

By the Policy and Steering Committee on Ways and Means; the  
Committee on Judiciary; and Senator Pruitt

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1                                   A bill to be entitled  
2           An act relating to the clerks of court; amending s.  
3           25.381, F.S.; requiring the Supreme Court and Attorney  
4           General to jointly enter into a contract with a vendor  
5           to publish copies of Florida cases; amending s.  
6           28.241, F.S.; redirecting a portion of certain civil  
7           filing fees to the Clerks of the Court Trust Fund  
8           within the Justice Administrative Commission;  
9           eliminating a requirement that a portion of such fees  
10          be deposited into the Department of Financial  
11          Services' Administrative Trust Fund; amending s.  
12          28.246, F.S.; requiring the clerk to refer certain  
13          unpaid accounts to a private attorney or a collection  
14          agent; amending s. 28.35, F.S.; providing for the  
15          Florida Clerks of Court Operations Corporation to be  
16          administratively housed within the Justice  
17          Administrative Commission; requiring the Chief Justice  
18          of the Supreme Court to designate a member of the  
19          corporation's executive council to represent the state  
20          courts system; deleting provisions exempting the  
21          corporation from ch. 287, F.S., relating to  
22          procurement, and from ch. 120, F.S., relating to  
23          administrative procedures; revising the duties of the  
24          corporation; requiring that the Florida Clerks of  
25          Court Operations Corporation develop measures and  
26          standards for reviewing the performance of clerks of  
27          court and notify the Legislature and the Supreme Court  
28          of any clerk not meeting the standards; conforming  
29          cross-references; deleting provisions relating to the

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30 certification of the amount of the proposed budget for  
31 each clerk; providing for the clerks of court to be  
32 funded pursuant to state appropriations rather than  
33 from filing fees, service charges, court costs, and  
34 fines; providing for the Florida Clerks of Court  
35 Operations Corporation to be funded pursuant to the  
36 General Appropriations Act rather than a contract with  
37 the Chief Financial Officer; revising requirements for  
38 the audits of clerks of court; amending s. 28.36,  
39 F.S.; providing a procedure for the clerks of court to  
40 prepare budget requests for submission to the Florida  
41 Clerks of Court Operations Corporation, with a copy to  
42 the Supreme Court; providing requirements for the  
43 budget requests; requiring the corporation to  
44 determine whether projected court-related revenues are  
45 less than the proposed budget for a clerk; requiring  
46 that a clerk increase fees and service charges to  
47 resolve a deficit; requiring the corporation to  
48 compare a clerk's expenditures and costs with the  
49 clerk's peer group and for the clerk to submit  
50 documentation justifying higher expenditures;  
51 requiring that the corporation and the Chief Financial  
52 Officer review the clerks' budget requests and make  
53 recommendations to the Legislature; authorizing the  
54 Chief Financial Officer to conduct, and the Chief  
55 Justice of the Supreme Court to request, an audit of  
56 the corporation or a clerk of court; providing for the  
57 Legislature to make appropriations for the budgets of  
58 the clerks; requiring that the corporation release

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59 appropriations each quarter; deleting provisions  
60 authorizing the Legislative Budget Commission to  
61 approve budgets; amending s. 28.37, F.S.; clarifying  
62 the requirement for all court-related fines, fees,  
63 service charges, and costs to be deposited into the  
64 Clerks of the Court Trust Fund; deleting obsolete  
65 provisions relating to the funding of the clerks of  
66 court; requiring that a specified percentage of all  
67 court-related fines collected by the clerk be  
68 deposited into the clerk's Public Records  
69 Modernization Trust Fund and used exclusively for  
70 additional court-related operational needs and  
71 programs; amending s. 34.041, F.S., relating to filing  
72 fees; conforming provisions to changes made by the  
73 act; amending s. 43.16, F.S., relating to the duties  
74 of the Justice Administrative Commission; conforming  
75 provisions to the transfer of the Florida Clerks of  
76 Court Operations Corporation to the commission;  
77 amending s. 43.27, F.S.; requiring that the clerk of  
78 court obtain the consent of the chief judge of the  
79 circuit concerning the clerk's office hours; amending  
80 s. 142.01, F.S.; requiring the deposit of revenues  
81 received in the fine and forfeiture funds of the  
82 clerks of court into the Clerks of the Court Trust  
83 Fund within the Justice Administrative Commission;  
84 amending s. 216.011, F.S.; redefining the term "state  
85 agency" for purposes of the fiscal affairs of the  
86 state to include the Florida Clerks of Court  
87 Operations Corporation; requiring that the clerks of

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88 court submit financial data to the Executive Office of  
89 the Governor; transferring the Clerks of the Court  
90 Trust Fund from the Department of Revenue to the  
91 Justice Administrative Commission; providing a finding  
92 that the act fulfills an important state interest;  
93 providing an effective date.

94

95 Be It Enacted by the Legislature of the State of Florida:

96

97 Section 1. Section 25.381, Florida Statutes, is amended to  
98 read:

99 25.381 Reports; publication; purchase and distribution.—The  
100 reports of the opinions of the Supreme Court and the district  
101 courts of appeal shall be known as Florida Cases. In July, 1963,  
102 and every second year thereafter until otherwise provided by  
103 law, the Supreme Court and the Attorney General shall jointly  
104 enter into a contract with a vendor ~~West Publishing Corporation,~~  
105 ~~St. Paul, Minnesota,~~ providing for the publication, in whatever  
106 format or formats are agreed upon, and distribution of such  
107 copies of Florida Cases as necessary to furnish copies thereof  
108 to the officers and institutions as required or authorized by  
109 law. The copies of such reports purchased by the state under  
110 such contract shall be paid for from moneys appropriated for  
111 this purpose.

