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FINAL REPORT  
of the  
JOINT STANDING COMMITTEE ON  
APPROPRIATIONS AND FINANCIAL AFFAIRS:

A STUDY OF THE RELATIONSHIP BETWEEN  
THE JUDICIAL, EXECUTIVE AND LEGISLATIVE BRANCHES  
OF GOVERNMENT WITH RESPECT TO  
FINANCIAL AND ADMINISTRATIVE PRACTICES AND PROCEDURES

JANUARY 1987

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Rep. Susan J. Bell  
Rep. Donald V. Carter (Chair)

Rep. Lorraine N. Chonko  
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## INTRODUCTION

The 112th Legislature, during its Second Regular Session, enacted Public Law 1985, chapter 733. This legislation authorized, among other things, the Joint Standing Committee on Appropriations and Financial Affairs to "... conduct a study of the relationship between the judicial, executive and legislative branches of government with respect to financial and administrative practices and procedures."

The Appropriations Committee organized a five-member subcommittee to conduct the study. The subcommittee was comprised of the following committee members:

Rep. Donald V. Carter, Subcommittee Chair  
Rep. Susan J. Bell  
Rep. Lorraine N. Chonko  
Sen. James A. McBreairty  
Rep. Patrick K. McGowan

The subcommittee held four meetings during the summer and early fall of 1986 to review existing problems between the three branches of government and to discuss possible solutions to those problems. The subcommittee received valuable input from Chief Justice Vincent McKusick, Justice Robert Clifford, and various Administrative Office of the Court staff members.

## OVERVIEW OF STUDY

During the 112th Legislature it had become increasingly apparent to the Appropriations Committee that there was a need for increased cooperation and sharing of information between the Judicial Branch and Executive and Legislative Branches concerning financial and administrative practices and procedures. The Committee's concerns culminated in a request for a study during which the following issues would be examined in a detailed manner:

- Does the Judicial Department fully utilize the expertise and services of Executive Branch agencies such as the Bureau of Human Resources (formerly the Department of Personnel) and the Bureau of the Budget?
- What steps can be taken to improve communication between the three branches of government concerning administrative practices and procedures?
- What improvements can be made in the Judicial Department budget process to provide accurate and timely information for better financial management?

The Judicial Department prepared an information portfolio in response to the issues raised by the subcommittee. This portfolio, a copy of which is available in the Office of Fiscal and Program Review, served as a foundation from which the subcommittee made its final recommendations.

## RECOMMENDATIONS

Listed below are the subcommittee's final recommendations as reviewed and approved by the Joint Standing Committee on Appropriations and Financial Affairs. The recommendations are of two types: those administrative in nature, and those requiring legislative action.

### ADMINISTRATIVE RECOMMENDATIONS

1. The Judicial Department, in accordance with Title 4 of the Revised Statutes, section 26, should utilize Executive Branch "central services" whenever feasible.

The subcommittee finds that the Judicial Department has been reluctant to take full advantage of the services and expertise available in Executive Branch "central service" agencies (eg, Bureaus of Human Resources, Budget, Central Computer Services, etc.). By way of example, the Judicial Department has not participated in the position file system maintained by the Bureaus of Human Resources and Budget. This has led to a discrepancy in the counting of legislatively authorized positions between the Judicial and Executive branches.

The subcommittee recognizes that certain administrative functions in the Judicial Department can be completed without the assistance of the Executive Branch. On the whole, however, fuller utilization of, and better coordination with, "central service" agencies by the Judicial Department will increase its efficiency while enhancing the flow of information between the two branches.

2. The Judicial Department's position count should be reconciled to the legislatively-authorized position count maintained by the Bureau of the Budget. The Appropriations Committee should be notified by the State Court Administrator if the reconciliation is not to be included in the Part I Budget process for the Fiscal Year 1988-89 biennium.

In conducting its research, the subcommittee found that the Judicial Department's position count, as measured by the Department, was 339. The legislatively-authorized position count, however, is 324.5. This discrepancy was the result of two actions: First, the Judicial Department has used the "full-time equivalent" method of counting positions (ie, including all part-time employees in the position count); and second, some permanent full-time positions were hired without legislative authorization (two court reporters and one Director of Court Computer Services).

A reconciliation of the position count should proceed as directed by the Public Laws of 1985, chapter 174, Part A, section 8 which reads:

"The Governor and the State Budget Officer when next preparing budget proposals for the Legislature may, at their discretion, adjust the figures in parentheses, representing number of positions, to reflect the number of positions which, in their opinion, are necessary to the proper operation of each department, institution or agency."

Appendix B contains a memo from the State Court Administrator to the State Budget Officer proposing to reconcile the position count.

3. The State Court Administrator should report to the Appropriations Committee in January 1987 concerning the integration of the Judicial Department's personnel records with the Bureau of Human Resources' (formerly the Department of Personnel) new computerized system.

In order to protect against a future discrepancy in legislatively-authorized positions, the subcommittee finds that the Judicial Department should participate in the position data base maintained by the Bureau of Human Resources. Given that the system is not fully implemented as of the writing of this report, the Appropriations Committee will need an update concerning the implementation of this recommendation.

4. The Judicial Department should fully implement their new budgeting and budget reporting system prior to June 30, 1987. The State Court Administrator should report to the Appropriations Committee in January 1987 as to the progress of implementing the budgeting system and meeting the June 1987 target date.

The subcommittee was notified by the Judicial Department that it was implementing a new budgeting system in Fiscal Year 1987 that would provide monthly reports by court location and program (eg., court mediation). The reports will provide actual to budget expenditures by "character and object (C&O)" codes. The system will be run by the Administrative Office of the Courts. The target date for full implementation of the system is June 1987.

The subcommittee finds that this system will be a useful tool to the Judicial Department in managing its resources and controlling its expenditures in a more effective manner. One glaring weakness in the Judicial Department's management has been its difficulty in

determining where cost over-runs occurred and how those overruns could be limited. Conversely, the new system being implemented will provide detailed reports for each court location and each Judicial Department program. It will demonstrate how available funds may need to be transferred within the department. The reports will also assist the department in explaining to the Legislature where additional funds may be needed (eg., court mediation, court appointed counsel, etc.)

5. The Office of Fiscal and Program Review and the Bureau of the Budget should receive summary budget reports from the Administrative Office of the Courts on a monthly basis during Fiscal Year 1988.

The subcommittee finds that copies of the budget reports referred to in Recommendation #4 will provide useful information to the Appropriations Committee staff and the Budget Office staff. The "summary" budget reports will contain actual expenditures-to-budget expenditure comparison by Character & Object code. It is proposed that this recommendation be in place for a 12-month trial basis. During that time each staff office will have an opportunity to evaluate the need to receive the reports on an ongoing basis.

6. The State Court Administrator should report to the Appropriations Committee in January 1987 concerning the Administrative Office of the Courts salary study being conducted by the National Center for State Courts.

Private and Special Laws of 1985, chapter 116, implemented the first Judicial Department collective bargaining agreement. Included in the original legislation, L.D. 1779, was funding for exempt Judicial Department employees (ie, those employees exempt from collective bargaining). The 112th Legislature did not fund a proposed salary plan and salary increase for the exempt AOC staff members (includes the four trial court administrators and the AOC management staff employees) with the understanding that a salary and classification study would be conducted during the summer and fall of 1986 and implementing legislation would be presented to the First Regular Session of the 113th Legislature.

