

## MEMORANDUM

To: Senate and House Judiciary Committees  
Senator Gary Stubblefield, Chair  
Rep. Carol Dalby, Chair

From: CJAA President Rusty McMillon

By: Taylor Handford, AAC Law Clerk

Re: Act 38 of 2023 District Court Study

Date: September 2, 2024

## 1. District Courts

Act 38 of 2023 requires a legislative study of financial matters related to the district court system in order to better understand: the financial burdens and benefits placed on municipalities, counties, and the state; the amount of fines, fees, and court costs assessed on defendants; the relationship between assessed fines, fees, and court costs and the operation of the district court system; and, the link between financial issues and assessments and fairness and equity.

Act 38 also proposes that issues found during the study may require legislative remedies. A joint Senate and House Judiciary Committee hearing on Thursday, June 6, 2024, concluded with requests for formal submissions of the County Judges Association of Arkansas and the Arkansas Municipal League.

On Wednesday, June 26, 2024, the CJAA Legislative Committee approved the following legislative recommendations and the CJAA General Membership voted unanimously to recommend the following:

(I). A.C.A. § 16-17-1106 Salary of state district court judges - Cost-sharing to be repealed, effectuating that district court judges salaries are paid by State funds; and

(II). A.C.A. § 16-13-704 Installment payments be amended to a one-time administrative fee of fifty dollars (\$50) and that the administrative fee be directed to the "maintenance and operation" of the district court and placed into a fund for those purposes with the operating city or county. These funds shall be for:

- (i) Court-related operational expenses;
- (ii) Court-related personnel expenses;
- (iii) Court-related maintenance expenses; and
- (iv) Court-related technology or indirect expenses related to implementation of new court-related technology, including overtime pay, personnel or travel expenses, and technology-related supplies.

**Exhibit A** contains the current relevant statutes.

**Exhibit B** contains the repealed and amended statutes.

a. Legislative Intent

Pursuant to Amendments 80 and 94 of the Arkansas Constitution, *Cotham v. Coffman*, 111 Ark. 108 (1914), supported by *Honorable v. Hyde*, 2024 Ark. 114, the state funding of District Court judges is a proper and appropriate use of state funds. Amendment 80, adopted by the voters in the 2000 general election, vested the judicial department of state government with judicial power as a step towards uniformity and clarity in Arkansas's courts. Amendment 94 directed that the salaries of state district court judges be paid

While Amendment 80 did not address financial issues related to the judiciary, Amendment 94, adopted in the 2014 general election, declared that district court judges salaries are to be determined by the Independent Citizens Commission and to be paid from the Constitutional Officers Fund, the same as other state constitutional officers, such as: Governor, Lieutenant Governor, Attorney General, Supreme Court Justices, Court of Appeals judges, Circuit Court Judges and Legislators.

In *Cotham*, decided in 1914, the Arkansas Supreme Court declared that "The section of our Constitution . . . which provides for the salary of circuit judges also provides for the salary of the Governor, Supreme Court judges, and the other State officers, whose salary could only be paid out of the State treasury . . . and we think the section on that . . . limits the payment of judicial salaries to revenue of the State." The Court continued that, "A State purpose must be accomplished by State taxation, a county purpose by county taxation, or a public purpose for any inferior district by taxation of such district. This is not only just, but it is essential." The essential takeaway from *Cotham* is that it is unconstitutional for financial burdens related to the purposes of the State of Arkansas to be imposed on counties, particularly in such a manner where the burden is unequal.

The holding in *Cotham* from 1914, was recently supported under *Honorable* in 2024, that local and special acts cannot be passed by the General Assembly pursuant to Arkansas Constitutional Amendment 14. An act is local when it applies to a division or subdivision of the state but not the whole; an act is special when it separates a person, place, or thing from the whole in which it would otherwise operate. In other words, a county cannot be made to fund a position that is statutorily and specially mandated by the General Assembly due to an unequal and onerous burden, a lack of uniformity. Amendments 80 and 94

direct a more uniform judiciary of the State. *Cotham* and *Honorable* establish that State funds should be used for State purposes. The payment and funding of the salaries of state district court judges, circuit judges and appellate justices by cities and counties is contrary to the Arkansas Constitution and over a century of Arkansas jurisprudence.