112 Section 2. Subsection (1) of section 28.241, Florida  
113 Statutes, is amended to read

114 28.241 Filing fees for trial and appellate proceedings.—

115 (1) (a) The party instituting any civil action, suit, or  
116 proceeding in the circuit court shall pay to the clerk of that

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117 court a filing fee of up to \$295 in all cases in which there are  
118 not more than five defendants and an additional filing fee of up  
119 to \$2.50 for each defendant in excess of five. Of the first \$85  
120 in filing fees, \$80 must be remitted by the clerk to the  
121 Department of Revenue for deposit into the General Revenue Fund,  
122 and \$5 must be remitted to the Department of Revenue for deposit  
123 into the Clerks of the Court Trust Fund within the Justice  
124 Administrative Commission and used ~~Department of Financial~~  
125 ~~Services' Administrative Trust Fund~~ to fund the contract with  
126 the Florida Clerks of Court Operations Corporation created in s.  
127 28.35. The next \$15 of the filing fee collected shall be  
128 deposited in the state courts' Mediation and Arbitration Trust  
129 Fund. One-third of any filing fees collected by the clerk of the  
130 circuit court in excess of \$100 shall be remitted to the  
131 Department of Revenue for deposit into the Department of Revenue  
132 Clerks of the Court Trust Fund. An additional filing fee of \$4  
133 shall be paid to the clerk. The clerk shall remit \$3.50 to the  
134 Department of Revenue for deposit into the Court Education Trust  
135 Fund and shall remit 50 cents to the Department of Revenue for  
136 deposit into the Clerks of the Court ~~Department of Financial~~  
137 ~~Services' Administrative~~ Trust Fund to fund clerk education. An  
138 additional filing fee of up to \$18 shall be paid by the party  
139 seeking each severance that is granted. The clerk may impose an  
140 additional filing fee of up to \$85 for all proceedings of  
141 garnishment, attachment, replevin, and distress. Postal charges  
142 incurred by the clerk of the circuit court in making service by  
143 certified or registered mail on defendants or other parties  
144 shall be paid by the party at whose instance service is made. No  
145 additional fees, charges, or costs shall be added to the filing

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146 fees imposed under this section, except as authorized herein or  
147 by general law.

148 (b) A party reopening any civil action, suit, or proceeding  
149 in the circuit court shall pay to the clerk of court a filing  
150 fee set by the clerk in an amount not to exceed \$50. For  
151 purposes of this section, a case is reopened when a case  
152 previously reported as disposed of is resubmitted to a court and  
153 includes petitions for modification of a final judgment of  
154 dissolution. A party is exempt from paying the fee for any of  
155 the following:

- 156 1. A writ of garnishment;
- 157 2. A writ of replevin;
- 158 3. A distress writ;
- 159 4. A writ of attachment;
- 160 5. A motion for rehearing filed within 10 days;
- 161 6. A motion for attorney's fees filed within 30 days after  
162 entry of a judgment or final order;
- 163 7. A motion for dismissal filed after a mediation agreement  
164 has been filed;
- 165 8. A disposition of personal property without  
166 administration;
- 167 9. Any probate case prior to the discharge of a personal  
168 representative;
- 169 10. Any guardianship pleading prior to discharge;
- 170 11. Any mental health pleading;
- 171 12. Motions to withdraw by attorneys;
- 172 13. Motions exclusively for the enforcement of child  
173 support orders;
- 174 14. A petition for credit of child support;

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175 15. A Notice of Intent to Relocate and any order issuing as  
176 a result of an uncontested relocation;

177 16. Stipulations;

178 17. Responsive pleadings; or

179 18. Cases in which there is no initial filing fee.

180 (c) Any party other than a party described in paragraph (a)  
181 who files a pleading in an original civil action in circuit  
182 court for affirmative relief by cross-claim, counterclaim, or  
183 third-party complaint shall pay the clerk of court a fee of  
184 \$295. The clerk shall remit the fee to the Department of Revenue  
185 for deposit into the General Revenue Fund.

186 (d) The clerk of court shall collect a service charge of  
187 \$10 for issuing a summons. The clerk shall assess the fee  
188 against the party seeking to have the summons issued.

189 Section 3. Subsection (6) of section 28.246, Florida  
190 Statutes, is amended to read:

191 28.246 Payment of court-related fees, charges, and costs;  
192 partial payments; distribution of funds.—

193 (6) A clerk of court shall ~~may~~ pursue the collection of any  
194 fees, service charges, fines, court costs, and liens for the  
195 payment of attorney's fees and costs pursuant to s. 938.29 which  
196 remain unpaid after ~~for~~ 90 days by referring ~~or more, or refer~~  
197 the account to a private attorney who is a member in good  
198 standing of The Florida Bar or collection agent who is  
199 registered and in good standing pursuant to chapter 559. In  
200 pursuing the collection of such unpaid financial obligations  
201 through a private attorney or collection agent, the clerk of the  
202 court must have attempted to collect the unpaid amount through a  
203 collection court, collections docket, or other collections

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204 process, if any, established by the court, find this to be cost-  
205 effective and follow any applicable procurement practices. The  
206 collection fee, including any reasonable attorney's fee, paid to  
207 any attorney or collection agent retained by the clerk may be  
208 added to the balance owed in an amount not to exceed 40 percent  
209 of the amount owed at the time the account is referred to the  
210 attorney or agent for collection.

