

**State Funding of Trial Courts
Minnesota's Transition Experience**

**Institute for Court Management
Court Executive Development Program
Phase III Project
May 2004**

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Table of Contents

Table of Contents	i
Acknowledgements	ii
List of Tables	iii
List of Attachments	iv
Abstract	v
Introduction	1
Review of Relevant Literature	
Court Funding Issues	4
Funding Sources	7
National Trends in Court Funding	15
Current National Level of State Funding for Trial Courts (See also Attachment A)	19
Experience of Other States Who Have Transitioned to State Funding	21
Minnesota's Transition to State Funding and Desired Outcomes	27
Survey of Court Administrators in State Funded MN Districts	28
Survey Results	31
Interview with MN State Court Administrator, Ms. Sue Dosal	45
Conclusions	49
Attachments	53
Bibliography	57

Acknowledgements

First, I would like to extend my gratitude to my CEDP classmates, the Dirty Dozen, who became like a pseudo family to me throughout the three weeks of Phase II classes and the writing of this paper. They helped me refine my topic and focus the area of research. Constant emails and a few encouraging phone calls kept my motivation high and kept me on track to finish on time. I would also like to thank Judge Heather Sweetland and Sally Morton for proof reading drafts of this paper.

I wish to thank the staff at the National Center for State Courts Library and Knowledge & Information Services Department for their constant professionalism and prompt service in providing me with requested research materials. A special thanks to Kenneth Pankey, Senior Analyst, who helped me navigate the daunting world of court finances.

I am very grateful for my court administrator colleagues in the State of Minnesota who responded promptly to my survey questions without which this work could not have been completed. I appreciate the time and effort they put into their comments. Their experiences really opened my eyes to problem areas I had not contemplated.

I would also like to thank Sue Dosal, Minnesota State Court Administrator, and Jeff Shorba, Deputy State Court Administrator for their contribution to this work. They were generous with both their time and resource materials related to state funding of the trial courts.

Finally, I would like to acknowledge Mike Neimon, District Court Administrator in Wisconsin's Third Judicial District, and CEDP Fellow, who served as my advisor on this project. He provided professional criticism and genuine interest in the results of my work. We corresponded weekly and he gave me prompt guidance whenever requested. His dedication to this role was not only helpful but also very much appreciated.

List of Tables

Table #1: Minnesota’s Goals for State Funded Trial Courts	2
Table #2: Berkson Models of Court Budgeting	11
Table #3: Tobin Models of Court Budgeting	12
Table #4: Time Line for State Funding of the Trial Courts	15
Table #5: 2003 Level of State Funded Trial Courts	20
Table #6: Duration Since Transition by District	28
Table #7: Survey Return Rates	29
Table #7-A: Survey Response Rate – Breakdown by position title	31
Table #7-B: MN Survey Results – Length of Time to Transition	31
Table #7-C: MN Survey Results – Difficulty in Transition	32
Table #7- D: MN Survey Results – Role of Chief Judge After Transition	33
Table #7- E: MN Survey Results – Effects on Personnel Management	34
Table #7- F: MN Survey Results – Effects on Financial Management	35
Table #7- G: MN Survey Results – Effects on Inter-Governmental Relationships	36
Table #7- H: MN Survey Results – Effects in Specific Areas	38
Table #7- I: MN Survey Results – Overall Effect of State Funding; Combine responses	39
Table #7- J: MN Survey Results – Overall Effect; Judicial Court Administrators	40
Table #7- K: MN Survey Results – Overall Effect; County Court Administrators	41
Table #7- L: MN Survey Results – Overall Effect; Medium Sized Jurisdiction	42
Table #7- M: MN Survey Results – Overall Effect; Small Sized Jurisdiction	43

List of Attachments

Attachment A	Minnesota Judicial District Map
Attachment B	Level of State Funded Trial Courts - 2003
Attachment C	Minnesota State Funding Survey

Abstract

By the middle of the twentieth century, the judiciary in the United States began examining traditional funding sources for the trial courts. At that time, trial courts were funded at local, mostly county, levels and required many different budget processes within each state. Multiple funding sources within each state led to a disparity in funding levels and ultimately a wide disparity in basic court services. Alternatively, eastern states began to consider state funding of the trial courts (state funding) as a means of evening out funding levels and unifying budgetary procedures for the courts. New Jersey led a gradual trend toward state funding. Now, thirty-three states currently fund their court system with a majority of state funds. While state funding has been embraced by many state legislatures, some local court administrators struggle with this shift. Loss of local independence and a breakdown of relationships with local elected officials are some reasons state funding has been resisted. This research paper focuses on evaluating state funding for the trial courts, reviewing successes and failures of this national trend, and showing the State of Minnesota's experiences with transition to state funding.

Many states are in the process of transitioning to state funding or are now considering state funding for their courts. This research reviews the experiences of states that have already transitioned to state funding, examines their transition strategies, and explores trends associated with state funded trial courts. Advantages and disadvantages of state funded trial courts will also be examined and evaluated.

Another specific goal of this work is to examine the State of Minnesota's transition to state funding, now partially complete. The Minnesota Legislature published desired outcomes for its transition to state funding. Government officials in Minnesota are hoping to equalize court services, allow for consistent policies and practices, provide budgetary flexibility, and to

provide the judicial branch funding for mandates established by the Legislature. By surveying court administrators who worked within the courts before and after Minnesota's transition to state funding, an evaluation is made of the stated desired outcomes.

Six of the ten Minnesota judicial districts have undergone transition to state funding since 1990. At the time of this writing, two districts had made their transition less than a month prior to the surveys being distributed and were not evaluated as part of this research. It was felt that the experiences of these districts were too recent, or still ongoing, to give proper perspective. Surveys were utilized to gain information about Minnesota's desired outcomes for state funding and the level of satisfaction court administrators have in Minnesota's Fifth, Seventh, Eighth, and Ninth Judicial Districts. A total of fifty-eight surveys were mailed to current District Court Administrators and County Court Administrators that work in these four state funded districts. Court administrators were selected over others in the justice system for their hands-on working knowledge of court services, policies and practices, budgetary items, and legislative mandates.

The diverse districts include small, medium, and large court systems. Some rural court systems contained one judge, or less than one judge sharing their judicial resource with surrounding counties. Other court systems in the survey are considered "large" in Minnesota as they seat more than five full-time judges in a single courthouse.

The survey tool intentionally allowed the court administrators to remain anonymous to maximize the number of completed surveys returned. The survey asked respondents to reveal if they were employed as a District Court Administrator or a County Court Administrator and if they worked in a small, medium, or large court system.

The survey asked questions about the transition process itself and about the effects of state funding. Specifically, several questions asked about the effect of state funding on personnel

management, fiscal management, inter-governmental relations, court facilities/equipment, and court programs. The survey asked for the respondent's overall impression of the effect of state funding. Lastly, the survey allowed for additional comments to be attached. Many respondents felt strongly about the transition process or the effect state funding has had on their court system. Several took time to detail their opinions in attached comments.

The desired outcomes of state funded courts in Minnesota, as expressed by the Minnesota Legislature, were to equalize court services, allow for consistent policies and practices, provide budgetary flexibility, and to provide the judicial branch funding for court mandates. Survey results revealed that court services have indeed been equalized for the districts that have already transitioned to state funding. The survey also revealed that the courts have moved significantly in the direction of consistent policies and practices, yet survey respondents were not always happy about this change. Minnesota State Court Administrator, Sue Dosal, revealed that the most significant change that has occurred with regard to state funded courts in Minnesota has been the ability of the judicial branch to set its own budget priorities and in doing so has allowed them to fund court mandates.

Court systems now considering a move toward state funding can benefit from the experiences of those that have preceded them by learning the considerations that must be taken in the preparation phases. Based on the research results from the Minnesota survey, it appears that in Minnesota state and local court managers are of the opinion the benefits of state funded courts outweigh the drawbacks. Individuals who have been through the process feel the extra preparation is worth the effort to ensure a smooth transition.

Introduction

Throughout the early history of the United States, communities developed fragmented trial court systems on a local level and funded them at the local level. Traditionally, individual counties in each state funded court centers supporting the cost of court facilities as well as the salaries of judges and court staff. It was also common to have several layers of courts including separate municipal courts, probate courts, justice of the peace courts, and even mayor's courts in addition to the county run court systems. Simultaneous to the development of local courts, state and federal court systems were also formed that ran parallel to that of the local court systems. Jurisdiction of the various courts differed yet duplication of services could not be avoided. By the middle of the 20th century, this multi-layered system of courts was viewed as unnecessarily costly, inefficient, and difficult to navigate for court users.

Around 1948, a gradual shift toward court consolidation and court unification began. With it, a shift toward state funding of the trial courts began. State funding of trial courts is viewed by many to be desirable, as local funding requires the judiciary to seek funding from each separate county. County funded courts differ in their ability to fund court-related services. Wide differences in local court funding lead to a disparity in court resources and in basic court services. More than 30 states currently fund their court systems at the state level. Still, many believe that local funding of the courts is preferable to maintain local independence and have challenged or resisted state funding of the trial courts.

This research will examine and evaluate state funded court systems and report on the ongoing shift toward state funded trial court systems. Explanations will be offered as to why a state would consider transition to state funding, what challenges exist in such a transition, and

what the benefits and drawbacks are to such a transition. Finally, a review of Minnesota's transition to state funded trial courts will be explored.

In 1989, a broad-based task force in Minnesota concluded that state funding was the most equitable and sensible approach to funding the judiciary within the state of Minnesota. In 1990, the Minnesota legislature authorized state funding of its Eighth judicial district as a pilot project. Three other judicial districts in western Minnesota (Fifth, Seventh, and Ninth) were added in 2000. (See **Attachment A** for a Minnesota Judicial District map.) In 2002, the legislature set a schedule to complete the transition to state funded trial courts for the rest of the state of Minnesota. They determined that the State of Minnesota's court system would be entirely state funded by July 2005. The Sixth and Tenth judicial districts are scheduled to transition to state funding on July 1, 2005, the last in the state to make the transition.

In the Sixth and Tenth Minnesota districts, many issues have already begun to surface related to transition. Speculation and wild rumors about the transition process have found their way from districts that have already transitioned to the districts preparing for transition. Court systems, like any large bureaucracy, tend to resist change. Many Minnesota County Court Administrators are preparing for transition. Other states, such as Florida and Pennsylvania, are also currently in transition to state funded trial courts. Transition information collected from the past three decades will serve to illuminate and educate on the rationale for state funded courts and on the state funding transition process itself.

