

## FY 2009 Change Request Judicial Branch

Schedule 13							
<b>Request Title:</b>		<b>Decision Item FY 08-09</b> X		<b>Base Reduction Item FY 08-09</b>			
<b>Department:</b>		Judicial Compensation		<b>Dept. Approval by:</b> 			
<b>Priority Number:</b>		3		<b>OSP Approval:</b> N/A			
		1	2	5	6	7	10
	Fund	Prior-Year Actual FY 06-07	Appropriation FY 07-08	Base Request FY 08-09	Decision/ Base Reduction FY 08-09	November 1 Request FY 08-09	Outyear Costs FY 09-10
<b>Total of All Line Items</b>	<b>Total</b>	5,707,904	12,128,483	13,955,268	1,172,896	15,128,163	1,172,896
	<b>GF</b>	5,441,376	10,966,419	12,406,844	1,172,896	13,579,739	1,172,896
	<b>CF</b>	266,528	1,162,064	1,548,424	-	1,548,424	-
<b>Special Purpose</b> Salary Survey	<b>Total</b>	4,652,652	9,900,228	9,895,628	1,149,430	11,045,058	1,149,430
	<b>GF</b>	4,447,399	8,998,493	8,750,295	1,149,430	9,899,724	1,149,430
	<b>CF</b>	205,253	901,735	1,145,333	-	1,145,333	-
<b>Special Purpose</b> Amortization Equal. Disb.	<b>Total</b>	1,055,252	1,885,200	3,093,059	15,977	3,109,036	15,977
	<b>GF</b>	993,977	1,669,756	2,785,942	15,977	2,801,919	15,977
	<b>CF</b>	61,275	215,444	307,117	-	307,117	-
<b>Special Purpose</b> Supplemental Amortiz. Equalization Disb.	<b>Total</b>	-	343,055	966,581	7,489	974,070	7,489
	<b>GF</b>	-	298,170	870,607	7,489	878,096	7,489
	<b>CF</b>	-	44,885	95,974	-	95,974	-
<b>Cash Fund name/number, Federal Fund Grant name:</b> N/A							
<b>IT Request:</b> Yes No X							
<b>Request Affects Other Departments:</b> Yes No X							

### Request Summary

The quality of the Judicial Branch should be among the highest priorities of state government. The highest priority of the Judicial Branch is to attract and maintain high-quality judges. This can only be achieved if judicial salaries are maintained at an appropriate level.

Due to the manner in which judicial salaries are presently indexed Colorado's judicial salaries have not kept pace with national judicial salary increases. Accordingly, the judicial branch is proposing an annual salary adjustment of 3% per year over a 4-year period (in addition to salary survey) to bring Colorado's judicial salaries into line nationally. The cost to implement this proposal for FY 2009 is approximately \$1.2 million.

### General Description of Request

In FY 2001, Colorado's Judicial Salaries were indexed against Administrative Law Judge (ALJ) positions in the executive branch, with compensation for county judges set at the ALJ III level. Subsequently, the Department of Personnel and Administration (DPA) in the Executive Branch revised the organizational structure and job classifications for ALJs in FY 2003.

Once this reorganization was completed, DPA revised the occupational groups to which ALJ salaries were compared in determining appropriate compensation, and ultimately indexed ALJ salaries to Colorado's Trial Judges. This created a circular salary comparison, where each group

was indexed to the other. As a result, neither group has received an increase beyond those included in statewide common policy (wage survey and performance based pay) since that time. Accordingly, a new method of determining appropriate compensation for Colorado's Judges needs to be established that eliminates the circular construct that presently exists.

In order to develop a new salary comparison framework, the Branch obtained compensation data on the following:

- Municipal Judges in the Denver metropolitan area including the cities of Arvada, Aurora, Englewood, Lakewood,
- Judges' salaries in other states,
- State of Colorado executive level compensation and
- Federal Judge compensation at varying levels

*Municipal Judge Salaries:*

Based on the municipalities represented, the average annual salary for a Presiding Municipal Judge in the Denver metropolitan area is \$118,775, which is approximately 4% higher than the FY2008 State of Colorado Judicial Department County Judge compensation.