The Administrative Office of the Courts contracted with the National Center for State Courts (NCSC), a research and advocacy agency for state courts nationwide (similar in function to the National Conference of State Legislatures). The study's objectives include developing recommendations on AOC staff salary grades and levels, job classifications and titles.

NCSC plans on submitting its final report and recommendations to the Judicial Department in December 1986. The subcommittee finds that a briefing by the State Court Administrator will provide valuable information to the Appropriations Committee.



7. The Supreme Judicial Court should retain the authority to prescribe filing and document fees as described in Title 4 of the Revised Statutes. It is recommended, however, that the Supreme Judicial Court review all fees under its purview on a biennial basis in order to adjust those fees, where necessary, for inflation or other factors.

While evaluating this issue, the subcommittee considered the option of authorizing the Legislature to set all court fees. One argument in favor of that option is that the Legislature currently sets the fees for a wide range of functions including fish and wildlife fees, motor vehicle fees, vital statistics fees, etc. Maine is only one of seven states that authorizes the State Supreme Court to set court filing fees.

The subcommittee concludes, however, that the establishment and review of court fees is a function more properly left to the expertise of the Supreme Judicial Court. Of equal importance to the subcommittee is the establishment of a biennial review of all court fees under the jurisdiction of the Judicial Branch. The review would insure that all fees are adjusted periodically for inflation or other factors.

8. The State Court Administrator should report to the Appropriations Committee in January 1987 concerning the contribution rate included in the Part I Budget to fund the Maine Judicial Retirement System (MJRS) in Fiscal Years 1988-89. The report should include an assessment of the rate's impact on reducing the MJRS' unfunded liability.

The Maine Judicial Retirement System, created in 1984, requires a substantial contribution rate by the state in order to diminish the unfunded liability over time (eg, approximately 60% of payroll rather than the Maine State Retirement System's 20% of payroll). In the Fiscal Year 1986-87 biennium, the contribution rate included in the Judicial Department budget was not at the level necessary to meet actuarial guidelines. Consequently, in the Fiscal Year 1988-99 biennium a higher contribution rate (approximately 69.21% of gross payroll) will be needed to make an impact on the unfunded liability.

The subcommittee finds that it is in the state's best interest to insure the proper funding of the MJRS. Toward that goal, a report by the State Court Administrator will provide the Appropriations Committee with the information necessary to review the funding needs of the judicial retirement system.

9. The State Court Administrator should report to the Appropriations Committee in January 1987 concerning the cost-effectiveness of all District Court facilities. The report should include draft legislation, if necessary, to implement the Judicial Department's recommendations.

During the subcommittee's proceedings, Chief Justice McKusick stated that there are certain District Court facilities that are unusually expensive when measured against their caseload. The subcommittee finds that a review of all facilities would demonstrate how state General Fund dollars could be most effectively utilized.

### LEGISLATIVE RECOMMENDATIONS

1. The Judicial Department's anticipated Fiscal Year 1987 budgetary deficit should be reviewed by the Bureau of the Budget and included, if necessary, in the "Fiscal Year 1987 Emergency Appropriations" bill.

Included in the Judicial Department's information portfolio was an analysis of their Fiscal Year 1987 budget. Upon examining court caseloads and recent trends in operating costs, the Department projected a \$607,000 budgetary shortfall by June 30, 1987. The shortfall would occur in the Department's "All Other" line item. The Department's analysis can be found in Appendix C.

The Appropriations Committee will receive a budget Bill to fund various departments' emergency appropriation funding requests during the 113th Legislature's First Regular Session. The subcommittee concludes that the Judicial Department's request to fund the Fiscal Year 1987 shortfall should be submitted to the Bureau of the Budget for their analysis. If funds are necessary, the Budget Office should include the request in the "Emergency Fiscal Year 1987" bill for review and analysis by the Appropriations Committee.

At the end of Fiscal Year 1986, the Judicial Department lapsed \$170,850 to the General Fund, the bulk of which was in the "Personal Services" line-item. In addition, the Legislature was able to deappropriate \$111,157 in Fiscal Year 1986 from the Judicial Department's "Personal Services" line item, on the advice of the Administrative Office of the Courts, in order to transfer funds needed in the "All Other" line item. The subcommittee finds that, prior to any additional funding by the Legislature, the Judicial Department should transfer their projection of funds not needed in the "Personal Services" line-item to the "All Other" line-item.

2. Authorization and funding for a "legislative liaison" position should be requested if an existing Administrative Office of the Courts staff member is not already available.

A major reason for the Appropriations Committee requesting this study was their concern with the lack of communication between the Judicial and Legislative branches. Title 4, section 17 of the Revised Statutes calls for the State Court Administrator to "maintain liaison with the executive and the legislative branches and other public and private agencies whose activities impact the Judicial Department." Yet, it was the Appropriations Committee's perception that requests for information were not being responded to in a timely fashion and that the Judicial Department lacked a presence in the Statehouse.

At a subcommittee meeting, Chief Justice McKusick endorsed the Judicial Department's dedicating one AOC employee toward working with the Legislature. The subcommittee finds that a "legislative liaison" will assist all three branches of government in accomplishing their respective objectives.

Subsequent to the subcommittee's discussion, the Judicial Department advertised for a "public information officer" to be hired on a temporary basis. This position "... will be responsible for providing information about the courts to, and otherwise maintaining liaison with, the Legislature, the Executive Branch, the media and the public" (see Appendix D). The Judicial Department has requested that the Bureau of the Budget include in the "Part II" budget bill legislative authorization and full-time funding for this position. If included, this request will be considered by the Appropriations Committee during the First Regular Session of the 113th Legislature.

3. The 113th Legislature, during the First Regular Session, should fund two "Indigency Screening Units" in order to better control the costs associated with court-appointed counsel.

Court-Appointed counsel expenses in the Judicial Department budget have more than doubled in the period from Fiscal Year 1980 to Fiscal Year 1986 (from \$929,126 in Fiscal Year 1980 to \$1,962,694 in Fiscal Year 1986, a 111.2% increase). Explanations for this increase include the dramatic increases in the number of indigent defendants, increased hours charged by court-appointed counsel due to the increased complexity of cases, and new categories of cases where the Court, as required by federal and state law, is required to appoint counsel (e.g., cases involving termination of parental rights for foster children; review of patient institutionalization at Pineland).

By rule of court (see Maine Rules of Criminal Procedure 44 (b)), the court is responsible for determining whether a defendant is financially capable of retaining counsel. If, after examining factors such as the defendant's income, credit rating, outstanding debts, etc., the court determines the defendant is indigent, court-appointed counsel is assigned at Judicial Department expense.

In practical terms, a judge must quickly review the defendant's claim at the first appearance in court and make his or her decision. There is little opportunity for the court to determine the veracity of the defendant's claim of indigency.

In 1983, the Committee on Court Appointed Counsel issued its report (commonly referred to as the Wathen Report) calling for the establishment of an administrative screening unit that would collect and verify a defendant's financial information, then recommend to the judge that the applicant be declared indigent, partially indigent or non-indigent. A bill implementing the Committee's recommendation (L.D. 899, An Act to Establish Pilot Indigency Screening Units for Court-Appointed Counsel) was indefinitely postponed in the 112th Legislature's First Regular Session.

