



IDAHO JUDICIARY

Idaho Supreme Court
451 W. State Street
P.O. Box 83720
Boise, ID 83720-0101
208.334.2246
FAX 208.334-2146
www.isc.idaho.gov

Sara B. Thomas
Administrative Director
of the Courts
stthomas@idcourts.net

THE IDAHO SUPREME COURT'S BUDGET PRIORITIES FOR THE 2017 LEGISLATIVE SESSION

Budget Priorities

The following have been identified as the Court's budget priorities for the 2017 legislative session:

1. Continued Funding of the iCourt Project

The Idaho Judiciary is in process of implementing a transformative technology initiative, branded "iCourt," to greatly improve access, convenience, and information sharing for all stakeholders who participate or interact with the courts. The vendor for Idaho's existing 25+ year-old, state-wide case management system (ISTARS) declared the product at "end of life." As a result, the Court launched a comprehensive 5-year plan to replace the system. In 2014, the Legislature agreed to fund and support this transition to a comprehensive product suite produced by Tyler Technologies.

The Legislature identified two new sources of revenue, in addition to existing fee funding, for the Court Technology Fund to support this required update in technology:

- \$12.68 million estimated, one-time project costs were spread over five years, characterized as "multiple one-time appropriations" of which the Legislature funded \$4.85 million in FY2015, \$2.18 million in FY2016, and \$2 million in FY2017. Two further one-time appropriations are scheduled, \$1.85 million in FY2018, and \$1.8 million in FY2019.
- an increase in revenues from filing fees to the dedicated Court Technology Fund (I.C. § 1-1623) which was accomplished by House Bill 509 (2014).

During this deployment, the Supreme Court is faced with the challenge of continuing operations while the courts transition to iCourt. This requires maintaining the current ISTARS system, securing the necessary bandwidth, providing technological and change management support to the counties, as well as the implementation needs. As a result, the Administrative Office of the Courts had to "surge" personnel resources to ensure that counties are fully supported and transitioned, which increased the costs of the project.

Fee revenues into the Court Technology Fund fluctuate due to variables which are beyond the Court's control, including the number of case filings and collection rates. Since 2014, the actual revenues received have not met the projected estimates. Additionally, based upon both Idaho and national trends, the trajectory of these declines may well continue for at least the foreseeable future. It is now clear that the revenues deposited into the Court Technology Fund will be inadequate to meet the projected needs outlined in the 2014 5-year business plan. Specifically, the estimated cumulative fee revenue shortfall is expected to be in the range of \$3,769,000 through the roll-out. The combination of these two factors – declining fee revenue and increased project costs – place the time line to complete the project in jeopardy.

In 2017, the Supreme Court seeks both the previously identified one-time appropriation of \$1.85 million, as well as an additional General Fund appropriation of one-half of the expected loss in fee revenues, totaling \$1.88 million, for a one-time appropriation request of \$3.73 million.

\$3,734,500 General Fund

2. Restore Salary Differentials (Gap) Between Idaho Court of Appeals Judges and District Court Judges and Maintain Other Salary Gaps

The Idaho Supreme Court recognized that salary compression between the four levels of judgeships was causing significant recruitment challenges, particularly at the District Judge level. In 2014, the Idaho Legislature worked with the Court to address this issue. The Legislature enacted SB1394 (2014) which amended I.C. § 59-502 and established needed salary differentials (gaps) between all levels of judgeships. The annual salary differentials were established at \$10,000 between a Supreme Court Justice and a Court of Appeals Judge; \$6,000 between a Court of Appeals Judge and a District Judge; and \$12,000 between a District Judge and a Magistrate Judge. By statute, an Administrative District Judge is paid an additional \$2,000 per year for the increased administrative responsibilities.

However, SB1420, enacted in 2016, reduced the differential between a Court of Appeals Judge and a District Judge to just \$1,500 per year. As a result, an Administrative District Judge now earns more than a Court of Appeals Judge. The Supreme Court's salary priority is to restore the salary differentials of \$6,000 between a Court of Appeals Judge and a District Judge while maintaining the remainder of the statutorily set differentials existing in I.C. § 59-502.

\$67,100 General Fund

3. Restoration of Court Improvement Grant Monies

The Court Improvement Program (CIP) was established by Congress in 1993 to provide funding to state courts to assess how child protection cases were processed and to implement any recommended reforms. In 2006, funding for CIP was increased to support court and child welfare agency collaboration and joint planning for collecting and sharing information.

