annually in state dollars to Public Defense Corporations which serve American Indians, hispanics and blacks. These Public Defense Corporations are better able to address the needs of their clients and help reduce the regular public defense caseloads of the districts in which they are located.

In 1988, the state further subsidized public defense services by appropriating $250,000 in 1988 and $500,000 in 1989 to the State Board of Public Defense for distribution to economically distressed counties within Minnesota.

APPENDIX B

SUMMARY OF FISCAL IMPLICATIONS OF A TRANSITION TO STATE-FINANCED DISTRICT COURTS AND PUBLIC DEFENSE SYSTEMS ON THE STATE'S 1989-91 BIENNIUM

THE FIGURES ON THE FOLLOWING PAGE
ARE BASED ON THE FOLLOWING ASSUMPTIONS.

- The effective date of a transition to a state-financed district court ststem is January 1, 1990.

- The expenditures that will become the responsibility of the state on January 1, 1990 are: 1) all salary and operating costs associated with the District Offices (including salaries, benefits and expenses of law clerks, court reporters, and judicial officers/referees) in eight of the ten judicial districts (excluding districts 2 and 4), 2) the salaries and benefits for the court reporters, law clerks, and judicial officers/referees in districts 2 and 4, 3) 100 percent of felony and gross misdemeanor public defense expenditures for all judicial districts, 4) juvenile and misdemeanor public defense services in districts 2 and 4, and 5) jury and witness fees that are currently paid by the District Courts.

- The revenues that will be deposited in the State's general fund effective on January 1, 1990 are: 1) all court filing fees which currently are paid to the counties (excluding the fees that support the County Law Libraries), 2) the counties' portion of court fine revenues (excluding parking and Boat and Water Safety/DNR fines) that are not related to the counties' role in apprehending/citing or prosecuting the offender (generally 1/3 of all criminal, municipal, and traffic offense fines), 3) fees currently paid to Hennepin county by the state and municipalities for use of the fourth judicial district's court system, and 4) bail forfeitures currently paid to the counties.

Description	Biennial Amount
Cost of District Court activities to be financed by the state which are contained in the actual 1989 District Court budgets and jury and witness fees (accounting for $4,894.5 of the total) based on 1988 county budgets.)	$34,353.0
Total cost of public defense activities to be financed by the state based on actual 1989 public defense budgets.	$22,583.4
Estimated additional District Court expenditures to be financed by the state (i.e. supplies and expenses of individuals whose salaries are to be financed by the state, possible salary equalization costs, etc.) based on District Administrators' extraction of costs from county budgets and projection of fiscal year 1990-91 needs.	$11,760.2
Estimated public defense inflationary increases to be financed by the state.	$ 2,457.1
Projected fee and fine revenues that will be deposited in the state's general fund.	($26,141.9)
Compensate counties that transfer more revenues than expenditures to the state.	$ 238.2
Projected Net Cost To The State During 1990-91	$45,?50.0

EFFECTS OF PHASE I OF A TRANSITION TO STATE-FINANCED DISTRICT COURTS AND PUBLIC DEFENSE SYSTEMS ON THE EXPENDITURES AND REVENUES OF MINNESOTA'S COUNTIES

A PRELIMINARY ANNUAL ESTIMATE OF COSTS ASSOCIATED WITH PHASE ONE OF THE TRANSITION [1]

(All Figures Must Be Multiplied By 1.5 To Obtain Biennial Costs)

(All Dollars Expressed In Thousands)

COUNTY	EXPENDITURES TRANSFERRED TO STATE	REVENUES TRANSFERRED TO STATE	NET IMPACT ON COUNTY BUDGET
Aitkin	$ 99.2	$ 68.5	$ 30.7
Anoka	$ 1,442.2	$ 1,100.6	$ 341.6
Becker	$ 206.5	$ 143.0	$ 63.5
Beltrami	$ 187.7	$ 179.6	$ 8.1
Benton	$ 174.7	$ 83.5	$ 91.2
Big Stone	$ 39.8	$ 28.1	$ 11.7
Blue Earth	$ 327.8	$ 211.6	$ 116.2
Brown	$ 183.3	$ 98.2	$ 85.1
Carlton	$ 189.0	$ 98.8	$ 90.2
Carver	$ 339.5	$ 150.9	$ 188.6
Cass	$ 126.3	$ 91.9	$ 34.4
Chippewa	$ 69.9	$ 45.9	$ 24.0
Chisago	$ 207.2	$ 263.1	($ 55.9)
Clay	$ 325.3	$ 208.0	$ 117.3
Clearwater	$ 55.5	$ 114.7	($ 59.2)
Cook	$ 33.8	$ 23.8	$ 10.0
Cottonwood	$ 92.0	$ 44.6	$ 47.4
Crow Wing	$ 250.1	$ 69.4	$ 180.7
Dakota	$ 1,606.6	$ 1,243.9	$ 362.7
Dodge	$ 96.5	$ 46.9	$ 49.6
Douglas	$ 205.7	$ 100.7	$ 105.0
Faribault	$ 129.9	$ 48.1	$ 81.8
Fillmore	$ 132.5	$ 78.4	$ 54.1
Freeborn	$ 215.2	$ 163.9	$ 51.3
Goodhue	$ 309.3	$ 184.1	$ 125.2
Grant	$ 41.3	$ 20.0	$ 21.3
Hennepin	$13,885.3 [2]	$ 3,662.1	$10,223.2
Houston	$ 115.5	$ 63.6	$ 51.9
Hubbard	$ 82.3	$ 44.3	$ 38.0
Isanti	$ 184.5	$ 131.6	$ 52.9
Itasca	$ 264.1	$ 127.9	$ 136.2
Jackson	$ 84.9	$ 63.0	$ 21.9
Kanabec	$ 89.9	$ 113.8	($ 23.9)
Kandiyohi	$ 196.7	$ 165.3	$ 31.4
Kittson	$ 37.4	$ 29.9	$ 7.5
Koochiching	$ 103.4	$ 45.2	$ 58.2
Lac Qui Parle	$ 55.2	$ 31.7	$ 23.5
Lake	$ 78.1	$ 37.4	$ 40.7
Lake Of The Woods	$ 22.8	$ 19.1	$ 3.7
Le Sueur	$ 179.6	$ 63.9	$ 115.7
Lincoln	$ 46.6	$ 22.8	$ 23.8
Lyon	$ 146.0	$ 116.6	$ 29.4
McLeod	$ 237.5	$ 130.1	$ 107.4
Mahnomen	$ 32.6	$ 13.8	$ 18.8
Marshall	$ 70.9	$ 28.6	$ 42.3

COUNTY	EXPENDITURES TRANSFERRED TO STATE	REVENUES TRANSFERRED TO STATE	NET IMPACT ON COUNTY BUDGET
Martin	$ 148.7	$ 68.3	$ 80.4
Meeker	$ 102.1	$ 80.1	$ 22.0
Mille Lacs	$ 143.1	$ 96.8	$ 46.3
Morrison	$ 200.9	$ 88.4	$ 112.5
Mower	$ 275.6	$ 125.2	$ 150.4
Murray	$ 71.6	$ 34.7	$ 36.9
Nicollet	$ 181.4	$ 140.4	$ 41.0
Nobles	$ 136.4	$ 114.0	$ 22.4
Norman	$ 54.8	$ 30.3	$ 24.5
Olmstead	$ 583.8	$ 414.1	$ 169.7
Otter Tail	$ 354.0	$ 256.5	$ 97.5
Pennington	$ 85.9	$ 51.5	$ 34.4
Pine	$ 157.2	$ 84.6	$ 72.6
Pipestone	$ 69.4	$ 55.7	$ 13.7
Polk	$ 198.3	$ 166.6	$ 31.7
Pope	$ 61.7	$ 53.1	$ 8.6
Ramsey	$ 5,950.6 [2]	$ 1,809.2	$ 4,141.4
Red Lake	$ 31.6	$ 14.4	$ 17.2
Redwood	$ 122.3	$ 71.8	$ 50.5
Renville	$ 106.5	$ 66.0	$ 40.5
Rice	$ 285.4	$ 215.4	$ 70.0
Rock	$ 63.3	$ 41.2	$ 22.1
Roseau	$ 71.2	$ 52.6	$ 18.6
Saint Louis	$ 1,355.2	$ 612.6	$ 742.6
Scott	$ 442.7	$ 232.6	$ 210.1
Sherburne	$ 221.3	$ 241.1	($ 19.8)
Sibley	$ 121.7	$ 45.6	$ 76.1
Stearns	$ 743.9	$ 608.7	$ 135.2
Steele	$ 183.4	$ 108.4	$ 75.0
Stevens	$ 60.2	$ 30.4	$ 29.8
Swift	$ 68.7	$ 65.0	$ 3.7
Todd	$ 173.9	$ 74.3	$ 99.6
Traverse	$ 31.1	$ 24.1	$ 7.0
Wabasha	$ 113.4	$ 75.5	$ 37.9
Wadena	$ 110.1	$ 49.4	$ 60.7
Waseca	$ 112.2	$ 48.2	$ 64.0
Washington	$ 855.8	$ 705.0	$ 150.8
Watonwan	$ 77.2	$ 55.7	$ 21.5
Wilkin	$ 43.3	$ 40.6	$ 2.7
Winona	$ 287.4	$ 172.0	$ 115.4
Wright	$ 430.1	$ 256.0	$ 174.1
Yellow Medicine	$ 70.1	$ 30.9	$ 39.2
TOTAL	$37,957.6	$17,427.9	$20,529.7

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[1] These preliminary estimates were obtained using the best available data. (Expenditures are based on calendar year 1989 budgets, and revenue numbers are based on 1987 receipts.) Actual figures are likely to change.

[2] Estimated expenditures based on 1988 budgets for law clerks, court reporters and judicial officers and referees and 1989 budgets for the Public Defenders' Offices budgets.

STATE OF MINNESOTA
FOURTH JUDICIAL DISTRICT COURT

KEVIN S. BURKE
JUDGE
HENNEPIN COUNTY GOVERNMENT CENTER
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The Responsibility of State Government to Finance the Public Defender System

The quality of justice in the State of Minnesota depends upon the effective and efficient functioning of the entire criminal justice system. The components of that system -- the courts, prosecution and defense -- are interrelated. The smooth functioning of the system requires not simply coordination and accountability, but proper financing as well. The fiscal recommendations of the Supreme Court Task Force on Court-Public Defender Financing and the Governor's Advisory Council on State-Local Relations are designed to insure that equal and quality justice is afforded to the poor throughout the State of Minnesota.