211 Section 4. Section 28.35, Florida Statutes, is amended to  
212 read:

213 28.35 Florida Clerks of Court Operations Corporation.—

214 (1) (a) The Florida Clerks of Court Operations Corporation  
215 is ~~hereby~~ created as a public corporation organized to perform  
216 the functions specified in this section and s. 28.36, and shall  
217 be administratively housed within the Justice Administrative  
218 Commission. The corporation shall be a budget entity within the  
219 Justice Administrative Commission and its employees shall be  
220 considered state employees. All clerks of the circuit court  
221 shall be members of the corporation and hold their position and  
222 authority in an ex officio capacity. The functions assigned to  
223 the corporation shall be performed by an executive council  
224 pursuant to the plan of operation approved by the members.

225 (b) The executive council shall be composed of eight clerks  
226 of the court elected by the clerks of the courts for a term of 2  
227 years, with two clerks from counties with a population of fewer  
228 than 100,000, two clerks from counties with a population of at  
229 least 100,000 but fewer than 500,000, two clerks from counties  
230 with a population of at least 500,000 but fewer than 1 million,  
231 and two clerks from counties with a population of more than 1  
232 million. In addition to the eight clerks of court serving on the



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233 executive council, the Chief Justice of the Supreme Court shall  
234 designate one additional member to represent the state courts  
235 system.

236 (c) The corporation shall be considered a political  
237 subdivision of the state and shall be exempt from the corporate  
238 income tax. ~~The corporation is not subject to the procurement~~  
239 ~~provisions of chapter 287 and policies and decisions of the~~  
240 ~~corporation relating to incurring debt, levying assessments, and~~  
241 ~~the sale, issuance, continuation, terms, and claims under~~  
242 ~~corporation policies, and all services relating thereto, are not~~  
243 ~~subject to the provisions of chapter 120.~~

244 (d) The functions assigned to the corporation under this  
245 section and ss. 28.36 and 28.37 are considered to be for a valid  
246 public purpose.

247 (2) The duties of the corporation shall include the  
248 following:

249 (a) Adopting a plan of operation.

250 (b) Conducting the election of directors as required in  
251 paragraph (1) (a).

252 (c) Recommending to the Legislature changes in the various  
253 court-related fines, fees, service charges, and court costs  
254 established by law ~~to ensure reasonable and adequate funding of~~  
255 ~~the clerks of the court in the performance of their court-~~  
256 ~~related functions.~~

257 ~~(d) Pursuant to contract with the Chief Financial Officer,~~  
258 ~~establishing a process for the review and certification of~~  
259 ~~proposed court-related budgets submitted by clerks of the court~~  
260 ~~for completeness and compliance with this section and ss. 28.36~~  
261 ~~and 28.37. This process shall be designed and be of sufficient~~

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262 ~~detail to permit independent verification and validation of the~~  
263 ~~budget certification. The contract shall specify the process to~~  
264 ~~be used in determining compliance by the corporation with this~~  
265 ~~section and ss. 28.36 and 28.37.~~

266 (d) ~~(e)~~ Developing and certifying a uniform system of  
267 performance measures and applicable performance standards for  
268 the functions specified in paragraph (3) (a) and the service unit  
269 costs required in s. 28.36 ~~paragraph (4) (a)~~ and measures for  
270 clerk performance in meeting the performance standards. These  
271 measures and standards shall be designed to facilitate an  
272 objective determination of the performance of each clerk in  
273 accordance with minimum standards for fiscal management,  
274 operational efficiency, and effective collection of fines, fees,  
275 service charges, and court costs. The corporation shall develop  
276 the performance measures and performance standards in  
277 consultation with the Legislature and the Supreme Court. The  
278 Legislature may modify the clerk performance measures and  
279 performance standards in legislation implementing the General  
280 Appropriations Act or other law. When the corporation finds a  
281 clerk has not met the performance standards, the corporation  
282 shall identify the nature of each deficiency and any corrective  
283 action recommended and taken by the affected clerk of the court.  
284 The corporation shall notify the Legislature and the Supreme  
285 Court of any clerk not meeting performance standards and provide  
286 a copy of any corrective action plans.

287 (e) ~~(f)~~ Reviewing ~~and certifying~~ proposed budgets submitted  
288 by clerks of the court pursuant to s. 28.36 ~~utilizing the~~  
289 ~~process approved by the Chief Financial Officer pursuant to~~  
290 ~~paragraph (d) for the purpose of making the certification in~~

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291 ~~paragraph (3) (a). As part of this process, the corporation~~  
292 ~~shall:~~

293 ~~1. Calculate the maximum authorized annual budget pursuant~~  
294 ~~to the requirements of s. 28.36.~~

295 ~~2. Identify those proposed budgets exceeding the maximum~~  
296 ~~annual budget pursuant to s. 28.36(5) for the standard list of~~  
297 ~~court-related functions specified in paragraph (4) (a).~~

298 ~~3. Identify those proposed budgets containing funding for~~  
299 ~~items not included on the standard list of court-related~~  
300 ~~functions specified in paragraph (4) (a).~~

301 ~~4. Identify those clerks projected to have court-related~~  
302 ~~revenues insufficient to fund their anticipated court-related~~  
303 ~~expenditures.~~

304 ~~(f)(g)~~ Developing and conducting clerk education programs.

