

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Stephen Morris at 10:35 a.m. on February 7, 2002 in Room 123-S of the Capitol.

All members were present except: All present

Committee staff present:

Alan Conroy, Chief Fiscal Analyst, Kansas Legislative Research Department  
Deb Hollon, Kansas Legislative Research Department  
Martha Dorsey, Kansas Legislative Research Department  
Carolyn Rampey, Kansas Legislative Research Department  
Audrey Nogle, Kansas Legislative Research Department  
Michael Corrigan, Assistant Revisor of Statutes  
Judy Bromich, Assistant to the Chairman  
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Kay McFarland, Chief Justice, Supreme Court of Kansas

Others attending: See attached list

**Bill Introductions**

Senator Feleciano moved, with a second by Senator Jackson, to introduce a bill relating to insurance; providing coverage for expenses of clinical trials (1rs1978). Motion carried on a voice vote.

Senator Huelskamp moved, with a second by Senator Jackson, to introduce a concurrent resolution to use the language found in HCR 5030, urging the United States Congress to enact legislation mandating country of origin labelling for meat and requiring certain import standards on foreign meat products. Motion carried on a voice vote.

**Subcommittee report on:**

**Department on Aging (Attachment 1)**

Subcommittee Chairman Adkins reported that the Subcommittee concurs with the Governor's recommendation for FY 2002 with comments as listed in the subcommittee budget report.

Subcommittee Chairman Adkins reported that the Subcommittee concurs with the Governor's recommendation for FY 2003 with submissions for Committee consideration as listed in the subcommittee budget report.

Senator Adkins explained that it had come to the attention of the Subcommittee, from representatives of the Kansas Association of Centers for Independent Living, subsequent to the Subcommittee's reaching it's Subcommittee report, that there was an oversight in the budget that should be noted in the Subcommittee report. The Senator explained that there are a number of Kansans who are disabled and are on a PD Waiver when they turn 65 years of age and normally they transfer to the Department on Aging for an FE Waiver. Often this creates difficulties in that transition that are unnecessary, given the fact that both the Department on Aging and the Department on Social and Rehabilitation Services, in the meetings, determined that the difference in the cost of the relative waivers is not significant. Therefore, the disruption in peoples lives can be avoided simply by allowing people to stay on the PD Waiver when they turn 65, but that would require a shift of funding. It is believed that about 80 people would be impacted in this next budget year, and although there was significant work by Department of Social and Rehabilitation Services and the Department of Aging in working on this transition issue, the Department of Aging budget as submitted by the Governor took the 80 people out of the funding that otherwise would have been needed to fund these people coming on to the FE Waiver. Senator Adkins noted that the Department of

## CONTINUATION SHEET

Social and Rehabilitation Services budget from the Governor has not included the additional money for these 80 people that would remain on the PD waiver.

Senator Adkins moved, with a second by Senator Jackson, to amend the Subcommittee report to indicate anticipation of a Governor's Budget Amendment to resolve that issue as explained above and that it is clear that the intent of the Department of Social and Rehabilitation Services and the Department on Aging was to shift the funding and allow the people to remain on the SRS waiver, but that was not effectuated in both agencies' budget. Motion carried on a voice vote.

Senator Adkins moved, with a second by Senator Jackson, to adopt the subcommittee budget report on the Department on Aging for the FY 2002 and FY 2003 budget as amended . Motion carried by a voice vote.

Chairman Morris welcomed Kay McFarland, Chief Justice, Supreme Court of Kansas. Justice McFarland testified for the need for current year supplemental funding of \$600,000.00 and requested direct submission of the Judicial Branch Budget to the Legislature (Attachment 2). Committee questions and discussion followed.

Jerry Sloan, Judicial Branch, spoke regarding an overview of the Kansas Judicial Branch, including budget issues (Attachment 3). Kathy Porter, Judicial Branch, also spoke regarding direct submission of the Judicial Branch Budget to the Legislature (Attachment 4).

Chairman Morris thanked Justice McFarland and staff for their presentations before the Committee.

The meeting was adjourned at 11:50 a.m. The next meeting is scheduled for February 11, 2002.

SENATE WAYS AND MEANS COMMITTEE  
GUEST LIST

DATE February 7, 2002

NAME	REPRESENTING
Julie Thomas	DOB
Kyle Kessler	DOB
Amit Parekh	KBA
Renee Ross	IPS
Mike Brasser	Sec. of STATE
Logan Fink	KSNA
Angela Thompson	KSNA
Chris Crispine	KSNA
Ashley Shevard	Johnson County
Barb Reavis	Office of Governor
Jack Robinson	IPS
DITZEL	KATSA
Timanie Walters	KJMJA
Barb Coant	KTRA
Pedro Iniguezgaray	KTRA
Angela Meyer	Page Sen. Jim Barone
Mary Sicker	Page Sen. Jim Barone
Kirk Lowry	TILRC
Gary Arnold	COALITION FOR INDEPENDENCE
Jill A Lukensky	KS Home Care Assoc
B. marioni	DepA.
Karen Watney	Dy A



## Senate Subcommittee Report

**Agency:** Department on Aging

**Bill No.**

**Bill Sec.**

**Analyst:** Nogle

**Analysis Pg. No.** 544

**Budget Page No.** 39

Expenditure Summary	Agency Est. FY 02	Governor's Recommendation FY 02	Senate Subcommittee Adjustments
State Operations	10,534,160	10,282,316	0
Aid to Local Units	\$ 22,738,802	\$ 22,738,802	\$ 0
Other Assistance	383,876,400	377,496,875	0
<b>TOTAL</b>	<b>417,149,362</b>	<b>410,517,993</b>	<b>0</b>
State General Fund	144,524,378	142,349,727	0
Other Funds	272,624,984	268,168,266	0
<b>TOTAL</b>	<b>417,149,362</b>	<b>410,517,993</b>	<b>0</b>
FTE Positions	157.1	157.1	0.0
Non FTE Uncl. Perm. Pos.	1.8	1.8	0.0
<b>TOTAL</b>	<b>158.9</b>	<b>158.9</b>	<b>0.0</b>

### Agency Est./Governor's Recommendation

For FY 2002 the agency requests \$417.1 million from all funding sources, including \$144.5 million from the State General Fund. The request is an increase of \$40.4 million all funds (10.7 percent) and an increase of \$14.8 million (11.4 percent) State General Fund. The majority of the increase stems from increased nursing facility costs. The request provides \$325.0 million for nursing facilities; \$53.6 for Home and Community Based Services for the Frail Elderly (HCBS/FE); \$5.3 million for Targeted Case Management; \$10.0 million for nutrition grants; and \$10.6 million for agency administration.

The Governor recommends \$410.5 million from all funding sources, including \$142.3 million from the State General Fund. The recommendation is a decrease of \$6.6 million all funds (1.6 percent) and a decrease of \$2.2 million SGF (1.5 percent) from the agency request. The major reduction in the agency budgets is from nursing facility caseloads, to account for the November 2001 consensus caseload estimate. The HCBS/FE Waiver, Targeted Case Management and nutrition grants are all funded as requested.

*Senate Ways and Means  
2-7-02  
Attachment 1*

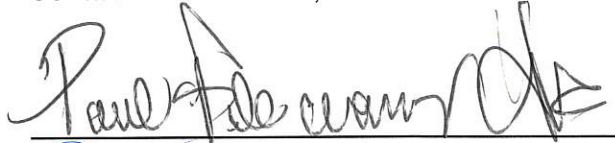
## Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following comments:

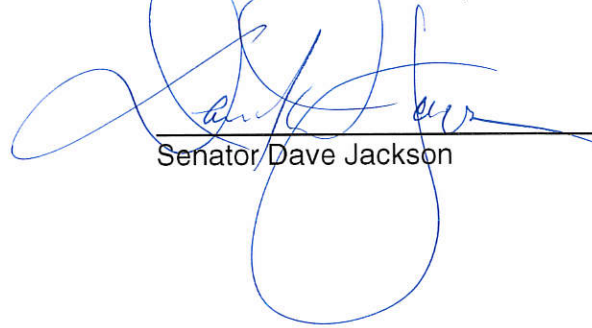
1. The Subcommittee commends the agency for pursuing the 1115 Demonstration Waiver, for a Senior Pharmacy Waiver which would maximize Senior Pharmacy Program funding, and encourages the agency in its continued efforts.



\_\_\_\_\_  
Senator David Adkins, Chairman



\_\_\_\_\_  
Senator Paul Feleciano, Jr.



\_\_\_\_\_  
Senator Dave Jackson

## Senate Subcommittee Report

**Agency:** Department on Aging

**Bill No.**

**Bill Sec.**

**Analyst:** Nogle

**Analysis Pg. No.** 544

**Budget Page No.** 39

Expenditure Summary	Agency Req. FY 03	Governor's Recommendation FY 03	Senate Subcommittee Adjustments
State Operations	\$ 9,921,882	\$ 9,306,258	\$ 0
Aid to Local Units	23,210,522	18,316,794	0
Other Assistance	400,150,800	387,375,370	0
TOTAL	<u>\$ 433,283,204</u>	<u>\$ 414,998,422</u>	<u>\$ 0</u>
State General Fund	\$ 155,171,332	\$ 144,407,696	\$ 0
Other Funds	278,111,872	270,590,726	0
TOTAL	<u>\$ 433,283,204</u>	<u>\$ 414,998,422</u>	<u>\$ 0</u>
FTE positions	157.1	157.1	0.0
Non FTE Uncl. Perm. Pos.	1.8	1.8	0.0
TOTAL	<u>158.9</u>	<u>158.9</u>	<u>0.0</u>

### Agency Req./Governor's Recommendation

For FY 2003 the agency requests \$433.3 million from all funding sources, including \$155.2 million from the State General Fund. The request is an increase of \$16.1 million all funds (3.9 percent) and an increase of \$10.6 million (7.4 percent) State General Fund. The majority of the increase stems from increased nursing facility costs. The request provides \$337.9 million for nursing facilities; \$56.8 for Home and Community-based Services for the Frail Elderly (HCBS/FE); \$5.5 million for Targeted Case Management; \$10.0 million for nutrition grants; and \$10.0 million for agency administration.