The defense of accused persons is constitutionally mandated and must be provided even when such costs are borne by the public. In Gideon v. Wainwright, 372 U.S. 335 (1963), the United States Supreme Court held that the Sixth Amendment right to counsel is applicable to the state, through the due process clause in all felony prosecutions. Juveniles were accorded the right to counsel by the court in In re Gault, 387 U.S. 1 (1967). Subsequently, in Argersinger v. Hamline,

407 U.S. 25 (1972), the court further extended the right to counsel to those misdemeanor cases that actually lead to imprisonment.

The foundation for Minnesota's system for the delivery of legal services to the poor was established in the mid-1960's. Although the state formally levied its last statewide property tax in 1967, it was precisely at that time that the legislature mandated the public defender system be financed on a "statewide property tax." The recommendation for general revenue funding by the A.C.S.L.R. and Supreme Court Task Force for the delivery of public defender services recognizes that the quality and cost of indigent defense services should not be predicated upon the ability of a particular county to raise local property taxes.

The recommendations of the Supreme Court Task Force and the Advisory Council on State and Local Relations should not be construed as a new initiative, but a continuation of the policy process begun in 1967 with the creation of the Judicial Council. That Council was created by the Minnesota Legislature to oversee six Judicial District Public Defender systems, as well as the State Public Defender system. In 1981, the Board of Public Defense was created by the Minnesota Legislature as a result of recommendations by the Supreme Court for better administration of the public defender system in the State of Minnesota. In 1987, recommendations were made to the Minnesota Legislature for expansion of the Judicial District Public Defender System to include the Third and Eighth Judicial Districts,

as well as set up a centralized administration and standards relating to the uniform application of public defender services throughout the state. During that legislative session, there were monies made available statewide for public defender services to "distressed counties."

Recommendations for state funding of the public defender system in Minnesota is consistent with national trends among state governments. Presently twenty states fund their indigent defense systems totally with state dollars; programs in only ten states are solely funded by counties; and the remaining states funded programs through a combination of state and county funding. Significant changes in the primary financial source of defense programs for the poor occurred in a number of states between 1982 and 1986.

* Delaware, Iowa and Oregon shifted to full state funding since 1982.

* Idaho, Montana and South Dakota shifted to partial state funding during this same period of time.

* Georgia, Indiana, Michigan, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, South Carolina and Washington are expanding state fiscal responsibility for providing defense programs for the poor.

On a local level (Midwest states), changes in the primary financial source of defense programs for the poor occurred in the following states between 1982 and 1988:

* Wisconsin and Iowa have shifted to full state funding.

* Michigan and Indiana are currently exploring the feasibility of beginning or expanding state fiscal responsibility.

* South Dakota and North Dakota have shifted to partial state funding.

The recommendations for state funding of the public defender system in this state recognize the need for a transition period and, hopefully, recognize the fiscal restraints of the state general revenue fund. What is important for the legislature to focus upon is the need to improve public accountability for the present system and the need to provide adequate and stable funding for this constitutionally mandated service. The State Board of Public Defense supports the A.C.S.L.R. and Supreme Court Task Force recommendations and is prepared to work with legislators to insure that members of the House and Senate have all of the information and data necessary for proper determination of this important policy issue.

S.C. TASK FORCE

THE SUPREME COURT OF MINNESOTA
230 STATE CAPITOL
SAINT PAUL, MINNESOTA 55155

CHAMBERS OF
DOUGLAS K. AMDAHL
CHIEF JUSTICE

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Supreme Court Task Force on Financing of the Trial Court

Primary Recommendations

- a state general fund appropriation for the salaries and most operating expenses of law clerks, court reporters, judicial officers, referees, and district court amdinistration staff commencing January 1, 1990

- a state general fund appropriation to the Board of Public Defense for the total cost of the indigent defense function in the Second and Fourth Judicial Districts and felony and gross misdemeanor public defense services in the other eight districts in the 1990-1991 biennium

- a state general fund appropriation to the Board of Public Defense for all remaining indigent defense functions in subsequent bienniums

- further study by a Supreme Court Task Force of the need for and benefit of increased state responsibility for financing additional trial court services in the future.

PRELIMINARY DRAFT-SUBJECT TO REVISION

DRAFT

REPORT OF THE SUPREME COURT TASK FORCE

ON FINANCING OF THE TRIAL COURTS

December 20, 1988

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INTRODUCTION

The Supreme Court Task Force on Financing of the Trial Courts was conceived during the 1988 Legislative session. Minn. Laws, 1988, Chapter 582, Sec. 2, authorizes the Supreme Court to study state financing of the courts and report to the Legislature by February 1, 1989. The charge of the Task Force, found in the Supreme Court order establishing the task force, is to:

1. Describe the current trial court financing system; determine the employees and programs which are covered; identify the costs borne and revenues received by state and local government relating to trial court operations; and define the lines of authority with respect to its administration and financing;

2. Develop alternatives to the current system of financing the trial courts; and

3. Evaluate the strengths and weaknesses of the current and proposed alternative trial court financing systems.

The impetus for studying the financing of the trial courts is attributable primarily to concerns of Minnesota counties about the significant costs of operating the courts, the effect of court costs on county levy limits, and the counties' perceived lack of control in limiting cost increases. Confusion and conflict between the courts and the counties in many areas about oversight issues have led to a reexamination of the court funding mechanism and a conclusion on the part of the Minnesota Association of Counties that financing of trial courts is a state responsibility. Significant administrative and structural changes in the Minnesota judicial system since 1971 as well as the economic position of the counties have contributed to the confusion over responsibility and authority in financing and operating Minnesota's trial courts.

This report will examine in greater detail the factors which underlie the concerns of the courts and the counties; alternative funding mechanisms, and the strengths and limitations of each, which the Task Force considered; and issues which need to be addressed if the state rather than the counties is to finance a greater portion of the trial court operations.

EVOLUTION OF MINNESOTA'S TRIAL COURT SYSTEM:
IMPLICATIONS FOR FINANCING

The organization and administration of Minnesota's trial courts has changed substantially over the past two decades. Each change has tended to shift the focus of the judicial branch from a county-based entity to a judicial district and statewide operation which nevertheless continues to be funded primarily at the county level. This divergence between the financing and the organizational and administrative structures of the trial courts has created in recent years increasing confusion over the responsibility and/or control of these functions.

The Court System Prior to 1971

The trial court system prior to 1971 consisted of a district court with statewide general jurisdiction to hear all cases presented to it and courts of limited jurisdiction whose authority was circumscribed by territorial or subject matter limitations.

The district court was organized on a multi-county basis except in Hennepin and Ramsey Counties. District court judges traveled throughout the multi-county judicial district to hear cases and were assisted by a court reporter. Because of the statewide jurisdiction and multi-county orientation, the salaries and certain statutory expenses of the district court judges were paid by the state. The salaries of the court reporteres were prorated among the counties in the judicial district. Indeed, at one point in time a court reporter received a prorated monthly salary check from each of the counties in the district.

Courts of limited jurisdiction included the probate court where territorial jurisdiction was limited to the county and expenses of the court were paid by the county; municipal courts where jurisdiction was limited to the municipality and expenses were paid by that governmental unit; and justices of the peace whose jurisdiction was limited to a municipality and who were funded from the fees and fines which they assessed.

County Court Act

In 1971, the County Court Act was passed (M.S. Chapter 487). This act created a new, consolidated county court by merging all municipal and probate courts into a single probate/county court in all counties except Hennepin, Ramsey, and St. Louis. Separate probate and municipal courts continued to exist in Hennepin, Ramsey, and St. Louis counties. In 1974 the Legislature merged St. Louis County probate and municipal courts into the county court system. In 1975, the municipal courts of Ramsey County were merged into a county municipal court parallelling that of Hennepin County.

All of the merged courts of limited jurisdiction were county based and county funded. In some cases two and three county districts were created by statute to better utilize judicial resources. Judges were assigned to hear cases in more than one county within a judicial district. County boards were given the authority to split multi-county districts and to influence significantly the positioning of a judgeship within the county. Where a judge served a multi-county district, the judge's salary and expenses were apportioned between the counties on a per capita basis.

Extension of Judicial Resources

During the 1970's the courts and the legislature sought ways to stretch judicial resources to address a burgeoning caseload. Two mechanisms were used which put the county financing base further at odds with the operations of the court system.

The Legislature in 1975 provided by statute for shared law clerks for district court judges. Although the ratio of judges to law clerks has changed periodically since the initial statutory enactment, the mechanism for funding the law clerks has remained the same. The cost of the law clerks is prorated among the counties in the district on a per capita basis. This legislation created yet another category of employee similar to court reporters who operated in a multi-county environment.

Similarly, the 1977 Court Reorganization Act had the effect of weakening the connection between the management of court system and its funding. The Act gave the Chief Justice the authority to manage the affairs of the court system as a statewide system and permitted the Chief Justice to assign district, county, and municipal court judges across district lines to hear cases. It limited the ability of County Boards to determine the need for a judgeship in the county independent of legislative action. Designed to assist the Chief Justice in addressing caseload and case delay problems, this tool was further evidence of the perspective of the judicial branch as a statewide system and a weakening of the identity of the judge as a county official.

That tool was enhanced in 1978 when, in response to financial constraints on the counties and in recognition of justice as a state wide responsibility, the state began paying the salaries and certain expenses of limited jurisdiction trial judges in addition to the salaries and expenses of the district court judges.

Voluntary Unification

In 1982, legislation was enacted providing for the voluntary unification or consolidation of the county and district courts of each judicial district into a single trial court, upon a majority vote of the judges of each bench. In September of 1987, the last of the ten judicial districts of the state merged its district and county courts into a single trial court. By virtue of voluntary unification every judge became a district judge empowered to hear any case. Additionally, as a result of the transition, all judges were now elected by all citizens of the judicial district rather than only by those of one county or a small number of counties. Judges and court reporters became routinely assigned to hear cases in several counties throughout the district.

Unification also affected trial court financing. All staffing and expenses directly related to the former county court judges were shifted to the judicial district budget. In addition, every judge became entitled by statute to a court reporter and access to a law clerk. With expanded jurisdiction most judges felt compelled by the workload and its complexity to seek such staff support through

the mechanism of the judicial district budget.

The district budget encompasses the costs shared by the counties in the district--court reporters, law clerks, referees, judicial district administrator operating expenses, etc. Pursuant to M.S. 484.68, Subd. 5, the level of the judicial district budget is determined by the district court and assessed to the counties on a per capita basis.