The Idaho Supreme Court (ISC) receives three grants from the CIP: a "Main" grant (\$118,670), a "Training" grant (\$112,773), and a "Data" grant (\$112,773). In FY2016, this totaled \$344,216 in CIP grants to Idaho to accomplish the following mission: Idaho child protection courts will provide due process and timely justice to all children and families, while working collaboratively with the state child welfare agency and other key stakeholders to ensure safety, well-being, and timely permanency for children.

On September 28, 2016, Congress passed a continuing resolution to fund the government through December 8, 2016, but failed to pass the Family First Prevention Act, which would have reauthorized the entire CIP. As a result, the CIP Main grant will continue to be available, while the Training and Data grants will go unfunded unless Congress finds a \$20 million offset. This would result in a reduction in funding to the ISC in FY2018 in the approximate amount of \$169,200 and \$225,500 for each of the state's fiscal years thereafter. The ISC uses the CIP grants to fund the following:

- Training: Conferences, technical support to the judicial districts, improving legal representation, and trauma-informed judicial practice in the courtrooms
- Policy development: Child Protection (CP) Committee and subcommittees, CPAT meetings, and Guardian ad Litem meetings
- Resource development: Bench cards, CP manual, Rule books
- Personnel and fringe benefits
- Travel and operations for CP manager
- Operational supplies: Cell phone
- Indirect costs: Percentage of total grant defined by federal guidelines, used to partially fund ISC financial staff

If Congress does not fund the CIP Training and Data grants, it is recommended that \$169,200 in one-time funds be requested from the Legislature for FY2018 to support the important work of the CIP in Idaho through the remainder of that fiscal year. Additionally, absent federal funding, it is anticipated that \$225,500 in on-going funds may be requested from the Legislature starting in FY2019 to provide continued operations of the CIP in Idaho.

\$169,200 General Funds

4. Improve the Court Monitoring of Protected Persons (CMPP)

Idaho Code § 31-3201G provides funding for the Guardianship and Conservatorship Project (Project) administered by the Idaho Supreme Court. It provides policy direction, “to improve reporting and monitoring systems and processes for the protection of persons and their assets where a guardian or conservator has been appointed.” One of the key elements of the Project is the Court Monitoring of Protected Persons (CMPP) program. The CMPP program is designed to ensure that persons under guardianship are protected against exploitation, abuse, and neglect. It does this, in part, by establishing a district-wide coordinator who reviews annual status reports, provides case management (including in-person visits with the protected person when appropriate), and acts as a point of contact for the parties and the public on guardianship and conservatorship matters.

The CMPP program has been piloted in the Third and Fifth Judicial Districts since July, 2014. The evaluation of the CMPP program shows that it provides needed resources for clerks, establishes consistency in case processing, gives assistance to the public, and improves the monitoring of cases, including identification of cases in need of follow-up. The work of the districtwide coordinators identified 204 guardianship cases that were erroneously closed, helped increase annual guardianship report submission by 23%, and provided follow up on flagged cases (about 10% of all cases reviewed) where the guardian wanted to resign or there were indicators of potential abuse or exploitation.

Based upon the successful piloting of the CMPP program, and the realized benefits to the protected persons and their communities, General Funds in the amount of \$488,900 are requested to supplement the revenue from the fees established in I.C. § 31-3201G(1), to establish a districtwide coordinator in every judicial district and to continue the work of the Project to carry out the Legislature’s policy.

\$488,900 General Fund

5. Adequate Compensation of Leadership Positions

The Idaho Courts have nine leadership positions within the judiciary. These leadership positions require certain judges to take on administrative duties, significantly increasing their workload. The positions are the Chief Justice, Chief Judge of the Court of Appeals, and the seven Administrative District Judges. The Supreme Court proposes to increase the statutorily set compensation for the increased workload of these leadership positions from a fixed \$2,000 per year, to 3% of the salary. Pursuant to I.C. §§ 1-201, 1-2408, and 1-703, separate legislation will be required for any change to this compensation. This increase would cost \$29,500 annually.

\$29,500 General Fund

6. Strengthening 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 ensure fair processes and the timely, impartial resolution of cases. That judicial salaries are not sufficiently competitive with attorneys in the workforce has been repeatedly identified as the primary impediment to judicial recruitment. Recruitment challenges persist, and compensation continues to be a priority of the Judiciary.