Table #1 reflects the goals of Minnesota's change to state funded trial courts:

Table #1

Minnesota's Goals for State Funded Trial Courts
1. Equalize court services
2. Allow for consistent policies and practices
3. Provide budgetary flexibility
4. Provide the judicial branch funding for mandates established by the state legislature

Further information on the goals of the Minnesota transition to state funding of the courts can be found on Minnesota's State Court System web site: <http://courtnet.courts.state.mn.us/statefunding/about/>

This paper will determine how successful Minnesota has been in meeting the goals outlined in Table #1 thirteen years after the start of state funded Minnesota courts. This will be accomplished primarily by use of a survey sent to 53 current county and district court administrators who were present during transition to state funding. Survey analysis will be supplemented by a telephonic interview of Sue Dosal, Minnesota's State Court Administrator who is familiar with not only Minnesota's transition to state funding, but also state funding as experienced by other states in the past three decades.

As a framework for the Minnesota analysis, a review of the relevant literature has been done to provide general information on state funded courts. This literature review includes a look into the various funding sources for the courts, national trends in court funding, current information on the number of states now utilizing state funded court systems, and the experiences of other states that have transitioned to state funded courts in the past.

Review of Relevant Literature

Court Funding Issues

Serving The Public Interest

Courts play a critical role in our society in that courts reinforce social order by holding convicted criminal offenders accountable, settling disputes, and by protecting individual property rights in civil matters. Courts provide a common good for the citizenry, yet they do so at a cost to the same society in which they serve. In an era of cutbacks there are many competing interests for finite financial resources.

The courts play an integral part in serving the public interest. Ruth Wedgwood, a noted legal scholar, argued in a 1993 paper written for the Forum for State Court Judges that there is a constitutional claim for minimum funding of the state courts (Wedgwood, 1993, pp. 1-10).

Wedgwood states:

“State judges have an even stronger ground than federal courts to argue that a minimum level of funding is constitutionally required for their operation. State courts of general jurisdiction are the bedrock upon which the Founders built; state courts provide the remedies that might not be available within federal jurisdiction, and deliver the basic protections of person and property that form the core of civil society. The effective functioning of state courts is a keystone of constitutional government: to protect citizens against unwarranted government intrusion, as keepers of the Great Writ of Habeas Corpus, as guardian of free speech and due process, and to protect positive liberties, as bulwark against crime, and guarantor in commerce and property. When state courts lack decent facilities and courthouse security, or effective probation services to follow offenders after their release, or money to handle arraignments efficiently through night court sessions, the most basic entitlements of citizens and obligations of government are compromised.” (Wedgwood, 1993, pp. 1-10)

It is the reality of these basic entitlements that mandate a court system within our society. Given the need and the public interest that is served by our court system, many are confused by the exact function the court system should play. What entitlements will our society support financially? Where will the lines be drawn and by whom?

Function of the Courts

In 1994, a report entitled, *Justice Denied: Underfunding of the Courts*, was published. In it, the Roscoe Pound Foundation sponsored a discussion between judges, lawyers, social scientists, academics, journalists, advocacy groups, government agencies, and private organizations examining funding of the United States court system (Wolfson, 1994, p. v). The report states that, “Most of the participants subscribed to the view that our justice system is being asked to assume too many functions that it is not well equipped to carry out, particularly to resolve social problems [including] juvenile cases, crime prevention, and an overwhelming number of drug offenses (ibid, 1994, p. vi).”

Depending on ones perspective, the courts may seem an ideal place to prevent future crime. Others strongly feel that the courts have crossed a dangerous line and that judges no longer just decide on facts set before them, but rather impose prescribed lifestyles on the citizenry. Many drug offenders for example, have repeated court appearances and repeated urine analysis to determine that they are no longer using illegal drugs. Court monitoring as part of an offender’s sentence comes at a tremendous price that some in society may not be anxious to support. Others see it as part of the courts obligation to serve the public interest by attempting to remove drug addicts and repeat offenders from our society. Is funding for this type of court service what Wedgewood considered constitutionally permitted as “minimum funding of state courts?”

When examining court functions, it may also be helpful to examine state functions versus county functions and the reasons why counties were created in the first place. In some states, counties were created by the state to carry out the business of the state at the local level. In

Wisconsin for example, case law from 1927 describes how counties were considered to be municipal corporations and were created by the Legislature, "...to exercise within such area so much may be delegated to it." State Ex Rel. Bare Et. Al Schinz, 194 Wis. 397, 216 N. W. 509 (1927). Trial court operations are considered a major responsibility of any county. By shifting a court system funding back to the state, the state is in effect reclaiming a large part of what they originally delegated to the counties. Accordingly, for states where court operations have been moved to the state, the question of tax levy adjustments and court revenues has to be addressed.

Uncontrollable Court Costs

There will always be certain uncontrollable costs that the courts must bear. Economic downturns in our society have negatively impacted the courts over the years. Maintenance of proper court facilities, ensuring appropriate staffing levels to process accompanying court documentation, and storage and retrieval of court records is only the beginning. Things like appointment of defense counsel to indigent defendants can be a runaway line item for court administration. Economic hardships correlate to increased court activity and increased court costs. When jobs decline, for example, crime correspondingly increases adding to the number of cases to process and for the need for indigent defense.

Additionally, political initiatives such as the recent "get-tough-on-crime" effort have had a dramatic impact on the courts. The "get tough" initiative added police on the streets and built new prisons, yet in most cases failed to provide funding for the rest of the criminal justice system. Seemingly overlooked is the case processing needs of prosecutors, defense attorneys, judges, court staff, and social service agencies. Closing funding gaps such as this has been difficult and has resulted in many creative or band-aid approaches to court funding. The

resulting patchwork of funding sources has led to a variety of funding systems, sometimes referred to as funding models, for the courts. Many are unique and do not easily fit into any one category. For example, some states fund the entire judicial system including salaries for judges and court administrative staff, probation costs, and pretrial services. Other states may fund salaries for judges but not court administration staff. The combinations are endless. Additionally, jurisdictional differences in the federal court system do not make for easy comparisons with the state trial courts. For simplicity, the examination here will be limited to the state trial court system in the United States. This paper will examine three general court funding systems specific to the trial courts; local funding, state funding, and alternative or grant funding.

Funding Sources for Trial Courts

Local Funding

Courts of limited jurisdiction are most often funded by local governments through property tax levy, but simultaneously look to the state legislature for additional resources (Garcia, 1998, p. 7). Municipal courts are traditionally exclusively funded by municipal governments. The power to authorize the assessment of court costs and fees usually rests with the state legislature, although rarely this is preserved by the local or municipal government. The large majority of local courts cannot assess costs or fees and are in fact mandated to forward all or part of the proceeds of court costs and fees directly to the state general fund. Costs and fines, on occasion may be distributed to the general fund of the local government but rarely do courts get to retain such proceeds for their own budget. In most cases, court administrators are required to submit a budget application to the local government to obtain court-operating expenses. Some

court administrators are hampered with multiple annual budget application processes. This may include separate application and approval processes for local, state, federal or private grant funding (Ibid, 1998, p. 8).

Some believe that courts operating with a local funding source have an advantage in securing resources. Political relationships that have been established between court administrators and decision-makers at the municipal, county, or regional level may mean a more direct line of communication. The closer these relationships are, the more likely it is to secure the desired funds for court operations or programs with special local interest. Court officials operating at the local level are not precluded from seeking outside funding sources thus layering their funding sources. They can, for example, apply for state or federal grant funding. It is this independent and autonomous nature of local funding that is preferred by many within the court system. A disadvantage for some rural court administrators may be the uncertainty of the local economy. Rural areas are typically characterized by few industries or even a single means of revenue. Shifts in rural economies can devastate an entire geographic region and local government including the court system would be vulnerable to these shifts. Some have concluded that larger metropolitan areas with a diverse economic base are more likely to be able to sustain consistent court funding over a period of time.

One trend is to switch the burden of growing court costs to the court users through increased filing costs and fees regardless of who is the responsible funding source. The inherent danger is that court systems will become increasingly inaccessible to the average citizen, particularly so for the economically disadvantaged. Disturbingly, a growing number of legislative bodies have sought to attach additional court costs or user fees to fund social programs or initiatives that bear no relationship to the justice system or the mission of the court

system. An example would be to increase court-filing costs to provide property tax relief. These additional costs and fees are generally imposed with no input from those who administer them and some in the judicial system question if this is an appropriate court function.

State Funding

The term “state funded courts” can be a bit misleading as relatively few states fund 100% of their court operations exclusively with state money. The majority of state funded court systems are, in fact, still a blend of funding sources. In this work, a court system is considered to be state funded if all or most of the judiciary is supported by state funds. This includes the salaries, benefits, and operating expenses associated with judges, court reporters, law clerks, court administration staff, and pre-trial service agencies. This excludes bailiff and security costs as well as court facility costs.

State funded court systems are also typically characterized as having a unified court system where several layers of limited jurisdiction courts have been consolidated into courts of general jurisdiction. A trend toward unified court systems in the United States paralleled, or slightly preceded, the trend toward state funded courts. One critical component of a unified court system is centralized funding.

State funded courts must still submit a budget application in much the same fashion as locally funded courts do. However, the difference is that the budget request must be submitted from the judicial branch of government to the state legislature, an equal branch of government. Such a request is traditionally made through the state’s Supreme Court or the State Court Administrative offices. If the legislature makes a determination on fiscal policy or sets financial

priorities for the court, serious separation of power issues will result. Robert W. Tobin, a court scholar and long standing authority on state funded court systems, wrote,

“Because courts are a separate branch of government, they have a different budgetary status than executive branch agencies. This fact, which is often challenged by officials of the other branches, may be made explicit in case law, the state constitution, or statute, or it may be regarded as implicit, pending an open assertion of judicial independence” (Tobin, 1996, p. 3).

Early in the history of court unification, centralized financing was not mentioned. But by the early 1970's, several models of centralized funding sources began to appear. (Berkson, 1978, p. 12). It was felt that a unified system of court funding would result in a reduction of the managerial authority of general or limited jurisdiction courts. However, some state funding systems utilize a more decentralized approach where individual courts can submit their budget requests to the state's top court administrator for review with a total budget request moving forward to the state legislature. It is important to note that this approach removes individual courts from submitting anything directly to their funding source and forces courts to compete with one another for limited resources. This centralized system has courts competing with other court systems in their state rather than competing with other county (local) agencies.