305 ~~(g)(h)~~ Publishing a uniform schedule of actual fees,  
306 service charges, and costs charged by a clerk of the court ~~for~~  
307 ~~court-related functions pursuant to general law.~~

308 ~~(3) (a) The Clerks of Court Operations Corporation shall~~  
309 ~~certify to the President of the Senate, the Speaker of the House~~  
310 ~~of Representatives, the Chief Financial Officer, and the~~  
311 ~~Department of Revenue by October 15 of each year, the amount of~~  
312 ~~the proposed budget certified for each clerk; the revenue~~  
313 ~~projection supporting each clerk's budget; each clerk eligible~~  
314 ~~to retain some or all of the state's share of fines, fees,~~  
315 ~~service charges, and costs; the amount to be paid to each clerk~~  
316 ~~from the Clerks of the Court Trust Fund within the Department of~~  
317 ~~Revenue; the performance measures and standards approved by the~~  
318 ~~corporation for each clerk; and the performance of each clerk in~~  
319 ~~meeting the performance standards.~~

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320 ~~(b) Prior to December 1 of each year, the Chief Financial~~  
321 ~~Officer shall review the certifications made by the corporation~~  
322 ~~for the purpose of determining compliance with the approved~~  
323 ~~process and report its findings to the President of the Senate,~~  
324 ~~the Speaker of the House of Representatives and to the~~  
325 ~~Department of Revenue. To determine compliance with this~~  
326 ~~process, the Chief Financial Officer may examine the budgets~~  
327 ~~submitted to the corporation by the clerks.~~

328 (3) ~~(4)~~ (a) The ~~list of~~ court-related functions that clerks  
329 may perform are fund from filing fees, service charges, court  
330 ~~costs, and fines~~ shall be limited to those functions expressly  
331 authorized by law or court rule. Those functions ~~must~~ include  
332 the following: case maintenance; records management; court  
333 preparation and attendance; processing the assignment,  
334 reopening, and reassignment of cases; processing of appeals;  
335 collection and distribution of fines, fees, service charges, and  
336 court costs; processing of bond forfeiture payments; payment of  
337 jurors and witnesses; payment of expenses for meals or lodging  
338 provided to jurors; data collection and reporting; processing of  
339 jurors; determinations of indigent status; and reasonable  
340 administrative support ~~costs~~ to enable the clerk of the court to  
341 carry out these court-related functions.

342 (b) The ~~list of~~ functions that clerks may not fund from  
343 state appropriations ~~filing fees, service charges, court costs,~~  
344 ~~and fines~~ shall include:

- 345 1. Those functions not specified within paragraph (a).
- 346 2. Functions assigned by administrative orders which are  
347 not required for the clerk to perform the functions in paragraph  
348 (a).

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349 3. Enhanced levels of service which are not required for  
350 the clerk to perform the functions in paragraph (a).

351 4. Functions identified as local requirements in law or  
352 local optional programs.

353 ~~(4)-(5)~~ The corporation shall be funded pursuant to the  
354 General Appropriations Act ~~contract with the Chief Financial~~  
355 ~~Officer. Funds shall be provided to the Chief Financial Officer~~  
356 ~~for this purpose as appropriated by general law. These funds~~  
357 ~~shall be available to the corporation for the performance of the~~  
358 ~~duties and responsibilities as set forth in this section. The~~  
359 corporation may hire staff and pay other expenses from state  
360 appropriations ~~these funds~~ as necessary to perform the official  
361 duties and responsibilities of the corporation as described by  
362 law in this section.

363 ~~(5)-(6)~~ (a) The corporation shall submit an annual audited  
364 financial statement to the Auditor General in a form and manner  
365 prescribed by the Auditor General. The Auditor General shall  
366 conduct an annual audit of the operations of the corporation,  
367 including the use of funds and compliance with the provisions of  
368 this section and ss. 28.36 and 28.37.

369 (b) Certified public accountants conducting audits of  
370 counties pursuant to s. 218.39 shall report, as part of the  
371 audit, whether or not the clerks of the courts have complied  
372 with the requirements of this section and s. 28.36. In addition,  
373 each clerk of court shall forward a copy of the portion of the  
374 financial audit relating to the court-related duties of the  
375 clerk of court to the Supreme Court. ~~budgets certified by the~~  
376 ~~Florida Clerk of Courts Operations Corporation pursuant to the~~  
377 ~~budget review process pursuant to contract with the Chief~~

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378 ~~Financial Officer and with the performance standards developed~~  
379 ~~and certified pursuant to this section.~~ The Auditor General  
380 shall develop a compliance supplement for the audit of  
381 compliance with the budgets and applicable performance standards  
382 certified by the corporation.

383 Section 5. Section 28.36, Florida Statutes, is amended to  
384 read:

385 28.36 Budget procedure.—There is ~~hereby~~ established a  
386 budget procedure for the preparing budget requests for funding  
387 for the court-related functions of the clerks of the court.

388 (1) Each clerk of court shall prepare a budget request for  
389 the last quarter of the county fiscal year and the first three  
390 quarters of the next county fiscal year. The proposed budget  
391 shall be prepared, summarized, and submitted by the clerk in  
392 each county to the Clerks of Court Operations Corporation in the  
393 manner and form prescribed by the corporation to meet the  
394 requirements of law. Each clerk shall forward a copy of his or  
395 her budget request to the Supreme Court. The budget requests  
396 must be provided to the corporation by October 1 of each year.