All of these by-products of trial court unification further contributed to the seemingly inexorable shift of the judiciary away from its former county focus and toward the judicial district and statewide organization.

Establishment of New Judicial Positions

Unlike the situation in the early 70's when municipalities and county boards could create judgeships, the current authority to create judgeships rests firmly with the Legislature. In recent years the Legislature based on the Supreme Court weighted caseload analysis, has created judgeships in judicial districts where caseload makes additional judicial resources imperative. While the timely creation of judgeships is critical from a judicial programmatic perspective, the fiscal responsibility for funding support staff, operating expenses and facilities is sometimes problematic from the county perspective. County fiscal concerns are seldom considered in determining whether and where to create a judgeship.

Sunset and Transfer Authority

In 1985 the Legislature gave the Supreme Court the authority to match judicial vacancies with judicial need. Under the so called sunset and transfer provision the Supreme Court determines the number of judgeships needed in the judicial district in which a vacancy arises. The Supreme Court can transfer an excess judgeship to a district in which a need for judicial resources exists. The Supreme Court has exercised the authority to transfer a judgeship three times in the past three years. This transfer authority has budgetary implications for the recipient county. As new judgeships are placed in a county within a judicial

district, the county must supply office space and courtroom facilities. The judicial district and ultimately the counties in the district must provide the court reporter, law clerk, and operating expenses for the position. While this provision can be used to maximize the use of scarce and expensive judicial resources, the management authority conferred by the state legislatue and exercised by the state Supreme Court has the effect of mandating expenses to a county or group of counties, the judicial district, without their approval or participation.

With court unification, sunset and transfer, and the district budget, the counties have lost effective budgetary and personnel control over judges, judicial officers, referees, and judicial support staff. Judicial positions are established by state officials, either the legislature or the judiciary. The expenses connected with these positions are mandated to the counties by those same officials without input from the counties.

Administrative Structure

Equally dramatic changes have occurred in the past decade with respect to the administrative structure of the judicial branch. Yet while the counties have had little or no control over the creation of judge related expenses, the same is not true for costs relating to the court administrator's operation.

Clerk of Court/Court Administrator

Prior to 1971 the Clerk of District Court was an elected county official whose salary and budget were set by the county board, subject to a right of appeal to the district court. By constitutional amendment in 1971 the position was changed to an appointive position selected by a majority of the district court judges within the judicial district.

The court administrator's budget, funded directly by the counties, includes all costs of the court administrator's office and local court support such as jury/witness fees and costs of court facilities and equipment. The statutory right to appeal the salary and office budget set by the county board, which

existed when the position was elective, has remained under the current appointive method of selection. Although the right of appeal has been exercised only twelve times in the past five years, it has provided, from the courts' perspective, the necessary leverage to obtain adequate resources from the counties for local court operations.

With the passage of the County Court Act, the probate clerk in each county became the clerk of county court if the district court did not designate the Clerk of District Court to serve in that capacity. For several years, separate administrative offices for the two courts existed in many counties. To streamline this system, legislation was passed in 1973 creating a single administrative court office in each county to support both the county and district courts under the supervision of the clerk of district court and work was undertaken with local officials to physically combine the offices. This consolidation was an initial step in instituting coherence into an otherwise fragmented administrative system.

Court Reorganization Act

The Court Reorganization Act of 1977 represented the second major step toward administrative coherence. It created for the first time, a clear administrative structure for the entire state court system to tie together the many trial courts into a unified judicial organization. It also provided management tools for optimizing the use of judicial personnel and created mechanisms for improved communications and participatory management within the system. Major initiatives of the Act included:

1. Vesting general administrative authority for the court system in the chief justice, including authority to assign any judge of any court to hear any matter in any location throughout the state;

2. Equalization of salaries of trial judges to recognize properly the worth of all judicial personnel and to facilitate assignment of judges across jurisdictional lines;

3. Expansion of the authority of the State Court Administrator to promulgate and administer uniform requirements concerning records, budgets, information systems, and establish standards and procedures for recruitment, evaluation, promotion, and discipline of judicial system personnel;

4. Vesting in the chief judge of the 10 trial court districts general administrative authority for all courts within the district; and

5. Creation of the position of district administrator to assist the chief judge in administering the district. The salaries of the district administrators are paid by the state.

The Act shifted Minnesota's trial courts from autonomous, administratively unrelated entities tied primarily to the county into a cohesive branch of state government. The Act clearly established the judicial district as the basic administrative unit of the trial courts within an organizational framework providing for state-level policy direction. Despite this administrative framework, the National Center for State Courts, in examining the administrative goals of the Court Reorganization Act, noted in a 1978 report:

> "The existing fragmented system of court finance makes impossible the execution of the Chief Justice's ultimate administrative authority precluding both the substantial movement toward statewide uniformity of administration envisioned by the Court Reorganization Act of 1977 and the ability to hold the Chief Justice accountable for the operations of the state court system."

The report raised concerns about the diffusion of policy responsibility as courts are forced to "look to several different funding agencies and follow varying administrative requirements to secure the financing needed to carry out their responsibilities." The National Center also found that "the consequence of this county financed statewide court system is a serious lack of clarity in the administrative roles within its management hierarchy," citing conflicts of

identification as court administrators are torn between their responsibilities as county department heads and judicial administrators and the restrictions it places on the Chief Justice and State Court Administrator as they attempt to implement statewide policy by reliance on 88 different funding agencies (the state and 87 counties).

The report cited numerous administrative disparities from county to county in the areas of trial court personnel administration, budgeting and financial administration, planning and records management. It found that the continued dependence on the county property base, and its resulting disparate levels of support for the various trial courts, would serve as an ongoing and substantial impediment to the implementation of statewide judicial programs. Thus, in spite of the 1977 creation of an administrative superstructure, the National Center concluded that Minnesota's court system remained administratively fragmented because of its dependence on county financing.

The Court system has initiated many reform programs in the intervening years in the areas of records management, forms development, case delay reduction, computerized record keeping at state expense, financial accounting as part of the computerized case record, and training for court personnel. In spite of administrative improvement in many areas, the areas of personnel administration, budgeting and financial management, and planning remain troublesome and are hampered by a lack of application of uniform standards across county lines. Indeed difficulties encountered in this study in gathering comparable, accurate cost information about the operations of the courts is evidence of continued administrative fragmentation.

Conference of Chief Judges

Minnesota law vests the responsibility for exercising general supervisory powers over trial courts with the chief justice. In the fall of 1985, the Chief Justice and the Conference of Chief Judges met and mutually agreed that the efficiency and productivity of the trial courts and the quality of justice provided by them would best be protected and insured by participation of the trial courts, through the conference, in the formation and establishment of policies for the operations of the trial courts. As a result, the conference, assisted by the state court administrator and the judicial district administrators, was given the primary responsibility for studying the operations of the trial courts and making recommendations, formulating policies, proposing legislation and taking such further actions it deems appropriate to improve the administration of justice in the trial courts in this state.

Uniform policies and procedures promulgated by the Conference in many areas, use of the Trial Court Information System to generate standardized data necessary to administer the statewide system, as well as the trial court jurisdictional changes have further cemented the broader district and statewide perspective of the judicial branch.

Court - County Relationships

The structural and administrative unification of the judicial system which has occurred in recent years has led to tensions between county and court officials and confusion about responsibilities and legal obligations. As local

courts concentrate on implementation of district or statewide policies, court employees often see themselves as part of a larger organization--the district and statewide judicial system--rather than as county employees. Cross-district comparisons with other courts of salaries, budgets, equipment, space and other resources have become more pronounced. Court employee expectations are conditioned as much by comparisons with court employees in other counties as by comparisons with other employees within the county.

As judicial districts attempt to implement policies district-wide, pressure is exerted on counties for additional support or to implement programs in a way which causes dislocation in the county system. These district/county conflicts have been superimposed on the state/county conflicts discussed early in this chapter under the section on the Court Reorganization Act and its objectives for statewide coherence in trial court administration. State court administration, district court administration and local judges are all attempting to direct and implement judicial system policy directives through county judicial system employees who are constrained by county executive branch policies and management systems. Conflict is inevitable.

Whose Employees are They?

With the advent of trial court unification and the creation of single district court, the judicial district budget originally containing only the judicial district administrator and operating expenses was significantly expanded to include law clerks and court reporters for all trial judges. The district budget is set by the Chief Judge of the district and apportioned on a per capita

basis to each county in a judicial district. This new budgetary unit although tied to a major administrative component in the court structure is not tied directly to a governmental funding unit. This has led to confusion about who is responsible for the employees funded in that unit, a question which is complicated by caselaw. Similar state/county and executive/judicial branch conflicts have arisen with respect to trial court employees funded directly by the county budgets.

In a seminal 1978 case, the Minnesota Supreme Court held in Kuehn v. State of Minnesota, 271 N.W. 2d 308 (Minn. 1978), that a county funded district court reporter was a state employee for purposes of workers compensation on the basis that the reporter was hired, fired and supervised by a state employed judge.

The rationale of the 1978 Kuehn case has spawned an increasing controversy about, and litigation over, the question of whether trial court personnel are employees of the county, the judicial district or the state. In recent years this question has arisen in connection with county funded deputy court clerks, court administrators and guardians ad litem, and with judicial district funded court reporters, law clerks and judicial district administrator staff. These employer controversies have involved issues of workers compensation claims, responsibility for providing legal defense, (e.g. personal injury, wrongful discharge, sexual harassment and breach of contract claims against trial court employees), responsibility for indemnification of trial court employees for expenses, settlements and awards resulting from such litigation, responsibility for liability insurance of trial court employees and coverage and enforcement of county-based union contracts with respect to court personnel.

The lack of clarity over the employer issue has resulted in the following:

1. An increasing frequency of time-consuming and expensive litigation to determine who is the employer in an unending variety of employment issues involving trial court personnel.

2. County attorneys tendering the defense to the Attorney General for county paid court employees and court appointed guardians ad litem.

3. County requests for state contributions to settlement awards arising out of acts of county paid court employees.

4. An inability to plan for and absorb within the state judicial budget settlements and court awards for trial court employees who have been deemed on a case by case basis to be state employees for particular new purposes.

5. Judicial district court employees left without a guarantee of basic governmental protections such as indemnification or liability insurance for acts undertaken within the scope of their employment.

The organizational confusion resulting from Minnesota's fragmented trial court funding system has worsened in the ten years since the National Center for State Courts issued its report. The result has been increasing litigation and unnecessary expense.

