

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: Special Funds

As the fiscal crisis roared in 2009, a dozen states raised their court filing fees (a full list of court fees and fines and additional details can be located at the [NCSC Budget Resource Center](#)). Several states also enacted special funds for their courts, either for the judicial branch in general or for particular court-operated programs and projects. Unlike general funds that come from general taxes, fees and fines, revenues for these special or cash funds derive from court fees and fines and are committed by statute for a specific purpose (technology, court security, or general use to cover core judicial operations) and appropriated by the legislature. (For more details, click [here](#)). Below is a list of those funds that were created in 2009.

[Arkansas SB 265](#) created the Trial Court Administrative Assistant Fund State to pay for the personnel expenses through funds from the Administration of Justice Fund and whatever other funds are authorized by law.

[Florida HB 7069](#) recreated the Federal Grants Trust Fund within state courts system as a depository for funds to be used for allowable grant activities funded by restricted program revenues. Funding, which would be used to support operations in the state courts system, would be from grants

from the federal government and cash advances from other trust funds.

[Florida HB 7075](#) recreated the Operating Trust Fund to support the program operations of the judicial branch and other purposes as may be appropriate. The fund is a depository of fees and other court related revenue.

[Florida SB 14A](#) created the State Courts Revenue Trust Fund in order to fund the activities of the state courts system. [SB 12A](#) provided for such funding through civil filing fees and traffic tickets while [SB 1718](#) added probate filing fees as well.

[Kansas SB 66](#) created the Judicial Branch Surcharge Fund to provide compensation for non-judicial personnel. The Kansas Supreme Court is permitted to establish a surcharge of up to \$10 per fee for a variety of filings involving garnishments, hearings in aid, executions, and expungements for the Fund. The Supreme Court is expressly forbidden from using the Fund “for compensation of judges or justices of the judicial branch” and, according to the [conference committee report on the bill](#), prohibited from making use of any other surcharge from July 1, 2009, through June 30, 2010.

[Maine HB 994](#) created a foreclosure mediation program fund based on fees on foreclosure filings.



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[Missouri SB 140](#) created a Criminal Nonsupport Court Resources Fund with a commission to coordinate and allocate resources made available through the Fund for the creation and support of specialized “criminal nonsupport courts”. The funding mechanism was unspecified.

[Nevada AB 65](#) authorized District Courts to charge and collect certain fees to be deposited into a special county account maintained for the benefit of the court. Additionally, the law permits counties to impose an additional \$20 filing fee on civil cases for a special fund or account for court security or for reimbursement of capital costs for maintaining new judicial departments. The law also created an Account for Foreclosure Mediation and placed a \$50 fee on filing on foreclosure documents.

[New Mexico HB 700](#) created a Juvenile Adjudication Fund to provide an alternative means of adjudication for juveniles charged with misdemeanor offenses through “teen courts”. Funding came from an additional \$1 fee to misdemeanor convictions.

[New Mexico SB 277](#) set up an Electronic Services Fund for the operating and maintaining of electronic filing services and providing public access to electronic documents. The Supreme Court was authorized to set a special filing fee in all trial and appellate courts to pay for the Fund.

[Texas HB 3637](#) created a County and District Court Technology Fund to be supplied by \$4 fee on criminal convictions.

[Texas SB 1208](#) and [SB 1259](#) established an appellate judicial fund for the Seventh Court of Appeals District through a \$5 fee for every civil suit filed in the appellate court district. Identical funds were established for the Sixth District ([SB 685](#)) and Twelfth ([SB 659](#)). Prior to 2009, only nine of the 14 courts of appeals districts had such appellate judicial funds.

[Texas SB 1685](#) created an optional District Court Records Technology Fund for the preservation and restoration of district court records archives. Funding would come from a \$5 filing fee in civil actions, appeals from inferior courts, and other actions.

Selection: Newly Introduced

[New York AB 9421](#) Requires that judges receive proper certificates of authorization or be enrolled members of the party for which they are running in the primary election. In Assembly Election Law Committee.

Selection: Floor and Committee Activity

NONE

Qualifications and Terms: Newly Introduced

[Vermont SB 155](#) Permits a judge to remain in office after having declared a candidacy for another judicial office. Allows judge to hold another judicial elective office. In Senate Committee on Judiciary.