397 ~~(1) Only those functions on the standard list developed~~  
398 ~~pursuant to s. 28.35(4)(a) may be funded from fees, service~~  
399 ~~charges, court costs, and fines retained by the clerks of the~~  
400 ~~court. No clerk may use fees, service charges, court costs, and~~  
401 ~~fines in excess of the maximum budget amounts as established in~~  
402 ~~subsection (5).~~

403 ~~(2) For the period July 1, 2004, through September 30,~~  
404 ~~2004, and for each county fiscal year ending September 30~~  
405 ~~thereafter, each clerk of the court shall prepare a budget~~  
406 ~~relating solely to the performance of the standard list of~~

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407 ~~court-related functions pursuant to s. 28.35(4)(a).~~

408 ~~(3) Each proposed budget shall further conform to the~~  
409 ~~following requirements:~~

410 ~~(a) On or before August 15 for each fiscal year thereafter,~~  
411 ~~the proposed budget shall be prepared, summarized, and submitted~~  
412 ~~by the clerk in each county to the Clerks of Court Operations~~  
413 ~~Corporation in the manner and form prescribed by the~~  
414 ~~corporation. The proposed budget must provide detailed~~  
415 ~~information on the anticipated revenues available and~~  
416 ~~expenditures necessary for the performance of the standard list~~  
417 ~~of court-related functions of the clerk's office developed~~  
418 ~~pursuant to s. 28.35(4)(a) for the county fiscal year beginning~~  
419 ~~the following October 1.~~

420 ~~(b) The proposed budget must be balanced, such that the~~  
421 ~~total of the estimated revenues available must equal or exceed~~  
422 ~~the total of the anticipated expenditures. These revenues~~  
423 ~~include the following: cash balances brought forward from the~~  
424 ~~prior fiscal period; revenue projected to be received from fees,~~  
425 ~~service charges, court costs, and fines for court-related~~  
426 ~~functions during the fiscal period covered by the budget; and~~  
427 ~~supplemental revenue that may be requested pursuant to~~  
428 ~~subsection (4). The anticipated expenditures must be itemized as~~  
429 ~~required by the corporation, pursuant to contract with the Chief~~  
430 ~~Financial Officer.~~

431 ~~(c) The proposed budget may include a contingency reserve~~  
432 ~~not to exceed 10 percent of the total budget, provided that,~~  
433 ~~overall, the proposed budget does not exceed the limits~~  
434 ~~prescribed in subsection (5).~~

435 ~~(4) If a clerk of the court estimates that available funds~~

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436 ~~plus projected revenues from fines, fees, service charges, and~~  
437 ~~costs for court-related services are insufficient to meet the~~  
438 ~~anticipated expenditures for the standard list of court-related~~  
439 ~~functions in s. 28.35(4)(a) performed by his or her office, the~~  
440 ~~clerk must report the revenue deficit to the Clerks of Court~~  
441 ~~Operations Corporation in the manner and form prescribed by the~~  
442 ~~corporation pursuant to contract with the Chief Financial~~  
443 ~~Officer. The corporation shall verify that the proposed budget~~  
444 ~~is limited to the standard list of court-related functions in s.~~  
445 ~~28.35(4)(a).~~

446 (2)(a) Each clerk shall include in his or her budget  
447 request a projection of the amount of court-related fees,  
448 service charges, and any other court-related clerk fees which  
449 will be collected during the proposed budget period. If the  
450 corporation determines ~~verifies~~ that the proposed budget is  
451 limited to the standard list of court-related functions in s.  
452 28.35(3)(a) ~~s. 28.35(4)(a)~~ and the projected court-related  
453 revenues are less than the proposed budget, the a revenue  
454 deficit is projected, a clerk seeking to retain revenues  
455 pursuant to this subsection shall increase all fees, service  
456 charges, and any other court-related clerk fees and charges to  
457 the maximum amounts specified by law or the amount necessary to  
458 resolve the deficit, whichever is less.

459 (3) Each clerk shall include in his or her budget request  
460 the number of personnel and the proposed budget for each of the  
461 following core services:

- 462 (a) Case processing;  
463 (b) Financial processing;  
464 (c) Jury management; and



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465 (d) Information and reporting.

466  
467 Central administrative costs shall be allocated among the core-  
468 services categories.

469 (4) The budget request must identify the service units to  
470 be provided within each core service. The service units shall be  
471 developed by the corporation, in consultation with the Supreme  
472 Court, the Chief Financial Officer, and the appropriation  
473 committees of the Senate and the House of Representatives.

474 (5) The budget request must propose a unit cost for each  
475 service unit. The corporation shall provide a copy of each  
476 clerk's budget request to the Supreme Court.

477 (6) The corporation shall review each individual clerk's  
478 prior-year expenditures, projected revenue, proposed unit costs,  
479 and the proposed budget for each of the core-services  
480 categories. The corporation shall compare each clerk's prior-  
481 year expenditures and unit costs for core services with a peer  
482 group of clerks' offices having a population of a similar size  
483 and a similar number of case filings. If the corporation finds  
484 that the expenditures, unit costs, or proposed budget of a clerk  
485 are significantly higher than those of clerks in that clerk's  
486 peer group, the corporation shall require the clerk to submit  
487 documentation justifying the difference in each core-services  
488 category. Justification for higher expenditures may include, but  
489 need not be limited to, collective bargaining agreements, county  
490 civil service agreements, and the number and distribution of  
491 court houses served by the clerk. If the expenditures and unit  
492 costs are not justified, the corporation shall recommend a  
493 reduction in the funding for that core-services category in the

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494 budget request to an amount similar to the peer group of clerks  
495 or to an amount that the corporation determines is justified.

