

	PAGE
Transmittal Letter	2
Agency Profile	3
Agency Fiscal Page (Gov Rec)	5
Change Summary	6
Agency Change Items	
↻ Operating Budget Reduction.....	7
Appendix	
Agency Revenue Summary Fiscal Page.....	8
Judicial Branch Transmittal Letter (Agency Request)	9
Change Items	
↻ Maintain Core Justice Operations	15
↻ Designates that this item is a change item	



January 27, 2009

To the 2009 Legislature:

I respectfully submit for your consideration the Governor's FY 2010-11 budget proposals for the judicial branch agencies, including the Supreme Court, the Court of Appeals, the Trial Courts, the Legal Professions Boards, and the Board of Public Defense. The Governor respects the separation of powers and the desire of constitutional officers and officials in the judicial and legislative branches to independently present their budget requests directly to the legislature without specific recommendations for the Governor. However, since the Governor is required by law to submit a balanced budget to the legislature, it is necessary to identify funding for those offices as part of preparing a complete budget.

The Governor's general recommendations for the judicial and legislative branches and other constitutional officers reflect his concern with the magnitude of the projected budget shortfall and the desire to protect core government functions. As with the executive branch, the Governor suggests that these offices and institutions individually redesign their operations to increase efficiencies while minimizing the disruption of public services as much as possible.

For the Supreme Court, Court of Appeals, Trial Courts, and the Board of Public Defense, the Governor recommends a general 5% reduction in appropriations for the FY 2010-11 biennium. For the Trial Courts, the Governor also recommends \$5.586 million for increased costs for mandated services. The Legal Profession Boards are fully funded by fees collected under court rules, so no further actions are required on their budgets. The Governor makes no other recommendation regarding specific initiatives put forward by these agencies.

Sincerely,

A handwritten signature in black ink that reads "Tom J. Hanson". The signature is written in a cursive, slightly slanted style.

Tom J. Hanson
Commissioner

Agency Purpose

Minnesota's Court of Appeals is the state's intermediate appellate court, providing citizens with prompt and deliberate review of final decisions of the trial courts, state agencies, and local governments. This error-correcting court hears and decides cases in three-judge panels.

- ◆ **Mission:** To provide the people with impartial, clear, and timely appellate decisions made according to law.
- ◆ **Vision:** To be an accessible intermediate appellate court that renders justice under the law fairly and expeditiously through clear, well-reasoned decisions and promotes cooperative effort, innovation, diversity, and the professional and personal growth of all personnel.

Core Functions

The Court of Appeals has jurisdiction over all final decisions of the district court, except first-degree murder convictions, which are appealed directly to the Supreme Court. The Court of Appeals has jurisdiction to review interlocutory decisions, administrative agency decisions, and rules and decisions of the commissioner of Employment and Economic Development.

In support of these core functions, the Court of Appeals:

- ◆ Manages its cases to ensure prompt resolution within the statutory 90-day time limitation from oral argument to decision.
- ◆ Enhances the knowledge and skills of its staff by regular training.
- ◆ Explores the use of technology to improve its ability to provide timely and effective access to the court.

Operations

Through its decisions and administration, the Court of Appeals has an impact on all Minnesotans.

In their adjudicative roles, the judges of the Court of Appeals are assisted by law clerks. Administratively, they are assisted by the Chief Staff Attorney's Office and the State Court Administrator's Office.

The Court of Appeals hears cases throughout the state as well as in St. Paul. The court has installed interactive video as an additional measure to provide timely access.

The Court of Appeals issues a published opinion, unpublished opinion, or order opinion on each case it considers. The judges also share responsibility for hundreds of special term opinions, orders on motions, and petitions filed with the court.

With the assistance of a computerized case management system, the court monitors the progress of every appeal to ensure that there are no unnecessary delays in processing. The court demonstrates the value of aggressive, hands-on management of its cases.