Models of Court Budgeting

Larry Berkson, along with Susan Carbon and Judy Rosenbaum identified four such models in their 1978 publication on court unification. Their models of centralized court budgeting are as follows:

Table #2

Berkson Models of Court Budgeting*				
	Title	Source information		Final Approval Authority
Model A	“External Preparation”	Information gathered from State Judiciary	▶	State Fiscal Officer
Model B	“Separate Submission”	Separate Requests from all Courts	▶	Budget Officials in the Executive or Legislative Branches
Model C	“Central Review and Submission” (Collation)	Separate Requests from all Courts ▶	State Court Administrator’s Office for Review ▶	Officials in Legislative or Executive Branches
Model D	“Central Preparation”	Single Budget Prepared by State Court Administrator	▶	Legislature

*Derived from Larry Berkson, *Court Unification: History, Politics, and Implementation* (National Institute of Law Enforcement and Criminal Justice, 1978) p. 13.

In 1996, Robert Tobin identified five different models of centralized court budgeting (Tobin, 1996, p. 11). Tobin suggests that the budgeting processes vary by the degree in which budgetary centralization occurs. Tobin’s models of centralized court budgeting are as follows:

Table #3

Tobin Models of Court Budgeting						
	Title	Source information				Final Approval Authority
Model 1	“Centralized Model”	State Court Administrator		▶		State Legislature
Model 2	“Horizontally Unified Model”	Presiding Judge	▶	State Court Administrator	▶	State Legislature
Model 3	“Regionally Decentralized Model”	Courts Grouped Regionally	▶	Presiding Judge of Region	▶	State Legislature
Model 4	“Circuit/County - based Decentralized Model”	Circuit or County Court Administrators		▶		State Legislature
Model 5	“California Model”	County pay Court Costs		Reviewed by Commission of State-wide Judges		Counties Reimbursed by State for Court Costs

Independence is not a hallmark of state funded court systems because the trial courts have less independence in seeking funding. If the state does not provide for something, application for alternative or private grant resources may not be permitted. Courts are most likely to be wholly funded by the state’s General Fund. Tensions develop as legislative bodies pass laws that mandate courts to assume new responsibilities without providing for funding to compensate for the increased expenses. Examples of “unfunded state mandates” would include the requirement to collect race data on criminal offenders, or to have a sexual predator screening performed on all accused sex offenders. The first example requires an extra form to be filled out and forwarded to the state costing additional staff time and postage. The latter example requires a doctor or psychologist to conduct a specific interview with the alleged offender and can cost upwards of \$600 per screening.

Local court programs can also be negatively affected by the loss of managerial independence at the local level. This can be significant. Centralized budgeting may not

recognize or agree with local need and eliminate long-standing court enhancements. Local pre-trial services programs, juvenile offender programs, diversion programs, and sentencing alternatives are often targets. Under the state funded court system, a localized court program is in jeopardy unless the need can somehow be translated to a statewide interest.

Alternative Funding

Alternative funding is sought to supplement general funding and cannot by itself support a court system. Each funding stream has its own advantages and disadvantages. Typical alternative sources of funding to the courts include charges for court services; special purpose taxation; earmarked costs, fees, and fine surcharges; pooling of resources; extraction of value from property; and federal, state/local grant contributions. (Tobin, 1995, p. 41)

User charges are administrative fees such as pass-through payments on escrow accounts, auditing guardianship and administration of estates, or room fees on court facilities. Special purpose taxation is sometimes approved by voters for items such as a capital improvement project of limited duration. Earmarked costs, fees, and fine surcharges provide a wide variety of funding for specific purposes such as a law library, automation, or security. Pooling of resources includes partnering with other public agencies and may include a shared use of a building. Extraction of value from property may include the sale or trade of land for the purpose of courthouse construction or as a source of revenue such as a parking lot. Grant funding resources, be it of federal, state, or local origin, are discretionary awards and are usually project-specific.

Grant funding sources for the courts are invaluable to provide a level of service comparable to that found in the private sector. Most often, grant funding can be seen in the area of swift moving technology enhancements. Some court systems utilize grant funding on a

limited scale primarily for one-time purchases such as computer software or hardware, security systems, etc. Others, however, take advantage of grant funding to provide ongoing court services such as an added judgeship and support personnel.

Grant funding sometimes fills in the gaps where courts fail to obtain resources as requested from their funding authority. More likely, however, grants are offered with specific goals in mind. North Carolina, for example, offers state grants specifying on their website that, “Grant funding should not be sought to perform work for which state funds have been allocated. In most cases, priority will be given to grants that pilot new ideas, perform research, develop software, train employees, or further technology.”

(<http://www.aoc.state.nc.us/www/public/html/restricted/grant-admn.htm>)

Similarly, locally funded court systems can greatly improve court efficiency and technology via state sponsored court grants. Such was the case in 2002 when the State of Indiana awarded Marion County a technology grant for \$204,000. According to Judge Ayers of Marion County, “...[the grant was the] latest step in an important partnership between Marion County and the State.” (<http://www.in.gove/judiciary/press/2002/0403.html>)

In return, granting agencies at the local, state, or federal levels want a high degree of oversight in the allocation of the funds. Grant funded projects most often require monitoring, reporting, and careful administration. Grant funds may require a designated grant director. Careful analysis must be performed to determine if the cost of administering the grant exceeds the level of new funds being provided. As previously mentioned, in a state funded court system that utilizes centralized budgeting, grant funding at a local level is usually not permitted. It is precisely these grant funding reporting requirements and/or administrative costs that are unattractive. State funded court systems do not want to incur these types of obligations unless

they benefit the entire state system. Grant obligations are difficult to monitor from the state level, particularly if the grant enhancement is not a state initiative.

National Trends in Court Funding

Until the mid-1970's financing the state trial courts was considered the responsibility of local government. The major state financial responsibility was to support the appellate courts. A decided shift away from local financing of the trial courts toward state financing began in the 1970's, but has roots going back as far as 1948. As is depicted in Table #4 below, New Jersey was ahead of its time as it relates to state funded court systems.

Table #4

Time Line for State Funding of the Trial Courts					
1948	1970 - 1974	1977	Early 1980's	1995	2003
State of New Jersey starts administrative unification; begins discussion of centralized court funding.	Less populous, non-industrial states adopt state funding for their trial courts.	Strong climate of court reform; second wave of states shift to state funded trial courts.	Recession moves populous, industrious states toward state funded trial courts.	States still on local funding adapt to blended court funding.	Trend continues toward state funding of trial courts but significantly slowed.

Robert Tobin wrote in 1989 about this trend,

“Until the 1970's the burden of trial court financing did not weigh heavily on many local governments, since court expenditures were relatively modest. The major items of expenditure were salaries and fringe benefits of general jurisdiction trial judges, of which both expenses had been at least partially assumed by most states prior to 1970. In these earlier years, courts fit easily into the framework of local government and often acquired distinct local characteristics. Sometimes, these variations were structural; more often, they were procedural and operational. Moreover, there were significant local differences in the level of expenditure for courts. This fragmentation was sometimes accompanied by a lack of professionalism in the conduct of court business. Inevitably, this localism came under challenge. In 1948, New Jersey created an office of court administration and started a process of administrative unification.” (Tobin, 1989. *Status of State Financing of Courts*, p. 2)

Similar unification movements surfaced elsewhere purposing uniform statewide procedures and systems, more professionalism among judges and court employees, and improved court management. Prior to 1970, state financing was not necessarily linked to centralized judicial budgeting. New Jersey, for example, achieved a high degree of court administrative unification by placing a great deal of authority in the Chief Justice, yet New Jersey depended on counties to finance the trial court system for decades to come. Illinois, Idaho, Minnesota and Wisconsin are examples of states, which created structurally unified trial court systems without also adopting state financing. (Ibid, p. 3)

The first group of states to adopt state financing of the trial courts were less populous, non-industrial states including Alaska, Alabama, Colorado, Connecticut, Hawaii, Kansas, Kentucky, Maine, Missouri, New Mexico, North Carolina, Rhode Island, and Vermont. This occurred from approximately 1970 to 1975 and coincided with a national trend toward court reform. The Institute for Court Management was founded in 1970 followed by the creation of the National Center for State Courts in 1971. In 1974, The American Bar Association called for state financing of the trial courts in its Standard of Judicial Administration.

During this same period, some states including Maryland, Nebraska, Virginia, and West Virginia were concentrating on unification of limited jurisdiction courts. Shifts toward state financing of the general jurisdiction courts trailed that of limited jurisdiction courts where most court functions had been locally funded. (Ibid, p. 4)

In this climate of court reform, state financing of the trial courts was viewed very favorably. In 1977, Chief Justice Edward E. Pringle of the Colorado Supreme Court presented the following reasons for the shift toward state funding of the trial courts:

1. State funding makes it possible to budget on a system wide basis,
2. State funding facilitates the implementation of a separate personnel system,
3. State funding permits economies of scale,
4. State funding facilitates the overall development of management information systems,
5. State funding makes it possible to meet unusual emergencies such as mass arrests,
6. State funding makes greater efficiency possible through control of resources.

(Pringle, 1977, p. 251)

Critics of state funding contended the following:

- Removing courts from local governments made them more remote and less service-oriented;
- Operating costs increased without gains in productivity;
- Trial courts were denied any real role in the budget process and had little incentive to be efficient;
- Bureaucracy was increased;
- States also are prone to fiscal problems;
- Why couldn't state funding of the courts be done on a reimbursement basis to preserve local orientation? (Tobin, 1989, p. 6)

By the early 1980's, when a general recession reduced governmental revenues, local government officials started to become the principal advocates of state financing for the trial courts. What accounted for this change in attitudes? To begin with, counties that had expanded their services from the original purpose were now looking to cut back on all expenditures or shift expenditures to the state. Additionally the number of judges had increased, as had the level of their compensation. The numbers of judicial staff and the cost of judicial staff increased.

Constitutional requirements for indigent defense, treatment of juveniles, and protection of the mentally ill also created a large set of volatile expenditures. Professional court managers now entering the courts demanded new technologies, computerized word processing systems, records retention, and electronic transcription. Lastly, the breakdown of the family structure created a need for social service support for the courts including juvenile and adult probation agencies, juvenile detention facilities, foster care, and child support enforcement agencies. (Ibid, p. 8)

Given these circumstances, even the staunchest opponents of state funding for the trial courts began to reconsider. States such as New York and Massachusetts with large urban areas and high populations moved toward state funding. The Michigan and Illinois Supreme Courts took the stance that they favored state funding citing that unification necessitates state fiscal support. The trend toward state funding for trial courts was clear. Large populous states began the shift although at a slower pace than was the experience for the states that preceded them. In the early 1980's, California adopted a block grant concept, which provided state funds for the courts but avoided the bureaucratic problems cited by critics of state funding. (Ibid, p. 9)

Additional states began to shift some, if not all, of their trial court funding to the state. By 1995, twenty-nine states were considered to be funded mostly from state resources.