b. District Court Judges Salaries

The first legislative recommendation of the CJAA is for A.C.A. § 16-17-1106 Salary of state district court judges - Cost-sharing to be repealed. The recommendation is rooted in the above constitutional amendments and over a century of case law. The effect of the repeal is that the State assumes the remaining share of district court judges salaries paid by the cities and counties, approximately \$3.8 million.

c. Installment Payment Plan Fees

The second legislative recommendation of the CJAA is for A.C.A. § 16-13-704 Installment Payments - Definition to be amended from a recurring \$10 monthly fee to a one-time \$50 administrative fee. The \$50 fee will be retained by the city or county operating and holding funds of the district court to be remitted to a District Court Operations & Maintenance (O & M) Fund. The District Court O & M Fund would be used to defray the costs of operating and maintaining district courts, district court personnel, and other district court related expenses.

The effect of this change is multi-faceted. The burden on the defendant will be drastically lessened as currently the \$10 monthly fee accrues regardless of the defendant's particularized circumstances, often accruing to be more costly than the original fine, fees, and costs due. The \$10 monthly fee currently collected in district courts is parceled out between the State Administration of Justice Fund (State AOJF) and technology-related funds. The portions of the fee remitted to technology-related funds can only be used to provide for technology-related expenses. As A.C.A. § 16-13-704 currently operates, 75% of the \$10 fee collected in district courts goes to the State for deposit into the State AOJF, which receives \$5, and the Judicial Fine Collection Enhancement Fund, which receives \$2.50. The remaining \$2.50 is remitted to the local court automation fund. Remitting the one-time administrative fee of \$50 to the District Court O & M Fund provides for the fee to be directly used for administration of justice purposes. This would allow for the costs of operating and maintaining the district court to be defrayed while also negating the appearance, and actuality, of funding non-justice related initiatives by onerously burdening defendants.

#### d. Other Issues

The CJAA is aware of the following issues that are likely to be addressed by the Senate and House Judiciary Committee: the accrual of large sums of money into court automation funds and the retained share of court costs and fees kept by or distributed by city and county governments.

We greatly appreciate the efforts of the General Assembly and Legislative Audit to ascertain and compile the information required to produce the special report regarding district courts. The CJAA has determined that in order to provide recommendations regarding the below items more information and discussion would be required.

##### i. Automation Funds

At their inception the technology fees at the district court level and state level were necessary to establish automation within the district courts to enable the acceptance of installment payments. It is our understanding that district court automation funds in many district courts have grown to six-figure sums. In 2021, the Pulaski County District Court had an automation fund balance of \$241,325 and the Sebastian County District Court had an automation fund balance of \$79,656. In 2020, the City of Benton had a district court automation fund balance of \$124,141.

The automation fund balances likely far exceed the technology needs and any necessary and reasonable expenditures of many district courts for the narrow purposes of technology. The costs associated with updating district court technology have decreased or leveled off as well (compared to the initial costs of establishing the necessary technology).

Pursuant to A.C.A. § 21-6-416 Court clerks - Technology fees - Definition a \$15 technology fee is charged by clerks of the Supreme Court, circuit courts, and district courts for all civil actions and misdemeanors filed in the Supreme Court or Court of Appeals; for civil, domestic relations, and probate cases filed in circuit court; and for all civil and small claims cases filed in district courts. The \$15 technology fee collected for opening each case at every court level is remitted to the Judicial Fine Collection Enhancement Fund. This technology fee is an addition to the above-mentioned technology fee collected from the monthly installment payment plan fee in A.C.A. § 16-13-704.

##### ii. Retained Shares

Act 1256 of 1995 provided for uniform filing fees and court costs in Arkansas. Before Act 1256, court costs and filing fees were not uniform, which lead to a confusing and inequitable court system and access to justice issues. While Act 1256 provided for uniform fees and

court costs, localities were allowed to retain the amount of fees and court costs collected from 1993-1994. Any court costs and fee collected above the retained share is remitted to the State AOJF.

Thirty years later it has become clear with population shifts, economic changes, and other variables, that the 1994 retained shares may be an outdated manner of dividing the funding for district courts throughout the State of Arkansas and the State AOJF. Many district courts far exceed the retain share established in 1994, resulting in the overwhelming amount of collected court costs and fees being sent to the State AOJF. Many district courts also never reach the retained share of collected court costs and fees established in 1994, meaning that these courts do not contribute to the statewide system.