496 (7) The corporation shall complete its review and  
497 adjustments to the clerks' budget requests and make its  
498 recommendations to the Legislature and the Supreme Court by  
499 December 1 each year.

500 (8) The Chief Financial Officer shall review the proposed  
501 unit costs associated with each clerk of court's budget request  
502 and make recommendations to the Legislature. The Chief Financial  
503 Officer may conduct any audit of the corporation or a clerk of  
504 court as authorized by law. The Chief Justice of the Supreme  
505 Court may request an audit of the corporation or any clerk of  
506 court by the Chief Financial Officer.

507 (9) The Legislature shall appropriate the total amount for  
508 the budgets of the clerks in the General Appropriations Act. The  
509 Legislature may reject or modify any or all of the unit costs  
510 recommended by the corporation. If the Legislature does not  
511 specify the unit costs in the General Appropriations Act or  
512 other law, the unit costs recommended by the corporation will be  
513 the official unit costs for that budget period.

514 (10) The corporation shall release appropriations to each  
515 clerk quarterly. The amount of the release shall be based on the  
516 prior quarter's performance of service units identified in the  
517 four core services and the established unit costs for each  
518 clerk. ~~If, after increasing fees, service charges, and any other~~  
519 ~~court-related clerk fees and charges to the maximum amounts~~  
520 ~~specified by law, a revenue deficit is still projected, the~~  
521 ~~corporation shall, pursuant to the terms of the contract with~~  
522 ~~the Chief Financial Officer, certify a revenue deficit and~~

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523 ~~notify the Department of Revenue that the clerk is authorized to~~  
524 ~~retain revenues, in an amount necessary to fully fund the~~  
525 ~~projected revenue deficit, which he or she would otherwise be~~  
526 ~~required to remit to the Department of Revenue for deposit into~~  
527 ~~the Department of Revenue Clerks of the Court Trust Fund~~  
528 ~~pursuant to s. 28.37. If a revenue deficit is projected for that~~  
529 ~~clerk after retaining all of the projected collections from the~~  
530 ~~court-related fines, fees, service charges, and costs, the~~  
531 ~~Department of Revenue shall certify the amount of the revenue~~  
532 ~~deficit amount to the Executive Office of the Governor and~~  
533 ~~request release authority for funds appropriated for this~~  
534 ~~purpose from the Department of Revenue Clerks of the Court Trust~~  
535 ~~Fund. Notwithstanding provisions of s. 216.192 related to the~~  
536 ~~release of funds, the Executive Office of the Governor may~~  
537 ~~approve the release of funds appropriated to resolve projected~~  
538 ~~revenue deficits in accordance with the notice, review, and~~  
539 ~~objection procedures set forth in s. 216.177 and shall provide~~  
540 ~~notice to the Chief Financial Officer. The Department of Revenue~~  
541 ~~is directed to request monthly distributions from the Chief~~  
542 ~~Financial Officer in equal amounts to each clerk certified to~~  
543 ~~have a revenue deficit, in accordance with the releases approved~~  
544 ~~by the Governor.~~

545 ~~(b) If the Chief Financial Officer finds the court-related~~  
546 ~~budget proposed by a clerk includes functions not included in~~  
547 ~~the standard list of court-related functions in s. 28.35(4)(a),~~  
548 ~~the Chief Financial Officer shall notify the clerk of the amount~~  
549 ~~of the proposed budget not eligible to be funded from fees,~~  
550 ~~service charges, costs, and fines for court-related functions~~  
551 ~~and shall identify appropriate corrective measures to ensure~~

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552 ~~budget integrity. The clerk shall then immediately discontinue~~  
553 ~~all ineligible expenditures of court-related funds for this~~  
554 ~~purpose and reimburse the Clerks of the Court Trust Fund for any~~  
555 ~~previously ineligible expenditures made for non-court-related~~  
556 ~~functions, and shall implement any corrective actions identified~~  
557 ~~by the Chief Financial Officer.~~

558 ~~(5)(a) For the county fiscal year October 1, 2004, through~~  
559 ~~September 30, 2005, the maximum annual budget amount for the~~  
560 ~~standard list of court-related functions of the clerks of court~~  
561 ~~in s. 28.35(4)(a) that may be funded from fees, service charges,~~  
562 ~~court costs, and fines retained by the clerks of the court shall~~  
563 ~~not exceed:~~

564 ~~1. One hundred and three percent of the clerk's estimated~~  
565 ~~expenditures for the prior county fiscal year; or~~

566 ~~2. One hundred and five percent of the clerk's estimated~~  
567 ~~expenditures for the prior county fiscal year for those clerks~~  
568 ~~in counties that for calendar years 1998-2002 experienced an~~  
569 ~~average annual increase of at least 5 percent in both population~~  
570 ~~and case filings for all case types as reported through the~~  
571 ~~Summary Reporting System used by the state courts system.~~