The Governor recommends \$415.0 million from all funding sources, including \$144.4 million from the State General Fund. The recommendation is a decrease of \$18.3 million all funds (4.2 percent) and a decrease of \$10.8 million SGF (6.9 percent) from the agency request. The major reduction in the agency budgets is from nursing facility caseloads, to account for the November 2001 consensus caseload estimate. The Targeted Case Management and nutrition grants are all funded as requested.

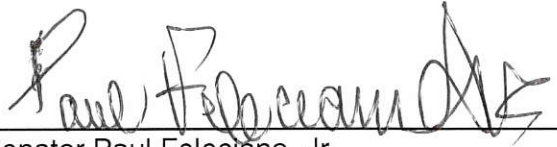
### Senate Subcommittee Submission

The Subcommittee submits the following for the committees consideration:

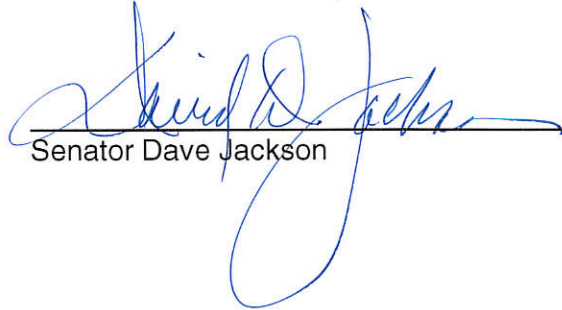
1. The Subcommittee recognizes that current resource estimates for the Intergovernmental Transfer Fund are uncertain at this time and recommends that any additional funds collected above the Governor's estimate be used first to fully fund the Senior Care Act with an additional \$4.4 million, then to fund an additional \$1,010,172 for the HCBS/FE waiver, then fund an additional \$393,720 to eliminate any Senior Care Act waiting list.
2. The Subcommittee encourages the agency to continue to pursue the 1115 Demonstration Waiver program for the development of a senior pharmacy waiver pilot project to maximize the funds available for the Senior Pharmacy Program.



\_\_\_\_\_  
Senator David Adkins, Chairman



\_\_\_\_\_  
Senator Paul Feleciario, Jr.



\_\_\_\_\_  
Senator Dave Jackson





# Supreme Court of Kansas

KAY MCFARLAND  
Chief Justice

Kansas Judicial Center  
Topeka, Kansas 66612-1507

(785) 296-5322

## Senate Ways and Means Committee

Thursday, February 7, 2002

### Judicial Branch Budget Issues

Chief Justice Kay McFarland

Thank you for the opportunity to appear this morning to discuss Judicial Branch budget request issues. Anyone who has read a newspaper or listened to a television or radio news report in the last several weeks is well aware that the State of Kansas has serious budgetary issues. Undoubtedly this will be a terribly difficult year as you struggle to make sure the limited dollars available are assigned where the need is greatest.

You have heard me speak in previous years about the Judicial Branch history of hiring freezes, and the lack of sufficient staffing to address the overwhelming caseload and increasing number of duties that face our staff each year. These circumstances, although dismal in several preceding years, have become increasingly serious in recent years. The Judicial Branch is falling into a vicious cycle of needing supplemental funding to complete even a current year, to say nothing of the budget request submitted for the upcoming fiscal year.

In FY 2001, the Judicial Branch's maintenance budget (the cost of just maintaining the salaries and wages of existing employees) was underfunded by approximately \$1.2 million, and supplemental funding of \$300,000 was needed to avert a furlough of our employees. In the current fiscal year, the maintenance budget is underfunded by approximately \$2 million, and supplemental funding is needed to avert a furlough. I cannot begin to tell you the situation we face in FY 2003, in which the underfunding totals approximately \$3.6 million. In FY 2000, the Judicial Branch ended the fiscal year with a balance of \$106, and in FY 2001 the Judicial Branch ended the fiscal year with a balance of \$12,000. These amounts are too close for comfort in a budget of approximately \$80 million.

Although the most important work of the Kansas courts includes matters that directly impact the lives of Kansas families and public safety, a high quality court system is also vitally important to the Kansas economy. Each year, innumerable business matters are resolved in our courts. Without just and efficient court operations, these cases would not receive timely attention and resolution, costing Kansas businesses money and creating a burden on the Kansas economy. Interestingly, the January 23, 2002, issue of *USA Today* contained the results of a survey

conducted by the United States Chamber of Commerce which rated each state's court system on reasonableness and fairness from a business perspective. Kansas ranked in the top five in that survey. However, if the current trend of underfunding continues, the Judicial Branch's ability to maintain these high standards will be severely endangered.

Already, citizens statewide have seen the effects of understaffing in district court clerks' offices which cannot remain open for business from 8:00 a.m. to 5:00 p.m. each work day. Only 34 of our 105 counties have clerk of the district court offices that are open from 8:00 a.m. to 5:00 p.m. The others open late, close early, or are closed over the noon hour because staff cannot keep up with the press of business. I have become accustomed in recent months to saying 35 counties, but another county shortened its hours just last week, and another county has been inquiring about shortened hours. As the staffing situation worsens, the court system's work will have to be prioritized, and not everything will be accomplished as quickly as it would have been in the past. There is a possibility some duties will not be accomplished at all.

### **Need for Current Year Supplemental Funding**

I would like to thank the many legislators who have responded to the needs of the Judicial Branch. Many of you have expressed support for our budget to me and to my staff. In particular, I was pleased to see that Section 2 of Senate Bill 385, the Kerr/Morris plan, addressed the current year needs by setting out current year supplemental funding. This would have allowed the current fiscal year to be completed without any more adverse personnel action than has already been required to meet the \$1.9 to \$2 million maintenance budget underfunding we face this year.

In addition, the Governor, in his State of the State address, recognized the needs of the Judicial Branch. He stated that the judiciary "is strained and limited by the resources we have been providing," and noted that "justice that cannot be accessed is justice denied." These recommendations, as well as the comments I have heard from many of you, make me hopeful that the message we have been delivering over the past few years has been heard and understood.

Without a supplemental appropriation for the current year, the Judicial Branch will be forced to take drastic personnel action in order to make ends meet. The supplemental request represents that portion of the \$1.9 to \$2 million maintenance budget underfunding that remains after we have taken the following steps:

- imposition of an across-the-board 60 to 90 day hiring freeze on all vacant positions;
- reduction of funding for temporary hours by 25%;
- elimination of district magistrate judge travel from outlying districts into districts that do not have district magistrate judges;
- elimination of travel for Court of Appeals hearings, so that all hearings are held in Topeka; and
- imposition of a local savings reduction on each district, which forced additional savings by either further reducing temporary hours or holding positions open beyond 60 to 90 days.

The steps noted above have been necessary, but they have been counterproductive to our need for accurate, thorough, and timely work in a judicial system already struggling with years of caseload growth and hiring freezes in eight of the past ten years. While I would expect our employees to bear with us during difficult budget times, the unfortunate fact is that the current budget cannot be viewed as an anomaly, as we have been chronically underfunded for years. Our employees have borne the brunt of the underfunding for years by struggling to do more and more work while many of the positions around them go unfilled due to lack of funding.

Unfortunately, what the Judicial Branch had estimated last summer as a \$529,000 remaining shortfall is now closer to \$600,000. The same factors that have been at play in the economy as a whole have impacted the Judicial Branch, and not enough savings have been realized from our stringent hiring freeze. Employees are not leaving Judicial Branch employment in the numbers experienced historically, and the turnover is less than projected. We are forcing additional turnover, but it does not appear that these efforts will be sufficient.

Without a current year supplemental appropriation, the Judicial Branch will be forced to impose a minimum of three furlough days in the current year. It is difficult to imagine that, for lack of \$600,000, an entire branch of government could be shut down. However, a budget that is approximately 97% salaries and wages leaves few options; either there is funding to meet the payroll, or there is not.

If three or more days of furlough were necessary in the current fiscal year, the Judicial Branch had hoped to deal with the situation by giving approximately 60 days notice to our employees and by staggering the days so that employees would not have more than one day without pay per month. We are left with the difficult choice of taking some action now, which ultimately may be determined to have been unnecessary, or waiting to see if the supplemental appropriation will be enacted into law. If it is not and furlough days are not taken until May, Judicial Branch employees will see at least one day without pay in each of the last three pay periods remaining in the year after the Legislature adjourns. For payroll purposes, the last day of the last pay period of FY 2002 is June 8. Leaving this decision until the final days of the legislative session is not a good option for our employees. Last year, the supplemental appropriation approved by the Legislature during the omnibus session was not signed into law by the Governor until May 25. For these reasons, prompt action on a supplemental appropriation needs to be taken. To address this need, I am requesting the introduction of a supplemental appropriation bill that is not linked to any other proposal. We need an early indicator that supplemental funding will be forthcoming, or the uncertainty of whether or not a furlough will be necessary will continue to take a toll on our employees.

### **FY 2003 Budget Needs**

The Governor's original budget proposal for FY 2003 underfunds the Judicial Branch by \$3.6 million, which obviously would result in an even more precarious fiscal situation than in the present fiscal year. I have no choice but to pursue this funding from the 2002 Legislature at every opportunity.