In 1995, Robert Tobin wrote that the debate over local and state funding continued with a blurring of the lines between court fiscal and court reformist objectives. Were the debate merely fiscal, the only questions that would need to be answered would be if local governments received the relief they sought, and if courts received more money from the state than from their local funding source. Tobin states that by 1995, motivations for state financing were generally not that simple and that proponents of state funding rarely made claims of improved case flow and operational efficiency. (Tobin, 1995, p. 40)

Tobin advocates that it is important to ascertain how much of the push for a state funded court system comes from local officials who may be reacting to judges ordering significant expenditures on court services. Indigent defense, professional salaries to probation officers, or the cost of a new court program such as arbitration would fall into the category of new court services. By the mid-1990's Judges viewed these same court services as an integral part of the judicial process.

In the time since Tobin's 1995 analysis, a few states moved closer to state funded systems. Some states are implementing state funding of their trial courts over a number of years. Pennsylvania and Minnesota are now substantially funded by the state yet some districts or some responsibilities are left to local governments. Florida struggles to implement a state funded court system and has made some movement in that direction. However, Florida has not implemented many mandated changes despite a 2004 deadline they set for themselves. Oklahoma could not be ranked in 1995 due to a unique fee-funded system. Now, Oklahoma can be included in the comparison as it has a majority of state funded trial courts.

Current National Level of State Funding for Trial Courts

Currently, the nation has more state funded court systems than locally funded ones. Thirty- three states now have a majority of their funding coming from the state level down to the local trial court level. But again, clear distinctions are not easy. For the most part, states utilize a blend of funding sources and fall into a continuum of state financing. Table #5 attempts to illustrate the current levels of state funding. (See also **Attachment B** for a 2003 map illustrating which states utilize state funding and at what levels.)

Table #5

2003 Level of State Funded Trial Courts*			
Level of State Funding	Number of States	States	% Of States
Level 1: 90 – 100% state funded.	9	Alaska, Connecticut, Hawaii, Kentucky, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.	18%
Level 2: Substantially state funded with some responsibility left to local level.	16	Alabama, California, Colorado, Delaware, Iowa, Maryland, Minnesota, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oregon, Pennsylvania, South Dakota, Utah	32%
Level 3: Majority state funded with major areas remaining at local level.	8	Florida, Kansas, Missouri, Nebraska, Oklahoma, Virginia, West Virginia, Wyoming	16%
Level 4: Majority locally funded with significant mixture of state funding.	6	Arizona, Illinois, Louisiana, Michigan, Ohio, Wisconsin	12%
Level 5: Substantially local funding with limited state role.	11	Arkansas Georgia, Idaho, Indiana, Mississippi, Montana, Nevada, South Carolina, Tennessee, Texas, Washington	22%

**Adapted from Robert Tobin's 1995 table, "Level of State Financing of Courts; September 1995" (Tobin 1995, p. 39).*

The labels in Table #5 leave room for speculation. What does “Substantially state funded,” or “Majority locally funded” actually mean? In a telephone interview with Kenneth Pankey, a senior analyst with the National Center for State Courts, it was explained that that exact numeric labels are not practical and are thus avoided. (Pankey, August 18, 2003) States are grouped but in actuality individual states continuously move within each category. According to Pankey, California for example is inching close to the top tier or a Level One ranking. If each state would be given a percentage ranking (50% or 60%), the rankings would not last for very long because of the constant movement within each category.

Table #5 reveals that Level 1 states that are most heavily state funded are in sharp contrast to one another. This category contains less populous, non-industrial states like Hawaii and Alaska as well as populous, industrial states from the Northeast. This split can be explained

by the two waves of transition to state funded trial courts. The first wave in the 1970's consisted of less populous and non-industrial states moving toward state funding as part of the court reform movement. This was followed by the recession of the 1980's and the transition of other, more industrial, states due to the inability of those states to fund court operations properly.

Table #5 reflects that the majority of states (32%), fall into Level 2, or "Substantially State" funded. This group recognizes the benefit of state funding yet still maintains some local court funding. This group is varied regionally containing states from the North, South, East, and West. These states also vary greatly in their economy ranging from highly agricultural states to primarily industrial states. This may suggest that movement toward state funding is no longer tied to regional or economic factors.

The next highest percentage of states (22%), fall into Level 5, the "Substantially Local" funding. This group consists of mostly southern states and a few from the Pacific Northwest. This may suggest a regional influence.

Experience of Other States Who Have Transitioned to State Funding

In 1980, the National Center for State Courts began to publish information on the benefits and processes associated with state funded courts. In fact, in 1980 Sue Dosal who would later become Minnesota's State Court Administrator, was working as a Senior Staff Attorney in the North Central Regional Office of the National Center for State Courts. In April of 1980, Ms. Dosal released a paper titled "Strategic Considerations in State Assumption of Trial Court Operating Costs" followed by a "Check-off List of Items to be considered in Connection with Possible State Financing of Trial Courts." These documents, despite their 23-year age, are applicable today and still serve as a "how-to" resource for states considering transition to state

funded court systems. In April of 1980, Ms. Dosal presented her paper and findings at a Workshop on State Funded Courts in Denver, CO. The work addressed several issues associated with transition and attempted to provide information on how to best navigate potential problems. Discussed in the paper are political dynamics associated with assumption, scope of assumption, phasing of assumption, budgetary methods of assumption, and the mechanics of assumption. (Dosal, 1980.) For states still debating state funded courts, these categories would still be essential considerations.

By 1989, there was tremendous interest amongst court professionals to determine if state funded courts systems were producing desired outcomes. In response, the National Center for State Courts utilized the talents of Robert Tobin, Senior Staff Attorney, to conduct a series of case studies broken down by state. The completed case studies were released by the NCSC in a series of papers in 1989 and 1990. Grant funding from the State Justice Institute supported the projects. Results were as follows:

Case Study - New Jersey

The State of New Jersey was a pioneer in transitioning away from locally funded court systems by shifting some court functions to the state as early as 1947. However, it wasn't until 1983 that New Jersey shifted the remaining County Court Judges, non-judge court staff, juror fees, and library materials to the state - effectively abolishing the last of the County courts.

(Tobin, 1989. *New Jersey State Financing of Court Facilities*, p 1.)

New Jersey had an influential Efficiency Committee that made recommendations to the state to assume not only the court costs normally associated with centralized court management, but for the portion of court facilities cost. They felt that the two concepts went hand in hand.

The Efficiency Committee believed the benefits of state funded court facilities would result in more economical and more uniform decisions. Additionally, the Efficiency Committee felt that there would be a better distribution of the financial burden among taxpayers.

Tobin's analysis pointed out specific drawbacks including legal, political, and architectural complexities. (Tobin, 1989. *New Jersey State Financing of Court Facilities*. P. 7.)

Tobin stated that even when a state assumes court facilities, it normally does not assume full title to the property. Rather, it is a mixture of financing methods. Lastly, Tobin indicates in this 1989 article that the topic of state financed court facilities would continue to receive much attention and debate in the United States.

Case Study - California

At the time of this case study in 1990, California heavily utilized a system of block grants rather than a direct appropriation of financing for the courts. Counties that opted into the program were given a great deal of latitude in allocating the court funds. California adopted a Trial Court Funding Program (TCF) that attempted to give relief to the counties, to lessen the reliance of the courts on the counties, and to move in the direction of greater centralization. Today, California has taken great strides towards centralization of California's state funded court system. Tobin observed in his 1990 article that while the California Legislature took on the responsibility of the funding for the trial courts, it did not pursue court management.

Tobin concluded as part of this case study that California did provide funding to the courts where it would be otherwise unavailable, yet the block grant system was too volatile and too subject to cuts to be sustained indefinitely. (Tobin. 1990. *A Case Study of the Effects of State Financing of Trial Courts: California*, p.17.)

Case Study - Iowa

State court financing in Iowa occurred mostly over a five-year period from 1983 to 1986. However, court reform and unification efforts in Iowa date back to the 1960's. First, judicial elections were replaced by a nominating commission in 1962. Then, the Unified District Court was established in 1973 followed by the creation of a Court of Appeals in 1976. State court financing in Iowa can be viewed as a continuation of these earlier efforts.

Iowa assessed the need for state financed courts based on interviews, surveys, and analysis of aggregate data performed by the Chief Justice and selected others. The group doing the data collection was the Chief Justice and Iowa's judicial Executive Assistant, the Deputy State Court Administrator, the Chief Judge of a given district, the District Court Administrator, a County Clerk, the Director of Iowa Court Information System, and the Deputy Director of the Iowa Association of County Governments. The survey subjects were District Court Administrators and Chief Judges. The data analyzed included budgets and appropriation bills. (Tobin 1990. *A Case Study of the Effects of State Financing of Trial Courts: Iowa*, p. 1.)

Iowa's phased transition to state funding was done by court function rather than geographic region. Court Reporters were assumed by the state in 1984, followed by Court Attendants (bailiffs) and Juvenile Court officers (Guardian Ad Litums) in 1985 and finally clerical and court administration staff in 1986. Indigent defense was also assumed by the state in 1987.

State budgets are still assembled by Chief Judges, but instead of submission to the local funding board, they are submitted to the State Court Administrator's office. Tobin reports that

some officials felt getting appropriations from the county boards was easier and that in some areas, state-funding levels were inadequate. (Ibid, p. 3.)

Tobin concludes by stating that Iowa's transition to state funded courts has created a "centralized-decentralized system" of court management. (Ibid, p. 20.) Iowa has centralized personnel policies and oversees budgeting procedures for the judicial branch. Yet, court operations are decentralized at the district level. Tobin observed the biggest drawback to the centralized-decentralized system was an increase in bureaucracy but felt that the standardized finance and personnel policies did benefit the system. Lastly, Tobin states that a serious problem with Iowa's move toward state financing was the treatment of the clerks who experienced major changes yet were not given a role in the transition. (Ibid, p. 21.) Tobin advocates for a shared role of the clerks in the transition process to ease hardships after transition.