The subcommittee finds that indigency screening units can provide the court system with the assistance necessary to verify an applicant's claim of indigency. Further, as has been the experience of the state of Colorado, the subcommittee finds that the annual expense to fund two units (approximately \$63,000 per year) would lead to a leveling off, or actual decrease, in court-appointed counsel expenses. The Judicial Department has requested funding for this item in the Part II Budget request for the Fiscal Year 1988-89 biennium.

4. The necessary statutory amendments which would allow electronic recording devices in the courts should be presented to the First Regular Session of the 113th Legislature.

At a subcommittee meeting, Chief Justice McKusick recommended that electronic recording devices be allowed for use in court proceedings as an alternative to the use of official court reporters. It was his opinion that certain court proceedings could accommodate recording devices, and would prove less expensive to the Judicial Department. Certain court proceedings, meanwhile, required the use of an official court reporter.

The subcommittee finds the flexibility this recommendation can provide to the courts and the potential cost-savings to the Judicial Department to be sufficient reasons for consideration of this issue by the full Legislature.

5. Certain expenses of the Judicial Department are more appropriately the responsibility of an Executive Branch agency. Statutory authority, and the necessary funding from the Judicial Department's budget, should be implemented to transfer these expenses to that appropriate agency.

Management of the Judicial Department budget is such that certain "All Other" expenses are difficult to control (e.g., court-appointed counsel, District Court prosecution expenses, etc.). The Revised Statutes mandate that the court system pay for these expenses. Therefore, the Judicial Department's budget can be severely impacted if these cases unexpectedly increase. The Judicial Department finds itself in the position of receiving bills for these expenses while having little authority to control them. Judges can examine bills as to their reasonableness but in certain cases they have no authority over how those bills come before the court.

The subcommittee finds that certain expenses incurred by the Judicial Department could become the responsibility of an Executive Branch agency. For the most part, these expenses involve cases where executive branch agencies initiate expenses but have little regard toward controlling them because payment comes from the Judicial Department budget. The subcommittee supports draft legislation (see Appendix E) that would transfer the statutory authority for these items to that agency that is requesting action from the court and-or can scrutinize the expenses.

Those items being recommended for transfer from the Judicial Department budget include:

- Psychological examination for non-criminal mentally ill and mentally retarded persons and corresponding attorney fees.

The subcommittee finds that this expense is more appropriately assigned to the Department of Mental Health and Mental Retardation (DMHMR). DMHMR is in a better position to monitor the expenses incurred in evaluating individuals and ensure that evaluation and legal expenses are contained to the greatest extent possible.

The subcommittee finds that \$302,000 (actual expenditures in Fiscal Year 1986) can be de-appropriated from the Judicial Department's "All Other" line item and appropriated to the Department of Mental Health and Mental Retardation.

- Court-appointed counsel in child protective cases and parental rights termination cases initiated by the Department of Human Services.

The subcommittee finds that this expense is more appropriately assigned to the Department of Human Services. DHS, as the initiator of these cases, is in a better position to monitor the legal expenses and ensure that the expenses are contained to the greatest extent possible.

The subcommittee finds that \$318,000 (actual expenditures in Fiscal Year 1986) can be de-appropriated from the Judicial Department's All Other" line item and appropriated to the Department of Human Services.

- Prosecution expenses in District Court proceedings.

The subcommittee finds that this expense is more appropriately assigned to the Department of Attorney General. Given that the District Attorney Offices are currently responsible for Superior Court prosecution expenses, the Attorney General's Office (which is responsible for administering part of the District Attorneys' budget) is in a better position to monitor the prosecutorial expenses and ensure that the expenses are contained to the greatest extent possible.

The subcommittee finds that \$560,000 (actual expenditures for this item in Fiscal Year 1986) can be de-appropriated from the Judicial Departments "All Other" line item and appropriated to the Department of Attorney General.

- Attorney Fees in State's Appeals

The subcommittee finds that this expense is more appropriately assigned to the Department of Attorney General. Currently, the Judicial Department's budget is responsible for counsel fees for both indigent and non-indigent cases where the state appeals. The Attorney Generals Office, on behalf of their office and the District Attorneys, is in a better position to monitor appeal expenses and ensure that the expenses are contained to the greatest extent possible.

The subcommittee finds that \$5,000 (actual expenditures for this item in Fiscal Year 1986) can be de-appropriated from the Judicial Department's "All Other" line item and appropriated to the Department of Attorney General.

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NOTE: The Judicial Department also incurs approximately \$36,400 annually in expenses when publishing and distributing the opinions of the Supreme Judicial Court (eg, Maine Reporters and Atlantic 2d advance sheets). Of the total expense, \$22,500 is expended for non-Judicial Department users (eg, Executive Branch agencies, colleges, libraries, etc.)

The subcommittee finds that non-Judicial Department users of this service should not be required to pay for their copies. The primary concern is that various agencies currently do not charge for the majority of their printed documents (eg, the Legislatures' bills and bound public law documents, Executive Branch agency copies of rules and regulations, etc.). A precedent in this area might lead to a confusing and cumbersome charging system for all agencies involved.

## APPENDIX

- A. Transmittal memo from Appropriations Committee to Legislative Council
- B. Memo from State Court Administrator to State Budget Officer proposing position count reconciliation
- C. Administrative Office of the Court's Analysis of Projected Fiscal Year 1987 Shortfall
- D. "Public Information Officer" Job Announcement
- E. Draft Legislation



APPENDIX A

**SENATE**

MICHAEL D. PEARSON, DISTRICT 6, CHAIR  
GEORGETTE B. BERUBE, DISTRICT 16  
JAMES A. McBREAIRTY, DISTRICT 2

BENT SCHLOSSER, LEGISLATIVE  
FINANCE OFFICER-ADVISOR



STATE OF MAINE

ONE HUNDRED AND TWELFTH LEGISLATURE

**COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS**

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LINWOOD M. HIGGINS, SCARBOROUGH  
RUTH S. FOSTER, ELLSWORTH

December 17, 1986

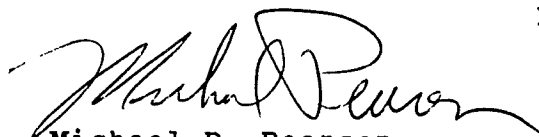
Honorable Charles P. Pray  
President, Maine Senate  
Honorable John L. Martin  
Speaker, House of Representatives

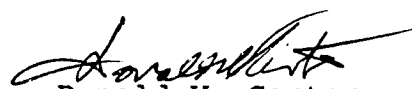
Dear President Pray and Speaker Martin:

Please find enclosed the final report of the Joint Standing Committee on Appropriations and Financial Affairs studying the relationship between the Judicial, Executive and Legislative branches of government with respect to financial and administrative practices and procedures. Included in the report is draft legislation that the Committee would like to have considered by the 113th Legislature's First Regular Session.

The Appropriations Committee has fulfilled its obligation as directed by Public Law 1985, Chapter 733, Sections 3 and 4.