At A Glance

- ◆ The Court of Appeals has 19 judges and considers more than 2,500 appeals each year.
- ◆ By law, the court must issue a decision within 90 days after oral arguments – the shortest deadline imposed on any appellate court in the nation.
- ◆ The court expedites decisions on child protection cases, child custody cases, mental health commitments, and other requested matters.
- ◆ Court of Appeals' decisions are the final ruling in about 95% of the appeals filed each year.
- ◆ The Court of Appeals operates in a constantly changing environment.
- ◆ Laws, case types, and legal sanctions change annually.
- ◆ Caseload volume is determined by the trial courts and by other branches of government.
- ◆ The Minnesota Courts regularly review their effectiveness by monitoring:
 - ⇒ case filing trends;
 - ⇒ case clearance rates; and
 - ⇒ elapsed case time from filing to disposition.

Key Goals

The Court of Appeals conducts its administrative functions in support of the following three strategic priority areas:

- ◆ **Access to Justice** – Ensuring the justice system is open, affordable, effective, and accountable to the people it serves.
- ◆ **Administering Justice for More Effective Results** – Adopting approaches and processes for the resolution of cases that enhance the outcomes for individual participants and the public.
- ◆ **Public Trust Accountability and Impartiality** – A justice system that engenders public trust and confidence through impartial decision –making and accountability for the use of public resources.

Key Measures

To further the three goals contained in the branch's strategic plan – Access to Justice; Administering Justice for More Effective Results; and Public Trust Accountability and Impartiality – the strategic plan outlines future priorities. Each of these specific priorities addresses challenges facing the court system by targeting judicial branch resources in a focused manner on achievable and measurable strategies. Implementation of these priorities will take place over the life of the strategic plan with specific performance measures to evaluate their success.

http://www.mncourts.gov/documents/0/Public/Court_Administration/Strategic_Plan_for_Minnesota_Courts.pdf

Budget

The Court of Appeals is funded 100% from general fund direct appropriations.

Contact

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Dollars in Thousands

	Current		Governor Recomm.		Biennium 2010-11
	FY2008	FY2009	FY2010	FY2011	
<u>Direct Appropriations by Fund</u>					
General					
Current Appropriation	9,766	10,370	10,370	10,370	20,740
Recommended	9,766	10,370	9,852	9,852	19,704
Change		0	(518)	(518)	(1,036)
% Biennial Change from 2008-09					-2.1%
 <u>Expenditures by Fund</u>					
Direct Appropriations					
General	9,493	10,643	9,852	9,852	19,704
Statutory Appropriations					
Federal	0	30	0	0	0
Total	9,493	10,673	9,852	9,852	19,704
 <u>Expenditures by Category</u>					
Total Compensation	8,162	9,108	8,654	8,654	17,308
Other Operating Expenses	1,283	1,565	1,198	1,198	2,396
Capital Outlay & Real Property	48	0	0	0	0
Total	9,493	10,673	9,852	9,852	19,704
 <u>Expenditures by Program</u>					
Court Of Appeals	9,493	10,673	9,852	9,852	19,704
Total	9,493	10,673	9,852	9,852	19,704
 <u>Full-Time Equivalent (FTE)</u>					
	89.5	95.4	81.5	78.9	

<i>Dollars in Thousands</i>				
	FY2009	Governor's Recomm.		Biennium
		FY2010	FY2011	2010-11
Fund: GENERAL				
FY 2009 Appropriations	10,370	10,370	10,370	20,740
Subtotal - Forecast Base	10,370	10,370	10,370	20,740
Change Items				
Operating Budget Reduction	0	(518)	(518)	(1,036)
Total Governor's Recommendations	10,370	9,852	9,852	19,704
Fund: FEDERAL				
Planned Statutory Spending	30	0	0	0
Total Governor's Recommendations	30	0	0	0

COURT OF APPEALS

Change Item: Operating Budget Reduction

Fiscal Impact (\$000s)	FY 2010	FY 2011	FY 2012	FY 2013
General Fund				
Expenditures	\$(518)	\$(518)	\$(518)	\$(518)
Revenues	0	0	0	0
Other Fund				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact	\$(518)	\$(518)	\$(518)	\$(518)

Recommendation

The Governor recommends a 5% reduction in the agency's base budget. The Governor makes no specific recommendations on the agency's change request.