Due to the immense variability, sometimes even within a single district court, of collected court costs, fees, and retained shares across district court departments in Arkansas, addressing retain shares would require more deliberation and discussion with other stakeholders and interested parties.

#### e. Conclusion

At this time the CJAA has two recommendations for legislation related to district courts: : (1) the repeal of A.C.A. § 16-17-1106 and funding of State positions with State funds in accordance with *Cotham, Honorable*, and Amendments 80 and 94 of the Arkansas Constitution and (2) to replace the current installment payment plan fee with a one-time administrative installment payment processing fee for defendant installment payment plans.

**Exhibit A: Current Law**

**16-17-1106. Salary of state district court judges – Cost-sharing.**

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**(a)** The state shall pay the salary and benefits of state district court judges created under this subchapter.

**(b)**

**(1)**

**(A)** Each county and town or city in a district in which a state district court judgeship is created under this subchapter shall pay to the state an amount equal to its proportionate share of one-half ( $\frac{1}{2}$ ) of the base salary established by law for state fiscal year 2009 for that district's state district court judge.

**(B)**

**(i)** The proportionate share is calculated as follows:

**(a)** Determine the sum total of the base salary paid by each county and town or city in a district to that county and town or city's district court judge or city court judge for the calendar year immediately preceding the creation of the state district court judgeship; and

**(b)** Determine the proportion of the base salary of each county and town or city to the sum total base salary of the district.

**(ii)** Each county and town or city shall pay to the state its proportionate share as determined in subdivision (b) (1) (B) (i) (a) of this section of one-half ( $\frac{1}{2}$ ) of the base salary established by law for state fiscal year 2009 for each state district court judge in the district at the time the county and town or city had a state district court judgeship created.

**(C)** On a form provided by the Administration of Justice Funds Section, each county and town or city in a district shall certify annually on or before October 31 the amount to be paid to the state for its share of one-half ( $\frac{1}{2}$ ) of the salary as determined in this section for that district's state district court judge.

**(2)**

**(A)** This section does not prohibit a county and town or city in a district in which a state district court judgeship is created under this subchapter from agreeing in writing on the amount to be paid to the state by the county and the town or city for its proportionate share of one-half ( $\frac{1}{2}$ ) of the salary as determined in this section for that district's state district court judge.

**(B)** If a written agreement is reached under subdivision (b) (2) (A) of this section, the county and town or city shall submit on or before October 31 a copy of that written agreement to the Administration of Justice Funds Section.

**(c)** The amount of the state district court judge's salary initially paid by the county and the town or city in a district and annually

afterwards shall be the amount determined under subsection (b) of this section.

**(d)**

**(1)** Beginning with its annual meeting of 2011, the quorum court in each county in a district in which a state district court judgeship is created under this subchapter and the council in each town or city in a district in which a state district court judgeship is created under this subchapter shall appropriate annually from its general revenues an amount sufficient to pay its share of the state district court judgeship salary allocated to it under subsection (b) of this section.

**(2)** The duty under subdivision (d)(1) of this section may be enforced in a court of competent jurisdiction.

**(e)** On or before December 15, 2011, and annually afterwards, the Administration of Justice Funds Section shall certify to the county and the town or city in each district the amount of its share of one-half ( $\frac{1}{2}$ ) of the base salary established under subsection (b) of this section.

**(f)** On or before January 15, 2012, and annually afterwards, the county and the town or city shall remit to the Administration of Justice Funds Section for deposit into the Constitutional Officers Fund the sum necessary to fund its share of the base salary allocated to it under subsection (e) of this section.

#### **16-13-704. Installment payments – Definition.**

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**(a)**

**(1)** If the court concludes that the defendant has the ability to pay the fine, but that requiring the defendant to make immediate payment in full would cause a severe and undue hardship for the defendant and the defendant's dependents, the court may authorize payment of the fine by means of installment payments in accordance with this subchapter.

**(2)**

**(A)** When a court authorizes payment of a fine by means of installment payments, it shall issue, without a separate disclosure hearing, an order that the fine be paid in full by a date certain and that in default of payment, the defendant must appear in court to explain the failure to pay.

