

Idaho Supreme Court Budget Priorities for the 2016 Legislative Session

As the Third Branch of Government, we provide access to justice through the timely, fair, and impartial resolution of cases.

The Supreme Court limits its FY17 budget requests to the minimum required to meet the constitutional and statutory responsibilities of the Idaho Courts to resolve disputes fairly and within time standards adopted by the Supreme Court by well qualified and trained judges. The following have been identified as the Court's budget and legislative priorities for the 2016 legislative session:

1. COURT TECHNOLOGY: PROVIDING BETTER ACCESS, GREATER CONVENIENCE, AND IMPROVED INFORMATION

The Legislature has long supported a statewide approach to court technology, beginning with appropriations in FY89, the creation of the Technology Fund (I.C. § 1-1623) in 1997, followed by a subsequent increase to the fund in FY06. This funding, largely through dedicated funds, enables the Courts to process almost ½ million cases a year, and to collect and disburse over \$50 million annually to the state, counties, cities, and other entities.

The 2014 Legislature was presented with a comprehensive 5-year business plan developed by the Court with timelines, deliverables, and budgets to replace the courts' aging 25 year-old statewide computerized case management system (ISTARS) which had been declared by its vendor to be at "end of life." The transition to Odyssey is a move to a modern 24/7 web-based case management system, together with electronic financial payment capabilities, electronic filing and service of court case documents by parties and lawyers, electronic records access by the public and court personnel, video conferencing, and required new equipment.

To fund this generational shift in technology, two different sources of revenue were required:

- 1) the \$12.68 million estimated one-time costs of the project were spread over five years, characterized as "multiple one-time appropriations" of which the Legislature funded \$4.85 million in FY15 and \$2.18 million in FY16, and
- 2) an increase in revenues from filing fees to the Technology Fund (I.C. § 1-1623) which was accomplished by House Bill 509 (2014).

Because the revenues into the Technology Fund fluctuate due to variables which are beyond the Court's control (i.e., the number of case filings), the revenues actually realized may or may not meet the projected estimates. It is simply too early in the process to determine if the revenues into the Technology Fund will be adequate to meet the projected needs outlined in the 5-year business plan. The Court will keep JFAC and Legislative Leadership advised of the revenues in the event any new one-time monies are needed to keep the project on track.

The Supreme Court is also faced with the additional challenge of operating while the courts transition to the new technology solution, which requires maintaining the current ISTARS system, securing the necessary band-width, and implementing the system across 44 counties. The first pilot county was Twin Falls, which went "go-live" on June 22, 2015. The next county will be Ada County in 2016. Following these two installations, three regional roll-outs will occur to complete the installation statewide.

In 2016, the Supreme Court seeks the third of five, one-time appropriations for Odyssey, which for FY17 is \$2 million dollars.

\$2,000,000 General Fund



Report to the Governor
C.L. "Butch" Otter
and the
2nd Regular Session of the
63rd Idaho Legislature



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2. STRENGTHEN JUDICIAL RECRUITMENT BY INCREASING COMPENSATION FOR JUSTICES AND JUDGES REMAINS A PRIORITY

The recruitment and retention of highly qualified judges is and remains essential to the Court's constitutional mission to provide timely, fair, and impartial justice. Salaries not being sufficiently competitive with attorneys in the workforce has been repeatedly cited as the primary impediment to judicial recruitment. Because recruitment challenges persist, compensation continues to be a priority of the Judiciary. Judges received no CEC in FY16.

Pursuant to the statewide budget instructions from the Division of Financial Management, the Court has included a 1% salary increase placeholder in its budget for calculation purposes only. Although the Court does not present a specific compensation proposal for Judges in FY17, it would seek consideration of at least the same percentage level of CEC as other state employees may receive. Pursuant to I.C. § 59-502, separate legislation will be required for any compensation increase.

\$273,700 General Fund (each 1%)

A separate proposal is the Supreme Court's effort to increase the statutorily set compensation for its nine leadership positions from a fixed \$2000 per year, to 3% of the salary to reflect the significantly increased work load. Those positions are the Chief Justice, Chief Judge of the Court of Appeals, and the 7 Administrative District Judges. Pursuant to I.C. §§ 1-201, 1-2408, and 1-703, separate legislation will be required for any change to the compensation for these leadership positions. This increase would cost \$26,400 annually.