Respectfully submitted,

  
Michael D. Pearson  
Senate Chair

  
Donald V. Carter  
House Chair

State of Maine

## ADMINISTRATIVE OFFICE OF THE COURTS

P.O. Box 4820 Downtown Station  
Portland, Maine 04112  
207-879-4792

Dana R. Baggett  
State Court Administrator

September 18, 1986

Dear Bill:

This letter is submitted pursuant to the provisions of Section 8, Chapter 174, Public Laws of 1985 which provides that "The Governor and the State Budget Officer when next preparing budget proposals for the Legislature may, at their discretion, adjust the figures in parenthesis, representing numbers of positions, to reflect the number of positions which, in their opinion, are necessary to the proper operation of each department, institution or agency."

The number of permanent positions set forth in the legislative count of 324.5 for FY 1987 does not reflect the number of positions necessary to the proper operation of the Judicial Department. This is in part because the Judicial Department historically has used the fulltime equivalent method of counting positions. This has created distortions when converting to the legislative method of counting. The problem has been exacerbated because the Judicial Department also has had to use many part-time employees at its many trial court locations and these positions are counted markedly differently under the two position counting methods.

It is desirable that we establish a correct count of permanent employees for FY 1987. I set forth in this letter an explanation of the situation in the hope that it will be possible for you to recommend to the Governor that the numbers in parentheses be revised in the process of preparing the next biennial state budget. I want to emphasize that this is a technical adjustment; no additional appropriation is necessary to fund the increase in positions. Further, we propose to control these positions in the future using the new computerized position control system developed for the State Personnel Department when made available to us for that purpose. The correction in our position count is a desirable prerequisite to get us started on a basis consistent with other state general fund agencies.

Permanent Part-time Positions.FY 1980.

In FY 1980 a legislative position count for the Judicial Department was established by this office as 311.5. At that time, 21 part-time permanent positions were identified. Each was counted as a half time position for a total of 10.5 positions. However, a recent reconstruction indicates that the department had 18 part-time permanent employees in 1980, 13 of whom worked 20 or more hours per week for much of that year. This translates to a legislative count of 15.5, an increase of 5 positions. It is not clear to us from the limited work papers that still exist whether vacancies were fully accounted for in the FY 1980 count.

Thus, in FY 1980, the Judicial Department's legislative position count should have been established at 316.5 rather than 311.5.

FY 1987.

There were 26 permanent part-time employees on the payroll of August 16, 1986, 25 of whom work more than 19 hours per week. This equates to a legislative count of 25.5. All of these positions are needed by the courts on an on-going basis. See the attached list.

Four of the five part-time positions that existed in FY 1980 are now authorized 20 or more hours of work per week, adding 2 positions to the legislative count. In addition, there are 8 more positions on our part-time payroll which are authorized 20 or more hours of work per week than was the case in FY 1980, adding a total of 10 positions to the legislative count.

This growth in the number of part-time positions and the numbers of hours worked is not surprising in view of the growth in trial court workload. For example, the District Court workload alone increased from 231,000 cases in 1980 to nearly 250,000 in 1985. Factors such as increased complexity of cases and new types of litigation created by new laws being enacted are more difficult to count but place real burdens on the clerks of court. The necessity to record virtually all District Court proceedings has forced that court to place a clerk in each courtroom on almost a fulltime basis. Child protective proceedings, to cite one example, are complex, lengthy and are recorded in their entirety these days; this was decidedly not the case in 1980. Parental termination cases, very demanding and drawn out proceedings in the District Court did not exist in 1980. The District Court has added three new judges and the Superior Court two new judges in the intervening period, and this has generated more in-court trial time as well.

Conclusion: the legislative count of permanent part-time positions needed in FY 1987 should be established as 25.5, an increase of 10 over FY 1980.

Permanent Fulltime Positions.

The growth in fulltime permanent positions since 1980 for the most part has been authorized by the Legislature and involves increases in judges, secretaries and assistant clerks of court. There are three additional fulltime positions that we consider permanent but which technically have not been approved by the Legislature, however.

Two additional official court reporters (OCRs) are needed to support the two additional Superior Court justices authorized by the Legislature in the past two years. One has been hired and recruitment is underway for a second; recruitment and retention of OCs will be impaired if these are not permanent positions, however. Furthermore, the Superior Court will have to rely on hiring private court reporters on a contract basis, which is more expensive than using state employed official court reporters.

The other position which should be added to the permanent position count is that of the Director of Court Computer Services. A new position should have

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Letter to G. William Buker

September 18, 1986

been established when funds to computerize the trial courts was appropriated by the Legislature last year.

Thus, the count of permanent fulltime employees should be increased by 3.

Summary.

To summarize:

Judicial Department position count as currently established for FY 1987	324.5
Adjustment to reconcile FY 1980 count of part-time permanent positions	5
Adjustment to account for additional part-time permanent positions, FY 1980 to FY 1987 needed to operate the trial courts	10
Adjustment to account for 3 permanent fulltime positions necessary for trial court operations	3
Revised legislative position count for FY 1987, FY 1988 and FY 1989	342.5

Therefore, I respectfully request that the count of authorized positions for the Judicial Department shown in parentheses be increased from 324.5 to 342.5 for FY 1987, FY 1988 and FY 1989. I have enclosed a schedule prepared by Mike Provencher that provides more detail.

In closing, I do want to emphasize again that this is an effort to establish a correct legislative permanent position count and will not generate a request for an additional appropriation. We have sufficient funds for these positions this year and have budgeted for them in our preparation of personal services budgets for FY 1988 and FY 1989; thus, we consider this to be a highly desirable technical correction of the position counts only. If I can be more helpful, please let me know.

Sincerely,



Dana R. Baggett  
State Court Administrator

Mr. G. William Buker  
State Budget Officer  
State House Station 58  
Augusta, Maine 04333

Enclosures (2)

c. McKusick, CJ; Clifford, J.  
James Clair, Ofc Fiscal & Pgm Review

Permanent Part-time Positions as of August 16, 1986.

<u>Position No.</u>	<u>Authorized Hrs per Payroll</u>	<u>Court/Location</u>
1.	45	Sup. Ct./Machias
2.	60	Dist Ct./Madawaska
3.	55	Law Ct./Portland
4.	40	Sup. Ct./Farmington
5.	40	Sup. Ct./Dover-Foxcroft
6.	60	Sup. Ct./Rockland
7.	60	Dist Ct./Springvale
8.	30	Dist Ct./Livermore Falls
9.	45	Dist Ct./Farmington
10.	40	Sup. Ct./Caribou
11.	40	Sup. Ct./Portland
12.	45	Dist Ct./Brunswick
13.	40	Sup. Ct./Skowhegan
14.	40	Sup. Ct./Auburn
15.	45	Dist Ct./Springvale
16.	50	Dist Ct./Waterville
17.	60	Sup. Ct./So. Paris
18.	60	Dist Ct./Augusta
19.	45	Dist Ct./Millinocket
20.	71.5	Dist Ct./Lincoln
21.	40	SJC/Auburn
22.	40	Sup. Ct./Ellsworth
23.	45	Dist Ct./Biddeford
24.	40	Sup. Ct./Skowhegan
25.	45	Sup. Ct./Portland
26.	45	Sup. Ct./Alfred