If the \$3.6 million reduction from the Judicial Branch maintenance budget stands, it would force furlough weeks instead of furlough days. Because turnover in judicial positions is minimal and the Constitution prohibits salary reductions for judges, these reductions must be in nonjudicial personnel salaries. This would have a tremendous impact on the income of the members of the Judicial Branch who can probably least afford it. Without the necessary level of funding, our courts will be unable to provide those essential services which are required by the Kansas Constitution and Kansas statutes.

I ask you to avoid the shutdown of the Kansas courts.

## **Direct Submission of the Judicial Branch Budget to the Legislature**

Finally, I would like to mention our continued desire to submit the Judicial Branch budget directly to the Legislature, rather than to the Director of the Budget and the Governor. You will probably remember SB 49, which is a carryover bill from the last legislative session. It would delete from current law the Director of the Budget's authority to review and make recommendations for proposed changes to the Judicial Branch budget.

Prior to Court unification, the Supreme Court did submit its budget directly to the Legislature. That only makes sense. Why should one branch of government submit its budget to another branch before submitting it to the Legislature for appropriation? This question is no reflection on any one governor in particular. I have spoken with Governor Graves about the fiscal needs of the Judicial Branch on several occasions, and he is sympathetic to the crisis facing the Kansas courts. The Governor has assured me he is not opposed to this bill. It is not surprising, however, that the Division of the Budget must give the highest priority to its own Executive Branch of government.

The current process is counterproductive for all involved. Once the Judicial Branch budget suffers the significant cuts rendered by the Executive Branch, legislative time is needlessly spent as we attempt to restore funding necessary to the basic needs of the Judicial Branch. These cuts are arbitrary cuts, with no justification, and they are one of the basic reasons the Judicial Branch falls behind each year.

The Division of the Budget spends time going through the Judicial Branch budget, which has been submitted with basic requests, with its preconceived plan to make cuts where no reasonable cuts are possible. Therefore, arbitrary cuts are made. As one example, in FY 2003 a preliminary cut of \$400,000 was made from expenditures for contractual services in the district courts. This is the money spent for district judges to travel from one county to another within a district to hear cases. The total request from the State General Fund for all operating expenditures in the district courts is only \$308,163. In addition to cutting more than was requested in the first place, that particular item is one that cannot be cut at all. Cutting all district judge travel to other counties within their districts would mean that, in 56 counties without district judges, no felony criminal trials could be held, no domestic cases could be heard, no major civil cases could be heard, and other matters not within the jurisdiction of district

magistrate judges simply could not be heard.

In other years, examples of cuts recommended by the Division of the Budget in its initial recommendations have included cutting a federally funded position, which would have produced no State General Fund savings, and cutting the only administrative assistant for the Chief Judge of the Court of Appeals. The bottom line is that any significant cut to the Judicial Branch budget will be taken in salaries and wages, regardless of where they are recommended initially. Our budget is truly a maintenance budget, and there are no reasonable cuts that can be made therein.

Let me reassure you that the Judicial Branch budget is critically reviewed at many levels before it goes to the Director of the Budget. At that point, there is no fat left to trim. Every request made by each judicial district is justified and approved by the chief judge for that district. These requests are then reviewed by both the Office of Judicial Administration and the Supreme Court, who evaluate each district's request in light of caseload analysis and other relevant factors. Chief judges, who often receive drastic cuts in their request, have the opportunity to appeal the cuts from their funding requests to the Supreme Court. This internal process mirrors the Executive Branch budget process.

You are familiar with the difference between the Judicial Branch budget and many of the budgets of agencies within the other two branches of government. Approximately 97% of the funding of the Judicial Branch budget goes to salaries. The remainder is used for the basically fixed costs that are our other operating expenses (OOE). There is essentially no place for the Judicial Branch to absorb a cut in funding, other than by cutting nonjudicial salary expenditures.

I have been asked whether the Judicial Branch budget is submitted directly to the Legislature in other states. Research has revealed that, of the fifty states and the District of Columbia, 31, or 61%, do not allow the Executive Branch to amend the state's Judicial Branch budget. I have also been asked whether the ending balance law presents a difficulty. The 2000 - 2001 *Book of the States* shows that all but six states require the Governor to submit a balanced budget, either by statute or constitutional provision, so this obviously is not a stumbling block to direct submission of the Judicial Branch budget to the Legislature. There are separate attachments to address this issue and other questions along this line, and they will be discussed later.

Amending current law to allow the Judicial Branch budget to be submitted directly to the Legislature will not change the budgetary bottom line. The same budget analysis and legislative review would take place. Any amount requested by the Judicial Branch and not approved by the Legislature would simply be available for the Legislature to spend on other items, or would remain unexpended in the State General Fund.

I would argue this gives you, as legislators, much more flexibility and puts you in a better position than does the current law, because you are not forced to cut dollars from some other program or agency to fund the Judicial Branch. Moreover, direct submission of the Judicial Branch budget could help to focus both legislative and judicial time and energy on the real issues

present in the Judicial Branch budget, rather than focusing on cuts made by the Executive Branch. I urge you to consider favorably recommending SB 49.

As always, I appreciate the opportunity to speak with you, as well as your efforts to fund the Judicial Branch and to understand the budget issues we face. Please do not hesitate to contact me or my staff if any additional information would be helpful to you.

Attachments Accompanying Chief Justice Kay McFarland's Remarks

Overview of the Kansas Judicial Branch, Including Budget Issues

Senate Ways and Means Committee

Thursday, February 7, 2002

Senate Ways and Means  
2-7-02  
Attachment 3

#### Attachment A

Attachment A shows the history of statutory provisions regarding submitting the Judicial Branch budget to the Governor.

#### Attachment B

Attachment B shows a seven-year history of Judicial Branch State General Fund expenditures for other operating expenditures (OOE). Although it is frequently noted that approximately 97% of the Judicial Branch budget is expended for salaries and wages, this shows the actual State General Fund amounts that are expended for OOE.

#### Attachment C

Attachment C shows the number of nonjudicial personnel in the district courts from FY 1991 to FY 2001. The actual net increase in FTE positions from FY 1991 to FY 2001 has been 30.0 FTE positions.

#### Attachment D

Attachment D shows the number of days vacant nonjudicial positions were held open from FY 1993 to FY 2001. Some years noted as "60 days or more" had 90-day hiring freezes.

#### Attachment E

Attachment E shows a five-year history of the amount requested from the State General Fund, the Governor's recommendation, the dollar difference between those two amounts, the total State General Fund expenditures recommended, and the difference expressed as a percentage of total recommended State General Fund expenditures.



**Judicial Branch Budget Submission to Governor Issue  
History of Statutory Provisions**

L.1976, Ch. 146, §42

*New Sec. 42.* The chief justice of the supreme court shall be responsible for the preparation of the budget for the judicial branch of state government, with such assistance as the chief justice may require from the judicial administrator and shall submit to the director of the budget, at the time prescribed by law, the annual budget request for the judicial branch of state government for inclusion in the annual budget document for appropriations for the judiciary.

L. 1978, Ch. 108, §5

Sec. 5. K.S.A. 1977 Supp. 20-158 is hereby amended to read as follows: 20-158. The chief justice of the supreme court shall be responsible for the preparation of the budget for the judicial branch of state government, with such assistance as the chief justice may require for the judicial administrator ~~and, the chief judge of the court of appeals and the administrative judge of each judicial district.~~ *Each district court and the court of appeals shall submit their budget requests to the chief justice in such form and at such time as the chief justice may require. The chief justice shall submit to the director of the budget, at the time prescribed by law, the annual budget request for the judicial branch of state government for inclusion, without any changes therein, in the annual budget document for appropriations for the judiciary. Such budget shall be prepared and submitted in the manner provided by K.S.A. 75-3716 and 75-3717.*

L. 1979, Ch. 290, §1

Section 1. K.S.A. 1978 supp. 20-158 is hereby amended to read as follows: 20-158. The chief justice of the supreme court shall be responsible for the preparation of the budget for the judicial branch of state government, with such assistance as the chief justice may require from the judicial administrator, the chief judge of the court of appeals and the administrative judge of each judicial district. Each district court and the court of appeals shall submit their budget requests to the chief justice in such form and at such time as the chief justice may require. The chief justice shall submit to the director of the budget the annual budget request for the judicial branch of state government for inclusion, ~~without any changes therein,~~ in the annual budget document for appropriations for the judiciary. Such budget shall be prepared and submitted in the manner provided by K.S.A. 75-3716 and K.S.A. 1978 Supp. 75-3717. *The director of the budget shall review and may make such recommendations to the legislature for proposed changes in such budget as the director deems necessary and appropriate.*

**Attachment A**

# Kansas Judicial Branch

## State General Fund OOE Expenditures

Fiscal Year	Expenditures
1996	\$1,727,051
1997	\$1,572,815
1998	\$1,951,482
1999	\$2,406,082
2000	\$1,663,915
2001	\$1,496,230
2002 (est.)	\$1,608,128

# Kansas Judicial Branch

## District Court Nonjudicial Personnel

Fiscal Year	FTE
1991	1,404.0
1992	1,349.5
1993	1,348.5
1994	1,367.0
1995	1,380.0
1996	1,387.0
1997	1,389.0
1998	1,404.0
1999	1,419.0
2000	1,434.0
2001	1,433.0

# Kansas Judicial Branch

## Hiring Freeze History 1993 - Present

Fiscal Year	Freeze
1993	60 days or more
1994	60 days or more
1995	60 days or more
1996	60 days or more
1997	60 days or more
1998	45 days or more
1999	
2000	
2001	60 days or more
2002	60 days or more; increased to 90 days or more

### Judicial Branch SGF Request History

Judicial Branch SGF Request	Governor's Recommended SGF for Judicial Branch	Difference Between Judicial Branch Request and Governor's Recommendations for all State Government*	Total Governor's Recommendation for SGF Expenditures	Difference as a Percentage of SGF Recommended Expenditures
FY 2001 \$82,415,555**	\$77,502,339	(\$4,913,216)	\$4,425,900,000	0.11% (eleven one-hundredths of one percent)
FY 2000 \$79,189,087	\$76,404,385	(\$2,784,702)	\$4,419,200,000	0.06% (six one-hundredths of one percent)
FY 1999 \$74,838,457	\$73,645,877	(\$1,192,580)	\$4,082,200,000	0.03% (three one-hundredths of one percent)
FY 1998 \$70,245,773	\$69,508,739	(\$737,034)	\$3,753,100,000	0.02% (two one-hundredths of one percent)
FY 1997 \$69,672,067	\$66,913,844	(\$2,758,223)	\$3,521,800,000	0.08% (eight one-hundredths of one percent)

\*Amounts rounded to the nearest million as noted in *The Governor's Budget Report*.