[Virginia HB 126](#) Increases from 70 to 73 the mandatory retirement age for judges. In House Committee for Courts of Justice.

**Qualifications and Terms:
Floor and Committee Activity**
NONE

**Rule Making Authority: Newly
Introduced**
NONE

**Rule Making Authority: Floor
and Committee Activity**
NONE

**Structure Changes: Newly
Introduced**
NONE

**Structure Changes: Floor and
Committee Activity**
NONE

Jurisdiction: Newly Introduced

[Arizona SB 1026](#) Enacts the “Arizona Foreign Decisions Act” Declares the acceptance of Arizona into the Union was a “compact”. Declares “Congress has no authority to preempt state regulation of state courts.” Prohibits courts from implementing, referring or incorporating or using “a tenet of any body of religious sectarian law” and specifically includes sharia law, canon law, halacha and karma, but exempts decisions based on Anglo-American legal tradition, laws or case law from Great Britain prior enactment of the statute, or the definition of marriage as between one man and one woman, “and the principles on which the United States was founded.” Prohibits use of any case law or statute from a non-U.S. jurisdiction or “foreign body”, including the

United Nations. Decisions that make use of a body of religious sectarian law or foreign law declared void and usages declared to be grounds for impeachment. Declares these provisions apply to Federal courts sitting in diversity jurisdiction. Requires any court that construes this statute must do so in a way to confine the power of Congress and the federal judiciary. In Senate Judiciary Committee.

[Indiana HB 1186](#) Allows a city or town that has not established a city or town court or an ordinance violations bureau to enter into an interlocal agreement with a city, town, or other municipal corporation that has established: (1) a city or town court; or (2) an ordinance violations bureau; to hear and dispose of ordinance violations that would otherwise come under the jurisdiction of a city or town court or an ordinance violations bureau established by the city or town. In House Committee on Courts and Criminal Code.

[Missouri HCR 11](#) Notice and Demand to the federal government and state courts. Demands federal judicial appointees not be selected based on “level of ignorance of the jurisdiction between the legislative and judicial branches of our government.” Declares, in part, that any “Judicial Order by the federal courts which assumes a power not delegated to the government of the United States by the Constitution and which serves to diminish the liberty of any of the several states or their citizens shall abridge the Constitution.” In House (no committee).

[Nebraska LB 695](#) Increases small claims jurisdiction to \$5,000. Authorizes Supreme Court to adjust small claims limit in 2015

based on Consumer Price Index. In Senate Judiciary Committee.

[Rhode Island HB 7042](#) Increase the jurisdiction of matters in small claims court from \$2,500 to \$5,000. Allows for future increases based upon the Consumer Price Index. In House Judiciary Committee.

Jurisdiction: Floor and Committee Activity

NONE

Salary and Budget: Newly Introduced

[Maine SB 601](#) Restores longevity pay for judges and others. In House Appropriations and Financial Affairs Committee.

[Nebraska LB 727](#) Permits retired judge who agrees to serve a minimum number of temporary duty days per year as set by the Supreme Court may receive a stipend. In Senate Committee on Judiciary.

Salary and Budget: Floor and Committee Activity

NONE

Other: Newly Introduced

[New Hampshire SB 330](#) Reinstates the court accreditation commission to prescribe minimum standards for all courts with respect to size, adequacy of facilities, security, decor and design, judicial chambers, conference rooms, stenographic and clerical assistance, decorum, parking

facilities, respect for the rights of the public, law enforcement personnel, and the accused, and such other features as the supreme court shall direct. Expands membership of commission. In Senate Judiciary Committee.

Other: Floor and Committee Activity

[Indiana HB 1044](#) Provides that a circuit court clerk is not personally liable for acts or omissions in the performance of the clerk's duties absent gross negligence or intentional disregard of the responsibilities of the office of clerk. Specifies that the fact that a clerk is not personally liable does not preclude an action against the clerk's bond based on an error or omission committed by the clerk. Approved by House Committee on Local Government 1/6/2010.

[Indiana SB 29](#) Provides that a circuit court clerk is not personally liable for acts or omissions in the performance of the clerk's duties absent gross negligence or intentional disregard of the responsibilities of the office of clerk. Specifies that the fact that a clerk is not personally liable does not preclude an action against the clerk's bond based on an error or omission committed by the clerk. Approved by Senate Committee on Corrections, Criminal, and Civil Matters 1/6/2010.