Case Study - Oregon

The State of Oregon adopted state financing of trial court operations in January of 1983. In 1990, Robert Tobin conducted interviews of various court officials (the State Court Administrator, the Services Director of the Administrative Office of the Courts, the Executive Director of the Oregon Association of Counties, a Circuit Court Judge, the former Chief Justice and the current Chief Justice) to determine if the move to state financing was successful. Tobin reports that overall the move was successful with few respondents indicating they wished to return to the former locally funded court system. However, Tobin also reports that a painfully short transition period of only 15 months and underestimated court costs marred a successful transition. (Tobin, 1990, *A Case Study of the Effects of State Financing of Trial Courts: Oregon*, p. 1.)

Tobin examines the fact that state financing of the trial courts in Oregon was a county-based initiative. Tobin relates that the counties had underestimated the cost of the courts and overestimated the revenues of the courts. The county court figures were never endorsed by the then Chief Justice or the State Court Administrator. Tobin's interview subjects felt that the Legislature was "sold a bill of goods by the counties," and that the counties "pulled the wool over the eyes of the Legislature." Despite this, an Oregon legislator interviewed by Tobin indicated that despite resentment over the reported figures and the actual figures, funding the courts has never been a pressing problem at the state level, and has been successful in providing relief at the local level. (Ibid, p. 2.)

The effects of state funding in Oregon as reported by Tobin were that there was an increase in resources for the courts. Additionally, it was reported that disparities between county court systems has been reduced under state financing. (Ibid, p. 5.) In Tobin's survey, the reported area of greatest improvement was in personnel management. Employees' jobs were clearly defined and given equalized pay scales for persons performing similar court work. Employees enjoyed better fringe benefits. (Ibid, p. 8)

Problems, however, were reported in the transition period of only 15 months. This compressed time period did not allow for local court input and counter-productive resistance built up. Some reported that county judges and administrators dragged their feet and were slow to adopt newly centralized policies and procedures. (Ibid, p. 6.) As was the case in Iowa, Tobin advocated for a shared role of the clerks in the transition process to ease hardships after transition.

Minnesota's Transition to State Funding and Desired Outcomes

Minnesota's desired goals for state funded trial courts taken from the 1989 legislative mandate that initiated state transition are as follows:

- Equalize court services;
- Allow for consistent policies and practices;
- Provide budgetary flexibility;
- Provide the judicial branch funding for mandates established by the state legislature.

Minnesota's transition will not be completed until July 2005, the ramifications of which will be felt for decades. Attitudes about state funding may shift over time. The following Minnesota survey analysis and telephone interview of Minnesota's State Court Administrator sheds significant light on Minnesota's progress toward achieving the stated goals for state funded trial courts.

Survey of Court Administrators in State Funded MN Districts

GENERAL SURVEY INFORMATION:

The independent research portion of this work is confined to a survey developed and sent to Minnesota court administrators who experienced a transition from local county funding to state funding of their trial courts. Minnesota has ten judicial districts, six of which are now state funded. (See **Attachment A** for a Minnesota Judicial District map.) Four of the six state funded districts were selected to be surveyed based on the amount of time that had passed since their transition. The Fifth, Seventh, Eighth, and Ninth districts in Minnesota were chosen because the transition to state funding ranged from 4 years ago to 14 years ago.

Table #6
Duration Since Transition by District

Minnesota District	Year of transition to State Funding	#Years Since Transition
5 th District	2000	4 years
7 th District	2000	4 years
8 th District	1990	14 years
9 th District	2000	4 years

Court administrators from the Second and Fourth districts, also currently state funded, were intentionally not surveyed as their July 2003 transition date had occurred just two months prior to the distribution of the survey. The transition experiences in the Second and Fourth districts are too recent, or ongoing, to be included in this analysis.

The survey was developed to determine levels of satisfaction court managers are experiencing after transition to state funding in Minnesota. (See **Attachment C** for actual survey tool.) On September 15, 2003, a total of 58 identical surveys were distributed to District Judicial Administrators and County Court Administrators from the state funded Fifth, Seventh, Eighth, and Ninth Minnesota Judicial Districts. The surveys were sent via U.S. mail and allowed for

anonymous responses. However, the surveys inquired if the respondent was a District Judicial Administrator or a County Court Administrator and if the respondent worked within a small, medium, or large jurisdiction. Breakdowns were examined in each of these categories. The survey also asked if the respondent worked within their Minnesota court system at the time of the transition to state funding. Three blank responses were received indicating that they did not work as a court manager in Minnesota during transition to state funding. The three blank responses were discarded and not made part of this analysis. Similarly, a few surveys were received that had only one or two missing answers. Rather than discard the entire survey, each individual question was evaluated on the total number of respondents for that question. Generally, there were 31 responses, but on some questions this figure dropped.

Table #7
Survey Return Rates:

Judicial District	# Surveys sent	# Completed surveys returned	% Returned
5th	16	9	56%
7th	11	8	73%
8th	14	8	57%
9th	17	6	35%
TOTAL:	58	31	53%

The Seventh Judicial District, located in West-Central Minnesota, had the highest return rate with 73% of the surveys being returned. The Seventh has 24 judges who preside over courts in ten counties. The Seventh Judicial District is a mix of mid-sized urban centers and rural areas.

The lowest return rate, 35%, came from the Ninth Judicial District, which is located in Northwestern Minnesota. The Ninth is a huge geographic area that has 22 judges presiding over 17 counties. The Ninth Judicial district is primarily a rural area.

The Fifth and Eighth Judicial District's return rates were about even with 56% and 57% respectively. These geographically neighboring districts are located in Southwestern Minnesota and are also primarily rural areas. The Fifth Judicial District has 16 judges presiding over a 15 county area and the Eighth Judicial district has 11 judges presiding over a 13 County area.

None of the districts surveyed contained a large metropolitan center.

Method of Analysis

Where a single question was asked, a percent was calculated for the multiple-choice responses. On these questions, "no opinion" responses were calculated as part of the overall percentages. Percentages for each response were then calculated and rounded to full numbers.

Most questions asked the respondent to evaluate the effect of state funding on one specific aspect of the process. Respondents were asked to rate the effect of state funding choosing from five rankings starting with "greatly improved" and ending with "greatly worsened." For this type of question, a consistent numeric weight was given to each ranking. "Greatly Improved" was weighted as 5, "somewhat improved" was weighted 4, "stayed the same" was weighted 3, "somewhat worsened" was weighted 2, and "greatly worsened" was weighted 1. The frequency of a particular response was multiplied by the weight of the ranking. All weighted response scores were then added together and a subtotal was generated. The subtotal was then divided by the total number of responses in that category to achieve a mean score for each category. Each question also provided a spot for the respondent to indicate they had "no opinion" on that specific category, but these responses were given no weight and were not calculated as part of the mean. Only responses that gave a specific opinion were calculated in the total number of responses.

Detailed survey results are provided in the tables below revealing the frequency of majority and minority opinions. A summary of the survey results is provided below each table identifying the most frequently selected answers to each of the survey questions.

Survey Results:

Survey Question #1 Current Position

**Survey Response Rate – Breakdown by position title
Table #7-A**

Position Title	Response Frequency	Percent of total surveys sent out
# Of surveys sent to District Court Administrators 4	4	13%
# Of surveys sent to County Court Administrator 54	27	87%
TOTAL: 31	31	100%

When asked to identify their current position with the courts, 4 of 4 responded “District Court Administrator” and 27 of 54 responded “County Court Administrator.” This reveals that the survey responses are primarily made up of responses from local County Court Administrators. Breakdown analysis by title in some areas will later reveal a few contrasting opinions between the two positions.

**Survey Question #2 Length of Time to Transition
Table 7-B**

	Response Frequency	Percent
too short	6	23%
about right	14	54%
too long	1	4%
no opinion	5	19%
TOTOAL:	26	100%

When asked about the length of time allowed for the change over process, the majority of respondents (54%) indicated that the time allowed was “about right.”

Length of time to transition is largely dependent on implementation strategies and pre-planning from the state. When transitioning multiple districts, designated state planners need to predetermine the timing of tasks such as transition order, training schedules, and technical support. Size of local court systems may also play a factor. A smaller court operation with fewer employees to train may take less time to prepare for a major transition. Conversely, large court operations, spread out into several buildings and/or broken down into many divisions, may require a multi-phased transition within that large county.

Survey Question #3 Difficulty in Transition

Table 7-C

	Response Frequency	Percent
went smoothly	4	13%
minor problems	16	53%
major problems	8	27%
no opinion	2	7%
TOTAL:	30	100%

When asked about the difficulty in the transition process, the majority of respondents (53%) indicated that they experienced only “minor problems.”

Respondents in the survey were also given an opportunity to attach free form comments and many took the opportunity to respond. Some wrote a line or two, others filled a page or more with explanations of their objective responses. Many expressed displeasure with the transition process despite the overall findings of the survey, indicating that transition to state funding of the courts was “somewhat beneficial.” Four surveys related confusion over who is

responsible for payment. One survey stated, “Main problem is who pays, County or State?” Another relates, “The County continues to get bills to pay for items that were formerly Court Administration expenses when we went to state funding, but the state did not take on those expenses. The bills have to get paid so they get charged against other County accounts that have not budgeted for them. It is a mess.”

Survey Question #4 Role of Chief Judge

Table 7-D

	Response Frequency	Percent
Was strengthened	7	23%
Stayed the same	18	58%
Was reduced	2	6%
No opinion	4	13%
TOTOAL:	31	100%

When asked about the role of the Chief Judge/Presiding Judge, the majority of the respondents (58%) indicated that it had “stayed the same.”

One explanation for this may be that these Minnesota judges were already state employees prior to transition. These judges already had been working with state personnel and sitting on state committees. Remember, the respondents here are court managers reporting on the role of the Chief Judge from their perspective.

Survey Questions #5a – 5e Effects on Personnel Management

Table 7-E

Category	# of responses	MEAN	weight 5	weight 4	weight 3	weight 2	weight 1	weight 0
			“Greatly improved”	“Somewhat improved”	“Stayed the same”	“Somewhat worsened”	“Greatly worsened”	“No opinion”
FREQUENCY								
5a. Quality of personnel management	30	3.16 stayed the same	5	6	12	3	4	1
5b. Number of positions	31	3.13 stayed the same	0	11	15	3	2	0
5c. Employee fringe benefits	31	4.52 greatly improved	20	8	2	1	0	0
5d. Collective bargaining relations	18	3.22 stayed the same	1	6	8	2	1	12
5e. Equalized pay scales for similar work	30	4.6 greatly improved	21	6	3	0	0	0

#5a: When asked about the quality of personnel management since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#5b: When asked about the number of positions they have since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#5c: When asked about the level of fringe benefits since transition to state funding, the majority of the respondents indicated it had “greatly improved.”