The salary for Denver County Judges, currently \$141,000, was not included in calculating the average salary for municipal judges.

*Judges' Salaries in Other States:*

The National Center for State Courts (NCSC) has been collecting judicial salary data since 1976. The most recent survey (January 2007) published by the National Center of State Courts (NCSC) indicates that Colorado ranks 41<sup>st</sup> nationally for Highest Court (Supreme Court) salaries, among Intermediate Appellate Courts (Court of Appeals) Colorado's salaries rank 33<sup>rd</sup> out of 39, and 39<sup>th</sup> for General Jurisdiction Court (District Court). By aging each state's data by 3% (the average increase in judicial compensation nationally) and applying the 5.07% increase awarded to judges in Colorado for FY 2008, the rankings improve slightly (Colorado moves to 30<sup>th</sup> nationally for both Supreme Court and Court of Appeals and 31<sup>st</sup> for District Court).

Colorado's per capita income is currently the 8<sup>th</sup> highest in the nation and as reported by the Department of Personnel and Administration staff, a recent study indicates on average, Colorado state employee salaries rank approximately 12<sup>th</sup> in the nation. Accordingly, salaries for Colorado's Judges do not rank similarly with other state employees or other citizens of Colorado.

*State of Colorado Executive Compensation:*

Although the functions of the Colorado Supreme Court Chief Justice and Community College Presidents have only a slight similarity, it should be noted that compensation for the Chief Justice of the Colorado Supreme Court is 13% lower than the average salary of five Denver metropolitan area Community College Presidents (who do not have responsibility for operating an entire branch of government or making final decisions impacting the delivery of justice in the state of Colorado).

Colorado's Chief Justice is currently compensated at a level 6% lower than the average salary paid to Agency Executive Directors in Colorado, with the salary of the Chief Justice falling below the level paid to many SES positions throughout state government.

### Federal Judge Salaries:

The NCSC's January 2007 also includes Federal Magistrate and Judge salary data. The FY2008 compensation for the Chief Justice of the Colorado Supreme court is 15% lower than a Federal Magistrate and 25% lower than a Federal District Court Judge.

### Conclusion

Salaries paid to Colorado's judges have simply not kept pace with national judicial salaries. Colorado ranks 41<sup>st</sup> nationally for courts of last resort (Supreme Court) salaries, among Intermediate Appellate Courts Colorado's Court of Appeals salaries rank 33<sup>rd</sup> out of 39, and Colorado is currently 39<sup>th</sup> in terms of compensation for General Jurisdiction Courts (District Court).

On the lowest end of compensation for judges in Colorado, County Judges are currently compensated at a lower rate than that of the average rate for Presiding Municipal Judges, despite the more complex caseload handled by county judges<sup>1</sup>. In order to competitively recruit applicants for these positions and to account for a higher level of job complexity, it would seem prudent that County Judges be compensated higher than the Presiding Municipal Judges.

Based on a review of the compensation and responsibilities of the positions indicated above, an appropriate placement for Colorado Judge salaries is between the average Presiding Municipal Judge and the Federal District Court Judge. The Chief Justice of the Colorado Supreme Court would be adequately placed between the Federal Magistrate and the Federal District Court Judge. Under this overall structure Colorado's District Court Judges salaries would rank between 12<sup>th</sup> and 15<sup>th</sup> nationally.

### Implementation

Given the current fiscal situation, it would seem prudent to phase-in the increases over multiple years instead of implementing this adjustment in one fiscal year.

The following strategy would allow for the annual compensation for Colorado's District Judges to grow to \$154,594 by FY 2012, thus reaching an inflation adjusted level of approximately 12<sup>th</sup> to 15<sup>th</sup> in the nation. To accomplish this, the branch is seeking approval for a 3.0% annual adjustment, in addition to any wage survey or pay for performance increases awarded over the next 4 years. Under this proposal, judicial compensation would grow at an average rate of 6.75% per year, and ultimately increase by approximately 30% from the current levels of compensation.