**(B)** In fixing the date of payment, the court shall issue an order which will complete payment of the fine as promptly as possible without creating a severe and undue hardship for the defendant and the defendant's dependents.

**(3)** When a person is authorized to pay a fine on an installment basis, any court cost assessed under § 9-15-202(d) or § 16-10-305(h) shall be collected from the initial installment payment first.

**(b)**

**(1)**

**(A)** In addition to the fine and any other assessments authorized by this subchapter, an installment fee of five dollars

(\$5.00) per month shall be assessed on each person who is authorized to pay a fine on an installment basis.

**(B)** This fee shall be collected in full each month in which a defendant makes an installment payment.

**(C)** This fee shall accrue each month that a defendant does not make an installment payment and the fine has not been paid in full.

**(2)**

**(A)**

**(i)** One-half ( $\frac{1}{2}$ ) of the installment fee collected in circuit court shall be remitted by the tenth day of each month to the Administration of Justice Funds Section of the Office of Administrative Services of the Department of Finance and Administration, on a form provided by that office, for deposit into the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

**(ii)** The other half of the installment fee shall be remitted by the tenth day of each month to the county treasurer to be deposited into a fund entitled the "circuit court automation fund" to be used solely for circuit court-related technology.

**(B)**

**(i)** Expenditures from the circuit court automation fund shall be approved by the administrative circuit judge of each judicial circuit and shall be authorized and paid under the state laws governing the appropriation and payment of county expenditures.

**(ii)** Expenditures may be made for indirect expenses related to implementation of new court-related technology, including overtime pay, personnel or travel expenses, and technology-related supplies.

**(iii)** Funds in each county in a judicial district may be pooled for expenditure pursuant to a circuit-wide technology plan approved by the administrative circuit judge.

**(3)**

**(A)** One-half ( $\frac{1}{2}$ ) of the installment fee collected in district court shall be remitted by the tenth day of each month to the Administration of Justice Funds Section, on a form provided by that section, for deposit into the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

**(B)** The other half of the installment fee collected in district court shall be remitted by the tenth day of each month to the city treasurer of the city in which the district court is located to be deposited into a fund entitled the "district court automation fund" to be used solely for district court-related technology.

**(C)** In any district court which is funded solely by the county, the other half of this fee shall be remitted by the tenth day of each month to the county treasurer of the county in which the district court is located to be deposited into the district



court automation fund to be used solely for district court-related technology.

**(D)**

**(i)** Expenditures from the district court automation fund shall be approved by a district judge and shall be authorized and paid under state laws governing the appropriation and payment of county or municipal expenditures by the governing body or, if applicable, governing bodies, that contribute to the expenses of a district court.

**(ii)** Expenditures may be made for indirect expenses related to implementation of new court-related technology, including overtime pay, personnel or travel expenses, and technology-related supplies.

**(E)**

**(i)** In circuit court only, an installment fee of an additional five dollars (\$5.00) per month shall also be assessed on the first day of each month on each person who is ordered to pay a fine on an installment basis with the additional five dollars (\$5.00) to be remitted to the collecting official to be used to defray the cost of fine collection.

**(ii)** In district court only, an installment fee of an additional five dollars (\$5.00) per month shall also be assessed on the first day of each month on each person who is ordered to pay a fine on an installment basis with the additional five dollars (\$5.00) to be remitted by the tenth day of each month to the Administration of Justice Funds Section on a form provided by that section for deposit into the State Administration of Justice Fund.

**(c)** Any defendant who has been authorized by the court to pay a fine by installments shall be considered to have irrevocably appointed the clerk of the court as his or her agent upon whom all papers affecting his or her liability may be served, and the clerk shall forthwith notify the defendant thereof by ordinary mail at his or her last known address.

**(d)** "Ability to pay" means that the resources of the defendant, including all available income and resources, are sufficient to pay the fine and provide the defendant and his or her dependents with a reasonable subsistence compatible with health and decency.

**16-10-307. County administration of justice fund.**

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**(a)** There is hereby created in each county a fund in the office of the county treasurer to be known as the "county administration of justice fund".