\$ 26,400 General Fund

To attract and retain well-qualified court personnel in the Judicial Branch, the Court must also seek an increase in non-judicial employee compensation at the same percentage level as other state employees may receive. The Court has also included a 1% salary increase placeholder in its budget, pursuant to the statewide budget instructions from the Division of Financial Management, and lends its full support to the other branches of government to continue to address adequate compensation for state employees.

3. ADDRESS FUNDING AND OBLIGATIONS FOR OTHER COURT SERVICES NOW BEING PAID FROM THE DRUG COURT/MENTAL HEALTH COURT/FAMILY COURT SERVICES FUND I.C. § 1-1625 (HEREINAFTER THE DRUG COURT FUND)

The Drug Court Fund is a dedicated fund originally established by the Idaho Legislature in 2003 in order to provide an ongoing dedicated source of funding for problem-solving courts operated in the Judicial Branch. The statute creating the fund has been amended several times over the years to both expand problem-solving courts and to allow for payment of other court services. The fund is subject to appropriation by the Legislature.

During the height of the "financial crisis" of 2009 – 2010, the Judiciary participated in significant general fund reductions of \$4.2 million which have ultimately resulted in a number of general fund expenses, mostly personnel, being shifted to the other court services obligation of this dedicated fund in order to help reduce the burden on the state budget. One such expense was \$865,000 of Senior Judge costs shifted from the general fund to the Drug Court Fund.

In the 2010 legislative session, an attempt was made to offset these fund shifts and enable the Judiciary to continue to fulfill its constitutional responsibilities to provide services that benefit the people of Idaho, including Drug Courts and other problem-solving courts. To that end, the Emergency Surcharge was passed (HB 687), with 80% of the monies collected going to the Drug Court Fund and 20% to the Court's Technology Fund. The Legislature predicted that the surcharge would generate approximately \$4.3 million a year ongoing to these two dedicated funds, or about \$3.44 million (80%) annually to the Drug Court Fund. The most the surcharge has generated for the Drug Court Fund is about \$3.2 million per year, and it has been declining each year. In FY15, the surcharge only generated \$3.01 million for this fund.

As a consequence, the Courts have been relying on an unstable and declining revenue source to operate court programs such as the Senior Judge program. Current fund obligations in this dedicated fund exceed its revenues and the health of the fund must be addressed.

Problem-solving courts in Idaho have been a success story in many ways. However, available space is lacking and the need is increasing, including an expansion of Veterans courts. Problem-solving courts are particularly suited to address segments of the high risk criminal justice population who would otherwise be prison bound. Keeping these offenders in the community while being monitored by these Courts keeps families together, enhances the prospect of long-term success, and is good public policy. Specifically, these programs further the policy goal of the Justice Reinvestment Initiative legislation of 2014 (SB 1357) by improving public safety, slowing the revolving doors of recidivism, and keeping more offenders in the community, all at a far lower cost to the State.

The Courts have worked with JFAC and Legislative Services to address possible solutions by providing additional general funds to operate the courts. The estimated costs if the expenses are returned to the general fund are \$865,000.

\$865,000 General Fund

ADDITIONAL BUDGET MATTERS FOR THE 2016 LEGISLATIVE SESSION

1. Increase Statewide Language Access to Help the Courts Come Into Compliance with Idaho's Constitution, and Title II of the Americans With Disabilities Act and Title VI of the Civil Rights Act Provisions Dealing with Language Access.

Article I, §18 of the Idaho Constitution, requires the courts be open and accessible to every person. In addition, Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act of 1968 prohibits recipients of federal financial assistance from discriminating based on national origin by failing to provide “meaningful access” to individuals who have limited English proficiency. In order to meet the requirement of meaningful access, Idaho courts are required to provide language access services for non-English speakers. Additionally, the ADA requires that Title II entities (state and local governments) communicate effectively with people who have communication disabilities. To better understand these budget requests, the Court has separated them into three topics.