THE COUNTY PERSPECTIVE ON TRIAL COURT FINANCING

In January 1988, the Association of Minnesota Counties adopted a strong policy in favor of a state takeover of the financing and administration of the trial court system and in favor of state financing of the state public defender system.

This was a new direction for the county group, which had opposed such changes in judicial financing and personnel administration when they were proposed over a decade ago.

What happened between 1978 and 1988 to cause the counties to advocate state financing and administration of the courts?

County representatives have cited four main factors as the basis for their position:

1. Property Tax Relief

The continuing trend in Minnesota has been to decrease the reliance of local governments on the property tax as a revenue source. This has been due primarily to concerns about inequity in both tax burdens and service levels that result when the property tax is used to fund a particular program or governmental entity.

For example, in the area of education, there is a consensus that the state should bear the responsibility to assure some minimal level of equal education to all students in the state regardless of where they may happen to live. This goal cannot be attained without a major infusion of state tax dollars into the system for financing education.

Likewise, largely at the urging of counties, the 1988 Legislature recognized that the state is the appropriate entity to fund income maintenance benefits such as AFDC. This will eventually result in tax relief for county property taxpayers.

By the same token, counties advocate state assumption of costs of the courts as a method of delivering property tax relief. In Minnesota, approximately 75% of the costs of the trial court system (approximately $63 million in calendar year 1987, not including capital costs) are financed with county property tax dollars. Included in that 75% figure are generally all costs associated with the trial court system except judges' and district administrators' salaries. The cost of district public defenders are borne almost totally at the local level.

A consensus has developed among county officials and others that the state ought to accept financial responsibility for the trial court system. This is because there is evidence that the inequality in county tax bases has often resulted in either disproportionately high (or low) tax burdens to finance an adequate system, or inequality in levels of service.

If the trial courts are financed with state tax dollars, counties argue that

these problems of inequity would be reduced.

2. Better Administered and More Equitable System of Justice

Many county officials and others believe that state financing and administration of the trial courts is the next logical step in the court reform movement in Minnesota. The recent unification of the trial bench has added impetus to the movement for further change.

County representatives have argued that state financing and administration will ensure that an adequate system of justice is available to all Minnesota citizens. As long as the system is heavily financed with property tax dollars, reforms in structure, budgeting and personnel administration are made much more difficult, if not impossible.

As long ago as 1976, the Select Committee on the Judicial System agreed that state financing is an essential element for improving the judicial branch:

> "During the course of the Committee's two-year study, one fact became first apparent and then pre-eminent: to bring the quality of judicial service to a high standard in all counties throughout the state and to maintain that standard in the future, an ongoing source of funding must exist. It also became apparent that the county cannot be this source. The property tax base varies far too greatly from county to county to ensure equal resources and thus delivery of services. Levy limits are placed by the Legislature on the county's ability to tax. Demands for county services increase and yet so do the number of programs or services created by the Legislature that require county funding. The state is the logical source of funds to accomplish equality of service throughout Minnesota as well as increased quality. Not only is it logical, it is equitable. The judiciary is one of three co-equal branches of government and has a constitutional charge to administer justice to the citizens of Minnesota. Yet of the three co-equal branches, the judiciary is the only one which must go to the counties for the majority of its funding."

3. Statutory Limits on County Property Tax Levy Increases

County commissioners have struggled for several years to limit increases in county spending so as to comply with laws prohibiting annual property tax levy increases (with a few specific exceptions) of greater than 3 or 4 percent.

In this environment, a court budget increase of 15, 10 or even 5 percent becomes very painful to reconcile with other county needs. Some other portion of the county budget must be cut in order for the county to stay within the 3% or 4% levy limit. While county officials concede that court budget increases may well be justified in many instances, county commissioners are understandably frustrated by a system wherein they have no ultimate authority to control increases in court expenditures but yet are held politically accountable for raising property taxes or cutting county spending on other programs.

Counties believe that with a state-financed system, there will be improved budgetary accountability for court expenditures. Counties will no longer be a mere conduit for court-ordered expenditure increases.

4. Personnel Administration, or "Whose Employees are These, Anyway?"

Almost all county officials are aware of instances where a problem has been created because of confusion over the status of some employees. For example, there has been litigation concerning whether a guardian ad litem is a county or a court employee for purposes of tort liability. Other cases have examined employee status for purposes of workers compensation coverage.

The advent of comparable worth exacerbated problems that have always existed regarding appropriate salary levels for county employees who are court employees in the sense that they are hired, fired and supervised by judges. Salary and budget appeals by court administrators have occurred in several counties, and the results have reminded county commissioners that they have very limited authority to set salaries of those county employees who serve the courts.

Since county authority regarding personnel administration is already heavily circumscribed, the Association of Minnesota Counties believes that it makes sense to establish clear authority for all personnel administration of court employees at the state level.

STATE FINANCING OF TRIAL COURT FUNCTIONS PROPOSED

Current Financing System

At the present time the expenses of the trial courts are paid by various units of government as shown below:

State	District	County
Judicial salaries and expenses, district administrator salaries, trial court information system personnel and equipment	Court reporters, law clerks, district administrator and judicial expenses, information system set up costs	Court administrator, appointed counsel, jury, witness, judicial expenses

A number of problems are inherent in the process of obtaining funding from several levels of government through a mandated judicial district budget and a county budget to which there is a court administrator's right of appeal. The definition of those problems may differ depending on whether the issue is viewed from the court's or the county's perspective. Those problems include:

1. Cost increase which push against and may exceed county levy limitations. From 1986 to 1987 the court budget increased 13% while the levy limit increase was 3%. A similar increase appears eminent for 1989.

2. Unequal delivery of service depending on a county's ability to pay. Courts with similar caseload and weighted caseload judge need in counties with similar population have significantly different staffing levels. Labor saving technology may be available in one county but not in a contiguous county even though the same judge serves in both counties. Guardians ad litem may be paid in one county but may serve as volunteers in contiguous counties. One county does not even have a law library to support the court.

3. Severance of the policy decisions from the funding decisions. Legislation is passed annually which impacts the way in which courts deliver the services for which the counties must pay. The Court through its mandated district budget determines the level of staff support needed to function effectively; the counties must fund the district budgets. Because the mandated budget affects counties differently, the appropriateness of the judicial spending decisions in light of other county funding priorities may be hotly contested by the county board.

4. Fragmented and generally limited fiscal oversight. A real question exists about who is fiscally managing the system. No entity - the courts, the county, the district or the state - has complete responsibility for the fiscal management of the courts. The county more or less manages the court administrator's budget; the district administrator manages the district budget; and the state is responsible for state appropriated funds to cover judicial salaries and expenses. No interplay exists between these funding sources.

5. Inability of the judiciary to implement programs uniformly. Whenever the judiciary implements any new program, whether self initiated by rule or legislatively mandated, 88 funding sources (each county and the state) have to be solicited. Response from some counties may be affirmative, but negative in others further heightening the level of disparity between counties.

6. Existence of volatile constitutionally mandated expenses such as jury /witness fees, psychiatric exams, and court appointed attorneys fees outside the court's control make it difficult to budget adequately for these costs, especially in small counties. A small county may not have a major criminal trial for years. If a county attorney decides to try a major criminal case (or multiple cases) in any year, or if a defendent demands a jury trial, it will have a significant unplanned

impact on the court's budget. In many instances the court has no other recourse than to return to the county board for supplemental funding.

7. Need to provide increasing amount of funding in growth counties. As the population in a particular county increases, the demand for service, including court services, increases. The measure of the increased need for judicial services is the weighted caseload analysis, which in recent years has indicated a need for additional judgeships in the metropolitan counties, the Seventh and Sixth Judicial Districts. Additional judgeship need has a corollary in additional support staff, office space, equipment and operating expenses which must be funded by the counties again within the 3% levy increase limit.

8. Dependence of the third branch of government on the uncoordinated decisions of 88 funding bodies. Inherent conflicts result from county based funding of a multi-county judicial district administrative structure. As judges seek needed resources at the expense of other county programs, inevitable conflicts arise concerning the level of need and its cost.

9. Liability and defense for employees historically followed funding but currently is unclear. It may be a county, district or state responsibility or a mixture of the three. As liabilities arise, (e.g. worker's compensation law suits, grievances from court employees or about court employees) conflict about responsibility for resolution and payment arises. Court employees are often left in doubt about who to consult for protection due them under conflicting statute or caselaw.

Generally adequate funding of the trial courts has resulted from multiple sources of funding for the trial courts, coupled with the mandated judicial budget and the right of court administrators to appeal a setting of their salary and budget by the county board and to prevail upon a showing that the county board's action was arbitrary and done without meaningful understanding of the

duties and responsibility. In periods of tight fiscal budgets, if one level of government cut a budget, other levels of government were often unaffected and were able to cushion the cut.

If no changes were made to the current system, the judiciary would in all likelihood continue to receive adequate funding through the district budget with the ability to use the appeal right to correct any significant abuses in the local trial court budgets. The counties would continue to experience pressures on the levy limit and on other county programs. Conflict between the courts and the counties resulting from this scenario remains inevitable. Employee liability and defense questions remain unresolved as well.

On the other hand, if the appeal right were removed and/or the mandated district budget lost, courts fear that counties would not adequately fund the court operations especially because of political pressures to fund more popular local expenses like roads.

Despite the generally adequate levels of support for trial courts under the current funding system, the policy issues raised in earlier sections of this report argue strongly for change. The current fragmented system has resulted in policy diffusion within the judiciary, inappropriate reliance on a multiplicity of funding sources, weak fiscal oversight, disparate levels of judicial services and conflicts over liability and defense of trial court personnel. Continued county funding of a co-equal branch of government which is organized administratively on a judicial district and statewide basis would only exacerbate these problems in the future. For these reasons, the Task Force recommends the funding of the expenses associated with judges, law clerks, court reporters, referees, judicial officers and district administration functions by state government. As the legislature creates new judgeships, judges stretch to manage increasing caseloads by adding legal support staff, this area is experiencing the most significant cost increases.

Financing Alternatives

In considering alternative financing mechanisms and after presentations by

the Association of Minnesota Counties and the courts, the Supreme Court Task Force on Financing of the Trial Courts identified several recurrent policy objectives which should be fundamental to a changed funding system.

The Association of Minnesota Counties

While acknowledging the importance of the judicial function, the Association of Minnesota Counties seeks a funding mechanism which would:

1. Tie together at one level of government policy and funding decisions.
2. Achieve property tax relief (now or in the near future).
3. Lessen disparities in the level of service statewide.
4. Eliminate the confusion and conflict between counties and courts over personnel issues including questions of liability and control.