Background

The Governor respects the separation of powers and the desire of officials in the judicial and legislative branches and other constitutional officers to independently present their budget requests directly to the legislature without specific recommendations from the Governor. However, since the Governor is required by law to submit a balanced budget to the legislature, it is necessary to identify funding for those offices as part of preparing a complete and balanced budget.

The Governor's general recommendations for the judicial and legislative branches and other constitutional officers reflect his concern with the magnitude of the projected budget shortfall and the desire to protect core government functions. As with the executive branch, the Governor suggests that these offices and institutions individually redesign their operations to increase efficiencies while minimizing the disruption to public services as much as possible.

Relationship to Base Budget

This reduction represents 5% of the base funding for the FY 2010-11 biennium.

Statutory Change: Not Applicable

Dollars in Thousands

	Actual FY2008	Budgeted FY2009	Governor's Recomm. FY2010 FY2011		Biennium 2010-11
<u>Non Dedicated Revenue:</u>					
Total Non-Dedicated Receipts	0	0	0	0	0
<u>Dedicated Receipts:</u>					
Grants:					
Federal	0	30	0	0	0
Total Dedicated Receipts	0	30	0	0	0
Agency Total Revenue	0	30	0	0	0



THE SUPREME COURT OF MINNESOTA
MINNESOTA JUDICIAL CENTER
25 REV. DR. MARTIN LUTHER KING JR. BLVD.
SAINT PAUL, MINNESOTA 55155

CHAMBERS OF
ERIC J. MAGNUSON
CHIEF JUSTICE

(651) 296-3380

January 20, 2009

To the Honorable Tim Pawlenty and
Members of the 2009 Legislature:

On behalf of the hundreds of thousands of citizens who come before the Minnesota courts and the 315 judges and 2900 employees of the Judicial Branch, I transmit the FY10-11 budget request for the Minnesota Judicial Branch. I am also providing information on the Judicial Branch mission, services, transformational initiatives now underway, and financial challenges that drive our funding needs.

The Minnesota judiciary is an open door for justice. Our workload is dictated by the needs of citizens and businesses for redress, the needs of children and vulnerable adults for protection, and the policies and practices of law enforcement and prosecutors enforcing state and local laws. The Judicial Branch is unable turn away those who enter the courthouse to seek our services. Unlike state agencies, the Judicial Branch has no discretionary services. The court system adjudicates approximately two million cases brought to it by the citizens of the state on an annual basis.

Article 8, section 1 of the Minnesota Constitution provides that the object of government is to ensure the security, benefit and protection of the people. Government fulfills that obligation by passing and enforcing laws. Without adequate funding, the courts cannot perform their vital role in that process.

The Judicial Council and I want to join with the Governor and Legislature in finding collaborative solutions to stabilize our Judicial Branch budget and provide the citizens of this state with the level of services guaranteed by the Minnesota Constitution and state laws. However, I also need to clearly communicate our current dilemma. We now find ourselves at a tipping point where action is needed to avoid major service disruptions in the next biennium that will seriously jeopardize the justice function.

FY10-11 Biennial Budget Request

Our FY10-11 budget request seeks only to preserve core services and fund increased costs that are unavoidable. It is not a request for service expansion – rather, it is a request to maintain basic judicial operations that are constitutionally and statutorily required.

In addition to the FY10-11 base budget for the Supreme Court, the Court of Appeals, and the District Courts, I present five change requests addressing basic, non-discretionary needs of the Minnesota Judicial Branch for the next biennium. This includes an increase of \$43,035,000 to court operations, which represents a 7.31% increase to our biennial base, with an additional \$6,170,000 requested on behalf of our criminal justice partners and \$4,000,000 for civil legal services:

- \$29,879,000 in projected salary and insurance increases to maintain core justice operations by funding current staffing levels to handle the ever increasing caseloads in our courts. This money will go only to pay for current staff which is 9% short of our need. We are not asking for the restoration of positions lost or any new positions, and are not seeking compensation increases for judges or new judgeships. These estimates are based on potential negotiated settlements;
- \$5,586,000 for growth in mandated services: interpreters, psychological services, guardians ad litem, jury, and in forma pauperis costs which we are required by law to fund. We have no option of not paying these costs;
- \$5,651,000 to pursue strategic technology initiatives needed to transform operations and services provided by the branch. Without this investment in the future, we cannot realize our goals of increased efficiency and productivity;
- \$8,089,000 to continue funding for 37 existing problem-solving courts in the state, with investments included for related public partners costs (\$6,170,000 listed above). These courts represent the kind of creative and forward thinking solutions that, in the long run, result in a more highly functioning and effective justice system; and
- \$4,000,000 for Civil Legal Services for the poor. This is money that does not go to the Judicial Branch but which is still included in our request on a pass-through basis.

Transforming the Judicial Branch

The mission of the Judicial Branch is to provide equal access for the fair and timely resolution of cases and controversies. The Minnesota Judicial Branch is not a state agency – the Minnesota Constitution requires justice to be provided in all cases promptly and without delay.

The Minnesota judiciary recently completed its transformation from a confederation of 87 county-funded trial courts to a unified, state-funded branch of state government. The Judicial Council, a single statewide policy-making entity, has replaced the various policy groups associated with the prior court structure. These changes present a tremendous opportunity for the judicial branch to more equitably, efficiently, and effectively serve the citizens of Minnesota.

To address the historic disparity in county funding of trial courts, we've embarked on a long-term effort to equalize resources within our ten judicial districts. It is imperative that citizens of this state have access to similar levels of judicial services regardless of where they live to give meaning to our belief in equal justice under law. Although we have recently achieved an equitable distribution of resources among the ten districts, unfortunately these districts are now equally underfunded due to current budget constraints.

In recognition of the bleak economic outlook and increased demand for scarce state resources, this year we established an Access and Service Delivery Committee (ASD), charged with the responsibility to develop options for restructuring judicial delivery systems, redesigning business processes, expanding the use of technology, and prioritizing functions to provide appropriate levels of access and services at the lowest cost. These transformational goals include:

- Workflow re-engineering through technology enhancements aimed at improving services while cutting labor costs. This includes optimizing our case management system (MNCIS), implemented statewide in April, with web and voice payment options, the ability to process e-citations from local law enforcement agencies, automatic assessment of court fines, and electronically sending delinquent debt to a private collection agency.
- Legislative and court policy reforms, including implementing recommendations from the Non-Felony Enforcement Advisory Commission re-ranking some offenses to reduce workloads, expanding the number of payable offenses, and transferring enforcement of administrative regulations to other government entities to reduce the number of violations that require court appearances.
- Addressing structural and governance issues by administratively consolidating judicial districts or reducing their number through redistricting, expanding the use of less expensive subordinate judicial officers where possible, and centralizing service delivery through ITV to achieve greater efficiencies and effectiveness.

Challenges Facing Judicial Performance

Our courts have made enormous strides in recent times to improve the delivery of prompt, affordable, fair and effective results to a society that relies heavily on its legal system. Minnesota judges carry average caseloads that are 49% higher than in comparable states. Minnesota courts are trusted by the business community and the public – the National Chamber of Commerce survey ranks Minnesota in the top ten states for competence and fairness and a 2007 Minnesota Public Trust and Confidence Survey reflects that 80% of the public has confidence in the Minnesota courts.

We have done all of these things despite severe budget constraints through the innovation and industry of our judges and staff.

Current Cost Reductions and Efficiencies

Funding for all trial court operations became the sole responsibility of the state in 2005 when the transition from county to state funding was complete. During this transition, the Judicial Branch has experienced little financial flexibility because of base budget cuts and underfunding in FY04-05 (\$23 million), insufficient funding in FY06-07, and additional base budget reductions and underfunding in the current biennium (\$19 million).