\*\*FY 2001 requested expenditures exclude funding of \$2,364,646 requested for the Nonjudicial Salary Initiative, which later was amended as a request from docket fees.

This table shows a five-year history of the amount requested from the State General Fund, the Governor's recommendation, the dollar difference between those two amounts, the total State General Fund expenditures recommended, and the difference expressed as a percentage of total recommended State General Fund expenditures.



State of Kansas

## Office of Judicial Administration

Kansas Judicial Center

301 SW 10<sup>th</sup>

Topeka, Kansas 66612-1507

(785) 296-2256

### **Additional Questions and Answers Regarding Direct Submission of the Judicial Branch Budget to the Legislature**

1. In other states, does the Executive Branch amend the Judicial Branch budget?

According to the U.S. Department of Justice, Bureau of Justice Statistics, the answer is "no" in 31 of the 50 states and the District of Columbia. This equates to a 61% majority. In practice, an even greater number of states may follow the majority in not allowing the Executive Branch to amend the Judicial Branch budget. For example, North Carolina, which is noted as a state in which the Executive Branch can amend the Judicial Branch budget, actually does not follow that practice. In practice, the North Carolina Judicial Branch submits its budget directly to the Legislature, and the Executive Branch does not amend the Judicial Branch budget.

2. Can direct submission of the Judicial Branch budget to the Legislature work, given the fact that the Governor must submit a budget in compliance with the 7.5% ending balance law?

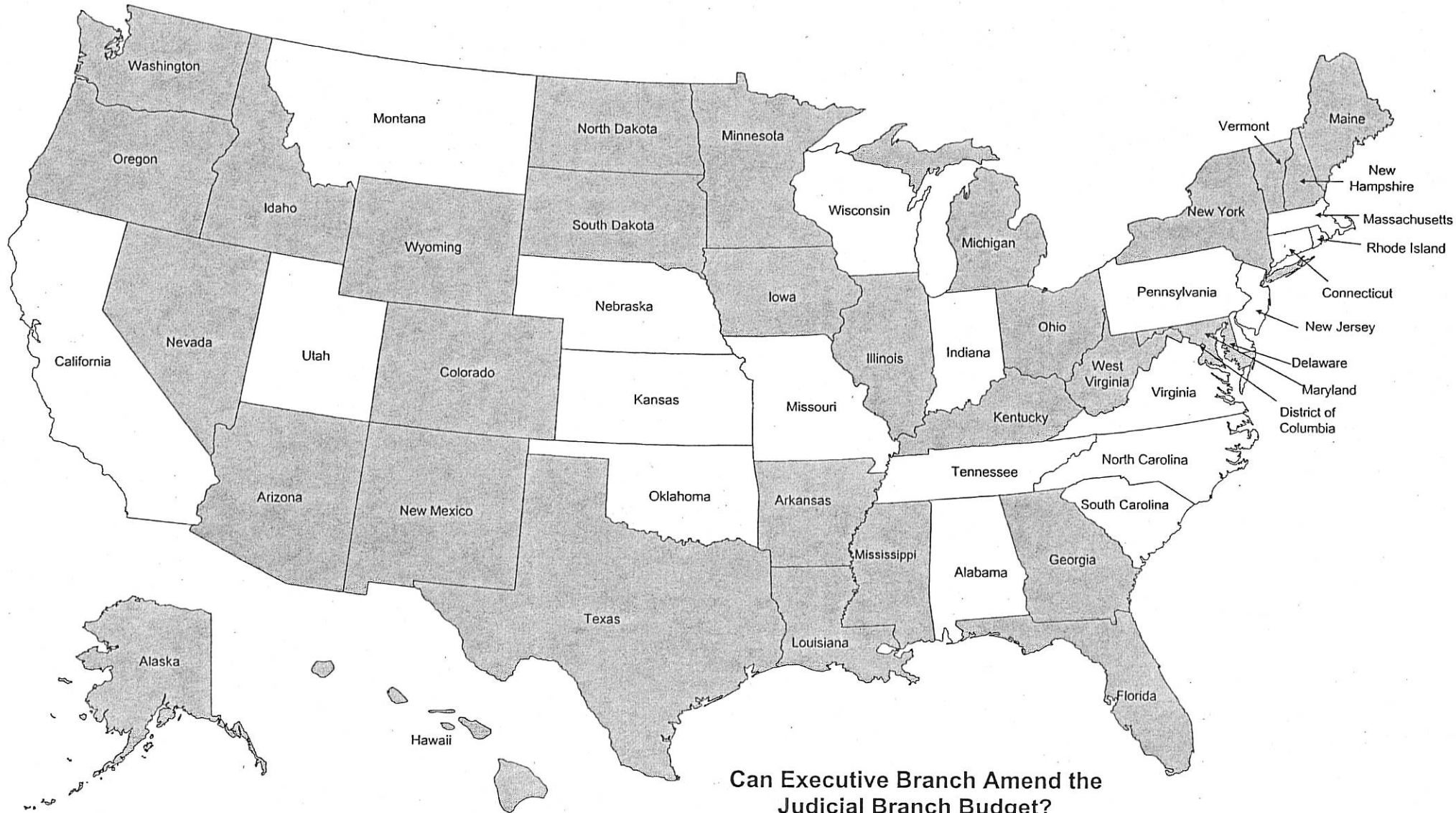
According to *The Book of the States*, published by the Council of State Governments, all but six states require the governor to submit a balanced budget, either by constitutional or statutory provision. Clearly, the ending balance requirement is not an impediment to direct submission of the Judicial Branch budget to the Legislature.

3. Do states that have an Executive budget (initiated by the Governor) differ on this issue from states that have a Legislative budget (initiated by the Legislature)?

Attached materials obtained from the National Conference on State Legislatures show that states with both types of budgets have the Judicial Branch budget submitted directly to the Legislature.

Senate Ways and Means  
2-7-02  
Attachment 4

# Submission of State Judicial Branch Budgets



Source: *State Court Organization, 1998*  
 Bureau of Justice Statistics, US Department of Justice

**PREPARATION AND SUBMISSION OF JUDICIAL BRANCH BUDGET**  
 State Balanced Budgets: Constitutional and Statutory Provisions, Gubernatorial and Legislative Authority

	Where Submitted?*	Can Executive Branch Amend Budget?*	Governor Must Submit a Balanced Budget**	Entity that Writes the Appropriations Bills***	
				Executive Branch	House, Senate, Nonpartisan Fiscal Staff, or Other
Alabama	To the executive branch	Yes, routinely	C,S	■	
Alaska	To the legislature	No	S	■	
Arizona	To legislature and executive branch	No	C,S		■
Arkansas	To the legislature	No	S		■
California	To legislature and executive branch	Yes, routinely	C	■	
Colorado	To the legislature	No	C		■
Connecticut	To the executive branch	Yes, routinely	S	■	
Delaware	To legislature and executive branch	Yes, routinely <sup>10</sup>	C,S		■
District of Columbia	<sup>~13</sup>	No			
Florida	To the legislature	No	C,S		■
Georgia	To the executive branch	No	C		■
Hawaii	To the legislature	No	C,S	■	
Idaho	To the legislature	No	...		■
Illinois	To the legislature	No	C,S	■	
Indiana	To the executive branch	Yes, routinely	...		■
Iowa	To the legislature	No	C,S		■



				Entity that Writes the Appropriations Bills***	
	Where Submitted?*	Can Executive Branch Amend Budget?*	Governor Must Submit a Balanced Budget**	Executive Branch	House, Senate, Nonpartisan Fiscal Staff, or Other
Kansas	To legislature and executive branch <sup>20</sup>	Yes, routinely	S	■	
Kentucky	To the legislature	No	C,S	■	
Louisiana	To the legislature	No	C,S	■	
Maine	To the executive branch	~ <sup>25</sup>	C,S	■	
Maryland	To the executive branch <sup>27</sup>	No	C	■	
Massachusetts	To the executive branch <sup>29</sup>	Yes	C,S	■	
Michigan	To the legislature <sup>31</sup>	No <sup>32</sup>	C,S	■	
Minnesota	To the executive branch <sup>34</sup>	No	C,S	■	
Mississippi	To the legislature	No	S		■
Missouri	To the executive branch	~ <sup>35</sup>	C	■	
Montana	To the executive branch	Yes, routinely <sup>37</sup>	S	■	
Nebraska	To the legislature	Yes, routinely <sup>38</sup>	C	■	
Nevada	To the legislature	No	S		■
New Hampshire	To the executive branch	No	S		■
New Jersey	To the executive branch <sup>40</sup>	Yes, routinely	C		■
New Mexico	To legislature and executive branch <sup>42</sup>	No	C		■
New York	To legislature and executive branch	No <sup>45</sup>	C	■	
North Carolina	To legislature and executive branch <sup>47</sup>	Yes, occasionally <sup>48</sup>	C,S		■
North Dakota	To the executive branch	No	C	■	
Ohio	To the executive branch	No	C		■