The Trial Courts

While the courts have experienced relative success overall in obtaining sufficient resources to perform court functions, the mechanisms of the court administrators salary and budget appeal and the mandated judicial district budget have given the courts the opportunity to approach county boards from a strong position to obtain much needed support personnel and equipment. If these mechanisms which give the judiciary a significant voice in the determination of the resources necessary to operate a separate branch of government were to be removed, and another funding mechanism substituted the courts would seek:

1. No diminution in level of current funding and adequate and stable financing in future.
2. Lessening of disparities in service statewide.
3. No worse fragmentation of funding sources.
4. Recognition of the special posture of the judiciary as a separate branch of government and of its constitutional mandate to maintain its independence and manage its own affairs.

The Task Force considered several alternative funding mechanisms in light of these court and county policy objectives. In general these mechanisms may be viewed as either preserving the property tax as the appropriate funding source

and the county as the political unit responsible for fiscal management of the courts or the state general fund as the appropriate funding source with the state as the political unit charged with fiscal responsibility.

The property tax mechanisms include:

1) exemption for the courts from the county line limit;

2) a special court taxing district.

The state general fund mechanisms include:

1) a general fund appropriation;

2) a cost reimbursement to the counties of actual costs;

3) a formula grant-in-aid program.

Discussion of the limitations and benefits of those mechanisms follows. Where necessary a brief discussion of the administrative framework is included.

Exemption from County Levy Limits

In discussing this option the Task Force has assumed that the judicial district budget, the indigent defense mandate, and the court administrator appeal right remain in tact. The county commissioners retain accountability for assessing taxes and managing county finances subject to the exceptions noted above. No change in administrative structure is contemplated.

Limitations

1. Continues to separate policy decisions from funding decisions. The courts and/or the legislature would continue to mandate new programs for which the counties would pay.

2. Ignores the judicial district as the administrative and operating unit of Minnesota's trial court system. As we have seen elsewhere in this report the judicial district has firmly replaced the county as the primary administrative unit for the operation of the courts. Any funding mechanism based on the characteristics of the county as a recipient would ignore the administrative structure of the judicial branch, which demands a cross county management focus. Each of the counties would remain a separate budgeting and fiscal management entity. The courts would have to lobby separately for funds in each county and program implementation would be limited by the smallest appropriation.

3. The question of whose employees are court personnel remains unresolved. The conflicts which we have seen in previous sections between the courts the counties concerning workers compensation and other claims against employees and employers would continue.

4. No flexibility to redirect funds to emergency needs across county lines. The courts experience volatile constitutionally mandated expenses for which it is difficult to plan. The volatility of these expenses creates a situation where in some years expenses are over budgeted and in some years under budgeted. Using the judicial district as the administrative unit as was contemplated in the 1977 Court Reorganization Act, courts would have the ability to adjust funding where possible across county lines to accommodate the volatility of these expenses. That flexibility does not exist if the county remains the funding unit as is contemplated by a mechanism which exempts courts from the county levy limit.

5. Continues to use the property tax mechanism to fund a state function demanding equity in level of service statewide. As long as the counties remain the political subdivision responsible for funding the courts, the property tax base remains the source of basic revenue for courts. As we have seen elsewhere in this report the property tax base is an inadequate base in many counties to provide for funding to assure

basic equity in the delivery system statewide. in many ways this forces the poorest county to become the lowest common denominator for the delivery of service.

Benefits

1. Avoids administrative costs of unifying the judicial branch. In order to administer a program based other than on the county funding unit, a supplemented administrative structure would have to be implemented. Currently, each judicial district is staffed by a district administrator and generally one or two support persons. Half of the judicial districts have no more than secretary support for the judicial district administrator at the district level. Administration of a unified budgeting system and/or personnel system would clearly necessitate additional professional administrative personnel.

2. Easy implementation of this program would be possible because the process for executing exceptions to the levy limits is currently in place.

Special Court Taxing District Coterminous With the County Boundaries

This mechanism assumes the legislative creation of a court taxing district coterminous with the county boundaries and the legislative specification of the limitations on the taxing authority. The limitation presumably would involve the establishment of a base year budget and a specification of an inflation factor. State, county or court officials would assess and collect the tax. The judicial district and indigent defense budgets would remain. The court administrator appeal right would be abolished since the court administrator budget would be adopted by the court subject to the levy limitations.

Limitations

1. Judicial elections are distorted by fiscal issues. The judicial branch is required by the U.S. and Minnesota Constitutions to adhere to

specified due process safeguards which are sometimes costly. This mechanism emphasizes the costs of the justice system and creates the illusion that judges can control those costs.

2. Does not recognize the judicial district as the administrative and operating unit of Minnesota's trial court system. This mecahnism would further fragment rather than unify the administration of the judicial branch. As we have seen elsewhere in this report the judicial district has firmly replaced the county as the primary administrative unit for the operation of the courts. Any formula which would be derived based on the characteristics of the county as a recipient would ignore the administrative structure of the judicial branch, which demands a cross county management focus. The current mechanism of the judicial district budget which allows coherence of administration for at least part of the judicial branch would therefore be ignored.

3. The issue of whose employees are court personnel is further obscured. Questions of legal liability and defense are exacerbated. Are these county or state employees?

4. No flexibility to redirect funds to emergency needs across county lines. The courts experience volatile constitutionally mandated expenses for which is is difficult to plan. The volatility of these expenses creates a situation where in some years expenses are over budgeted and in some years under budgeted. Using the judiciail district as the administrative unit as was contemplated in the 1977 court organization act, courts would have the ability to adjust funding where possible across county lines to accommodate the volatility of these expenses. That flexibility doesnot exist if the county remains the funding unti as is contemplated by the county taxing district.

5. Continues to use the property tax mechanism to fund a state function demanding equity in level of service statewide. As long as the counties remain the political subdivision responsible for funding the courts, the property tax base remains the source of basic revenue for

courts. As we have seen elsewhere in this report the property tax base is an inadequate base in many counties to provide for funding as assure basic equity in the delivery system statewide.

6. Additional costs above current system are incurred. Tax collection and fiscal management personnel would be needed either in the county or the court to monitor court budgets and certify the budgets to the tax collector.

7. Each taxing district would need to seek a unique taxing formula in order to obtain a budget increase beyond the statutory formula. Substantial time of court personnel would be spent seeking legislative approval for changes in the arena of the tax committee - untraditional ground for court personnel.

8. Monitoring by the courts of tax legislation would become critical to guard against unanticipated, unintended and/or negative impacts for legislative action. Courts have little or no administrative expertise in the area of governmental taxation. It would have to be developed at additional system costs.

9. Increases property taxes. The current study has been commissioned because of concern about the current high level of property taxes in Minnesota. This mechanism would exacerbate the problem.

Benefits

1. Additional funds might be available to the courts although the relative positioning of courts in counties with low property tax bases would not improve. This benefit depends entirely on the legislature's willingness to permit the increase of taxes for courts above the general county levy limit or the establishment of a property tax base with the potential for growth.

Create a Special Taxing District Coterminous with Judicial District or Statewide

This mechanism assumes the legislative creation of a court taxing district coterminous with the judicial district boundaries and the legislative specification of the limiations on the taxing authority. County, State, or court officials would assess and collect the tax. The judicial district and indigent defense budgets would remain. The court administrator appeal right would be abolished since the court administrator budget would be adopted by the court subject to the levy limitations.

Limitations

1. Judicial elections are distorted by fiscal issues. The judicial branch is required by the U.S. and Minnesota Constitutions to adhere to specified due process safeguards which are sometimes costly. This mechanism emphasizes the costs of the justice system and creates the illusion that judges can control those costs.

2. Increase property taxes as additional costs above current system are incurred. The current study has arisen out of a concern about the ability of the property tax base to continue to meet the needs of the counties for services. This mecahnism would continue to draw on that already overburdened base and would require the addition of administrative personnel to develop, administer and monitor budgets, personnel plans, fiscal amdinistration and accounting systems.

3. The issue of whose employees are court personnel is further obscured. Questions of legal liability and defense are exacerbated. Are these county, judicial district, or state employees?

4. Each taxing district would need to seek a unique taxing formula in order to obtain budget increase beyond the statutory formula. Substantial time of court personnel would be spent seeking legislative approval for changes in the arena of the tax committee - untraditional ground for court personnel.

5. Monitoring by the courts of tax legislation would become critical to guard against unanticipated, unintended and/or negative impacts for legislation action. Courts have little or no administrative expertise in the area of governmental taxation. It would have to be developed at additional system cost.

Benefits

1. Accountability and oversight are strengthened as the courts are required to operate within the limits of the taxing authority and levels of service set by courts are charged to the judges.

2. Additional funds might be available to the courts although the relative positioning of the courts in counties with low property tax bases would not improve. This mecahnism depends entirely on the willingness of the legislature to permit the courts a greater levy limit than the counties.

3. Flexibility would exist to use funds in any county in the district to meet emergency needs.

Reimbursement by the State to the Counties of the Actual Costs of the Courts.

This mechanism assumes no change to the current statutory scheme. The judicial district and indigent defense budget and court administrator appeal right remain in tact. The county commissioners retain accountability for assessing taxes and managing county finances. A court administered budget review process could be implemented to prepare the judicial branch budget for presentation to the legislature and to allocate the state appropriation to the counties. Court personnel would supervise the court budget.

Limitations

1. Continues to separate policy decisions from funding decisions. The courts and/or legislature continue to mandate new programs for which the counties would pay if reimbursement were partial. If reimbursement were total, the counties would be able to determine the level of service independent of considerations of the state's ability to pay. In an attempt to control costs, this mechanism would likely devolve to a grant in aid program to bring certainty to the funding process (See grant in aid discussion.)

2. Ignores the judicial district as the administrative and operating unit of Minnesota's trial court system. This mechanism would further fragment rather than unify the administration of the judicial branchy. This mechanism would contemplate money flowing from the state legislature to the county as a political subdivision. As we have seen elsewhere in this report the judicial district has firmly replaced the county as the primary administrative unit for the operation of the courts. Any formula which would be derived based on the characteristics of the county as a recipient would ignore the administrative structure of the judicial branch, which demands a cross county management focus. The current mechanism fo the judicial district budget which allows coherence of administration for at least part of the judicial branch would therefore be ignored.