#5d: When asked about the collective bargaining process since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#5e: When asked about the equalization of pay levels since transition to state funding, the majority of the respondents indicated it had “greatly improved.”

The area of wages and benefits seemingly was one area where County Court Administrators expressed appreciation for state funding. Four comments from County Court Administrators stated that wages and benefits had improved for their staff. Two respondents commented that personnel procedures have become more complex under state funding.

**Survey Questions #6a – 6d Effects on Financial Management
Table 7-F**

Category	# of responses	MEAN	weight 5 “Greatly improved”	weight 4 “Somewhat improved”	weight 3 “Stayed the same”	weight 2 “Somewhat worsened”	weight 1 “Greatly worsened”	weight 0 “No opinion”
			FREQUENCY					
6a. Budgetary procedures	29	2.66 stayed the same	2	8	2	12	5	2
6b. Purchasing procedures	30	3.13 stayed the same	3	7	14	3	3	1
6c. Accounting procedures	30	2.93 stayed the same	4	6	7	10	3	1
6d. Internal controls	30	2.93 stayed the same	1	9	11	5	4	1

#6a: When asked about the budgetary procedures since transition to state funding, the majority of the respondents indicated it had “somewhat worsened,” but the mean score indicated it had “stayed the same.”

#6b: When asked about the purchasing procedures since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#6c: When asked about the accounting procedures since transition to state funding, the majority of the respondents indicated it had “somewhat worsened,” but the mean score indicated it had “stayed the same.”

#6d: When asked about the internal controls since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

Six surveys contained additional comments complaining about the loss of control and loss of input over court procedures and policies. Six contained complaints over the loss of control over budget and finances. One survey stated, “The term ‘State Funded’ is in reality ‘State Control’ of the money that was formerly controlled by the Counties and therefore many of the resources are channeled to upper and central management and away from actual local operations.”

Survey Questions #7a – 7d Effects on Inter-Governmental Relations
Table 7-G

Category	# of responses	MEAN	weight 5 “Greatly improved”	weight 4 “Somewhat improved”	weight 3 “Stayed the same”	weight 2 “Somewhat worsened”	weight 1 “Greatly worsened”	weight 0 “No opinion”
			FREQUENCY					
7a. Elected County officials	31	2.68 stayed the same	0	2	18	10	1	0
7b. Supreme Court	31	2.87 stayed the same	1	5	18	3	4	0
7c. State Legislature	30	3.23 stayed the same	1	9	17	2	1	1
7d. County Agencies	31	2.74 stayed the same	0	1	21	9	0	0

#7a: When asked about relations with elected County officials since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#7b: When asked about relations with the Supreme Court since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#7c: When asked about relations with the State Legislature since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#7d: When asked about relations with other County agencies since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

The majority of respondents indicated their relationship with local County officials remained the same yet four surveys contained written comments complaining that their relationship with other County officials had declined. One Court Administrator wrote, “We are no longer part of their group.” Another stated, “We have to go to the back of the line where court facilities are concerned. All other County requests are fulfilled before they will even look at mine.”

Survey Questions #8a – 8h Effects in Specific Areas

Table 7-H

Category	# of responses	MEAN	weight 5 “Greatly improved”	weight 4 “Somewhat improved”	weight 3 “Stayed the same”	weight 2 “Somewhat worsened”	weight 1 “Greatly worsened”	weight 0 “No opinion”
			FREQUENCY					
8a. Judicial support personnel	31	3.26 stayed the same	1	11	16	1	2	0
8b. County Ct. Admin. offices	29	3.24 stayed the same	4	6	14	3	2	1
8c. Indigent defense	31	2.90 stayed the same	0	2	26	1	2	0
8d. Court facilities	31	3.03 stayed the same	0	8	17	5	1	0
8e. Equipment/furnishings	31	3.87 somewhat improved	8	15	6	0	2	0
8f. Computer and technical support	31	3.61 somewhat improved	7	6	17	1	0	0
8g. New programs	28	2.89 stayed the same	0	5	18	2	3	3
8h. Existing programs	29	2.79 stayed the same	0	3	20	3	3	2

#8a: When asked about level of judicial support staff since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#8b: When asked about the County Court Administration offices since transition to state funding, the majority of the respondents indicated they had “stayed the same.”

#8c: When asked about level of indigent defense since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#8d: When asked about the court facilities since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#8e: When asked about court equipment and furnishings since transition to state funding, the majority of the respondents indicated it had “somewhat improved.”

#8f: When asked about the level of technological support since transition to state funding, the majority of the respondents indicated it had “stayed the same,” but the mean score indicated it had “somewhat improved.”

#8g: When asked about support for new programs since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

#8h: When asked about the support for existing programs since transition to state funding, the majority of the respondents indicated it had “stayed the same.”

Support for local programs or lack of support for local programs continues to be a difficult subject for both state and local court administrators. Once again in contrast to the survey finding that support for local programs has stayed the same, one respondent’s written comments indicated that they are losing local programs while seeing the District budget increase.

Survey Question #9: Overall Effect of State Funding - Combined responses:

Table 7-I

	Frequency	Percentage
Very beneficial	6	19%
Somewhat beneficial	11	37%
Benefits and Drawbacks equal	5	16%
Somewhat harmful	5	16%
Very Harmful	4	13%
No opinion	0	0%
TOTAL:	31	100%

When asked about the overall effect of transition to state funding, the combined majority (37%) of the respondents indicated it was “somewhat beneficial.”

This is arguably the most significant finding of the survey. Taking into consideration the advantages and drawbacks, the majority of court managers who responded to this survey felt state funded courts are beneficial. For the Minnesota districts that have yet to transition to state funding, this finding should be of great interest. Similarly, this indicator may also be of significance for states outside of Minnesota now contemplating state funded trial courts.

Because the survey results on the “overall effect” of state funding are important, and because opinions may differ by court position, further analysis was done to separate the responses of the District Court Administrators from those of the County Court Administrators.

SURVEY RESULTS – Overall Effect; Breakdown by Court Position

Breakdown of District Judicial Administrators vs. County Court Administrators:

District Judicial Administrators

Table # 7-J

	Frequency	Percentage
Very beneficial	2	50%
Somewhat beneficial	2	50%
Benefits and Drawbacks equal	0	0%
Somewhat harmful	0	0%
Very Harmful	0	0%
No opinion	0	0%
TOTAL:	4	100%

When asked about the overall effect of transition to state funding, the District Judicial Administrators indicated it was either “very beneficial” (50%) or “somewhat beneficial” (50%).

Here, the responses were dramatically clustered in favor of state funded court systems. One explanation for this may be that after transition, District Court Administrators enjoy increased authority and play an increased role. This is certainly true where budget and finances

are concerned. Instead of local counties gaining approval of their court budgets from a County Board, approval now must first be sought at the district level from the District Court Administrator. Similarly, personnel decisions after transition are ultimately the responsibility of the District Court Administrator.

Of the 31 completed surveys, only one Judicial District Court Administrator wrote a short additional comment simply stating, “I would not want to go back to local funding despite the [transition] problems we faced.”

**County Court Administrators
Table #7-K**

	Frequency	Percentage
Very beneficial	4	15%
Somewhat beneficial	9	33%
Benefits and Drawbacks equal	4	15%
Somewhat harmful	5	18.5%
Very Harmful	5	18.5%
No opinion	0	0%
TOTAL:	27	100%

When asked about the overall effect of transition to state funding, the majority of County Court Administrators (33%) indicated it was “somewhat beneficial.”

Opinions from the County Court Administrators on “overall effect” of state funding were not clustered as they had been with the District Court Administrators. In fact, there was a great disparity among the answers. Thirteen of the 31 completed surveys contained comments from County Court Administrators and the vast majority of comments from this group were complaints. Yet the survey result was that the majority of County Court Administrators felt transition to state funded courts was beneficial by a fairly significant margin. There appears to be a silent majority who approve of state funded courts and a vocal minority whose negative

experiences with transition tempted them into providing additional comments. Interestingly, four comments from the County Court Administrators stated that wages and benefits had improved significantly for their staff, which may account for an overall more satisfactory work environment.

SURVEY RESULTS – Overall Effect; Breakdowns by court size

This survey did not include a court system having more than five judges in a given county. Therefore, there were no respondents that fit into the large sized jurisdiction category.

Medium sized jurisdiction (3-4 judges)

Table # 7- L

	Frequency	Percentage
Very beneficial	1	14%
Somewhat beneficial	2	29%
Benefits and Drawbacks equal	0	0%
Somewhat harmful	3	43%
Very harmful	1	14%
No opinion	0	0%
TOTAL:	7	100%

When asked about the overall effect of transition to state funding, the majority of County Court Administrators from medium sized courts (43%) indicated it was “somewhat harmful.”

The survey results here are difficult to interpret and may be misleading. A total of seven respondents marked that they are from a medium sized court and also provided an opinion on the “overall effect” of state funded courts. The majority opinion consisted of three respondents who disfavored state funding. If one were to combine the opinions of those who responded that state funding is “beneficial,” with those who responded state funding is “very beneficial,” it would

equal the number of respondents who found it to be “harmful.” A real split developed leading one to conclude that individual experiences differed greatly.

Table #7- M
Small sized jurisdiction (0-2 judges)

	Frequency	Percentage
Very beneficial	3	16%
Somewhat beneficial	7	37%
Benefits and Drawbacks equal	4	21%
Somewhat harmful	2	10%
Very harmful	3	16%
No opinion	0	0%
TOTAL:	19	100%

When asked about the overall effect of transition to state funding, the majority of County Court Administrators from small sized courts (37%) indicated it was “somewhat beneficial.”

A somewhat larger number of respondents marked that they are from a small sized court and also provided an opinion on the “overall effect” of state funded courts. Nineteen respondents fit into this category and the leaning of this group favored state funded courts. Absent additional comments from the respondents who favored state funding, it is difficult to guess the reasons state funding is preferred here amongst the smaller courts.

The most vocal respondents from the small court group were the ones who did not favor state funding. Three survey respondents wrote additional comments stating that small court operations are not understood at the state level. Two wrote comments indicating that procedures have become more complex for small counties using the new state policies and procedures. One also commented that they felt the overall state funded court system was more costly to operate than the former local system.