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 all judges in FY2018, 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 judicial compensation increase.

\$279,200 General Fund (each 1%)

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. The Court has non-judicial employees who are paid from General Funds as well as some who are paid from Dedicated Funds. This request addresses only those employees paid from the General Fund.

\$91,500 General Fund (each 1%)

7. Restore Base Number of Senior Judge Days to FY2016 Levels

By statute, a Senior Judge is compensated at the rate of 85% of the daily salary of an active judge of the same level. When the legislative appropriation of General Funds to the Senior Judge function remains constant, but a salary increase is legislatively provided to an active judge, the same pool of Senior Judge funds buys a lesser number of Senior Judge days. Therefore, to maintain the same number of Senior Judge days which existed in FY2016, this appropriation needs to be increased.

\$51,300 General Fund

8. Additional Spending Authority for Dedicated Substance Abuse Fund 0182

The Substance Abuse Treatment Fund 0182 (Fund) provides essential substance abuse treatment resources to support Idaho's problem-solving courts. Problem-solving courts depend on community based substance abuse treatment combined with judicial oversight and effective probation supervision to reduce recidivism and rehabilitate offenders.

There has been modest growth in revenue in the Fund since 2012, averaging an approximate 1% increase per year. The projected FY2017 Fund revenue of \$3,618,700 exceeds existing spending authority by approximately \$79,900. Additional spending authority in the amount of \$79,000 is requested to help provide the full continuum of care for substance abuse treatment, including access to inpatient and recovery services for problem-solving court offenders.

\$79,900 Spending Authority (no additional funding)

9. Unused Vacation Leave at Separation

Pursuant to both the Judicial and Employee Policy Manuals adopted by the Idaho Supreme Court, all judges and employees of the Idaho Judiciary, except Supreme Court Justices, may be compensated for up to 336 hours of unused vacation leave at the time of separation unless extraordinary budget circumstances do not allow. This policy is nearly identical to both the Executive and Legislative Branch policies. See I.C. § 67-5334(3).

For the last five fiscal years, these separation payments have averaged \$165,000 per year for employees paid from the General Fund and have typically been paid from year-end monies which no longer exist.

\$165,000 General Funds

10. National Center for State Courts Membership Dues

The National Center for State Courts (NCSC) is the organization state courts turn to for authoritative knowledge and information, because its efforts are directed by collaborative work with the Conference of Chief Justices, the Conference of State Court Administrators, and other associations of judicial leaders.

Consequently, the NCSC is able to return expertise to the courts in a variety of forms — from Web resources to hands-on assistance. State assessments pay for the distribution of information from knowledge analysts and online sources, available free of charge to state trial and appellate courts and their administrative offices.

In FY1992, the Idaho Legislature began appropriating General Funds for the dues for the Idaho Judiciary's membership in the NCSC by appropriating \$46,000 in on-going General Funds. During the budget hold backs during the 2009–2011 era, these funds were cut. The annual dues assessment is now \$115,000. The Court seeks restoration of these General Funds to meet this obligation.

\$115,000 General Funds

11. 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. The Idaho Supreme Court seeks funding to offset the impact of the new base rate.

\$46,000 General Funds

12. Additional Judicial Resources – Legislative Policy Considerations

The need for additional judicial resources continues in distinct parts of the State, whether this is for additional judgeships or increased Senior Judge days. While the number of total case filings statewide fluctuates or even decrease, judicial resource demands occur because caseloads are increasingly complex, felony case numbers are increasing, coupled with other related challenges such as a significant increase in self-represented litigants, non-English language access needs, and an increase in the number of problem-solving courts.

An additional challenge is that the demand for judicial resources around the state is materially influenced by demographic shifts. Idaho's population is significantly condensing primarily to six counties: Ada, Canyon, Kootenai, Bonneville, Bannock, and Twin Falls. The current statutory requirement that at least one magistrate judge reside in each of Idaho's 44 counties presents significant challenges in meeting these shifting demands.

In 1967, exactly 50 years ago, Legislative efforts began to reform Idaho's then existing lower courts (probate, justice, and city courts) and to establish the current Magistrates Division of the District Court. Idaho's existing statutory policy of requiring a resident magistrate judge in each of its 44 counties was enacted in the 1969 Legislative session with an effective date of January 11, 1971. (I.C. § 1-2205).