**(b)** The county administration of justice fund shall be used to defray a part of the expenses of the administration of justice in the county. From the fund, the county shall continue to finance the following county agencies and programs which are currently funded, in whole or in part, by filing fees and court costs, at a funding level equal to not less than the greater of the amount which was collected by the

county from filing fees and court costs for the agency or program in the calendar year ending December 31, 1994, or the amount appropriated by ordinance enacted prior to December 31, 1994, or on February 13, 1995, or on February 14, 1995, or by resolution dated February 9, 1995, to the agency or program for the calendar year ending December 31, 1995:

- (1) The prosecuting attorney fund, including all grant funds awarded and appropriated for the calendar year ending December 31, 1995;
- (2) The prosecuting attorney's victim-witness program fund;
- (3) The public defender/indigent defense fund and public defender investigator fund, including all grant funds awarded and appropriated for the calendar year ending December 31, 1995;
- (4) The county law library fund;
- (5) The county jail fund; and
- (6) The intoxication detection equipment fund.

(c)

(1)

(A) The county administration of justice fund of each county may retain an amount equal to the amount which was collected by the county from court costs and filing fees for county administration of justice expense in the calendar year ending December 31, 1994, or the amount appropriated from court costs and filing fees by ordinance enacted prior to December 31, 1994, or on February 13, 1995, or on February 14, 1995, or by resolution dated February 9, 1995, for county administration of justice expense from court costs and filing fees for the calendar year ending December 31, 1995, plus, for calendar years 1995 – 2001, an additional amount based upon the average percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor for the two (2) years immediately preceding.

(B)

(i) The amount retained during calendar years 2002, 2003, 2004, and 2005 shall be the amount retained during calendar year 2001.

(ii) Except as provided in subdivision (c)(1)(B)(iii) of this section, for calendar years beginning 2014 and each calendar year thereafter, an additional amount shall be added to the amount to be retained based upon the lesser of the average percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor, for the two (2) years immediately preceding or the percentage rate of increase in collections of the State Administration of Justice Fund for the two (2) years immediately preceding.

(iii) The provisions of subdivision (c)(1)(B)(ii) of this section shall not be effective if the Chief Fiscal Officer of the State determines that the additional amount retained under subdivision (c)(1)(B)(ii) of this section has exceeded one million dollars (\$1,000,000) in a calendar

year and any additional amount to be retained must be authorized by the General Assembly.

(C) All local ordinances of the counties and cities authorized and adopted under § 24-8-318 shall remain in full force and effect.

(2) For the calendar year beginning January 1, 1998, the base amount to be retained shall be:

(A) Increased by any increase in the Consumer Price Index for All Urban Consumers as provided for in subdivision (c)(1) of this section; and

(B) Decreased by eighty-five percent (85%) of the total dollar amount which was certified by the county as having been collected during calendar year 1994 and for the purpose of funding the office and operation of the public defender and public defender investigator.

(d) Nothing in this section shall prevent the county from funding any additional costs for the administration of justice from these or other county funds.

(e) The county shall remit on or before the fifteenth day of each month all sums received in excess of the amounts necessary to fund the expenses enumerated in subsections (b) and (c) of this section during the previous month from the uniform filing fees provided for in §§ 21-6-403 and 9-15-202, and the uniform court costs provided for in § 16-10-305 to the Administration of Justice Funds Section for deposit into the State Administration of Justice Fund.

16-10-603. Procedure – County administration of justice funds.

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(a)

(1) Pursuant to § 16-10-307, each county is to create a county administration of justice fund.

(2) Each county treasurer should deposit into the fund:

(A) All receipts from the collection of uniform filing fees established by § 21-6-403 which are collected by the circuit clerk, county clerk, or other official and remitted to the county treasurer;

(B) All receipts from the collection of uniform court costs established by § 16-10-305 which are collected by the county official, agency, or department designated pursuant to § 16-13-709 as primarily responsible for the collection of fines assessed in circuit court and remitted to the county treasurer;

(C) All receipts of the county's share of uniform filing fees established by § 16-17-705 which are collected by the district courts within the county and remitted to the county treasurer; and

(D) All receipts of the county's share of uniform court costs established by § 16-10-305 which are collected by the

official, agency, or department of the county, town, or city designated pursuant to § 16-13-709 as primarily responsible for the collection of fines assessed in district courts within the county and remitted to the county treasurer.