Survey Results Summary

In general, the survey tool provided insight into the opinions of court managers who experienced Minnesota's transition to state funded trial courts. Yet the survey's objective responses and the averaged figures derived from them provide only a partial picture. The written comments often expressed true disappointment or even anger with the transition process.

Clearly, the satisfaction level after transition is directly related to court position. District Court Administrators reported a high level of satisfaction and gave no written complaints. County Court Administrators, especially those from the medium sized courts, found a greater level of dissatisfaction with their transition experience and seized this opportunity to articulate their complaints. While the objective survey results yielded a "beneficial effect" of state funding, complaints in the form of attached comments provided a minority opinion that was critical of state funding. The complaints may be attributed to County Court Administrators retaining a diminished role, experiencing a loss of control, or their mounting frustration in getting local concerns heard at the state level. It might also be that the court managers at the local level bore the brunt of the transition experience. They were the ones that were forced to learn new state budget and state personnel systems, implement new state procedures, and break with long standing local political relationships.

Smaller court operations from less populous counties with relatively small budgets benefited greatly from the influx of state money after transition. The survey revealed enhancements to wages, benefits, and technical support. It stands to reason that when asked for the overall effect of state funding, smaller court operations reported a higher level of overall satisfaction.

The State of Minnesota's perspective on state funding cannot fully be explored by examining the objective survey responses of four District Court Administrators. In order to gain more information on the state's perspective, Minnesota's lead Court Administrator was approached.

INTERVIEW WITH MINNESOTA STATE COURT ADMINISTRATOR

Sue Dosal, Minnesota State Court Administrator, has been closely associated with state funding issues since the 1970's. She provided an interview to discuss both her perspectives on the history of state funded court systems as well as state funding as it is unfolding in Minnesota. In 1980, Ms. Dosal working as a senior staff attorney with the North Central Regional Office of the National Center for State Courts wrote and presented a paper titled, "Strategic Considerations in State Assumption of Trial Court Operating Costs." She presented this paper at an Institute for Court Management Workshop in Denver, CO to other Court Administrators who were considering, or working toward, state funding in their own states.

Large portions of the 1980 paper are still applicable. This document can still serve as a primer on things a state must consider if it is to successfully transition to state funded trial courts. The paper states that its purpose was to, "assist states actively considering political action to bring about increased state financing of trial courts. The paper assumes that a policy decision has been made on the merits of increased state financing and addresses the strategic considerations germane to this transition." (Dosal, 1980, p. 1)

Ms. Dosal's 1980 paper divided areas of consideration into five categories. First political dynamics of assumption were explored. The list of political entities that needed to be considered were as follows: judicial branch administrators; trial court judges; clerks of court; local

government; the Governor; the legislature; law enforcement; the bar association; and the public. Next, the scope of the assumption needs to be clearly identified followed by the need for a phased assumption. Phasing can be done on a percentage basis, a geographic basis, a functional basis, or a one-time assumption basis. Five different models of budgetary assumption were explored including lump sum, line item, local reimbursement, local chargeback, and local subsidy with their respective benefits and drawbacks. Lastly, the administrative mechanics of such a transition were detailed as a major consideration. Mastering the administrative mechanics was considered to be the most difficult area of transition. The paper recommended clearly identifying the following administrative issues prior to transition:

1. Specific items (court functions) to be assumed
2. Personnel classifications and compensation
3. Employee unions issues
4. Fringe benefit issues
5. Administrative support
6. Equipment and facility issues

Recommendations were made that one must also evaluate political climate, court organizations, and individual personalities in order to successfully navigate a transition to state funded courts.

(Ibid, p. 33.)

During a telephone interview with Ms. Dosal, she broke state funding trends down into three categories. She identified wave one as the 1960 – 1970 court reform movement. She indicated that with federal money and LEAA (Law Enforcement Assistance) grants, courts began to restructure, unify, and get rid of multiplicity. This helped move courts toward centralization. Next, she viewed the time frame of 1980 - 1990 as wave two. During this period, the cost of

courts escalated rapidly and many rural areas could not afford to support court systems adequately. Restructuring and centralization of the court systems continued, but now it was being done at the request of local governments for tax relief purposes. Ms. Dosal describes the current era as wave three where the judicial branch now seeks state funding to become a truly separate and co-equal branch of government. This is significant and Ms. Dosal sees state funding and centralization as the means to achieve this status.

Ms. Dosal feels Minnesota is meeting its desired outcomes of equalized court services, consistent policies and practices, budgetary flexibility and funding for mandates established by the Minnesota State Legislature, she stated that things are well on their way but that it will not happen overnight. Ms. Dosal related that ten years ago, when Minnesota's Eighth Judicial District transitioned to state funding, it was not planned for but rather came as a surprise. As a result, there was no time to properly plan or to strategize as her 1980 paper suggested. Problems resulted and she was aware that court operations were negatively affected. Now, as additional jurisdictions are being phased into state funding, that mandated services are being funded properly, there is increased consistency in policies and practices, and that there is a more equitable distribution of resources.

In response to the survey finding that indicated a majority of District Court Administrators and County Court Administrators found state funding to be "somewhat beneficial" or "very beneficial," Ms. Dosal credits the phased, multi-year approach and good planning for the perceived success so far. Minnesota has utilized both a functional phase-in and a geographic phase-in. Judges, court reporters, GALs, translators, etc. came to be state funded by court function. The rest of court operations are being brought in by jurisdiction, which lends itself to regional concerns. Also credited was solid legislation and adequate financing for the

courts. Building an administrative infrastructure capable of replacing the support previously provided by the county was cited as a major concern. Ms. Dosal expressed that she feels the most significant item behind Minnesota's current transition success is that the judiciary is responsible for setting its own priorities.

When asked for her opinion about the County Court Administrators who reported they were experiencing a "loss of control" or feeling that "procedures have become more complex" under, state funding, Ms. Dosal responded that some of the negative comments could be the result of the surprise transition in the Eighth district. She felt that the lack of proper preparation and an inadequate state infrastructure back in 1990 could be the source of their discontent. Ms. Dosal disagreed with the lack of control issue stating that court administrators have always had local controls imposed upon them through a County Board or other funding sources. In response to court procedures becoming more complex and the lack of opportunity for input from the County Court Administrators, Ms. Dosal indicated that much work has been done to provide an opportunity for input through the Conference of Chief Judges and the Court Executive Team as well as other opportunities to provide electronic email feedback through the Uniform Court Practices and Forms Committee work. Ms. Dosal did concede, however, that "perception is reality" and that some more work may need to be done in this area. Lastly, Ms. Dosal disagrees with the comments from County Court Administrators that money was being channeled away from local court operations toward centralized management. She stated that increases in "centralized management" to build a judicial branch infrastructure to replace that formerly provided by the counties came not from the county court budgets, but from new money appropriated by the Legislature for human resource, finance and GAL program management positions. For the remaining six districts transferring after June 30, 2003, she indicated that

“Maintenance of Effort” money (a guaranteed annual percentage increase up to the date of transfer) will provide substantial financial increases directly to the county court systems just prior to transition to state funded trial courts. This was done specifically to build the local court infrastructures. In addition, a further amount representing 3% of the districts total budget was assessed against the counties and appropriated by the Legislature to the judiciary to additionally support administrative infrastructure needs of the new state funded system.

In conclusion, Ms. Dosal admitted that the transition process has been difficult at times and added that Minnesota is currently in the middle of the transition process. She felt it would be a few more years before we can properly evaluate Minnesota’s transition process as a whole.

CONCLUSIONS

The goal of this research was to examine and evaluate state funded court systems, report on the ongoing shift toward state funded courts, to reveal challenges in the transition process to a state funded court systems and to analyze how successful Minnesota has been in transitioning to a state funded court system.

Examine and evaluate state funded court systems

There are clear benefits and drawbacks to replacing a locally funded court system with a state funded court system. The benefits of having a state funded court system include budgeting on a system-wide basis, allowing for a separate personnel system, allowing for a separate information management system, allowing for economies of scale, permitting flexibility to meet unusual funding emergencies, and providing increased control over court resources.

Additionally, many favor state funded courts as it more easily allows for consistent policies and

practices within a state. Lastly, state funded court systems equalize court resources and facilities regardless of the regional economic status.

Drawbacks to state funded court systems were revealed in the research as being increased bureaucracy and complexity, denial of local input to budgetary process, confusion about who pays for what, and the creation of competition between local court systems where none existed before. States that are contemplating switching to a state funded trial court system need to carefully consider loss of local control. Long-standing regional politics have helped shape the courts and “one size” may not fit all court systems. State generated court procedures may be more complicated so costs may increase without discernable increases in productivity. Trial courts that are denied a role in the budget process may have little incentive to be efficient. Lastly, removing courts from local governments may ultimately give off the perception that they are more remote and less service-oriented.

Challenges court systems will confront in making such a transition will be many and varied. One can expect that political considerations will need to be addressed. Gaining the unilateral support from the Governor, the legislature, the trial court judges, local court administrators, the bar association, and the public will not be easy. Nor may it ever be achieved but gaining key supporters will be necessary. Timing of the transition is also a big challenge. Establishing adequate infrastructure at the state level to replace long standing local departments is a sizeable task. Employee union contracts can complicate personnel classifications, compensation, and fringe benefit issues. Lastly, large obstacles can be anticipated in the scope of what court functions will be assumed by the state and what will remain a local responsibility. Even a decade after state transition, local governments may argue with the state about who pays for what.

Fortunately, there are strategies to make a transition to state funded courts more successful. They include clearly defining the scope of what will be assumed by the state, establishing a phased-in assumption of court operations, gaining early and strong legislative support, and obtaining enough funding to build needed infrastructure at the state level. Robert Tobin advocates being wary of any state funding initiative that is locally generated. He warns that local governments may overestimate revenues and/or underestimate costs. Tobin advises utilization of outside consultants if needed to gain accurate perspective of the state's court operations. Lastly, involvement of local court representatives in the entire process will aid transition. Frequently, local Court Administrators who are used to working with a large amount of autonomy can be the most outspoken opponents of a state funded system.

Report on the ongoing shift toward state funded trial court systems.