For the Legislative Session of 2017, the Supreme Court received a request for one new magistrate judge in Bonneville County, as well as requests for additional Senior Judge days in two other judicial districts. The Court elected to present the request for a new magistrate judgeship in the alternative in order to seek policy guidance from the 2017 Idaho Legislature and the Governor on whether I.C. § 1-2205 is still the desired policy of this state.

Much has changed in 50 years, and the statutorily required residence of magistrate judgeships – significantly removed from where the primary needs exist – comes at a significant cost to both the taxpayers and the Judiciary.

The Court recognizes there are pros and cons to both sides of this policy decision, and believes it is prudent to ask the Legislature for policy guidance on whether to seek additional new judicial resources or, in the alternative, be provided the statutory opportunity to relocate resources when vacancies occur.

\$124,900 General Funds (for 9 months in FY2018)

Or in the alternative, amend I.C. § 1-2205

Additional Budget Matters for the 2017 Legislative Session

Both the Guardian ad Litem (GAL) and Judicial Council functions are created by statute. With respect to the GAL function, Idaho Code §16-1638 creates the GAL account and provides that disbursements of moneys from the account shall be by appropriation from the Legislature to the Supreme Court, which moneys shall be used (passed through) for the payment of grants to qualified recipients and for expenses incurred for carrying out the provisions of this chapter. Idaho Code §16-1602(22) defines the Idaho Supreme Court as the grant administrator and provides direction to the Court. The qualified recipients are the CASA/GAL Boards in the seven judicial districts.

In accordance with Idaho Code §§1-2102(5) and 67-3502(5), the Judicial Council prepares a budget request which the Supreme Court includes in its annual budget submission. Historically however, the Judicial Council has discussed its budget directly with JFAC following the Supreme Court's presentation, but the GAL program has not. After consultation with LSO, these two functions are again submitted with the Judicial Branch Budget, but each will be presented to JFAC by a representative from those programs.

Additional Guardian Ad Litem Funding for Abused and Neglected Children

The Statewide Guardian ad Litem programs jointly request the existing appropriation for Guardian ad Litem (GAL) funding to be increased by \$467,500. I.C. §16-1614 provides that in any proceeding under the Child Protective Act (CPA), the court shall appoint a GAL for any child under the age of twelve years and may appoint a GAL for children twelve years or older. GALs conduct independent factual investigations and advocate for the best interests of the child at each stage of the court proceedings. Additionally, when the Legislature amended I.C. § 16-1629(8) in 2016, it gave Guardians ad Litem an enhanced role of serving as a check on placement decisions made by the Idaho Department of Health and Welfare. They are now one of the parties that can challenge placement decisions and ask for a court review of the placement under the provisions of Idaho Juvenile Rule 43(3). This is a very important responsibility for the GAL and effectuates the intent of the 2016 legislation. There were 855 CP petitions filed in FY2016, representing an almost 13% increase from FY2015. The GAL programs report that there were 671 abused and neglected children under the age of 12 who were not served by a volunteer GAL in CPA proceedings in FY2016. Approximately \$467,500 is needed to recruit, train, and support a sufficient number of additional volunteer GALs to fulfill existing statutory requirements.

\$467,500 General Fund

Idaho Supreme Court Basement Remodel

Through funding provided by the Legislature in 2015, the basement of the Supreme Court building is undergoing remodeling in order to accommodate the Court's Information Division. There have been project delays due to the changing of the air handling system and asbestos abatement. The bid process for the actual remodel is occurring in November of 2016. Whether additional funding in the form of a supplemental budget request is needed to complete the project and accommodate unanticipated asbestos abatement costs cannot be determined until the final bids are received. As such, this placeholder provision is being placed in the Budget Priority Papers prepared for the Legislature.

*For further information, contact Sara B. Thomas
Administrative Director of the Courts
Email: sthomas@idcourts.net // Phone: 208-334-2246*



Mission Statement of the Idaho Courts

*As the Third Branch of
Government, we provide
access to justice by ensuring
fair processes and the timely,
impartial resolution of cases.*

The Idaho Courts stand for:

*Integrity
Fairness
Independence
Respect
Excellence
Innovation*

The Idaho Courts strive to:

**Provide Timely,
Impartial Case
Resolution through
Legally Fair Procedures**

Ensure Access to Justice

**Promote Effective,
Innovative Services**

**Increase Public Trust
and Confidence in
Idaho Courts**

Approved by the
Supreme Court
October 31, 2011
and revised
April 25, 2016