**(b)** From the county administration of justice fund, the county treasurer is to make, on a monthly basis, the following fund transfers or disbursements:

**(1)**

**(A)** Pursuant to § 16-10-307(c), the Department of Finance and Administration will certify for each county the county's monthly share of uniform court costs and filing fees to be retained by the county.

**(B)**

**(i)** Each year the quorum court shall establish the amount of uniform filing fees and court costs to be appropriated to each of the county programs or agencies enumerated in § 16-10-307(b) from the county's share of uniform court costs and filing fees.

**(ii)** Each program or agency shall receive, as a minimum, the amount established by § 16-10-307(b); and

**(2)** The excess of the monthly receipts into the fund from subdivisions (a) (2) (A) and (B) of this section, less the county's certified monthly share and the county treasurer's commission, if any, as authorized by § 21-6-302, shall be remitted to the Department of Finance and Administration.

**Exhibit B Proposed Legislation**

Section 1: § 1 Legislative Intent:

The General Assembly finds that:

(1) Amendment 80 vested the judicial power of the State of Arkansas in the judicial department;

(2) Amendment 94 vested the power to determine the salaries of State officers, including district court judges, with the Independent Citizens Commission and the salaries to be paid from the Constitutional Officers Fund, A.C.A. § 19-5-205;

(3) Amendment 94 and A.C.A. § 19-5-205 further established that district court judges are state elected officials under the Arkansas Constitution that render state judicial services;

(4) Amendment 94, A.C.A. § 16-17-1104, Act 663 of 2007, Act 345 of 2009, and Act 1219 of 2011 further directed that the state district court judges have their salaries set by the independent citizens commission to be paid out of the constitutional officers fund;

(5) In *Cotham v. Coffman*, 111 Ark. 108 (1914), the Arkansas Supreme Court established that state funds should be used for state purposes;

(6) In *Honorable v. Hyde*, 2024 Ark. 114, the Arkansas Supreme Court held that local and special acts violate Amendment 14 of the Arkansas Constitution and that county funds cannot in accordance with the Arkansas Constitution be directed and used for state purposes; and

(7). Over the past quarter of a century the State of Arkansas has transitioned from hundreds of part-time local municipal court, city court and or district court judges to commencing on January 1, 2025, seventy (70) fulltime state district court judges. The result has been a consolidation of these courts into a unified state system of district courts;

(8). Commencing on January 1, 2025, all of the district court judges in Arkansas, seventy (70) in total, shall be state district court judges; and

(9). The General Assembly acts to repeal A.C.A. § 16-17-1106 and the obligation of cities and counties to pay for the salaries of state district court judges in Arkansas.

Section § 2: ~~16-17-1106. Salary of state district court judges—  
Cost-sharing.~~

~~(a) The state shall pay the salary and benefits of state district court judges created under this subchapter.~~

~~(b)~~

~~(1)~~

~~(A) Each county and town or city in a district in which a state district court judgeship is created under this subchapter shall pay to the state an amount equal to its proportionate share of one-half (½) of the base salary established by law for state fiscal year 2009 for that district's state district court judge.~~

~~(B)~~

~~(i) The proportionate share is calculated as follows:~~

~~(a) Determine the sum total of the base salary paid by each county and town or city in a district to that county and town or city's district court judge or city court judge for the calendar year immediately preceding the creation of the state district court judgeship; and~~

~~(b) Determine the proportion of the base salary of each county and town or city to the sum total base salary of the district.~~

~~(ii) Each county and town or city shall pay to the state its proportionate share as determined in subdivision (b) (1) (B) (i) (a) of this section of one-half (½) of the base salary established by law for state fiscal year 2009 for each state district court judge in the district at the time the county and town or city had a state district court judgeship created.~~

~~(C) On a form provided by the Administration of Justice Funds Section, each county and town or city in a district shall certify annually on or before October 31 the amount to be paid to the state for its share of one-half (½) of the salary as determined in this section for that district's state district court judge.~~

~~(2)~~

~~(A) This section does not prohibit a county and town or city in a district in which a state district court judgeship is created under this subchapter from agreeing in writing on the amount to be paid to the state by the county and the town or city for its proportionate share of one-half (½) of the salary as determined in this section for that district's state district court judge.~~