3. The question of whose employees are court personnel remains unresolved. The conflicts which we have seen in previous sections betwen the courts and the counties concerning workers compensation and other claims against employees and employers would continue. What management rights does the court system retain over these county court employees? How are those rights exercised in light of union contracts negotiated by county employees? Whose employees are district employees, i.e. law clerks and court reporters?

4. No guarantee of continuation by the legislature of this relief to the counties. While the statute provides for 50% reimbursement, the amoung of money available for reimbursement funding of probation officers through the Corrections Department has varied significantly - from approximately 25-50% during the past decade - leaving the counties to bear the unexpected expense and the service providers to suffer the consequence of under funding by both the state and the counties.

5. No flexibility to redirect funds to emergency needs across county lines. The courts experience volatile constitutionally mandated expenses for which it is difficult to plan. The volatility of these expenses creates a situation where in some years expenses are over budgeted and in some years under budgeted. Using the judicial district as the administrative unit as was contemplated in the 1977 court organization act, courts would have the ability to adjust funding where possible across county lines to accommodate the volatility of these expenses. That flexibility does not exist if the county remains the funding unti as is contemplated by this mechanism.

6. Continues to use the property tax mechanism to fund a state function demanding equity in level of service statewide. As long as the counties remain the political subdivision responsible for funding the courts, the property tax base remains the source of basic revenue for courts. As we have seen elsewhere in this report the property tax base is an inadequate base in many counties to provide for funding to assure basic equity in the delivery system statewide. In many ways this forces the poorest county to become the lowest common denominator for the delivery of service should a formula approach be used. This might result in a reduction of funding for courts, a clearly undesireable result.

Benefits

1. Avoids some administrative costs of unifying the judicial branch. In order to administer a program based other than on the county funding

unit, a supplemented administrative structure would have to be implemented. Currently, each judicial district is staffed by a district administrator and generally one or two support persons. Half of the judicial districts have no more than secretary support for the judicial district administrator at the district level. Administration of a unified budgeting system and/or personnel system would clearly necessitate additional professional administrative personnel.

2. New state money would provide at least initial relief to the counties. To the extent that the state is able to devote new revenue for cost reimbursement to provide tax relief to the counties, the counties would realize the net cash benefit.

3. Transition from the current system to a cost reimbursement program would not disrupt current employee benefits.

Grant in Aid to Counties

In considering a grant in aid funding mechanism the Task Force looked at its overall impact and did not discuss any particular formula for granting aid.

Limitations

1. Policy decisions continue to be separated from funding decisions. The courts and/or the legislature would continue to mandate new programs for which the counties would pay. The increased cost of the programs could be reflected in the aid formula, but inevitably the formula would become increasingly complex and difficult to administer if it were to be responsive to program initiatives.

2. Does not recognize the judicial district as the administrative and operating unit of Minnesota's trial court system. This mechanism would further fragment rather than unify the amdinistration of the judicial branch. The grant in aid mechanism would contemplate money flowing from the state legislature to the county as a political subdivision.

As we have seen elsewhere in this report the judicial district has firmly replaced the county as the primary administrative unit for the operation of the courts. Any formula which would be derived based on the characteristics of the county as a recipient would ignore the administrative structure of the judicial branch, which demands a cross county management focus. The current mechanism of the judicial district budget which allows coherence of administration for at least part of the judicial branch would therefore be ignored.

3. The question of whose employees are court personnel remains unresolved. The conflicts which we have seen in previous sections between the courts and the counties concerning workers compensation and other claims against employees and employers would continue.

4. No guarantee of continuation by the legislature of this relief to the counties. The legislature in California passed legislation to provide a grant in aid program for the courts to the counties. In light of budget emergencies this program was not implemented and neither the courts nor the counties received the benefit of the grant in aid program.

5. No flexibility to redirect funds to emergency needs across county lines. The courts experience volatile constitutionally mandated expenses for which it is difficult to plan. The volatility of these expenses creates a situation where in some years expenses are over budgeted and in some years under budgeted. Using the judicial district as the administrative unit as was contemplated in the 1977 court organization act, courts would have the ability to adjust funding where possible across county lines to accommodate the volatility of these expenses. That flexibility does not exist if the county remains the funding unit as is contemplated by a grant in aid program.

6. Formula funding a cumbersome and arbitrary mechanism. The amount of a particular grant or level of increase may become the cap for actual local funding rather than provide additional funding. It would add the

legislature to each of the eighty-seven counties as a funding body the judiciary must lobby for trial court budgets. Recent experience with the formula in education and in Community Corrections Act counties indicates the difficulty of being able to approach the legislature with a viable formula which adequately takes into account the differing realities in each of the eighty-seven counties and hence increases the political difficulties in obtaining adequate funding for the trial courts.

7. Continues to use the property tax mechanism to fund a state function demanding equity in level of service statewide. As long as the counties remain the political subdivision responsible for funding the courts, the property tax base remains the source of basic revenue for courts. As we have seen elsewhere in this report the property tax base is an inadequate base in many counties to provide for funding to assure basic equity in the delivery system statewide. In many ways this forces the poorest county to become the lowest common denominator for the delivery of service should a formula approach be used. This might result in a reduction of funding for courts, a clearly undesireable result.

Benefits

1. Avoids administrative costs of unifying the judicial branch. In order to administer a program based other than on the county funding unit, a supplemented administrative structure would have to be implemented. Currently, each judicial district is staffed by a district administrator and generally one or two support persons. Half of the judicial districts have no more than secretarial support for the judicial district administrator at the district level. Administration of a unified budgeting system and/or personnel system would clearly necessitate additional professional administrative personnel.

2. New state money would provide at least initial relief to the counties. To the extent that the state is able to continue to devote new revenue

through a grant in aid program to provide tax relief to the counties, the counties would realize the net cash benefit.

3. An easy transition from the current system to a grant in aid program would be insured because the distribution mechanism from the state to the county for grant in aid funding is already in place.

General Fund State Appropriation

The Supreme Court Task Force also considered the possibliity of a general fund appropriation from the state to finance the entire costs of the judicial branch. As with the other funding mechanisms, this funding mechanism has both limitation and benefits.

Limitations

1. The transition from county based funding to a state appropriation based funding is difficult. An administrative structure needs to be put in place; a new operating system needs to be implemented, and personnel need to be trained in a new operating system. Employees must have their jobs classified, salary levels identified, seniority recognized, payroll status clarified. Employee benefits must be coordinated. Collective bargaining representation questions need to be addressed for employees in the local court administrator's offices.

2. General fund appropriation makes the judicial branch entirely dependent upon one budget. When the state experiences a budget shortfall, the support for the entire judicial branch is at risk. No other funding sources are available to cushion the impact of a budget reduction.

3. Additional costs above and beyond the current system are incurred. These costs arise because of the need to provide an administrative structure to support unified budgeting and/or personnel administration, and because of the need to provide an equitable level of service to counties where services have previously been lacking or deficient. In

order to implement a uniform personnel system, benefits would be equalized and a new salary plan would be implemented.

Benefits

1. Ties the policy decision to the funding decisions. As the legislature or the judiciary implement new programs, they must either do so within the context of the current level of funding, reduce other existing programs or allocate additional funds to support the new programs.

2. Accountability and oversight are strengthened. For the first time, all costs of the trial court system would be identified within a single budget permitting appropriate evaluation of the effectiveness of judicial operations.

3. Equalizes services. The Task Force received considerable information concerning the variation in the way courts deliver programs. Compensation and benefit levels of court employees differ greatly. Guardian ad litem programs may use volunteer attorneys or laypersons or may pay attorneys or laypersons to serve. Court services may be administered through community corrections, through court-appointed personnel or through a contract with the Department of Corrections. Judges in one judicial district may have access to one or more law clerks while in other districts two or more judges must share a law clerk. Judicial District Administrators have disparate sized support staff. Staff size varies in court administrators' offices where population, caseload and judicial need are similar. Both the levels of resources and the methods of delivering services differ significantly from county to county. The state as it mandates new programs must find ways to deliver the service statewide and appropriate the funds from a more elastic revenue source to support them. With a broader geographic base, economies of scale may be achieved in some delivery systems. The statewide nature of the income source gives flexibility in the use of the funds and allows direction of funds to individual court locations in poorer counties or to specific programs or problems

whenever the needs arise.

4. Service delivery is not dependent on an inequitable property tax base but on a more responsive income tax base generated by Minnesota citizens statewide.

5. Provides the ability to adjust budgets to respond to emergencies as budget shortfalls or surpluses arise within one funding source. The court has the ability to offset the one against the other to respond in emergencies either at the county, district, or state level.

6. Gives property tax relief to the counties. As the costs of the judicial branch are removed from the property tax base, the county is relieved of the future growth of those expenses.

7. Clarifies employee liability issues in that court employees are state employees for all purposes. State budgets are the source of payment for employee liabilities and the attorney general's office is the agency for providing defense services. Court employees are managed in a judicial branch personnel system thereby avoiding conflicts in administrative direction from the courts and the counties.

8. Directs funding attention to discussion of specific needs rather than tinkering with a complex formula. As the courts approach the legislature for additional funding, the discussion of the particular program and its cost benefit analysis is discussed on the merits rather than being tied to the impact of a complex formula, the changing of which would impact counties differently, shifting the discussion agenda to who wins and who loses.

9. Applies same funding mechanism of the legislative and executive branch of government to the co-equal judicial branch. Neither of the other two branches of state government are dependent on local funding for their existence. The philosophy which supports a general fund appropriation for the legislative and executive branch of government

applies equally to the judicial branch. A state general fund appropriation would provide the missing administrative element necessary to realize the policy goal of the 1977 Court Reorganization Act -- a cohesive fully integrated judiciary. This funding mechanism would strengthen the administrative authority of the court personnel at various levels in the judicial system to implement programs entrusted to their control. For example, the local court administrator would have the authority within the agreed upon budgetary limits to run the operation of the local court office without interference from another branch of government. The district administrator, under the supervision of the Chief Judge, would have the authority and the where-with-all to implement programs of a district-wide significance. The Supreme Court would have authority to implement programs and guidelines for programs having a statewide significance with the concurrence of the Conference of Chief Judges. The decentralized administrative structure contemplated by the Court Reorganization Act of 1977 would for the first time be fully implemented and place administrative control of the judiciary within that branch of government. At the same time, the unification of the funding responsibility for the trial courts would strengthen legislative fiscal oversight and judicial administrative accountability.

Task Force Recommendation

The Task Force discussed the potential impact of moving to full state funding of the trial courts and is aware of concerns expressed by the judiciary, county officials, and court employees about the adequacy of funding at the state level, the administrative relationships which would support a state financed system and the impact of transition on employee benefits as 87 benefit programs are consolidated into one program. The Task Force has had less than six months to review the existing financing mechanism and develop proposals for change.