	Where Submitted?*	Can Executive Branch Amend Budget?*	Governor Must Submit a Balanced Budget**	Entity that Writes the Appropriations Bills***	
				Executive Branch	House, Senate, Nonpartisan Fiscal Staff, or Other
Oklahoma	To the legislature	Yes, occasionally	S		■
Oregon	To the legislature	No	C	■	
Pennsylvania	To legislature and executive branch <sup>56</sup>	Yes, routinely	C,S	■	■
Puerto Rico	To the legislature	No	C	■	
Rhode Island	To the legislature	~	C	■	
South Carolina	To the executive branch	Yes, routinely	C		■
South Dakota	To the executive branch	No	C		■
Tennessee	To the executive branch	Yes, routinely	C	■	
Texas	To the legislature	No	...		■
Utah	To the legislature <sup>62</sup>	Yes, routinely <sup>63</sup>	S		■
Vermont	To the legislature	No <sup>64</sup>	...	■	
Virginia	To the executive branch	Yes, routinely	(ii)	■	
Washington	To the legislature	No	S	■	
West Virginia	To the executive branch	No <sup>67</sup>	...	■	
Wisconsin <sup>69</sup>	To legislature and executive branch <sup>70</sup>	Yes, routinely	C	■	
Wyoming	To the legislature	No	C		■

Kentucky - The executive branch drafts the proposed act for the executive branch, the chief justice for the Judicial Branch, and the Legislative Research Commission for the legislative branch.

Sources: \**State Court Organization* 1998, Bureau of Justice Statistics, U.S. Department of Justice

\*\*The Book of the States 2000-2001, Council of State Governments

\*\*\*National Conference of State Legislatures

Key:~ = Not Applicable

C = Constitutional

S = Statutory

... = No

Table 17. Preparation and Submission of the Judicial Branch Budget

	Who Prepares the Budget?	Branch Review of Budget?	Where Submitted?
Alabama	AOC	Yes, by AOC	To the executive branch
Alaska	AOC <sup>2</sup>	Yes, by COLR	To the legislature
Arizona	AOC	Yes, other <sup>3</sup>	To legislature and executive branch
Arkansas	AOC	Yes, by AOC	To the legislature
California	AOC	Both the AOC and COLR <sup>6</sup>	To legislature and executive branch
Colorado	AOC	Yes, by COLR	To the legislature
Connecticut	AOC	Yes, by AOC	To the executive branch
Delaware	Other <sup>8</sup>	Yes, other <sup>9</sup>	To legislature and executive branch
District of Columbia	AOC	Yes, other <sup>13</sup>	To legislature and executive branch _13
Florida	AOC	Yes, other <sup>14</sup>	To the legislature
Georgia	Other <sup>15</sup>	Yes, by COLR	To the executive branch
Hawaii	Individual courts	Yes, by AOC <sup>17</sup>	To the legislature
Idaho	COLR	Yes, by COLR	To the legislature
Illinois	AOC	Yes, by COLR	To the legislature
Indiana	COLR <sup>19</sup>	Yes, by COLR	To the executive branch
Iowa	AOC	Yes, by COLR	To the legislature
Kansas	AOC	Yes, by COLR	To legislature and executive branch <sup>20</sup>
Kentucky	AOC	Yes, by COLR	To the legislature
Louisiana	Other <sup>22</sup>	Both the AOC and COLR <sup>23</sup>	To the legislature
Maine	AOC <sup>24</sup>	Yes, by AOC	To the executive branch
Maryland	AOC <sup>26</sup>	Yes, by AOC	To the executive branch <sup>27</sup>
Massachusetts	Other <sup>29</sup>	Yes, other <sup>29</sup>	To the executive branch <sup>29</sup>
Michigan	AOC	Yes, by COLR	To the legislature <sup>31</sup>
Minnesota	AOC	Both the AOC and COLR <sup>33</sup>	To the executive branch <sup>34</sup>
Mississippi	COLR	Yes, by COLR	To the legislature
Missouri	AOC	Yes, by COLR	To the executive branch
Montana	AOC	Yes, by AOC	To the executive branch
Nebraska	AOC	Yes, by COLR	To the legislature
Nevada	AOC	Yes, by COLR	To the legislature
New Hampshire	AOC	Yes, by COLR	To the executive branch
New Jersey	AOC <sup>39</sup>	Yes, by AOC	To the executive branch <sup>40</sup>
New Mexico	Individual courts	Yes, other <sup>41</sup>	To legislature and executive branch <sup>42</sup>
New York	AOC <sup>44</sup>	Yes, by AOC	To legislature and executive branch
North Carolina	AOC	Yes, by AOC	To legislature and executive branch <sup>47</sup>
North Dakota	AOC <sup>52</sup>	Yes, by COLR	To the executive branch
Ohio	AOC	Yes, by AOC	To the executive branch
Oklahoma	AOC	Yes, by COLR	To the legislature
Oregon	Other <sup>54</sup>	Yes, by AOC	To the legislature
Pennsylvania	AOC <sup>55</sup>	Yes, by AOC	To legislature and executive branch <sup>56</sup>
Puerto Rico	AOC	Yes, by AOC	To the legislature
Rhode Island	Individual courts	Yes, by AOC	To the legislature
South Carolina	COLR	Yes, by COLR	To the executive branch
South Dakota	AOC	Yes, by COLR <sup>57</sup>	To the executive branch
Tennessee	Other <sup>58</sup>	Yes, by COLR	To the executive branch
Texas	Individual courts	Yes, by AOC <sup>59</sup>	To the legislature
Utah	Other <sup>60</sup>	Yes, other <sup>61</sup>	To the legislature <sup>62</sup>
Vermont	AOC	Yes, by COLR	To the legislature
Virginia	AOC	Yes, by AOC	To the executive branch
Washington	AOC <sup>65</sup>	Yes, by COLR	To the legislature
West Virginia	AOC	Yes, by COLR <sup>66</sup>	To the executive branch
Wisconsin <sup>69</sup>	AOC	Yes, by COLR	To legislature and executive branch <sup>70</sup>
Wyoming	Individual courts <sup>72</sup>	No <sup>73</sup>	To the legislature

Table 17. Preparation and Submission of the Judicial Branch Budget

Can Executive Branch Amend Budget?	Does Legislature Take Official Cognizance of Budget?	Is Judicial Appropriation Filed as Separate Bill?	Budget Period	Judicial Percentage of State Budget Appropriation	
Yes, routinely	No <sup>1</sup>	No	Biennial, Oct-Sep	1.9	Alabama
No	No	No	Annual, Jul-Jun	1.3	Alaska
No	Yes	No	Biennial, <sup>4</sup> Jul-Jun	2.4	Arizona
No	Yes	Yes <sup>5</sup>	Biennial, Jul-Jun	.5	Arkansas
Yes, routinely	Yes	No	Annual, Jul-Jun	2.0	California
No	Yes	No	Annual, Jul-Jun	3.0 <sup>7</sup>	Colorado
Yes, routinely	Yes	No	Biennial, Jul-Jun	2.0	Connecticut
Yes, routinely <sup>10</sup>	Yes <sup>11</sup>	No	Annual, <sup>12</sup> Jul-Jun	2.9	Delaware
No	-	-	Annual, Oct-Sep	-	District of Columbia
No	Yes	No	Annual, Jul-Jun	.6	Florida
No	Yes <sup>16</sup>	No	Annual, Jul-Jun	1.0	Georgia
No	Yes	Yes	Biennial, <sup>18</sup> Jul-Jun	2.8	Hawaii
No	Yes	No	Annual, Jul-Jun	1.0	Idaho
No	Yes	Yes	Annual, Jul-Jun	.7	Illinois
Yes, routinely	Yes	No	Biennial, Jul-Jun	.4	Indiana
No	Yes	Yes	Annual, Jul-Jun	2.3	Iowa
Yes, routinely	Yes	No	Annual, Jul-Jun	1.0	Kansas
No	Yes	Yes	Annual, <sup>21</sup> Jul-Jun	2.4	Kentucky
No	Yes	Yes	Annual, Jul-Jun	.5	Louisiana
- <sup>25</sup>	-	No	Biennial, Jul-Jun	1.9	Maine
No	Yes <sup>28</sup>	No	Annual, Jul-Jun	1.5	Maryland
Yes	Yes	No <sup>30</sup>	Annual, Jul-Jun	2.0	Massachusetts
No <sup>32</sup>	Yes	Yes	Annual, Oct-Sep	1.0	Michigan
No	Yes	No	Biennial, Jul-Jun	1.0	Minnesota
No	Yes	Yes	Annual, Jul-Jun	1.5	Mississippi
- <sup>35</sup>	- <sup>36</sup>	No	Annual, Jul-Jun	1.4	Missouri
Yes, routinely <sup>37</sup>	Yes	No	Annual, Jul-Jun	1.0	Montana
Yes, routinely <sup>38</sup>	Yes	No	Biennial, Jul-Jun	2.0	Nebraska
No	Yes	Yes	Biennial, Jul-Jun	1.0	Nevada
No	Yes	No	Biennial, Jul-Jun	1.7	New Hampshire
Yes, routinely	Yes	No	Annual, Jul-Jun	2.1	New Jersey
No	Yes	Yes <sup>43</sup>	Annual, Jul-Jun	2.5	New Mexico
No <sup>45</sup>	Yes	Yes <sup>46</sup>	Annual, Apr-Mar	1.2	New York
Yes, occasionally <sup>48</sup>	Yes	No <sup>49</sup>	Biennial, <sup>50</sup> Jul-Jun	3.0 <sup>51</sup>	North Carolina
No	-	Yes	Biennial, Jun-Jun <sup>53</sup>	.9	North Dakota
No	Yes	No	Biennial, Jul-Jun	.4	Ohio
Yes, occasionally	Yes	Yes	Annual, Jul-Jun	1.0	Oklahoma
No	Yes	Yes	Biennial, Jul-Jun	3.6	Oregon
Yes, routinely	Yes	No	Annual, Jul-Jun	.5	Pennsylvania
No	Yes	No	Annual, Jul-Jun	3.0	Puerto Rico
-	-	No	Annual, Jul-Jun	2.0	Rhode Island
Yes, routinely	Yes	No	Annual, Jul-Jun	.8	South Carolina
No	Yes	No	Annual, Jul-Jun	1.2	South Dakota
Yes, routinely	Yes	No	Annual, Jul-Jun	.5	Tennessee
No	Yes	No	Biennial, Sep-Aug	.4	Texas
Yes, routinely <sup>63</sup>	Yes	No	Annual, Jul-Jun	2.5	Utah
No <sup>64</sup>	Yes	No	Annual, Jul-Jun	2.0	Vermont
Yes, routinely	No	No	Biennial, Jul-Jun	1.2	Virginia
No	Yes	No	Biennial, Jun-Jun	.1	Washington
No <sup>67</sup>	Yes <sup>68</sup>	No	Annual, Jul-Jun	1.5	West Virginia
Yes, routinely	No	No	Biennial, <sup>71</sup> Jul-Jun	.9	Wisconsin
No	Yes	No	Biennial, Jul-Jun	2.0	Wyoming