~~(B) If a written agreement is reached under subdivision (b) (2) (A) of this section, the county and town or city shall submit on or before October 31 a copy of that written agreement to the Administration of Justice Funds Section.~~

~~(c) The amount of the state district court judge's salary initially paid by the county and the town or city in a district and annually afterwards shall be the amount determined under subsection (b) of this section.~~

~~(d)~~

~~(1) Beginning with its annual meeting of 2011, the quorum court in each county in a district in which a state district court judgeship is created under this subchapter and the council in each town or city in a district in which a state district court judgeship is created under this subchapter shall appropriate annually from its general revenues an amount sufficient to pay its share of the state district court judgeship salary allocated to it under subsection (b) of this section.~~

~~(2) The duty under subdivision (d)(1) of this section may be enforced in a court of competent jurisdiction.~~

~~(e) On or before December 15, 2011, and annually afterwards, the Administration of Justice Funds Section shall certify to the county and the town or city in each district the amount of its share of one-half (½) of the base salary established under subsection (b) of this section.~~

~~(f) On or before January 15, 2012, and annually afterwards, the county and the town or city shall remit to the Administration of Justice Funds Section for deposit into the Constitutional Officers Fund the sum necessary to fund its share of the base salary allocated to it under subsection (e) of this section.~~

SECTION 3. Arkansas Code § 16-13-704, concerning court installment payments, is amended to read as follows:

**16-13-704.** Installment payments – Definition.

**(a) (1)** If the court concludes that the defendant has the ability to pay the fine, but that requiring the defendant to make immediate payment in full would cause a severe and undue hardship for the defendant and the defendant's dependents, the court may authorize payment of the fine by means of installment payments in accordance with this subchapter.

**(2) (A)** When a court authorizes payment of a fine by means of installment payments, it shall issue, without a separate disclosure hearing, an order that the fine be paid in full by a date certain and that in default of payment, the defendant must appear in court to explain the failure to pay.

**(B)** In fixing the date of payment, the court shall issue an order which will complete payment of the fine as promptly as possible without creating a severe and undue hardship for the defendant and the defendant's dependents.

**(3)** When a person is authorized to pay a fine on an installment basis, any court cost assessed under § 9-15-202(d) or § 16-10-305(h) shall be collected from the initial installment payment first.

(b) (1) (A) Upon authorization for an installment payment plan in district court, a one-time administrative installment processing fee of fifty dollars (\$50.00) shall be paid at the time the payment plan is authorized. Payment of a administrative installment payment processing fee of fifty dollars (\$50.00) is necessary and required for participation by and acceptance of installment fees by the defendant. In addition to the fine and any other assessments authorized by this subchapter, an installment fee of five dollars (\$5.00) per month shall be assessed on each person who is authorized to pay a fine on an installment basis.

(B) The administrative installment payment processing fee shall be remitted monthly by the collecting officer to the city treasurer or county treasurer of the city or county operating the district court. This fee shall be collected in full each month in which a defendant makes an installment payment.

(C) The city treasurer or county treasurer of the city or county operating the district court shall deposit the administrative installment payment processing fees to the District Court Operations and Maintenance Fund established on the books of the city or county. This fee shall accrue each month that a defendant does not make an installment payment and the fine has not been paid in full.

(D) Funds held in the District Court Operations and Maintenance Fund shall be used solely for:

- (i) Court-related operational expenses;
- (ii) Court-related personnel expenses;
- (iii) Court-related maintenance expenses; and
- (iv) Court-related technology or indirect expenses related to implementation of new court-related technology, including overtime pay, personnel or travel expenses, and technology-related supplies.

(2) (A) (i) In addition to the fine and any other assessments authorized by this subchapter, an installment fee of five dollars (\$5.00) per month shall be assessed on each person who is authorized to pay a fine on an installment basis in circuit court.

(ii) One-half (½) of the installment fee collected in circuit court shall be remitted by the tenth day of each month to the Administration of Justice Funds Section of the Office of Administrative Services of the Department of Finance and Administration, on a form provided by that office, for deposit into the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

~~(ii)~~ (iii) The other half of the installment fee shall be remitted by the tenth day of each month to the county treasurer to be deposited into a fund entitled the "circuit court automation fund" to be used solely for circuit court-related technology.