572 ~~(b) For the county fiscal year 2005-2006, the maximum~~  
573 ~~budget amount for the standard list of court-related functions~~  
574 ~~of the clerks of court in s. 28.35(4)(a) that may be funded from~~  
575 ~~fees, service charges, court costs, and fines retained by the~~  
576 ~~clerks of the court shall be the approved budget for county~~  
577 ~~fiscal year 2004-2005 adjusted by the projected percentage~~  
578 ~~change in revenue between the county fiscal years 2004-2005 and~~  
579 ~~2005-2006.~~

580 ~~(c) For the county fiscal years 2006-2007 and thereafter,~~

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581 ~~the maximum budget amount for the standard list of court-related~~  
582 ~~functions of the clerks of court in s. 28.35(4)(a) that may be~~  
583 ~~funded from fees, service charges, court costs, and fines~~  
584 ~~retained by the clerks of the court shall be established by~~  
585 ~~first rebasing the prior fiscal year budget to reflect the~~  
586 ~~actual percentage change in the prior fiscal year revenue and~~  
587 ~~then adjusting the rebased prior fiscal year budget by the~~  
588 ~~projected percentage change in revenue for the proposed budget~~  
589 ~~year. The rebasing calculations and maximum annual budget~~  
590 ~~calculations shall be as follows:~~

591 ~~1. For county fiscal year 2006-2007, the approved budget~~  
592 ~~for county fiscal year 2004-2005 shall be adjusted for the~~  
593 ~~actual percentage change in revenue between the two 12-month~~  
594 ~~periods ending June 30, 2005, and June 30, 2006. This result is~~  
595 ~~the rebased budget for the county fiscal year 2005-2006. Then~~  
596 ~~the rebased budget for the county fiscal year 2005-2006 shall be~~  
597 ~~adjusted by the projected percentage change in revenue between~~  
598 ~~the county fiscal years 2005-2006 and 2006-2007. This result~~  
599 ~~shall be the maximum annual budget amount for the standard list~~  
600 ~~of court-related functions of the clerks of court in s.~~  
601 ~~28.35(4)(a) that may be funded from fees, service charges, court~~  
602 ~~costs, and fines retained by the clerks of the court for each~~  
603 ~~clerk for the county fiscal year 2006-2007.~~

604 ~~2. For county fiscal year 2007-2008, the rebased budget for~~  
605 ~~county fiscal year 2005-2006 shall be adjusted for the actual~~  
606 ~~percentage change in revenue between the two 12-month periods~~  
607 ~~ending June 30, 2006, and June 30, 2007. This result is the~~  
608 ~~rebased budget for the county fiscal year 2006-2007. The rebased~~  
609 ~~budget for county fiscal year 2006-2007 shall be adjusted by the~~

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610 ~~projected percentage change in revenue between the county fiscal~~  
611 ~~years 2006-2007 and 2007-2008. This result shall be the maximum~~  
612 ~~annual budget amount for the standard list of court-related~~  
613 ~~functions of the clerks of court in s. 28.35(4) (a) that may be~~  
614 ~~funded from fees, service charges, court costs, and fines~~  
615 ~~retained by the clerks of the court for county fiscal year 2007-~~  
616 ~~2008.~~

617 ~~3. For county fiscal years 2008-2009 and thereafter, the~~  
618 ~~maximum budget amount for the standard list of court-related~~  
619 ~~functions of the clerks of court in s. 28.35(4) (a) that may be~~  
620 ~~funded from fees, service charges, court costs, and fines~~  
621 ~~retained by the clerks of the court shall be calculated as the~~  
622 ~~rebased budget for the prior county fiscal year adjusted by the~~  
623 ~~projected percentage change in revenues between the prior county~~  
624 ~~fiscal year and the county fiscal year for which the maximum~~  
625 ~~budget amount is being authorized. The rebased budget for the~~  
626 ~~prior county fiscal year shall always be calculated by adjusting~~  
627 ~~the rebased budget for the year preceding the prior county~~  
628 ~~fiscal year by the actual percentage change in revenues between~~  
629 ~~the 12-month period ending June 30 of the year preceding the~~  
630 ~~prior county fiscal year and the 12-month period ending June 30~~  
631 ~~of the prior county fiscal year.~~

632 ~~(6) The Legislative Budget Commission may approve increases~~  
633 ~~to the maximum annual budgets approved for individual clerks of~~  
634 ~~the court pursuant to this section for court-related duties, if~~  
635 ~~either of the following conditions exist:~~

636 ~~(a) The additional funding is necessary to pay the cost of~~  
637 ~~performing new or additional functions required by changes in~~  
638 ~~law or court rule. Before the Legislative Budget Commission may~~

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639 ~~approve an increase in the maximum annual budget of any clerk~~  
640 ~~under this paragraph, the Clerk of the Court Operations~~  
641 ~~Corporation must provide the Legislative Budget Commission with~~  
642 ~~a statement of the impact of the proposed budget changes on~~  
643 ~~state revenues, and evidence that the respective clerk of the~~  
644 ~~court is meeting or exceeding the established performance~~  
645 ~~standards for measures on the fiscal management, operational~~  
646 ~~efficiency, and effective collection of fines, fees, service~~  
647 ~~charges, and court costs.~~