JUDICIAL DEPARTMENT  
Summary of Department Positions  
From Fiscal Year 1980 to 1987

aoc - mrp 18-Sep	FY'80 POSI.COUNT			AUTH.POSI.ADDED			OTHER POSI.ADDED			---TRANSFERS---			FY'87 POSI.COUNT		
	FT	PT	TOTAL	FT	PT	TOTAL	FT	PT	TOTAL	FT	PT	TOTAL	FT	PT	TOTAL
	Reg.	Posi.	Posi.	Reg.	Posi.	Posi.	Reg.	Posi.	Posi.	Reg.	Posi.	Posi.	Reg.	Posi.	Posi.
<b>SUPREME COURT</b>															
Justices	7	0	7	0	0	0	0	0	0	0	0	0	7	0	7
Other Employees	12	1	13	0	0	0	(2)	0	(2)	0	0	0	10	1	11
Law Clerks	12	0	12	0	0	0	0	0	0	(1)	0	(1)	11	0	11
<b>TOTAL</b>	<b>31</b>	<b>1</b>	<b>32</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>(2)</b>	<b>0</b>	<b>(2)</b>	<b>(1)</b>	<b>0</b>	<b>(1)</b>	<b>28</b>	<b>1</b>	<b>29</b>
<b>SUPERIOR COURT</b>															
Justices	14	0	14	2	0	2	0	0	0	0	0	0	16	0	16
Other Employees	91	9	100	1	0	1	2	5	7	(1)	0	(1)	93	14	107
Law Clerks	3	0	3	1	0	1	0	0	0	1	0	1	5	0	5
<b>TOTAL</b>	<b>108</b>	<b>9</b>	<b>117</b>	<b>4</b>	<b>0</b>	<b>4</b>	<b>2</b>	<b>5</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>114</b>	<b>14</b>	<b>128</b>
<b>DISTRICT COURT</b>															
Judges	19	0	19	3	0	3	0	0	0	0	0	0	22	0	22
Other Employees	128	8	136	4	0	4	2	3	5	0	0	0	134	11	145
<b>TOTAL</b>	<b>147</b>	<b>8</b>	<b>155</b>	<b>7</b>	<b>0</b>	<b>7</b>	<b>2</b>	<b>3</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>156</b>	<b>11</b>	<b>167</b>
<b>ADMINISTRATIVE COURT</b>															
Judges	2	0	2	0	0	0	0	0	0	0	0	0	2	0	2
Other Employees	3	0	3	0	0	0	0	0	0	0	0	0	3	0	3
<b>TOTAL</b>	<b>5</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>5</b>
<b>AOC</b>															
SCA	1	0	1	0	0	0	0	0	0	0	0	0	1	0	1
Other Employees	9	0	9	2	0	2	1	0	1	1	0	1	13	0	13
<b>TOTAL</b>	<b>10</b>	<b>0</b>	<b>10</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>14</b>	<b>0</b>	<b>14</b>
<b>GRAND TOTAL</b>															
Justices/Judges	42	0	42	5	0	5	0	0	0	0	0	0	47	0	47
SCA	1	0	1	0	0	0	0	0	0	0	0	0	1	0	1
Other Employees	243	18	261	7	0	7	3	8	11	0	0	0	253	26	279
Law Clerks	15	0	15	1	0	1	0	0	0	0	0	0	16	0	16
<b>TOTAL</b>	<b>301</b>	<b>18</b>	<b>319</b>	<b>13</b>	<b>0</b>	<b>13</b>	<b>3</b>	<b>8</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>317</b>	<b>26</b>	<b>343</b>
	FT	13											FT	25	
	PT	5											PT	1	
<b>Auth.Posl.</b>	<b>301</b>	<b>15.5</b>	<b>316.5</b>										<b>Auth. Posl.</b>	<b>317</b>	<b>25.5</b>
															<b>342.5</b>

\* Includes - 2 Official Court Reporters  
- 1 Director of Court Computer Services

State of Maine

ADMINISTRATIVE OFFICE OF THE COURTS

P.O. Box 4820 Downtown Station  
Portland, Maine 04112  
207-879-4792

Dana R. Baggett  
State Court Administrator

26-Aug-86

TO: Jim Clair  
FROM: Mike Provencher  
SUBJECT: Analysis of Projected Fiscal Year 1987 Shortfall.

This memo is in response to your August 19th request for an analysis of the Judicial Department's projected shortfall for fiscal year 1987.

Attached are two analyses of the projected shortfall. The first was prepared in early June to determine the \$766,000 shortfall, while the other was prepared more recently arriving at a shortfall less than what I originally projected. To explain the difference between the two I have outlined some of the methodology used in each analysis.

For the analysis prepared in early June, I used the year-to-date expenditures at June 3rd and projected the TOTAL fiscal year 1986 expenditures. With these projected totals, I compared them to my earlier projections for fiscal year 1987, adjusting where possible and arriving at an anticipated shortfall of over \$766,000.

My most recent analysis includes basically the same information, but incorporates the ACTUAL TOTAL expenditures for fiscal year 1986. Comparing them to my original projections for fiscal year 1987, I was able to more accurately revise various cost categories where I know expenditures will incur or increase during the year and arrived at a ~~revised~~ projected shortfall of \$607,000. As you will see, there is very little flexibility in this revised fiscal year 1987 budget to allow additional adjusting from one cost categories to another. Most of these cost categories are at the same expenditure level as fiscal year 1986, with the exception of several categories which have received additional appropriation(e.g., 4099-Mediation & 4606-Lease Costs) or had expenditures carried forward from fiscal year 1986(e.g., 4040-Court Appoint.Attor. & 4976-Traverse Jury Cost).

If you have any questions concerning the attached or if can be of further help with this matter, please do not hesitate to call me.