**(B) (i)** Expenditures from the circuit court automation fund shall be approved by the administrative circuit judge of each judicial circuit and shall be authorized and paid under the state laws governing the appropriation and payment of county expenditures.

**(ii)** Expenditures may be made for indirect expenses related to implementation of new court-related technology, including overtime pay, personnel or travel expenses, and technology-related supplies.

**(iii)** Funds in each county in a judicial district may be pooled for expenditure pursuant to a circuit-wide technology plan approved by the administrative circuit judge.

~~**(3) (A)** One-half (½) of the installment fee collected in district court shall be remitted by the tenth day of each month to the Administration of Justice Funds Section, on a form provided by that section, for deposit into the Judicial Fine Collection Enhancement Fund established by § 16-13-712.~~

~~**(B)** The other half of the installment fee collected in district court shall be remitted by the tenth day of each month to the city treasurer of the city in which the district court is located to be deposited into a fund entitled the "district court automation fund" to be used solely for district court-related technology.~~

~~**(C)** In any district court which is funded solely by the county, the other half of this fee shall be remitted by the tenth day of each month to the county treasurer of the county in which the district court is located to be deposited into the district court automation fund to be used solely for district court-related technology.~~

~~**(D) (i)** Expenditures from the district court automation fund shall be approved by a district judge and shall be authorized and paid under state laws governing the appropriation and payment of county or municipal expenditures by the governing body or, if applicable, governing bodies, that contribute to the expenses of a district court.~~

~~**(ii)** Expenditures may be made for indirect expenses related to implementation of new court-related technology, including overtime pay, personnel or travel expenses, and technology-related supplies.~~

**(3) (E) (i)** In circuit court only, an installment fee of an additional five dollars (\$5.00) per month shall also be assessed on the first day of each month on each person who is ordered to pay a fine on an installment basis with the additional five dollars (\$5.00) to be remitted monthly to the county treasurer collecting official and deposited to the fund from which the collecting officer's budget is funded to be used to defray the cost of fine collection.

~~**(ii)** In district court only, an installment fee of an additional five dollars (\$5.00) per month shall also be assessed on the first day of~~

~~each month on each person who is ordered to pay a fine on an installment basis with the additional five dollars (\$5.00) to be remitted by the tenth day of each month to the Administration of Justice Funds Section on a form provided by that section for deposit into the State Administration of Justice Fund.~~

(c) Any defendant who has been authorized by the court to pay a fine by installments shall be considered to have irrevocably appointed the clerk of the court as his or her agent upon whom all papers affecting his or her liability may be served, and the clerk shall forthwith notify the defendant thereof by ordinary mail at his or her last known address.

(d) "Ability to pay" means that the resources of the defendant, including all available income and resources, are sufficient to pay the fine and provide the defendant and his or her dependents with a reasonable subsistence compatible with health and decency.

SECTION 2. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL, AND TEMPORARY LAW. DISTRICT COURT AUTOMATION FUND. Beginning on the date this Act goes into effect and until the end of December, 2026 the District Court Automation Fund balance shall be budgeted and expended in accordance with the original law governing the use of the District Court Automation Fund. The law provided for the following: (1)One-half (½) of the installment fee collected in district court shall be remitted by the tenth day of each month to the Administration of Justice Funds Section, on a form provided by that section, for deposit into the Judicial Fine Collection Enhancement Fund established by § 16-13-712. (2)The other half of the installment fee collected in district court shall be remitted by the tenth day of each month to the city treasurer of the city in which the district court is located to be deposited into a fund entitled the "district court automation fund" to be used solely for district court-related technology. (3)In any district court which is funded solely by the county, the other half of this fee shall be remitted by the tenth day of each month to the county treasurer of the county in which the district court is located to be deposited into the district court automation fund to be used solely for district court-related technology. (4)Expenditures from the district court automation fund shall be approved by a district judge and shall be authorized and paid under state laws governing the appropriation and payment of county or municipal expenditures by the governing body or, if applicable, governing bodies, that contribute to the expenses of a district court. (5)Expenditures may be made for indirect expenses related to implementation of new court-related technology, including overtime pay, personnel or travel expenses, and technology-related supplies.

Any balance remaining in a District Court Automation Fund at the end of December, 2026 shall be transferred, by operation of law, to the District Court Operations and Maintenance Fund established on the books of the city or county.