There are no easy reductions left for us to make. Inadequate funding has already forced painful reductions in staff levels and service delivery. We already:

- Operate 9% short-staffed.
- Have instituted layoffs, voluntary separation programs, leaves without pay, and a hiring freeze.
- Hold open judge vacancies.
- Closed public counters a half day per week in the 3rd, 4th, and 10th judicial districts and permanently closed a satellite court in Washington County.
- Terminated the 4th Judicial District arbitration services, court supervised visitation services, and reduced staffing at the domestic abuse service center.
- Reduced juror per diem pay from \$20 to \$10.
- Cut funding for drug courts, retired judge services, and mandated services.
- Reduced operating costs to the lowest levels since the trial courts were brought into state funding.

As a result, delays in case processing and service delivery are occurring across the state.

Our Access and Service Delivery Workgroup is aggressively re-engineering our business practices so we can become as efficient and effective as possible. Unfortunately, progress on many of these initiatives, including our efforts to centralize and automate the 1.2 million payable citations, may be in jeopardy if further budget reductions are enacted.

Negative Impact of No Increased Funding or Base Budget Reductions

The negative impact of no new funding – or worse yet, funding reductions – will be immediate, unavoidable, and dramatic and will significantly affect the basic operation of Minnesota's courts with economic and other consequences for county and state government and public safety. Public trust and confidence in the courts and government will be significantly impacted.

Failure to provide adequate funding to cover unavoidable employee cost increases (mandatory employer health insurance and pension contributions) and budget cuts would require additional staff reductions of hundreds of positions depending on the results of our voluntary separation program, turnover rate over the next six months, and applicable severance costs. This reduction,

on top of our current 9% shortage, means that we will be unable to handle all of our current caseload.

In the interest of providing options to the Governor and the Legislature, at its December 2008 meeting, the Judicial Council reviewed 51 different case categories that are processed by the courts and assigned a priority level to each case type (see enclosed list). In general, lack of funding will force us to stop handling some or all of the following cases in the next biennium:

- Conciliation Court
- Consumer Credit
- Some Estate and Trust cases
- Property Damage
- Harassment
- Default Judgments
- Out of Custody Adult and Juvenile Non-targeted Misdemeanors (public defenders will not be able to assign attorneys for out-of-custody cases)
- Juvenile Status, Truancy, Runaway offenses
- Implied Consents
- Traffic, Ordinance, and Parking Violations, impacting the \$200 million annual revenue flow to cities, counties, and the state general fund.

In addition to not handling these types of matters, increased delays in criminal and juvenile case processing will produce collateral consequences to other public jurisdictions. Defendants will be incarcerated longer while awaiting trial, increasing costs at county jails that are already operating at 105% of capacity. Others will be out of custody longer awaiting disposition, increasing risks to public safety.

These proposed case processing priorities will appropriately generate a vigorous public debate about the stark implications associated with potential lack of funding or budget reductions. We welcome those discussions and are open to any specific suggestions for changes to our proposed priorities. However, any reprioritization must match the workload reduction needed to balance any budget cut imposed. Fewer reductions to our budget would allow us to limit the impact on some case types.

In addition, lack of funding or budget reductions could require us to close or significantly reduce hours/days of operation in some low volume rural courts and several of our high volume suburban courts because of the reduced workforce. Many of our drug courts, which save taxpayer money and improve public safety, could close as well.

At the appellate level, both the Supreme Court and Court of Appeals will be forced to further reduce personnel. Loss of crucial legal staff will result in an expanded backlog of cases at the Court of Appeals and significant delays at the Supreme Court. In the State Court

The Honorable Tim Pawlenty
Members of the 2009 Legislature
January 20, 2009
Page 6

Administrator's Office, funding shortages will directly impact efforts currently underway to re-engineer business practices across the court system. Without sufficient funding, progress on technology initiatives such as e-citations, e-filing, e-payments, and automated collections--all of which save long term staff costs and increase state revenue collection--will be significantly impeded if not curtailed. And, cuts to civil legal services will mean that additional families will go without legal assistance in critical areas like mortgage foreclosure and housing, increasing public costs associated with homelessness and domestic violence.

Inadequate funding will jeopardize the justice system as we have known it in this state. Without adjudication of cases, civil and criminal consequences for illegal behavior will go unimposed. It is no exaggeration to say that the rule of law will be at stake.