Legend: --= Not applicable;  
AOC = Administrative Office of the Courts

Table 17. Preparation and Submission of the Judicial Branch Budget

FOOTNOTES:

**Alabama:**

<sup>1</sup>The AOC may be asked to appear before the legislature for direct presentation of the budget in budget hearings.

**Alaska:**

<sup>2</sup>Four area Court Administrators create initial input to the Administrative Fiscal Office. The Administrative Office creates the initial budget submission document.

**Arizona:**

<sup>3</sup>Chief Justice and Vice Chief Justice.  
<sup>4</sup>FY99 is annual; FY00-01 is first biennial.

**Arkansas:**

<sup>5</sup>Only judicial salaries are in the General Appropriations Act.

**California:**

<sup>6</sup>Judicial Council also involved.

**Colorado:**

<sup>7</sup>This percentage represents the judicial operating budget from the General Fund. It does not include the Public Defender's Office or the Alternate Defense Counsel.

**Delaware:**

<sup>8</sup>Each court and judicial agency submits a draft budget request to the Chief Justice through the AOC. The Chief Justice for the entire court system prioritizes major adjustments, enhancements, and new initiatives after considering AOC recommendations. The court office making the request strikes requests not shown on the Chief Justice's prioritized listing. The adjusted budget requests are then filed electronically by each area.

<sup>9</sup>Chief Justice through AOC.

<sup>10</sup>The Governor recommends all appropriations to the General Assembly.

<sup>11</sup>The courts' budget requests are available to the General Assembly because they receive copies of it. But it is the Governor's recommended budget that the General Assembly reviews together with the Judiciary's budget requests presented by the Chief Justice.

<sup>12</sup>By law, the period is biennial; by practice it is annual.

**District of Columbia:**

<sup>13</sup>With the enactment of the National Capital Revitalization and Self-Government Improvement Act of 1997, DC Courts began to receive direct funding from the federal government. The AOC continues to have responsibility for the initial preparation of the budget. After review by the Joint Committee on Judicial Administration, the budget is submitted directly to the Office of Management and Budget, through the President and sent to Congress.

**Florida:**

<sup>14</sup>Chief Justice.

**Georgia:**

<sup>15</sup>Court of Last Resort and Councils of Trial Courts (AOC).

<sup>16</sup>Judicial Branch budget is included in Governor's Budget request to legislature. Legislative Budget Office reviews continuation budget, and can make adjustments. The legislature also reviews requests for new funding.

**Hawaii:**

<sup>17</sup>The central budget office directs the preparation and consolidation of the budget.

<sup>18</sup>State operates on a biennial budget cycle; however, a supplemental budget request is prepared for the off years.

**Indiana:**

<sup>19</sup>The Division of State Court Administration, an agency of the Court of Last Resort, prepares most of the state-funded portion of the state judicial branch's budget. The Intermediate Appellate Court prepares a separate budget for its operations.

**Kansas:**

<sup>20</sup>Budget is submitted simultaneously to both the legislature and the Governor.

**Kentucky:**

<sup>21</sup>Annual budgets enacted biennially.

**Louisiana:**

<sup>22</sup>Judicial Budgetary Control Board.

<sup>23</sup>Prior to each session of the legislature, the Judicial Budgetary Control Board submits a proposed budget for the judicial branch to the Supreme Court for its approval.

**Maine:**

<sup>24</sup>In consultation with the Chief Justice.

<sup>25</sup>If the Governor does not include in state's budget anything in the Judicial Branch budget, the reason must be stated.

**Maryland:**

<sup>26</sup>The lower trial court (District Court) prepares its own budget section which is consolidated by the AOC with all other judiciary components.

<sup>27</sup>The executive branch combines the Judicial budget into a single budget for legislative approval. The Executive Branch can comment upon but cannot reduce Judiciary budget.

<sup>28</sup>Legislature can reduce or add to Judiciary budget. Executive Branch can only comment.

**Massachusetts:**

<sup>29</sup>The Chief Justice of the Supreme Judicial Court submits the budget requests of the judicial branch to the budget director for inclusion in the budget submitted by the Governor. (G.L.c. 211, §2A.) In doing so, the Chief Justice may use estimates prepared by the Chief Justice of the Appeals Court and the Trial Court's Chief Justice for Administration and Management. The Governor may amend the Chief Justice's requests.

<sup>30</sup>Copies of judicial branch budget estimates are routinely sent to the House and Senate Committees on Ways and Means when submitted to the Governor. The annual appropriation bill notes the judicial estimates as well as the Governor's requests for the courts.

**Michigan:**

<sup>31</sup>The budget is submitted directly to both the executive and legislative branches.

<sup>32</sup>The Governor makes recommendations regarding the judicial budget.

**Minnesota:**

<sup>33</sup>Conference of Chief Judges is a representative trial court body. Each district elects a Chief Judge and Assistant Chief Judge.

<sup>34</sup>The executive branch incorporates judicial branch budget requests without recommendation.

**Missouri:**

<sup>35</sup>They may recommend a different amount or recommend nothing.

<sup>36</sup>They get a judicial budget request with the governor's recommendation and do what they choose.

**Montana:**

<sup>37</sup>Statute states that the executive branch must submit budget without charge but does not require executive branch to fund the total request.

**Nebraska:**

<sup>38</sup>Executive branch makes a request which includes the Judicial budget—based upon their analysis of AOC's request to the legislature and copied to the executive branch. The practice also is that the legislature introduces its own legislation, which becomes the budget bill.

**New Jersey:**

<sup>39</sup>Each vicinage (judicial district) prepares a request which is reviewed by the AOC and a Budget Committee made up of Assignment Judges (Chief Judges) and senior management. Those requests are consolidated into one judicial branch budget submission.

<sup>40</sup>AOC also sends information to the legislature.

**Table 17. Preparation and Submission of the Judicial Branch Budget**

**New Mexico:**

<sup>41</sup>The Chief Judges Council, primarily through its Budget Committee, reviews all budget submissions and sets priorities among them.

<sup>42</sup>To the legislature and executive branch simultaneously.

<sup>43</sup>As of last year's appropriation process. Some parts of the courts' budget continue to be included in the over-all appropriations legislation, such as across-the-board salary increases.

**New York:**

<sup>44</sup>Courts prepare initial estimates, regional offices (District Administrative Judges Offices) modify and prioritize court estimates and the AOC prepares final state budget request amounts and submission for certification and approval of the Court of Appeals.

<sup>45</sup>The Governor may comment on submission in the executive budget, but may not change the requested amounts.

<sup>46</sup>The judiciary budget and legislative budget are combined in a single appropriation bill.

**North Carolina:**

<sup>47</sup>It is first formally submitted to the executive branch for inclusion in the Governor's budget. In practice, however, it is presented directly to the legislature by the judicial branch.

<sup>48</sup>Yes, but in practice the executive branch does not, and the judicial branch presents its budget directly to the legislature.

<sup>49</sup>Generally, this is no. Judicial branch appropriations are set forth in separate sections of the statewide current operations and/or expansion bill. Separate "omnibus courts" bills have also been used.

<sup>50</sup>Biennial budgets are prepared for each "long session" of the General Assembly (odd-numbered years), subject to revision in the "short session" (even years); a separate budget is prepared for each year.

<sup>51</sup>This includes appropriations for non-core functions placed in the court budget, including prosecution, indigent defense, juvenile probation, and other programs.

**North Dakota:**

<sup>52</sup>Input is provided from each district.

<sup>53</sup>For a two year period, from July 1 of an odd number year to June 30 of an odd number year.

**Oregon:**

<sup>54</sup>Trial courts, appellate courts submit their request to AOC. AOC does its own and all the statewide charges and accounts.

**Pennsylvania:**

<sup>55</sup>The appellate courts each prepare their own initial budget requests (and are reviewed and compiled into a comprehensive budget request by AOC). The AOC prepares the initial requests for the lower courts.

<sup>56</sup>The judiciary submits its budget to the governor in October, and to the legislature in February.

**South Dakota:**

<sup>57</sup>Unified Judicial System is completely state funded. All budgetary matters are administered by the SCAO under the authority of the Supreme Court.