Based on its potential for achieving the agreed policy objectives of the courts and the counties of reducing disparities in levels of service statewide, of providing property tax relief, of recognizing the unique status of the third branch of government and of eliminating significant conflict concerning court

employee status. The Task Force believes that a general fund appropriation is clearly the most effective financing mechanism for funding referees, judicial officers, and employees shared in multi-county districts--law clerks, court reporters, and district administration staff and for funding the indigent defense function. More time is needed to assess the benefit of transferring other court functions to a state appropriation and the administrative issues involved in such a transfer.

The Supreme Court Task Force on Financing of the Trial Courts recommends:

1. State funding in the form of a direct general fund appropriation to the judicial branch for the costs associated with indigent defense and with judges, court reporters, law clerks, judicial officers, referees, and district administration staff and programs, except for facilities rental currently provided by the counties.

2. Cognizance by the Legislature in authorizing the transition from county to state general fund financing of the need to adjust salary inequities among existing court personnel and acknowledge the necessity to finance the adjustment of salary and benefits as part of the base level of system support.

3. Recognition by the Legislature in authorizing the transition from county to state general fund financing of the need for an expanded administrative infrastructure to manage the system beyond what currently exists and the inclusion of positions and funding for the infrastructure as part of the judicial branch budget base.

4. Further study of the benefits and limitations of a state appropriation as a mechanism for improving the effectiveness of the operation of the trial courts.

WHAT CONSTITUTES THE COURTS?

Critical to an understanding of any change in the way courts are funded is a common understanding of what constitutes "the trial courts." At first blush one might assume a simple answer to a seemingly simple question. However, given the evolutionary development of the court system and eighty-seven separate funding bases, court budgets, which in this context may be thought to define what constitutes a court, vary significantly in their content.

"Core" Functions

A framework for delimiting the trial courts can be found in Article VI, the judicial article of the Minnesota Constitution. Article VI speaks clearly of judges and clerks of court (currently court administrators). Staff and operating expenses to support both functionaries are clearly contemplated in the enabling legislation in Minnesota Statutes Chapter 484, 485, 486. These statutes reference law clerks, court reporters, court administrators and their staff, judicial district administrators and their staff, and referees. These employees provide the administrative structure through which court cases are processed.

Court Services (Probation)

Just as the judiciary receives the assistance of the court administrators in creating and maintaining court records and administratively scheduling and processing the work of the court, court services personnel, performing probation functions, assist the judiciary in gathering information about the dispositional aspects of court cases. Probation officers conduct presentence investigations and recommend appropriate treatment or other disposition for defendant's convicted of crime.

In Minnesota, the current public policy determination of whether court services employees are executive or judicial branch employees is mixed. In 43 counties the felony probation/parole officers are hired by the Department of Corrections (executive branch) while juvenile probation agents are hired and supervised by the judge. In six counties the County Board contracts with the

Department of Corrections (executive branch) to provide probation services. In yet another 28 counties, encompassing 60% of the state's population, the Community Corrections Board, pursuant to the Community Corrections Act, selects court services officers. The amalgemation of executive and judicial branch personnel performing the same function in differing organizational models defies a quick answer to the question of whether court services are part of the executive or judicial branch. Beyond a doubt the judiciary has a significant interest in directing the work product of court services officers. But given the complexity of the current court services delivery system, the Supreme Court Task Force on Financing of the Trial Courts concluded that additional study was needed to determine whether the present multifarious system was satisfactorily meeting the court's needs, whether and how these services should be organized to relate effectively to a more administratively complex court, and who should fund court services.

Alcohol Assessment Counselors

Pursuant to M.S. 169.124 the County Board has the authority to establish alcohol assessment programs to provide alcohol problem assessment and evaluation of persons convicted of one of the offenses enumerated in Section 169.126, subd. 1. The alcohol problem assessment is to be conducted under the direction of the court and by such persons or agencies as the court deems qualified to provide the alcohol problem assessment and assessment report as described in section 169.126. The alcohol problem assessment may be conducted by court services probation officers having the required knowledge and skills in the assessment of alcohol problems, by alcoholism counselors, by persons conducting court sponsored driver improvement clinics if in the judgment of the court such persons have the required knowledge and skills in the assessment of alcohol problems, by appropriate staff members of public or private alcohol treatment programs and agencies or mental health clinics, by court approved volunteer workers such as members of alcoholics anonymous, or by such other qulaified persons as the court may direct. The county, upon application, may be reimbursed up to 50% of the cost of each alcohol assessment not to exceed $25 in each case.

While alcohol problem assessments are conducted under the direction of the

court, the expense of the program may appear at the county level in one of several different budgets, the most common being the court or the court services budget. In light of the correlation between this function and court services in providing background information about defendants to shape appropriate sentences and the existence of a similar state to the county reimbursement funding mechanism, the Task Force recommends that the examination of this program be included in the court services study discussed above , but that no change in the funding responsibility be made at the present time.

Law Libraries

Another function related to the operation of the court system is the law library. A court must have access to legal reference tools to determine fairly and accurately the current state of the law. Indeed, in 81 of the 87 Minnesota counties this relationship between law libraries and courts is so interrelated that the court staff serve additionally as the library staff - ordering and shelving books and replacing pocket parts.

Yet, county law libraries in Minnesota operate autonomously in most ways. They are funded by a surcharge on court filings and they are directed by a board composed of a judge, a county commissioner, and an attorney designated by the county attorney. The composition of the board is indicative of the interests served by the library - not only the courts but also the public and the other governmental agencies. Although a good law library is critical to an informed judiciary, the Task Force concluded that the function of the law library is to serve the public of whom the court is but one, albeit an important, constituency. The Task Force, therefore, recommends no change in the funding mechanism for the county law libraries which are largely self sustaining, nor preclusion of contributions from the state or county budgets as may be appropriate in individual cases.

Guardians ad Litems

Guardians ad litem are appointed by the Court to represent the interests of juveniles and other helpless adults during a court proceeding. They assist the

court by gathering and presenting information concerning the appropriateness of courses of action proposed by social workers, the family and others in terms of the best interest of the child or patient which allows the court to make an informed disposition. In this sense they are very much like court services officers or indigent defense attorneys.

The guardian ad litem service is provided to the court by several models- volunteer lay person or attorney, paid layperson, paid attorney. The coordination of the guardian ad litim appointments may be handled by the court administrator or court services staff. While the cost of this activity typically appears in the court administrator's budget, it may also appear in the court services or human services budget. Because of the direct appointment of guardians ad litem by the judiciary in every model, the Task Force concluded that the cost of paying for guardians ad litem and administering that function ought to be a court expense whether it is administered on a reimbursement basis to a non-court agency or carried as an expense in the court budget itself.

Indigent Defense

Until 1981, the Judicial Council, on behalf of the Supreme Court approved the budgets of the State and District Public Defender. The Judicial Council expressed concern about the perceived, if not an actual, appearance of impropriety of the court setting the limits of defense. Further acknowledging the need for special expertise in reviewing litigation costs and budgets, the Judicial Council recommended to the legislature the creation of a Board of Public defense to assume responsibility for the oversight of the indigent defense function. In response, the legislature created the Board of Public Defense, charged with the responsibility of submitting an annual report to the governor, the legislature, and the Supreme Court on the operation of the state public defender's office, district defender systems, and appointed counsel systems. In addition, the board was granted authority to establish standards for the offices of the state and district public defenders and for the conduct of all appointed counsel systems. The cost of indigent defense, whether by the public defender or court appointed counsel, appeared in the trial court budget of each county.

In 1988 felony and gross misdemeanor defense costs were removed, for the first time, from the court budget and assessed to counties directly by the Board of Public Defense. Since M.S. 611.215, Subd. 2 grants the Board authority to administer standards over court appointed counsel, as well as felony and gross misdemeanor defense, defense costs incurred in representing juveniles, misdemeanants, and persons involved in the civil commitment process should also be removed from the court budget.

The legislature, in M.S. 611.215, made clear that the State Board of Public Defense is a part, but is not subject to the administrative control, of the judicial branch of government to avoid the conflict of interest articulated at the beginning of the decade by the Supreme Court's Judicial Council. Given that statewide applicability of the program, the constitutional mandates for this service, and hence the need for uniform availability of indigent defense services statewide, the Task Force recommends state funding to support the indigent defense function.

Title Examiners - Torrens Property

A title examiner, who is an attorney appointed by the judges of the district court, who also set the salary, is a position authorized by statute for every county. Full time examiners of title and deputies are currently serving in Hennepin (6), Ramsey (3), St. Louis (1), and Anoka (1) counties. The function of this position is to provide the legal review necessary to determine the status of title to property prior to Torrens registration. The statute provides that in counties other than Hennepin, Ramsey, and St. Louis having a full time attorney the County Board may designate the county attorney as legal adviser to the registrar of titles. M.S. 508.13, Subd. 2.

The Torrens registration system is essentially a title insurance procedure designed to clarify title property located within the county. The function requires legal advice more appropriate to a county attorney's office rather than the dispute resolution function central to the mission of courts. The County Board other than in Hennepin, Ramsey and St. Louis counties and in counties not having a full time county attorney has the authority to designate the county

attorney to provide this service and hence take control of the position from the courts. In light of these characteristics, the Task Force recommends continued county funding of the title examiner function.

Vital Statistics, Licensing and Passport Functions

By statute the court administrator has been given the responsibility for collecting and maintaining vital statistics, and for processing driver's license and passport applications. These functions are ministerial in nature and involve collecting a fee, assisting individuals complete an application, and forwarding the application to the appropriate public official or office for further processing. In the case of vital statistics individuals often seek court assistance in performing genealogy searches of the vital statistic records. These functions, while not incompatible with the record keeping function of the court administrator's office, are clearly not functions which arise out of litigation nor do they require legal system intervention.

The placement of these services is currently in flux. Court administrators in some counties have divested themselves of this responsibility. Others are considering such a change. Those court administrators who seek to retain the function cite the following reasons:

A. Where court workload is small, the inclusion within the court administrator's office of the vital statistics, licensing and passport functions justifies the minimum staff to keep the office open.

B. Additional job functions justify a higher salary for court staff.

C. Variety of functions makes the job more interesting.

D. The clientele from these functions are more pleasant than the usual court clientele and provide relief from more stressful court clients.