In tough economic times, we must return to the basics. One of those is mandated by our Constitution: an adequately funded, functioning justice system that resolves disputes promptly in order to ensure the rule of law, protect public safety and individual rights, and promote a civil society. The Minnesota Judicial Branch is not a state agency. Funding should first be provided to institutions such as the Judicial Branch that deliver services directly required by the state Constitution. Justice is not an option. It is a constitutional obligation.

I look forward to the opportunity to discuss these matters with you in further detail.

Very truly yours,

A handwritten signature in black ink, appearing to read "Eric J. Magnuson". The signature is fluid and cursive, with a large loop at the end.

Eric J. Magnuson
Chief Justice

COURT OF APPEALS

Change Item: Maintain Core Justice Operations

Fiscal Impact (\$000s)	FY 2010	FY 2011	FY 2012	FY 2013
General Fund				
Expenditures	\$277	\$464	\$464	\$464
Revenues	0	0	0	0
Other Fund				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact	\$277	\$464	\$464	\$464

Request

The Court of Appeals requests \$741,000 in FY 2010-11 to maintain core justice operations.

Background

Currently, the Court of Appeals has 76 employee FTEs and 19 appellate judges. All employee FTE's are funded from the state general fund. Employees of the Court of Appeals are compensated under the judicial branch compensation and pay plan administered by the State Court Administrator's Office (SCAO) under the direction of the Judicial Council.

The judicial branch non-judicial pay plan consists of the same four basic components as the executive branch: across the board adjustments to the salary range, merit or step increases, employer retirement contributions, and the insurance programs negotiated by Minnesota Management & Budget for all state employees.

During the FY 2010-11 biennium, the judicial branch has estimated that additional salary funding will be necessary to implement a pay plan commensurate with other negotiated state and local agreements. This request does not include a comparable salary increase for judges in FY 2010 and FY 2011. Additional funding is also required to fully fund statutorily mandated increases in employer paid retirement plan contributions. Health insurance costs are estimated at 6% based on historical cost increases.

Due to a shortage of funding in the current and previous two biennia, law clerk and staff positions in the Court of Appeals have been eliminated or held vacant for extended periods of time. This loss of staff has resulted in case backlogs and case processing delays including a doubling of the time it takes from acceptance of a case to oral argument. Prior to funding cuts in previous biennia, the Minnesota Court of Appeals was a national model of efficiency in case processing time. In 2005, the Court of Appeals did not meet American Bar Association (ABA) standards for clearance rates on cases, last brief to submission, and last brief to disposition. The addition of three judgeships in 2008 has helped. Presently, although the number of cases awaiting scheduling has been reduced by 200, the Court of Appeals is still not meeting the ABA standard of last brief to submission.

Juvenile protection cases are expedited as the Children's Justice Initiative is a strategic priority of the judicial branch. However, prioritizing these cases comes at a cost to all other case types including: family, juvenile delinquency, economic security, criminal, and civil. The litigants in these cases will not be able bring the uncertainty to an end and achieve closure to this major part of his/her life until the case can be processed.

Relationship to Base Budget

This request represents a 3.6% increase to the Court of Appeals biennial base budget.

Key Goals and Measures

Failure to fund core justice operations including negotiated pay plans and mandated employee health insurance costs will result in layoffs and additional delays in case processing. These will significantly impact the ability of the courts to accomplish their constitutional role of adjudicating disputes.

Alternatives Considered

Because human resources costs are 88% of the entire Court of Appeals budget, the effective alternatives available to fund salary increases are few. A reduction in the workforce is the most likely and least desirable as it will severely limit access to justice for the constituents of Minnesota as these important cases will take even longer to process. Each law clerk handles about 33 – 35 cases per year. If funding for core operations were not maintained and seven law clerk positions were held open in 2010, approximately 230 cases would not be resolved. If 10 law clerk positions were held open in 2011 that number would increase to over 350 cases per year. Ultimately, the backlog and time on appeal would increase. Justice delayed is justice denied.

Statutory Change: Not Applicable.