Attachments

cc: Chief Justice Vincent L. McKusick  
Dana R. Baggett  
Debby Olken

## APPENDIX C (cont'd)

JUDICIAL DEPARTMENT EXPENDITURES VS PROJECTED  
FOR THE FISCAL YEARS 1986 and PROJECTED FISCAL YEAR 1987

REVIS 25-Aug-86

CURRE 26-Aug-86

aoc - mrp

-----fy 1986-----

C&O	ACCOUNT	FY'85	REVISED FY'86	% OVER FY'85	ACTUAL EXPENDITURE 30-Jun-86	% TO BUDGET	EXP. OVER/UNDER BUDGET	ORIGINAL ESTIMATES FY'87	% TO EXPEND. FY'86	ADJ.	REVISED FY'87	% TO EXPEND. FY'86
3110	PERM. REGULAR	6,334,726	7,720,755	21.9%	7,086,266	8.2%	634,489	8,737,675	23.3%		8,737,675	23.3%
3120	PERM. PART TIME PB	93,321	0		80,984		(80,984)	0			0	
3122	PERM. PART TIME PB	108,263	0		163,785		(163,785)	0			0	
3130	PERMANENT TEMP	0	0		0		0	0			0	
3140	PERMANENT EMERGENCY	0	0		0		0	0			0	
3210	LIMITED PERIOD REG	26,534	0		36,789		(36,789)	0			0	
3220	LIMITED PERIOD P-T	0	0		0		0	0			0	
3222	LIM PERIOD P-T PB	57,388	0		61,090		(61,090)	0			0	
3410	PROJECT REGULAR	0	0		0		0	0			0	
3550	INTERMITTENT LIMITE	0	0		0		0	0			0	
3611	STANDARD OVERTIME	32,011	38,636	20.7%	43,904	-13.6%	(5,268)	39,872	-9.2%		39,872	-9.2%
3612	PREMIUM OVERTIME	628	0		8,859		(8,859)	0			0	
3616	RETRO LUMP SUM PYMT	98,911	0		183,469		(183,469)	0			0	
3618	RETRO PAY 84 CONT	113,610	0		0		0	0			0	
3810	UNEMPLOYMENT COMP	10,371	12,000	15.7%	8,381	30.2%	3,619	12,000	43.2%		12,000	43.2%
3890	PER DIEM	69,180	65,000	-6.0%	73,161	-12.6%	(8,161)	65,000	-11.2%		65,000	-11.2%
3901	HEALTH INSURANCE	341,302	427,247	25.2%	361,923	15.3%	65,324	529,558	46.3%		529,558	46.3%
3902	MEDICARE RETIRE COS	0	0		0		0	0			0	
3905	DENTAL INSURANCE	14,010	55,550	296.5%	28,535	48.6%	27,015	59,659	109.1%		59,659	109.1%
3910	EMPLOYER RETIREMENT	1,472,785	1,262,413	-14.3%	1,254,556	0.6%	7,857	1,427,358	13.8%		1,427,358	13.8%
3911	EMPLOYER GROUP LIFE	31,100	31,437	1.1%	25,945	17.5%	5,492	33,764	30.1%		33,764	30.1%
4001	DATA PROCESSING	0	0		7,680		(7,680)	0			0	
4012	COST OF SECURITY	0	0		0		0	5,000			5,000	
4015	CASUAL LABOR	47,767	46,068	-3.6%	48,326	-4.9%	(2,258)	48,582	0.5%	(256)	48,326	0.0%
4031	INSPEC & INVEST	34,612	56,138	62.2%	73,540	-31.0%	(17,403)	62,111	-15.5%	11,429	73,540	0.0%
4040	COURT APPOINT ATTOR	1,765,087	1,862,818	5.5%	1,962,178	-5.3%	(99,360)	1,680,472	-14.4%	361,705	2,042,178	4.1%
4041	LAUNDRY SERV.	0	0		0		0	0			0	
4042	LEGAL SERV	52,365	32,969	-37.0%	51,693	-56.8%	(18,724)	32,397	-37.3%	19,295	51,693	0.0%
4046	MEDICAL SERV	283,171	418,639	47.8%	402,464	3.9%	16,175	366,886	-8.8%	35,578	402,464	0.0%
4056	RESEARCH SERV	3,039	0		10,007		(10,007)	0			0	
4099	MISC PROF FEE & SPE	258,184	344,761	33.5%	293,891	14.8%	50,869	377,946	28.6%		377,946	28.6%
4101	DATA PROCESSING	20,469	20,689	1.1%	19,361	6.4%	1,327	21,818	12.7%	(2,456)	19,361	0.0%
4103	ACC'T & AUDIT SERV	0	0		0		0	0			0	
4106	ANALYSIS & LAB SERV	17,949	24,099	34.3%	12,291	49.0%	11,809	25,414	106.8%	(13,123)	12,291	0.0%
4199	MISC.PROF&SPEC SERV	76,377	69,725	-8.7%	100,322	-43.9%	(30,597)	70,596	-29.6%	29,726	100,322	0.0%
4200	TRAVEL - IN STATE	124,540	138,693	11.4%	130,329	6.0%	8,364	139,749	7.2%	(9,420)	130,329	0.0%
4270	AUTO MILEAGE	180,391	189,048	4.8%	192,543	-1.8%	(3,495)	199,364	3.5%	(6,820)	192,543	0.0%
4271	OTHER TRANS	0	0		0		0	0			0	
4274	MEALS & GRATUITIES	0	0		0		0	0			0	
4300	TRAVEL - OUT STATE	31,152	19,817	-36.4%	14,912	24.7%	4,905	19,580	31.3%		19,580	31.3%
4380	AUTO MILEAGE -O/S	1,332	288	-78.3%	44	84.7%	244	282	541.2%		282	541.2%
4381	OTHER TRANS -O/S	0	0		0		0	0			0	
4421	MISC AUTO EXPENSES	0	0		0		0	0			0	
4501	TELEPHONE	291,350	327,175	12.3%	345,516	-5.6%	(18,341)	356,229	3.1%		356,229	3.1%
4521	ELECTRICITY	11,063	11,250	1.7%	17,676	-57.1%	(6,426)	11,864	-32.9%	5,812	17,676	0.0%
4536	OTHER UTILITIES	518	481	-7.2%	136	71.7%	345	470	246.0%	(334)	136	0.0%
4606	RENT BUILD & OFFICE	722,587	886,486	22.7%	835,585	5.7%	50,901	1,193,865	42.9%		1,193,865	42.9%
4616	RENT OFFICE EQUIP	31,023	25,135	-19.0%	25,654	-2.1%	(520)	26,506	3.3%	(851)	25,654	0.0%
4651	MISC RENT	5,127	3,567	-30.4%	9,008	-152.5%	(5,441)	3,762	-58.2%	5,247	9,008	0.0%
4711	REPAIRS TO BUILDING	2,126	4,823	126.8%	451	90.6%	4,371	5,086	*****	(4,634)	451	0.0%
4721	REPAIRS TO EQUIPMEN	23,999	9,764	-59.3%	27,684	-183.5%	(17,921)	10,296	-62.8%	17,388	27,684	0.0%
4731	REPAIRS - TYPEWRITE	18,859	24,139	28.0%	12,735	47.2%	11,404	25,456	99.9%	(12,721)	12,735	0.0%
4751	MISC REPAIRS	0	2,884	ERR	0		2,884	2,821		(2,821)	0	
4851	MISC INSURANCE	375	360	-3.9%	525	-45.6%	(165)	353	-32.8%	172	525	0.0%
4901	STAMPS PARCEL POST	250,741	264,730	5.6%	301,870	-14.0%	(37,140)	279,175	-7.5%	22,695	301,870	0.0%
4911	METER POSTAGE	347	974	180.6%	220	77.4%	754	1,027	367.1%	(807)	220	0.0%
4913	INTRA GOV. SERV	52	125	140.3%	33	73.6%	92	122	270.8%	(89)	33	0.0%
4928	BINDING & REBINDING	0	0		0		0	0			0	
4929	PRINTING & BINDING	75,403	109,431	45.1%	76,442	30.1%	32,989	89,220	16.7%	(12,778)	76,442	0.0%
4935	COMPUTER SOFTWARE	3,068	0		24,590		(24,590)	0			0	
4938	PHOTO COPYING	117,055	117,466	0.4%	133,105	-13.3%	(15,638)	123,875	-6.9%	9,229	133,105	0.0%
4939	STATE PRINT & BIND	85,229	85,532	0.4%	116,369	-36.1%	(30,838)	90,199	-22.5%	26,170	116,369	0.0%
4941	PRINT REPORTS & BLT	330	336	2.0%	330	1.9%	6	329	-0.3%		329	-0.3%
4946	ADVERTISING NOTICES	6,193	6,208	0.2%	16,414	-164.4%	(10,206)	6,546	-60.1%		6,546	-60.1%
4950	MICRO FILM	0	0		7,342		(7,342)	0		7,000	7,000	-4.7%
4959	EXPERT WITNESS FEES	0	0		3,701		(3,701)	0		3,701	3,701	0.0%
4964	MISC HIGHWAY CHARGE	0	0		0		0	0			0	
4969	WITNESS FEES	313,905	351,708	12.0%	384,495	-9.3%	(32,787)	370,898	-3.5%	13,597	384,495	0.0%
4973	STATE EE'S TUITION	8,277	14,481	75.0%	414	97.1%	14,067	16,470	*****		16,470	*****
4976	TRAVERSE JURY COST	1,055,600	1,218,292	15.4%	1,133,717	6.9%	84,575	1,284,767	13.3%		1,284,767	13.3%
4977	GRAND JURY COST	129,059	135,594	5.1%	132,323	2.4%	3,271	142,992	8.1%	(10,669)	132,323	0.0%
4978	BAILIFF COST	258,732	327,061	26.4%	332,588	-1.7%	(5,527)	344,906	3.7%	(12,319)	332,588	0.0%
4979	COURT OFFICER COST	482,899	742,407	53.7%	699,936	5.7%	42,471	572,002	-18.3%	127,935	699,936	0.0%
4980	TRAVEL EXPENSE OTH	0	0		0		0	0			0	
4982	PERIODICALS NEWS SU	1,371	0		3,779		(3,779)	0			0	
4983	DUES	37,855	33,979	-10.2%	7,625	77.6%	26,354	35,235	362.1%		35,235	362.1%
4986	CLEANING & WASHING	7,638	5,775	-24.4%	18,872	-226.8%	(13,097)	6,091	-67.7%	12,781	18,872	0.0%
4991	GEN. OPERATING EXP.	11,887	18,134	52.5%	22,290	-22.9%	(4,157)	19,124	-14.2%	3,167	22,290	0.0%
4996	UNUSUAL CONTRACT SE	0	0		0		0	0			0	