**Tennessee:**

<sup>58</sup>AOC after input from Supreme Court and trial judges.

**Texas:**

<sup>59</sup>The Judiciary section of the Comptroller of Public Accounts Department submits the state-funded portion of the budget for courts, other than the appellate courts, to the legislature.

**Utah:**

<sup>60</sup>Budget recommendations are prepared by each court level and program. They are submitted to the Judicial Council which prepares the final budget through the AOC. In Utah, the Judicial Council is created by Constitution and is the Administrative Authority for the Judiciary.

<sup>61</sup>By Judicial Council

<sup>62</sup>The budget is submitted to both the Governor and the legislature. The Governor, by law, must submit a balanced budget to the legislature. The courts also submit their original request to the legislature.

<sup>63</sup>The Governor submits a budget for the state as a whole—including the state courts. The executive branch is bound by the Governor's request. The courts submit their original request also to the legislature. They are not bound by the Governor's request.

**Vermont:**

<sup>64</sup>The executive branch includes the judiciary's budget (as amended by the executive branch) in its budget submission.

**Washington:**

<sup>65</sup>For appellate courts only. Budgets of trial courts are prepared locally.

**West Virginia:**

<sup>66</sup>Administrative Director of the Courts prepares budget submission for review and approval by the Supreme Court. The Supreme Court may seek supplemental appropriations. The legislature may or may not grant.

<sup>67</sup>The Governor may increase the judicial budget submission, but may not reduce it. WV Const., Art. 6, Section 51 (10).

<sup>68</sup>Legislature may increase, but may not decrease judicial budget submission. WV Const., Art. 6, Section 51 (5).

**Wisconsin:**

<sup>69</sup>The judicial budget, in general, is treated the same as those of executive branch agencies. The primary difference is that 60% of the courts funds is contained in "sum sufficient" rather than "sum certain" appropriations.

<sup>70</sup>By statute, all executive branch agency budgets are submitted simultaneously to the executive branch and the legislature. This procedure is also followed by the judicial branch.

<sup>71</sup>The executive budget bill contains appropriations for the biennium, but is comprised of separate annual appropriations for each year of the biennium.

**Wyoming:**

<sup>72</sup>Each District Court submits their own budget requests. The AOC prepares the budget request that includes the Supreme Court, county courts and law library.

<sup>73</sup>The AOC reviews and makes recommendations to the Supreme Court and county court, law library budget's—Justices are the final review. The District Court judges have a District Court Judges' Budget Review Committee which reviews the District Court requests.

BUDGET

Table 6.3  
STATE BALANCED BUDGETS: CONSTITUTIONAL AND STATUTORY PROVISIONS,  
GUBERNATORIAL AND LEGISLATIVE AUTHORITY

State or other jurisdiction	Constitutional and Statutory Provisions			Gubernatorial Authority			Legislative Authority	
	Governor must submit a balanced budget	Legislature must pass a balanced budget	Governor must sign a balanced budget	Governor has line item veto	Can reduce budget without legislative approval	Restrictions on budget reductions	Votes required to pass revenue increase	Votes required to pass budget
Alabama	C,S	S	...	(a)	*	ATB	Majority	Majority
Alaska	S	S	S	*	...	...	Majority	Majority (c)
Arizona	C,S	C,S	C,S	*	...	...	2/3 elected	Majority
Arkansas	S	S	S	*	(d)	ATB	3/4 elected (b)	3/4 elected (oo)
California	C	...	S	*	...	...	2/3 elected	2/3 elected (pp)
Colorado	C	C	C	*	*	...	Majority (e)	Majority elected
Connecticut	S	C,S	C	*	*	MR	Majority	Majority (f)
Delaware	C,S	C,S	C,S	*	...	*	3/5 elected	Majority
Florida	C,S	C,S	C,S	*	(g)	MR	2/3 elected	Majority
Georgia	C	C	C	*	*	(h)	Majority	Majority
Hawaii	C,S	...	C,S	*	(i)	...	Majority (j)	Majority elected (q)
Idaho	...	C (k)	...	*	(l)	(l)	Majority	Majority
Illinois	C,S	C	S	(m)	...	...	Majority	Majority elected (n)
Indiana	...	...	...	...	*	...	Majority	Majority
Iowa	C,S	S	...	*	*	ATB	Majority	Majority
Kansas	S	C,S	...	*	...	ATB	Majority	Majority
Kentucky	C,S	C,S	C,S	*	...	...	2/5 elected	Majority elected
Louisiana	C,S	C,S	C,S	*	*	MR	2/3 elected	Majority
Maine	C,S	C	C,S	*	*	ATB	Majority	Majority (r)
Maryland	C	C	(o)	...	(p)	(q)	Majority	Majority elected
Massachusetts	C,S	C,S	C,S	*	*	...	Majority	Majority (s)
Michigan	C,S	C	C,S	*	...	(t)	Majority	Majority
Minnesota	C,S	C,S	C,S	*	*	MR	Majority	Majority elected
Mississippi	S	S	...	*	*	ATB	3/5 elected	Majority elected (ss)
Missouri	C	...	C	*	*	...	Majority	Majority elected
Montana	S	C	...	*	*	MR(u)	Majority	Majority
Nebraska	C	S	...	*	...	*	Majority	Majority elected (tt)
Nevada	S	C	C	...	*	MR	3/5 elected	Majority
New Hampshire	S	...	...	...	...	...	Majority	Majority
New Jersey	C	C	C	*	*	...	Majority	Majority
New Mexico	C	C	C	*	...	...	Majority	Majority
New York	C	...	(v)	(w)	(x)	(x)	Majority	Majority
North Carolina	C,S	S	...	...	(z)	...	Majority	Majority
North Dakota	C	C	C	*	*	ATB	Majority	Majority (uu)
Ohio	C	C	C	(aa)	*	*	Majority	Majority
Oklahoma	S	C (bb)	C (bb)	*	(cc)	*	3/4 elected	Majority elected
Oregon	C	C	C	*	*	MR	2/3 elected	Majority
Pennsylvania	C,S	...	C,S	*	(dd)	...	Majority elected	Majority elected
Rhode Island	C	C	S	...	*	*	Majority	2/3 elected
South Carolina	C	C	C	*	(ee)	*	Majority	Majority
South Dakota	C	C	C	*	...	*	2/3 elected	Majority elected (v)
Tennessee	C	C	C	*	...	...	Majority	Majority
Texas	...	C,S	C	*	*	...	Majority	Majority
Utah	S	C,S	(ff)	*	*	ATB (gg)	Majority	Majority elected
Vermont	...	...	...	...	(hh)	(hh)	Majority	Majority
Virginia	(ii)	...	C (ii)	(jj)	(nn)	MR	Majority (ll)	Majority elected
Washington	S	...	...	*	*	ATB	Majority	Majority
West Virginia	...	C	C	*	(mm)	(mm)	Majority	Majority elected
Wisconsin	C	C	C,S	*	(nn)	...	Majority	Majority
Wyoming	C	C	...	*	...	...	Majority	Majority
Puerto Rico	C	C	C	*	*	...	Majority	Majority

Sources: The Council of State Governments, the National Association of State Budget Officers, *Budgetary Processes in the States, 1999*, and the National Conference of State Legislatures.

Key:

C Constitutional

S Statutory

ATB Across the board

MR Maximum reduction dictated

\* Yes

No

(a) The governor may return a bill without limit for recommended amendments for amount and language, as long as the legislature is still in session.

(b) For revenue and appropriation bills. Joint session.

(c) A simple majority is required to pass the budget. In Alaska, a simple majority is required for most annual appropriations, but if expenditures are expected to exceed the appropriation level in the prior year's budget and withdrawal from the budget reserve fund is needed to make up the difference, a three-fourths vote is required. Since the provision became effective in 1994, the supermajority has been necessary for few appropriation items in each budget.