While these reasons are not insignificant, these functions are not court functions for which the judiciary should seek funding. Should responsibility

for funding the courts be transferred from the counties, the Task Force concluded that these functions should be transferred from the courts to some other agency or that the courts should perform these functions under a contract with the counties funding the cost of the service.

The Task Force recommends that:

1. the following functions be defined as court functions and be funded by a state general fund appropriation -

   A. Adjudication performed by judges, referees, judicial officers, hearing officers.

   B. Legal research performed by law clerks.

   C. Creation and maintenance of court records performed by court reporters.

   D. Court administration performed by district and local court administrators.

2. the following court functions be defined as court functions, but that they continue to be funded by the county subject to the administrator's right to appeal salary and budget:

   A. Court administration performed by local court administrators.

   B. Guardians ad litem

   C. Jury administration

   D. Witness fees*

*The Task Force recommends that the prosecution and defense functions assume the cost for their own witnesses within their own budgets.

3. no change in funding for the following functions:

   A. Probation/Court Services

   B. Alcohol Assessment Function

   C. County Law Library

   D. Examiner of Title

4. state funding for the indigent defense function under the administration of the Board of Public Defense be implemented as follows:

   A. Total state funding of indigent defense in Hennepin and Ramsey Counties and state funding of felony and gross misdemeanor indigent defense in all other counties of the state during the FY1990-1991 biennium, and

   B. State funding of misdemeanor, juvenile, paternity, civil commitment indigent defense functions in the remaining 85 counties during the FY1992-1993 biennium.

5. The Task Force recommends that the responsibility for vital statistics, licensing and passport functions be transferred to another office in the event of state funding of the courts or that the functions continue to be performed by the Court Administrator subject to agreement by the county to fund their cost.

ADMINSTRATIVE STRUCTURE UNDER STATE FINANCING

Should state financing of the trial court system occur through a unified general fund budget, a more extensive administrative structure would be needed. In determining the most appropriate administrative structure for a state financed court system the Task Force weighed the amount of centralized authority desirable against the need for local autonomy and determined that a decentralized system is best suited to the needs and current practices in Minnesota. Decentralized management, with local and state participation, permits the judicial system to develop effective planning capabilities and administrative policies at each level so that the need for uniformity of the entire court system as well as the individualized needs of local courts can be met.

The basic statutory structure for a decentralized participatory management model of administration has already been implemented by the 1977 Court Reorganization Act. Current law vests in the Chief Justice superintending administrative authority for the judicial branch and gives to the State Court Administrator the responsibility for promulgating uniform administrative policies and procedures relative to statewide concerns. Likewise the Chief Judge is established as the administrative head of the judicial district and the District Administrator is responsible for assisting the Chief Judge in managing the district.

Specific recommendations of the Task Force for implementing a budget and personnel system in Minnesota are based on the 1978 the National Center for State Courts study which recommended a decentralized participatory management structure. General system wide policies, standards and guidelines relating to administrative matters such as financial management, budgeting, personnel administration and planning will be established by the Supreme Court under its general supervisory authority. Local judicial units will be responsible for the administration of local matters within the framework of the general policies standards and guidelines established at the state level. Each judicial district will be delegated authority to implement programs to meet its own management needs and respond to particular problems and conditions within the judicial

district. General components of the proposed system which the Task Force recommends are as follows:

1. Separate Judicial Personnel System

The judicial branch should maintain its comprehensive personnel administration system separate and independent from the personnel systems governing employees of the executive and legislative branches of state and local government.

The features of the judicial personnel system as they relate to trial court employees should be developed, implemented, and administered at the state level in consultation with the Conference of Chief Judges. The current Minnesota Judicial Branch Personnel Rules should be expanded to cover transferred court personnel and include classification and compensation plans for transferred court employees.

The responsibility for hiring transferred personnel should remain unchanged. Personnel will be hired locally from local applicant lists. The district administrator will hire and supervise district administrative personnel. Classification of new positions may be done locally subject to consultation with the state court administrator.

Salary setting (within the state judicial branch complensation plan) is a local responsibility. Responsibility for orientation, training, and evaluation of personnel follows the hiring authority.

2. Strong Fiscal Administration

A. Unified Judicial Budget

The State Court Administrator shall be responsible for presenting a single judicial branch budget to the Legislature.

B. Budget Preparation and Administration

District budgets should be prepared by the judicial district administrator and approved by the judges of the district. Each district shall present its budget to the Conference of Chief Judges which shall review and prioritize the trial court budget requests and present a trial court budget to the Supreme Court for review and consolidation into the judicial branch budget.

In the event of appropriation shortfalls, the Conference of Chief Judges will advise the Supreme Court of its priorities concerning the allocation of trial court funds. Flexibility to reallocate surpluses to cover deficits will be available at the district and state level. The district administrator will manage the district budget.

C. Statewide Accounts

Some judicial system accounts, e.g. workers compensation claims, may be managed at the state level to permit optimum flexibility to respond to fluctuations in the statewide need for such services.

3. New Administrative Staff

Staff needed to administer the system should be placed primarily at the district administration level. Each district office will have professional staff who will be primarily responsible for the implementation of policies and procedures in the personnel and accounting areas. The state should add professional staff to assist with policy development.

IMPLEMENTATION

Personnel

Since the well being and morale of court employees is an important consideration to the judiciary, it is critical in any transition that the rights of employees be protected; that paychecks not be interrupted; and that individual employees have time to assess and plan for the impact of the transition. Since the credibility and accountability of the judiciary is an important aspect of trust in the judicial system, the adequacy of the administrative systems is critical and should be developed thoroughly and thoughtfully.

The Task Force considered carefully the impact of transfer on the law clerks, court reporters, referees, judicial officers, and district administration staff and is committed to the proposition that no employee be harmed by an involuntary transfer. In order to address that concern the current employees should be given the statutory option to remain under the Public Employees Retirement Act thereby protecting their pension rights. All employees hired after the effective date of the act would participate in the Minnesota State Retirement System. In order to preserve insurance and accrued leave benefits, each current employee would be given the option to continue to participate in the curent district program (administered through twelve host counties) or to participate in the state program. Those employees participating in the district benefit program would remain on the host county's payroll at a salary rate established by the judicial branch classification system and be enrolled in the county group benefit plan. Upon quarterly submission of invoices, the state would reimburse each host county for the cost of the salaries and benefits paid on behalf of those employees electing to remain in the county program. All new employees would be required to participate in the state benefit program and would be paid on a state payroll. Any employee could choose to elect the state benefit program at any time. However, the election would be irrevocable. Once an employee chose the state program, the employee could not return to the county program.

All operating expenses with the exception of facilities rental and

telecommunications of the law clerks, court reporters, district administrator staff (except in the second and fourth judicial districts), referees and judicial officers, and judges will be paid from an appropriation for that purpose from the general fund. The budget for these expenses will be prepared by the district administrators in consultations with the judges of the district subject to the review and approval of the Conference of Chief Judges. The Conference of Chief Judges would present the trial court budget to the Supreme Court for incorporation in the judicial branch budget to be presented to the legislature. This approach would not necessitate substantial additional administrative expenses.

The Task Force recommends that:

1. Current law clerks, court reporters, judicial officers, referees, district administration staff become state employees with the right to elect to retain current benefits including pension or to participate in the judicial branch benefit plan and state pension program effective January 1, 1990.

2. The Supreme Court reimburse the host counties for the salary and benefit costs of all employees who elect to retain county benefits.

3. All new employees in the classifications listed be enrolled in the Judicial Branch benefit plan.

4. All operating expenses of the specified employees except county courthouse facilities costs and telecommunications except to the extent currently paid by the state become the responsibility of the state.

Court Facilities

In general, court facilities including office space for the transferred employees are located in courthouses in the county seat. Many counties have upgraded and expanded their court facilities in the last decade. Others have

made little change in the courthouse structure, even though the space requirements for courts have changed significantly in light of new security and technology needs.

A number of counties are currently in the process of remodeling or expanding court facilities. The Task Force strongly urges the counties to continue the current facilities projects to provide the courts with suitable space. While the Task Force discussed the payment of rent for the use of courthouse space, it does not contemplate rental payment during the current bienneium. This remains an issue to be addressed at a future time when the courts and the counties have had an opportunity to determine what appropriate space and rate guidelines should be.

The Task Force recommends:

1. that counties be required to furnish suitable court facilities to transferred personnel at no charge;

2. that the districts prepare rental cost plans for consideration in the 1992-93 budget process.

Equipment

A transition from county to state funding necessitates consideration of the ownership of property used by the courts. The counties have paid or are paying for equipment used by the courts and have legal title to the property. In other states where the county/state transition has occurred, the equipment transfer has been handled in one of two ways:

1. The counties retain ownership; the courts have beneficial use and return the property to the county when the courts no longer need it.

2. By statute, the title to the equipment is transferred to the courts effective the date of the transfer of the personnel.

Typically an inventory of all court equipment is taken immediately before the transfer. The inventory has the benefit of identifying for the county records which assets have been transferred and prevents the substitution of inferior equipment for that presently in the court's possession.

Since equipment typically has no remaining useful life when disposed by courts, the Task Force recommends:

1. that title to equipment be transferred from the county to the courts by statute effective the date of the transfer.

CONCLUSION

After six months of study, the Supreme Court Task Force on Financing of the Trial Court has begun to understand the variety of court-related programs and budgetary approaches under which the counties and court officials operate and the difficutlies of implementing a unified state funded budget for the coequal judicial branch of state government.

After analyzing alternative funding mechanisms, the Task Force recommend is immediate state funding for a significant segment of the trial court budget - the district budget, referees and judicial officers and most operating expenses for those judicial employees.

The Task Force believes this proposal makes sense for a variety of reasons:

1. It shifts from the counties some of the financial burden for the judicial branch to a statewide revenue source which should support a more equitable level of judicial service across the state.

2. It eliminates the judicial district budget which essentially has put trial courts judges in the position of directly levying property taxes.

3. It brings together at one level of government the decision making responsibility regarding the levels of judicial service and the responsibility for paying for those decisions.

4. Finally, it unifies and centralizes within the state judicial system the budget for all trial court judges and related staff and expenses, which should bring greater administrative coherence within the judiciary.

As the Select Committee on the Judiciary said in the 1970's, the judiciary, though one of the three co-equal branches, is the only branch required to depend on 96 different budgets (87 counties, eight judicial districts and the state) to fund its operations, making the implementation of consistent administrative policies and programs virtually impossible.

The Task Force's proposal is an important step toward reducing the budgetary fragmentation which exists today, and assuring equitable delivery of judicial services throughout the state.