## APPENDIX C (cont'd)

5201 FUEL OIL	5,940	7,755	30.5%	4,454	42.6%	3,301	8,178	83.6%	(3,723)	4,454	0.0%
5301 OFFICE SUPPLIES	124,256	95,269	-23.3%	131,201	-37.7%	(35,933)	100,466	-23.4%	30,735	131,201	0.0%
5401 CLOTHING	2,491	4,121	65.4%	1,027	75.1%	3,095	4,345	323.3%	(3,319)	1,027	0.0%
5601 HOUSEHOLD SUPPLIES	0	0		0		0	0			0	
5606 LAB & HOSPL SERV	0	0		0		0	0			0	
5627 PURCHASE OF BOOKS	75,004	137,688	83.6%	106,740	22.5%	30,948	145,200	36.0%	(38,461)	106,740	0.0%
5636 MISC SUPPLIES	2,762	2,825	2.3%	3,819	-35.2%	(993)	2,979	-22.0%	839	3,819	0.0%
5640 OTHER SUPPLIES	0	0		0		0	0			0	
5650 MISC MINOR SUPPLIES	69,312	60,072	-13.3%	34,064	43.3%	26,008	63,351	86.0%	(29,287)	34,064	0.0%
6401 GRANTS PUB PRIV ORG	189,250	194,250	2.6%	189,085	2.7%	5,165	194,250	2.7%		194,250	2.7%
6710 COLLEGE TUITION	327	0		0		0	0			0	
6719 OTHER TUITION	33,540	23,891	-28.8%	6,169	74.2%	17,722	25,195	308.4%		25,195	308.4%
6787 OCCUPA.TOOLS & EQUI	820	0		0		0	0			0	
6825 TORT CLAIMS	0	0		0		0	0			0	
6901 DISABILITY COMP	52,967	75,000	41.6%	46,198	38.4%	28,802	75,000	62.3%	(28,802)	46,198	0.0%
6902 MED & HOSP WORK COM	0	0		8		(8)	0			0	
6906 PENSIONS	903,941	914,534	1.2%	942,688	-3.1%	(28,154)	969,406	2.8%	36,974	1,006,380	6.8%
6907 PENSIONS BENEFICIAR	310,642	331,392	6.7%	347,341	-4.8%	(15,949)	351,276	1.1%	19,532	370,808	6.8%
6917 DISABILITY PENSION	1,132	0		0		0	0			0	
6912 OPTION 1	(109)	0		0		0	0			0	
7101 BUILD. & IMPROVEMEN	8,479	0		7,209		(7,209)	0			0	
7201 EQUIPMENT	304,775	474,205	55.6%	388,017	18.2%	86,188	429,237	10.6%		429,237	10.6%
8008 INTEREST PMTS	749	0		34		(34)	0			0	
GRAND TOTAL	17,739,521	19,886,088	12.1%	19,636,711	1.3%	249,377	21,343,652	8.7%	607,019	21,950,671	11.8%

PERS SERV	9,613,038	9,417,648	2.0%	195,390	10,904,886	15.8%	0	10,904,886	15.8%
ALL OTHER	9,798,845	9,823,838	-0.3%	(24,993)	10,009,529	1.9%	607,019	10,616,548	8.1%
CAPITAL	474,205	395,226	16.7%	78,979	429,237	8.6%	0	429,237	8.6%
TOTAL	19,886,088	19,636,711	1.3%	249,377	21,343,652	8.7%	607,019	21,950,671	11.8%

LESS ENCUMB.FUNDS 78,528

FUNDS LAPSED 170,849

Maine Sunday Telegram

October 19, 1986

**PUBLIC INFORMATION OFFICER  
MAINE JUDICIAL DEPARTMENT**

Applications for the position of Public Information Officer of the Maine Judicial Department are being accepted until close of business on Friday, November 14, 1986. This is a newly established professional position for which temporary funding is available. The establishment of a permanent position awaits legislative approval and funding beginning July 1, 1987. The incumbent will report to and serve at the pleasure of the Chief Justice of the Supreme Judicial Court.

The Public Information Officer of the Judicial Department will be responsible for providing information about the courts to, and otherwise maintaining liaison with, the Legislature, the Executive Branch, the media and the public. The Chief Justice may also assign additional duties to the position from time to time.

Qualifications include: a bachelor's degree or equivalent experience in journalism, public relations or government service. Prior experience in Maine state government is advantageous but is not required.

The position has been tentatively assigned to the Judicial Department Professional Pay Range 15: \$22,229-\$28,304 per annum, with a 1% increase scheduled to take effect January 1, 1987. Fringe benefits of Maine state government employment also apply. Appointment may be made above the initial step, depending on qualifications.

Submit a resume and letter in application for the position to:

Chief Justice Vincent L. McKusick  
P. O. Box 4910 DTS  
Portland, Maine 04112  
An Equal Opportunity Employer

APPENDIX E

FIRST REGULAR SESSION

---

ONE HUNDRED AND THIRTEENTH LEGISLATURE

---

Legislative Document	No.
Submitted by the Joint Standing Committee on Appropriations and Financial Affairs pursuant to Public Laws of 1985, Chapter 733.	

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STATE OF MAINE

---

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

---

AN ACT to Transfer Certain Expenses from the  
Judicial Branch to Certain Executive Branch Agencies.