## STATE BALANCED BUDGETS - Continued

- (d) The governor and chief fiscal officer of the state have the authority to reduce general revenue funding to agencies should shortfalls occur in revenue collections.
- (e) All tax increases must be approved by a vote of the people.
- (f) Appropriations require a simple majority of members elected, unless the general fund expenditure ceiling is exceeded. In that case, the Legislature must obtain a three-fifths majority.
- (g) The elected cabinet (Administrative Commission) for the Executive Branch and the Chief Justice of the Supreme Court for the Judicial Branch are authorized to resolve deficits under \$300 million. Deficits over \$300 million shall be resolved by the legislature.
- (h) The governor, during the first six months of a fiscal year in which the current revenue estimate on which appropriations are based is expected to exceed actual revenues, is authorized to require state agencies to reserve such appropriations as specified by the governor for budget reductions to be recommended to the general assembly at its next regular session.
- (i) The governor's authority to reduce, expand and reorganize budgets can be done only pursuant to existing statutes.
- (j) If general fund expenditure ceiling is exceeded, two-thirds vote required; otherwise majority of elected members.
- (k) The constitution requires that the legislature pass a balanced budget. The governor, as the chief budget officer of the state, has always insured that expenditures do not exceed revenues.
- (l) The governor's authority to reduce budgets is temporary. The State Board of Examiners (Governor, Attorney General and Secretary of State) has permanent appropriation reduction authority.
- (m) The governor can veto appropriation items entirely (Item Veto) or merely reduce an item of appropriation to a lesser amount (Reduction Veto). If the governor reduces an item of appropriation, the remaining items in the bill are not affected and can become law immediately.
- (n) A majority vote is required to pass the budget until June 1. After that date, the required vote increases to three-fifths majority.
- (o) The budget bill when and as passed by both houses, shall be a law immediately without further action by the governor.
- (p) With the approval of the Board of Public Works, the governor may reduce by not more than 25 percent any appropriation that the governor considers unnecessary.
- (q) The governor may not, however, reduce an appropriation to the legislative or judicial branches of government; for the payment of principal and interest on state debt; the funding for public schools (K-12); or the salary of a public officer during the term of office.
- (r) Governor has no veto power over the budget bill.
- (s) For capital budget, two-thirds votes required.
- (t) There are both statutory and constitutional restrictions on executive branch authority to make budget reductions, involving approval by both House and Senate appropriations committees.
- (u) Additional restrictions on budget reductions exclude principle and interest on state debt, legislative and judicial branches, school equalization aid and salaries of elected officials.
- (v) The governor is not technically required to sign a balanced budget, but the governor, legislative leaders and the comptroller must certify the budget is in balance in order to meet borrowing requirements.
- (w) Any appropriation added to the governor's budget by the legislature is subject to line item veto.
- (x) May reduce budget without approval only for state operations; only restriction on reductions is that reductions in aid to localities cannot be made without legislative approval.
- (y) The governor has no veto power over the budget bill, except for appropriations for the legislature and judiciary and items added to the governor's original budget proposal. In these cases, two-thirds of elected members in each chamber can vote to override the gubernatorial veto.
- (z) Except for certain block grants. The Governor is required to maintain a balanced budget for the fiscal period and has the authority through the Constitution and General Statutes to make reductions to insure there is no overdraft or deficit.
- (aa) Line item veto in appropriation act only.
- (bb) Legislature could pass and the governor could sign a budget where appropriations exceed cash and estimated revenues, but constitutional and statutory provisions reduce the appropriations so that the budget is balanced.
- (cc) Would require agreement of agency governing boards and or CEO.
- (dd) The governor may reduce budgets selectively; he must provide 10 days prior notice and the reasons for so doing before lapsing current year grant and subsidy money.
- (ee) The Budget and Control Board can authorize an across-the-board agency reduction when there is a revenue shortfall. When in session, the General Assembly has five statewide session days to take action to prevent the reduction.
- (ff) Governor may allow balanced budget to go into law without signature.
- (gg) Statutorily required to include requests from legislature, courts and other elected officials.
- (hh) Reductions based on revenue shortfalls of greater than 1 percent require legislative approval.
- (ii) Requirement applies only to budget execution. The governor is required to insure that actual expenditures do not exceed actual revenues.
- (jj) Governor may return bill without limit for recommended amendments for amount and language. For purposes of a veto, a line item is defined as an indivisible sum of money that may or may not coincide with the way in which items are displayed in an appropriation act.
- (kk) The governor has power to withhold allotments of appropriations, but cannot reduce legislative appropriations.
- (ll) Two-thirds of members present includes a majority of the members elected.
- (mm) The governor can reduce expenditures but not appropriations. Public education has priority.
- (nn) Cannot reduce appropriations, but can withhold allotments.
- (oo) A majority vote is required for education and highways; a three-fourths vote of the elected members is required on all others.
- (pp) A two-thirds majority is required for appropriations from the general fund, except for public school appropriations, which require a simple majority.
- (qq) If the general fund expenditure ceiling is exceeded, a two-thirds vote is required, otherwise, the majority of elected members is required.
- (rr) For emergency enactment, a two-thirds vote is required.
- (ss) A majority is required to pass the agency appropriations bill, unless a bill is considered a donation (e.g., a donation to the Mississippi Burn Center). In this case, Joint Rule 66 requires a two-thirds vote of the elected members.
- (tt) Main budget bills typically have the "e" (emergency) clause attached, thus requiring a two-thirds vote. The "e" clause is necessary for the budget to be operative by the beginning of the fiscal year.
- (uu) Emergency measures and measures that amend a statute that has been referred or enacted through an initiated measure within the last seven years must pass both houses by a two-thirds majority.
- (vv) A two-thirds majority is required for individual spending bills.



#### 4. Development of the Recommended Budget

Table 4-1: ENTITY THAT WRITES THE APPROPRIATIONS BILL(S) TO BE INTRODUCED IN THE LEGISLATURE

State or other Jurisdiction	Executive Branch	Senate Appropriations Committee Staff	Assembly or House Appropriations Committee Staff	Non-partisan Fiscal Staff Office	Other
Alabama	■	—	—	—	—
Alaska	■	—	—	—	—
Arizona	—	—	—	■	—
Arkansas	—	—	—	■	—
California	■	—	—	—	—
Colorado	—	—	—	■	—
Connecticut	■	—	—	—	—
Delaware	—	—	—	■	—
Florida	—	■	■	—	—
Georgia	—	—	—	■	—
Hawaii	■	—	—	—	—
Idaho	—	—	—	■	—
Illinois	■	—	—	—	—
Indiana	—	—	—	—	■
Iowa	—	■	■	—	—
Kansas	■	—	—	—	—
Kentucky	■	—	—	—	—
Louisiana	■	—	—	—	—
Maine	■	—	—	—	—
Maryland	■	—	—	—	—
Massachusetts	■	—	—	—	—
Michigan	■	—	—	—	—
Minnesota	■	—	—	—	—
Mississippi	—	■	■	—	—
Missouri	■	—	—	—	—
Montana	■	—	—	—	—
Nebraska	■	—	—	—	—
Nevada	—	—	—	■	—
New Hampshire	—	—	—	■	—
New Jersey	—	■	■	■	—
New Mexico	—	—	—	■	—
New York	■	—	—	—	—
North Carolina	—	—	—	—	■
North Dakota	■	—	—	—	—
Ohio	—	—	—	■	—
Oklahoma	—	■	■	—	■
Oregon	■	—	—	—	—
Pennsylvania	■	■	■	—	—
Rhode Island	■	—	—	—	—
South Carolina	—	—	—	—	—

Table 4-1: ENTITY THAT WRITES THE APPROPRIATIONS BILL(S) TO BE INTRODUCED IN THE LEGISLATURE  
(continued)

State or other jurisdiction	Executive Branch	Senate Appropriations Committee Staff	Assembly or House Appropriations Committee Staff	Nonpartisan Fiscal Staff Office	Other
South Dakota	—	—	—	■	—
Tennessee	■	—	—	—	—
Texas	—	—	—	■*	—
Utah	—	—	—	■*	—
Vermont	■	—	—	—	—
Virginia	■	—	—	—	—
Washington	■	—	—	—	—
West Virginia	■	—	—	—	—
Wisconsin	■*	—	—	—	—
Wyoming	—	—	—	■*	—
American Samoa (N/R)	—	—	—	—	—
District of Columbia (N/R)	—	—	—	■*	—
Guam	—	—	—	—	—
Northern Mariana Islands	—	—	■*	—	—
Puerto Rico	■	—	—	—	—
U.S. Virgin Islands (N/R)	—	—	—	—	—
<b>Total: States</b>	<b>28</b>	<b>6</b>	<b>7</b>	<b>15</b>	<b>3</b>
<b>Total: States and Territories</b>	<b>29</b>	<b>6</b>	<b>8</b>	<b>16</b>	<b>3</b>

Source: National Conference of State Legislatures, December 1997.

Key:

- = Not applicable
- N/R = No response

\*Notes:

- Arizona—Staff of the Joint Legislative Budget Committee prepare the appropriations bills introduced in the Legislature.
- Colorado—Staff of the Joint Budget Committee prepare the appropriations bill introduced in the General Assembly.
- Delaware—The Office of the Comptroller General prepares the appropriations bills introduced in the General Assembly.
- Indiana—The Budget Committee, which consists of four legislators and the state budget director, reviews requests and makes a recommendation for appropriations.
- Iowa—The Senate and House appropriations committees introduce the bills in their respective chambers. The Legislative Fiscal Bureau is the primary staff for the appropriations committees; the actual drafting is completed by the Legislative Service Bureau.
- Kentucky—The executive branch drafts the proposed act for the executive branch, the chief justice for the judicial branch, and the Legislative Research Commission for the legislative branch.
- Minnesota—The executive branch writes bills for introduction. The House and Senate staff write the bills for each body—they may include much of the language from the executive branch bills.
- Mississippi—Both the Senate and the House write appropriations bills. Half the bills start in the Senate, half in the House.
- Montana—The executive budget bill is ignored. Legislative staff write all subsequent general appropriations acts.
- Nebraska—In the unicameral Legislature, the Appropriations Committee may introduce new bills if the governor's bills are not used.

- New Jersey**—The Senate and Assembly appropriations committees each act to revise the governor's appropriation recommendations and the Office of Legislative Services drafts separate bills for introduction in each house, at the direction of the chairs.
- New Mexico**—The executive branch shall write the budget to be introduced until 1997 and the Legislative Finance Committee staff shall do so after 1997.
- North Carolina**—The Bill Drafting Division, a nonpartisan legislative office serving both houses, writes the appropriations bills that are introduced in the General Assembly.
- Oklahoma**—The Senate introduces appropriations bills for half the state agencies; the House introduces the other half. The following year the House introduces bills for the agencies the Senate introduced the previous year, etc.
- Oregon**—The executive branch writes the recommended executive budget through legislative counsel.
- Pennsylvania**—The appropriations bill is written by the executive branch, Senate appropriations staff and House appropriations staff. As a practice, the General Assembly can write its own if necessary.
- Texas**—A joint legislative agency, the Legislative Budget Board, writes the budget to be introduced in the Legislature.
- Utah**—Under the direction of the Executive Appropriations Committee.
- Wisconsin**—The executive branch controls content, but the bill is actually drafted by the Legislative Reference Bureau.
- Wyoming**—Nonpartisan fiscal staff is the Joint Appropriations Committee staff.
- Guam**—Unicameral Legislature—Committee on Finance and Taxation.
- Northern Mariana Islands**—All appropriations bills must originate in the House of Representatives.