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<sup>1</sup> The county court is a court of limited jurisdiction, handling cases involving serious public safety issues such as misdemeanor cases, felony advisements, setting bonds, and conducting preliminary hearings. County judges also issue search warrants, grant or hear protection orders in cases involving domestic violence, preside over traffic cases and civil actions involving no more than \$15,000 and preside over jury trials.

The movement in salaries by level of court, by year, is reflected in the figure below:

**Annual Salaries by Level of Court FY 2008-FY 2012, with 4 year Phased Increase:**

	County Judge	District Judge	COA Judge	SC Justice	Wage Survey and Performance Pay	3.0% per year Phase in	Annual change in Salary	Denver County Judges*	General Jurisdiction 12th in US*	General Jurisdiction 15th in US*
FY08	\$113,856	\$118,973	\$124,089	\$129,207			5.07%	\$141,000	\$139,919	\$135,800
1 FY09	\$123,015	\$128,384	\$133,751	\$139,120	4.91%	\$3,569	7.91%	\$145,230	\$144,117	\$139,874
2 FY10	\$131,480	\$137,051	\$142,619	\$148,189	3.75%	\$3,852	6.75%	\$149,587	\$148,441	\$144,070
3 FY11	\$140,522	\$146,302	\$152,079	\$157,858	3.75%	\$4,112	6.75%	\$154,075	\$152,894	\$148,392
4 FY12	\$150,180	\$156,177	\$162,170	\$168,166	3.75%	\$4,389	6.75%	\$158,697	\$157,481	\$152,844

\* estimated to increase at 3% per year

By applying the strategy and recommendations above<sup>2</sup>, Colorado judges' salaries will appropriately be placed between that of a Colorado Municipal Judge and Federal District Court Judge. Additionally, Colorado judge salaries will be ranked approximately 12th in the nation, similar to that of average Colorado state employees' salaries.

**Consequences if Not Funded**

Colorado enjoys a bench of state judges who are highly competent and dedicated to the task of resolving disputes. It is imperative that Colorado continues to be able to recruit, appoint, and retain a quality bench. The number of applicants for vacant judgeships has decreased from previous years and without an increase in compensation that number may continue to decline.

**Calculations for Request**

Level of Judge	FY 08 Salary	3.0% - Salary Adjustment	PERA	AED/ SAED	Medicare	Number of FTE	Total Cost
County Judge	\$113,856.00	\$3,416.00	\$466.63	\$80.28	\$49.53	89	\$357,106.59
District Judge	\$118,973.00	\$3,570.00	\$487.66	\$83.90	\$51.77	164	\$687,704.81
Court of Appeals Judge	\$124,089.00	\$3,723.00	\$508.56	\$87.49	\$53.98	22	\$96,206.79
Supreme Court Justice	\$129,207.00	\$3,877.00	\$529.60	\$91.11	\$56.22	7	\$31,877.47
<b>Total Cost -</b>							<b>\$1,172,895.66</b>

<sup>2</sup> For simplicity, the salaries of the Chief Justice of the Colorado Supreme Court and the Chief Judge of the Colorado Court of Appeals have been presented at the level of the other members of their respective courts. A salary differential of approximately 2.2% is paid to these positions above the salary rate paid to the other members of each court.

**Assumptions for Calculations**

***Personal Services***

All personal services calculations were based on FY08-09 Common Policies. Judicial PERA rate is 13.66% per annum.

**Impact on Other Government Agencies**

No impact on other state agencies is anticipated.

**Statutory Authority**

C.R.S. § 13-30-101, et. seq.

**Performance Measures**

<b>MEASURE I-1:</b>					
<b>Objective – Increase positive perceptions of court experience.</b>					
<b>Performance Measure</b>	<b>Outcome</b>	<b>FY 07-08 (actual)</b>	<b>FY 08-09 (actual)</b>	<b>FY 09-10 (estimate)</b>	<b>FY 10-11 (projected)</b>
Percentage of respondents surveyed indicating positive perception of access and fairness.	Benchmark	N/A	N/A	N/A	N/A
	Actual	N/A	N/A	N/A	N/A

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