---

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 4 MRSA §173, sub-section 4 amended by PL 1983, c.742, is further amended in the second paragraph to read:

The court Department of Attorney General shall pay any municipality a flat fee of \$20 for each day or part thereof that a municipal law enforcement officer, designated by the municipality as its court officer, is required to be physically present in a District Court in order to adequately handle such municipality's caseload. In addition, the court Department of Attorney General shall pay any municipality a flat fee of \$20 per day for every day or part thereof, but no more than \$20 for any one day, such municipality loses the services of one or more enforcement officers because such officer or officers are performing some act authorized or required by a District Court Rule of Criminal Procedure or is a witness in a criminal or traffic infraction case within the jurisdiction of the District Court. A municipality shall be deemed to have lost the services of a law enforcement officer when such officer, who normally performs duties of patrolling or maintaining order, is physically made to perform those duties of patrolling and maintaining order for such municipality.

Sec. 2. 15 MRSA §2115-A, sub-section 8 as amended by PL 1979, c.663, §110, is further amended to read:

APPENDIX E (cont'd)

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8. **Fees and Costs.** The Law Court shall allow reasonable counsel fees and costs for the defense of appeals under this section. Such fees and costs shall be paid by the State and charged against the appropriation for the Department of the Attorney General, which shall have responsibility for reviewing such expenses.

Sec. 3. 16 MRSA §251, as amended by PL 1985, c.384, §6, is further amended in the second sentence as follows:

The court in its discretion may allow at the trial of any cause, civil or criminal, in the Supreme Judicial Court, the Superior Court or the District Court, a reasonable sum for each day's attendance of any expert witness or witnesses at the trial, in taking the costs of the prevailing party, and the expense of all expert witnesses for the State in murder all cases, except as provided in 34-B MRSA §§3864, 5475, and 5476, shall be paid by the State and charged against the appropriation for the Department of the Attorney General, which shall have responsibility for reviewing such expenses.

Sec. 4, 22 MRSA §4005, sub-section 1(F), as amended by PL 1985, C.581, §2, is further amended to read:

F. The guardian ad litem may request the court to appoint legal counsel for him. The ~~District--Court~~ Department of Human Services shall pay reasonable costs and expenses of his legal counsel.

Sec. 5, 22 MRSA §4005, sub-section 2, as amended by PL 1983, C.783, §§1,2, is further amended to read:

2. **Parents.** Parents and custodians are entitled to legal counsel in child protection proceedings, except a request for a preliminary protection order under section 4034 or a petition for a medical treatment order under section 4071, but including hearings on those orders. They may request the court to appoint legal counsel for them. The court, if it finds them indigent, shall appoint ~~and--pay--the--reasonable--costs--and expenses--of~~ their legal counsel. All reasonable costs and expenses of their legal counsel shall be paid by the State and charged against the appropriation for the Department of Human Services, which shall have responsibility for reviewing such expenses.

Sec. 6. 29 MRSA §1312, sub-section 9, as amended by PL 1985, c.412, is further amended to read:

APPENDIX E (cont'd)

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9. **Payment for tests.** Persons authorized to take specimens of blood at the direction of a law enforcement officer and persons authorized to perform chemical tests of specimens or breath shall be paid ~~from the General Fund by the State and charged against the appropriation for the Department of Attorney General, which shall have responsibility for reviewing such expenses.~~

Sec. 7. 34-B MRSA §3864, sub-section 10, as amended by PL 1983, c.459, §7, is further amended to read:

10. **Expenses.** With the exception of expenses incurred by the applicant pursuant to subsection 5, paragraph F, the ~~District--Court~~ the Department of Mental Health and Mental Retardation shall be responsible for any expenses incurred under this section, including fees of appointed counsel, witness and notice fees and expenses of transportation for the person.

Sec. 8. 34-B §5475, sub-section §7, as enacted by PL 1983, c. 459, §7, is further amended to read:

7. **Expenses.** The ~~District--Court~~ Department of Mental Health and Mental Retardation is responsible for any expenses incurred under this section, including fees of appointed counsel, witness fees, and the expenses resulting from a court-appointed examiner.

Sec. 9. 34-B MRSA §5476, sub-section 11, as amended by PL 1983, c. 580 §23, is further amended to read:

11. **Expenses.** With the exception of expenses incurred by the applicant pursuant to subsection 6, paragraph F, the ~~District-- Court~~ Department of Mental Health and Mental Retardation shall be responsible for any expenses incurred under this section, including fees of appointed counsel, witness and notice fees and expenses of transportation for the person.

Sec. 10. **Appropriation.** The following funds are appropriated from the General Fund in order to carry out the purposes of this Act.

APPENDIX E (cont'd)

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	<u>1987-88</u>	<u>1988-89</u>
<u>ATTORNEY GENERAL, DEPARTMENT OF</u>		
Administration - Attorney General		
All Other	\$ 565,000	\$ 582,000
Provides funds to transfer responsibility for, and payment of, prosecution expenses in District Court proceedings and attorney fees in State's appeals from the Judicial Department to the Department of Attorney General.		
 <u>HUMAN SERVICES, DEPARTMENT OF</u>		
Office of Legal Services		
All Other	\$ 318,000	\$ 327,500
Provides funds to transfer responsibility for, and payment of, court-appointed counsel expenses in child protective cases and parental rights termination cases initiated by the Department of Human Services.		
 <u>JUDICIAL DEPARTMENT</u>		
Courts - Supreme, Superior, District and Administrative		
All Other	\$(1,185,000)	\$(1,220,500)
De-appropriates funds no longer needed.		
 <u>MENTAL HEALTH AND MENTAL RETARDATION DEPARTMENT OF</u>		
Administration - Mental Health and Mental Retardation		
All Other	\$ 302,000	\$ 311,000
Provides funds to transfer responsibility for, and payment of, psychological examination expenses for non-criminally mentally ill and mentally retarded persons and the corresponding attorney fees.		
 TOTAL APPROPRIATIONS	 \$ 0	 \$ 0

APPENDIX E (cont'd)

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Sec. 11. Effective Date. This Act shall be applied retroactive July 1, 1987.

FISCAL NOTE

This legislation transfers certain responsibilities from the Judicial Department to several Executive Branch agencies. The sums of \$1,185,000 in Fiscal Year 1988 and \$1,220,500 in Fiscal Year 1989 are de-appropriated from the Judicial Department's budget and appropriated to those agencies.

STATEMENT OF FACT

The Second Regular Session of the 112th Legislature (PL 1985, c.733) authorized the Appropriations Committee to conduct a study of the relationship between the three branches of Maine State government concerning administrative practices and procedures. Over the summer and fall of 1986, a five-member subcommittee conducted the study and reported its findings to the Appropriations Committee.

One of the recommendations accepted by the Appropriations Committee involved transferring the responsibility for monitoring and paying certain expenses from the Judicial Department to several Executive Branch agencies. It was found that the Judicial Department lacked the expertise and resources to monitor these expenses or, in certain cases, that it was inappropriate for the courts to be paying certain expenses.

This legislation transfers responsibility for monitoring and paying the following expenses to the Departments of Attorney General, Human Services and Mental Health and Mental Retardation, respectively:

- Prosecution expenses in District Court proceedings and attorney fees in state's appeals.
- Court-appointed counsel expenses in child protective cases and parental rights termination cases.
- Psychological examination expenses for non-criminally mentally ill and mentally retarded persons and the corresponding attorney fees.