First, the need to provide sufficient and qualified interpreter services in each of Idaho's 44 counties increases every year. To meet this need, the Court is requesting an appropriation for a statewide language access manager who will be responsible to provide language access services to all Idaho Courts, including court interpreting and translation services in the Spanish language. Administrative responsibilities will include assisting trial courts with the coordination of language access services statewide, carrying out the requirements of the Court's statewide language access plan, recruiting and training new interpreters, managing the court interpreter training and testing program, and staffing the Court's standing committee on language access. The cost of this position, including operations and travel, is \$121,000.

Second, over the last several years, the Court has allocated monies to provide additional support for certified court interpreter services in 5 of the 7 judicial districts. That need continues to increase significantly, particularly in the Third and Fourth Judicial Districts. Last year, language access services were provided in 45 different languages. Additional language access funds are requested to assist these jurisdictions in their efforts to ensure meaningful access to the courts as required by state and federal law. The amount requested for these services is \$97,500.

Third, one goal under the ADA is to ensure that communications with people who have a hearing, vision, or speech disability is as effective as communications with individuals who do not have a disability. The Court requests one-time funds to contract with a federal compliance consulting service to assist with policy development and implementation, as well as training on the ADA.

Sign language interpreter resources in Idaho are limited, particularly at the level of qualification required to interpret in court proceedings. In order to ensure effective communication, the DOJ requires the use of video remote interpreting (VRI) services when it is otherwise not possible to have an interpreter onsite. VRI is a fee-based service that uses video conferencing technology to access an off-site interpreter to provide real-time sign language or oral interpreting services.

The Idaho courts plan to deploy video conferencing statewide following the completion of the Odyssey project. Ultimately, video remote interpreting for courtroom proceedings will be provided using this system. However, this system will not be available to provide services outside the courtroom, such as at the counter in the clerk's office and other court service offices. Separate hardware and software will be required for counties to connect to VRI services from these various offices.

A two-phased approach is recommended to address this need. The first phase will provide hardware and software for trial courts statewide to connect with on-demand VRI services, as well as to provide funding for the per minute charge for direct services. This will allow counties to have a portable system in place that can be utilized by all court programs and service offices, and will also be available for use in court proceedings until the video conferencing solution is in place. The second phase, to be scoped and requested in a later fiscal year, will be to expand the previously funded video conferencing project so that VRI services are integrated into the courtroom audio/video system.

While counties will still be responsible to ensure the necessary bandwidth and network connectivity is in place, providing hardware, software, and direct services for VRI is an expensive burden for county governments and this request is an effort to help counties meet those needs. The request for these services is \$224,100.

Ongoing General Funds Requested

Language Access Manager	\$121,000
Services for 3rd and 4th District	\$97,500
VRI License/software costs	\$9,500
Statewide contract for direct services	\$20,600
Total	\$248,600

One-time General Funds Requested

ADA Consultant costs	\$27,500
VRI Hardware costs	\$145,000
VRI Setup costs	\$10,000
VRI Implementation & Training.....	\$11,500
Total	\$194,000

\$442,600 Total General Funds

2. Judicial Excellence and Education Program

Judicial Education and improvement programs are provided annually for all judges from the time they first take the bench through completion of senior judge service, and are critical to the Court meeting its Constitutional mandate to provide fair, timely, and impartial justice for users of the Idaho Courts.

The Supreme Court's Judicial Performance Evaluation Committee proposes the establishment of a Judicial Excellence and Education Program to enhance judicial excellence, education and wellness throughout a judge's service by administering self-improvement surveys on a regular basis and providing appropriate education, in part by trained facilitator judges. The evaluation process is expected to utilize court observation, video-taping, education, and mentoring. The Judicial Performance Evaluation Committee was able to utilize grant funding to design the overall program, as well as the survey to be administered. Because this is a significant judicial improvement initiative which needs to be sustained into the future, the Supreme Court is seeking \$293,700 in ongoing General Funds.

\$293,700 General Fund

3. Per Diem Increase

At its September 15, 2015 meeting, the State Board of Examiners – comprised of the Governor, Attorney General, and Secretary of State – amended the in-state and out-of-state per diem for meals and incidental expenses. These new base rate changes took effect October 1, 2015.

\$ 39,500 General Fund

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