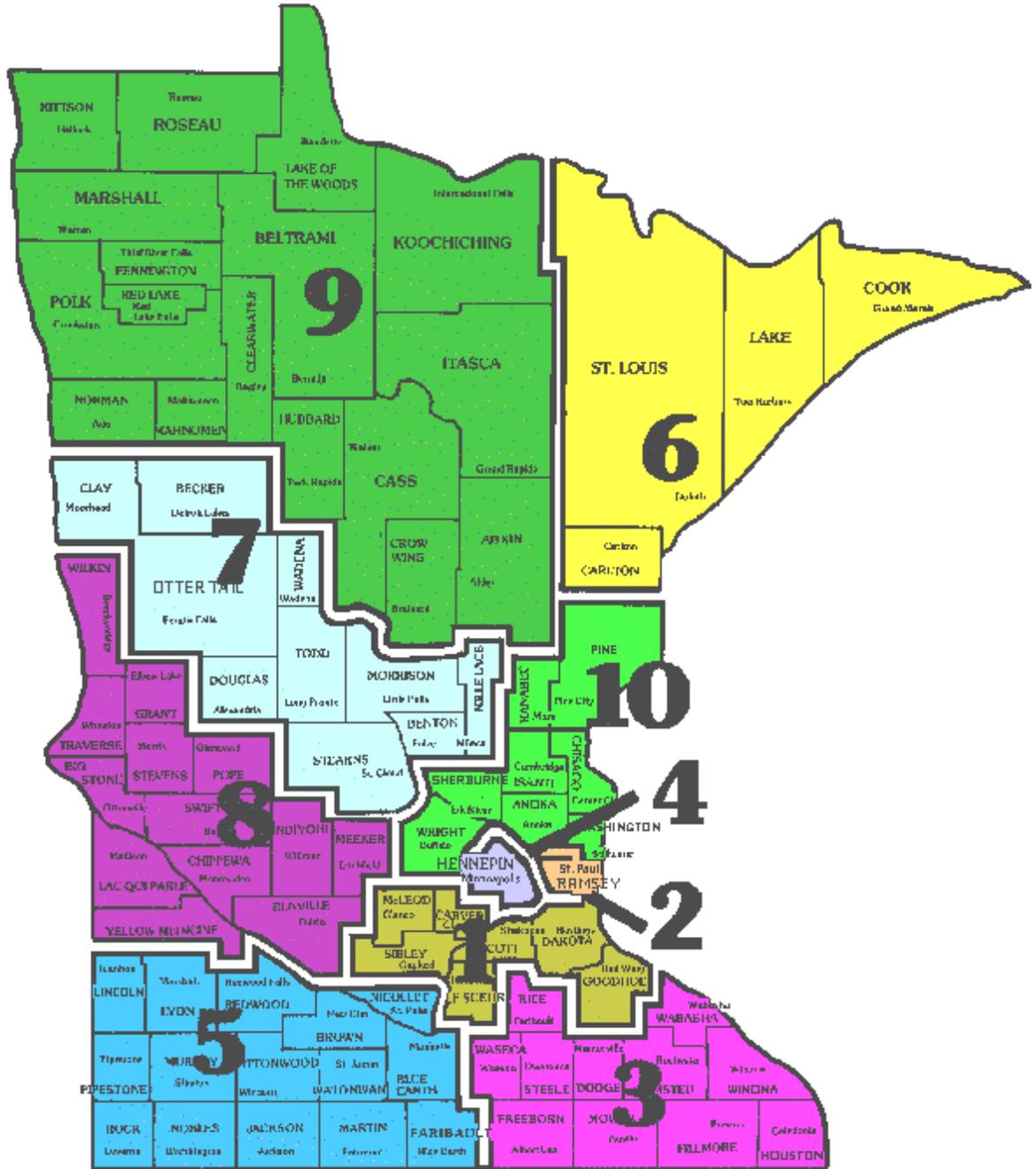
In the United States, there still exists a trend toward greater fiscal centralization of court operations at the state level. States that have shifted some financial responsibilities are looking to shift additional costs of their court operations to the state. While the trend continues, the reasons for the trend have changed. Originally, in the 1960's and 1970's, court reform was a catalyst in moving states toward state funded courts. In the 1980's, recession and dramatically increased court costs moved additional states to adopt state funded court systems. Currently, the trend continues but the pace has slowed significantly. Some states that have rejected state funding in the past are re-examining their current situation to see if a transition now would be to their benefit.

How successful has Minnesota been in meeting their desired outcomes?

According to court administrators in Minnesota, the move to state funded trial courts appears to have been a successful one. As reported by the court managers working in the districts that have already transitioned to state funding, a high level of equalization has occurred in court services. They also report the implementation of consistent policies and practices, although their acceptance of these mandated uniform procedures was mixed. The survey results here revealed that court managers perceived the “overall effect” of state funding to be “somewhat beneficial.”

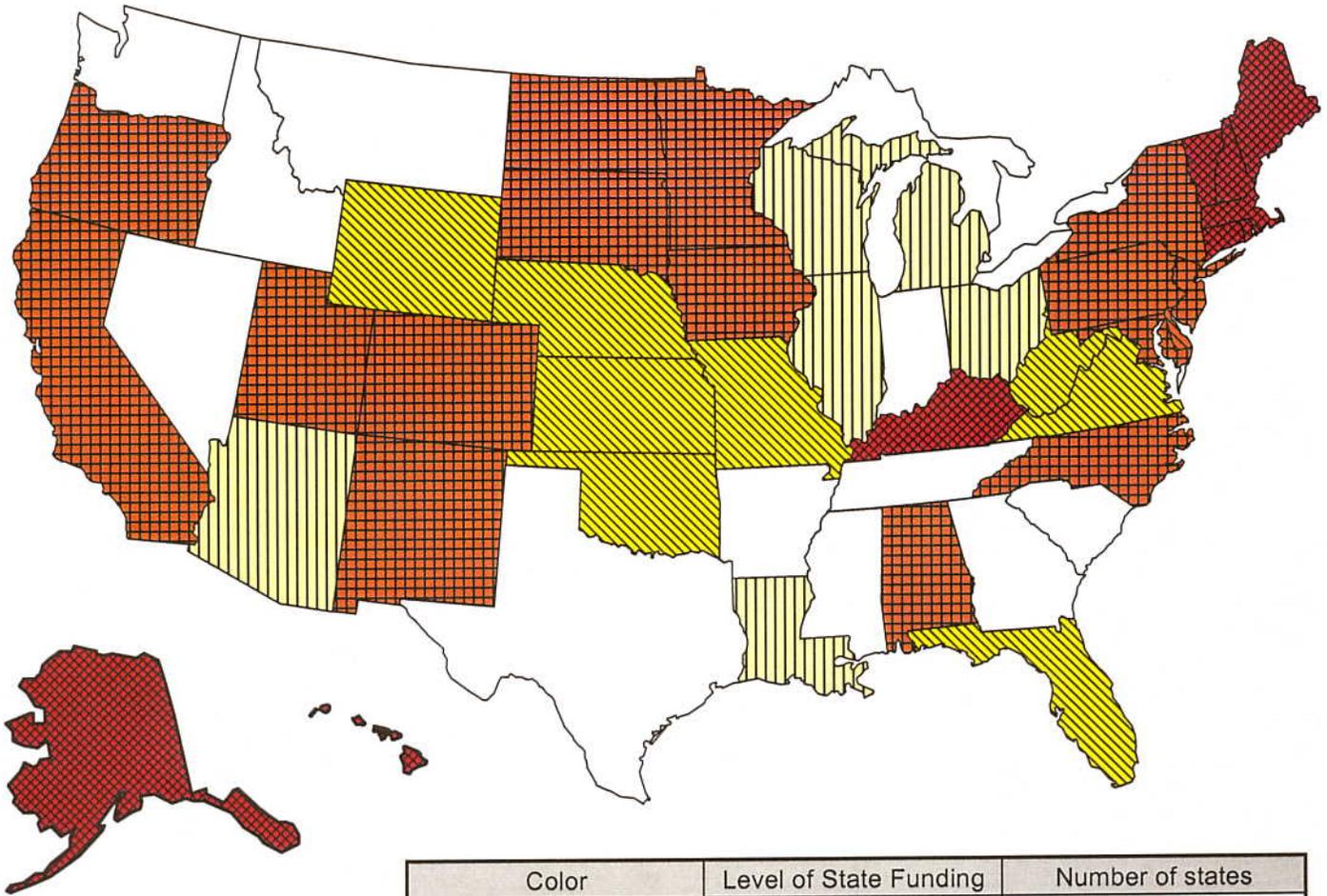
Minnesota’s State Court Administrator, Sue Dosal, felt that Minnesota now has achieved budgetary flexibility in that the courts are responsible for setting their own priorities and currently funding their own mandates.

Attachment A Minnesota Judicial Districts



ATTACHMENT B

Level of State Funded Trial Courts - 2003



Color	Level of State Funding	Number of states
	90 - 100 %	9
	Substantial State	16
	Majority State	8
	Mostly Local with Mixture	6
	Substantial Local	11

Level 1: 90 -100% state funded.

Alaska, Connecticut, Hawaii, Kentucky, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Level 2: Substantially state funded.

Alabama, California, Colorado, Delaware, Iowa, Maryland, Minnesota, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oregon, Pennsylvania, South Dakota, Utah

Level 3: Majority state funded.

Florida, Kansas, Missouri, Nebraska, Oklahoma, Virginia, West Virginia, Wyoming

Level 4: Majority locally funded.

Arizona, Illinois, Louisiana, Michigan, Ohio, Wisconsin

Level 5: Substantially local funding.

Arkansas, Georgia, Idaho, Indiana, Mississippi, Montana, Nevada, South Carolina, Tennessee, Texas, Washington

6. State funding's effects on Financial Management: (Please mark one response per category)

	Greatly improved	Somewhat improved	Stayed the same	Somewhat worsened	Greatly worsened	No opinion
a. Budgetary procedures						
b. Purchasing procedures						
c. Accounting procedures						
d. Internal controls						

7. State funding's effects on relations with: (Please mark one response per category)

	Greatly improved	Somewhat improved	Stayed the same	Somewhat worsened	Greatly worsened	No opinion
a. elected county officials						
b. Supreme Court						
c. state legislature						
d. County agencies						

8. State funding's effects in specific areas: (Please mark one response per category)

	Greatly improved	Somewhat improved	Stayed the same	Somewhat worsened	Greatly worsened	No opinion
a. Judicial support personnel						
b. Clerk/ County Ct. Admin. offices						
c. Indigent defense						
d. Court facilities						
e. Equipment/ furnishings						
f. Computer and technical support						
g. New programs						
h. Existing programs						

9. Overall effect of state funding on the trial courts has been:

- Very beneficial
 Somewhat beneficial
 Benefits/drawbacks equal
 Somewhat harmful
 Very harmful
 No opinion

Comments: _____

More comments attached: _____ No _____ Yes

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