648 ~~(b) The additional funding is necessary to pay the cost of~~  
649 ~~supporting increases in the number of judges or magistrates~~  
650 ~~authorized by the Legislature. Before the Legislative Budget~~  
651 ~~Commission may approve an increase in the maximum annual budget~~  
652 ~~of any clerk under this paragraph, the Clerk of the Court~~  
653 ~~Operations Corporation must provide the Legislative Budget~~  
654 ~~Commission with a statement of the impact of the proposed budget~~  
655 ~~changes on state revenues; evidence that the respective clerk of~~  
656 ~~the court is meeting or exceeding the established performance~~  
657 ~~standards for measures on the fiscal management, operational~~  
658 ~~efficiency, and effective collection of fines, fees, service~~  
659 ~~charges, and court costs; and a proposed staffing model,~~  
660 ~~including the cost and number of staff necessary to support each~~  
661 ~~new judge or magistrate.~~

662  
663 ~~The total amount of increases approved by the Legislative Budget~~  
664 ~~Commission for each county fiscal year shall not exceed an~~  
665 ~~amount equal to 2 percent of the maximum annual budgets approved~~  
666 ~~pursuant to this section for all clerks, in the aggregate, for~~  
667 ~~that same county fiscal year.~~

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668        (11)~~(7)~~ The corporation may submit proposed legislation to  
669 the Governor, the President of the Senate, and the Speaker of  
670 the House of Representatives relating to the preparation of  
671 budget requests of the clerks of court ~~no later than November 1~~  
672 ~~in any year for approval of clerk budget request amounts~~  
673 ~~exceeding the restrictions in this section for the following~~  
674 ~~October 1. If proposed legislation is recommended, the~~  
675 ~~corporation shall also submit supporting justification with~~  
676 ~~sufficient detail to identify the specific proposed expenditures~~  
677 ~~that would cause the limitations to be exceeded for each~~  
678 ~~affected clerk and the estimated fiscal impact on state~~  
679 ~~revenues.~~

680        Section 6. Section 28.37, Florida Statutes, is amended to  
681 read:

682        28.37 Fines, fees, service charges, and costs remitted to  
683 the state.—

684        (1) Pursuant to s. 14(b), Art. V of the State Constitution,  
685 selected salaries, costs, and expenses of the state courts  
686 system and court-related functions shall be funded from a  
687 portion of the revenues derived from statutory fines, fees,  
688 service charges, and costs collected by the clerks of the court.

689        (2) Except as otherwise provided in ss. 28.241 and 34.041,  
690 all court-related fines, fees, service charges, and costs are  
691 considered state funds and shall be remitted by the clerk to the  
692 Department of Revenue for deposit into the Clerks of the Court  
693 Trust Fund. However, 10 percent of all court-related fines  
694 collected by the clerk shall be deposited into the clerk's  
695 Public Records Modernization Trust Fund to be used exclusively  
696 for additional clerk court-related operational needs and program



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697 enhancements.

698 ~~(2) Beginning August 1, 2004, except as otherwise provided~~  
699 ~~in ss. 28.241 and 34.041, one-third of all fines, fees, service~~  
700 ~~charges, and costs collected by the clerks of the court during~~  
701 ~~the prior month for the performance of court-related functions~~  
702 ~~shall be remitted to the Department of Revenue for deposit in~~  
703 ~~the Department of Revenue Clerks of the Court Trust Fund. These~~  
704 ~~collections do not include funding received for the operation of~~  
705 ~~the Title IV-D child support collections and disbursement~~  
706 ~~program. The clerk of the court shall remit the revenues~~  
707 ~~collected during the prior month due to the state on or before~~  
708 ~~the 20th day of each month. The Department of Revenue shall make~~  
709 ~~a monthly transfer of the funds in the Department of Revenue~~  
710 ~~Clerks of the Court Trust Fund that are not needed to resolve~~  
711 ~~clerk of the court revenue deficits, as specified in s. 28.36,~~  
712 ~~to the General Revenue Fund.~~

713 ~~(3) For the period of October 1, 2003, to June 30, 2004,~~  
714 ~~those clerks operating as fee officers for court-related~~  
715 ~~services shall determine the amount of fees collected and~~  
716 ~~expenses generated for court-related services. Any excess fees~~  
717 ~~generated during this period shall be remitted to the county on~~  
718 ~~December 31, 2004. However, any billings for payment of due~~  
719 ~~process services rendered before July 1, 2004, may be paid by~~  
720 ~~the clerk from these funds. Due process services shall include,~~  
721 ~~but not be limited to, court reporter services, court~~  
722 ~~interpreter services, expert witness services, mental health~~  
723 ~~evaluations, and court-appointed counsel services. In addition,~~  
724 ~~any deficit experienced by the clerk for court-related services~~  
725 ~~during the period from October 1, 2003, to June 30, 2004, shall~~

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726 ~~be funded by the county.~~

727 ~~(4) Beginning January 1, 2005, for the period July 1, 2004,~~  
728 ~~through September 30, 2004, and each January 1 thereafter for~~  
729 ~~the preceding county fiscal year of October 1 through September~~  
730 ~~30, the clerk of the court must remit to the Department of~~  
731 ~~Revenue for deposit in the General Revenue Fund the cumulative~~  
732 ~~excess of all fees, service charges, court costs, and fines~~  
733 ~~retained by the clerks of the court, plus any funds received by~~  
734 ~~the clerks of the court from the Department of Revenue Clerk of~~  
735 ~~the Court Trust Fund under s. 28.36(4)(a), over the amount~~  
736 ~~needed to meet the approved budget amounts established under s.~~  
737 ~~28.36.~~

738 (3)~~(5)~~ The Department of Revenue shall collect any funds  
739 that the corporation determines upon investigation were due on  
740 January 1 but not remitted to the department.

741 Section 7. Paragraph (b) of subsection (1) of section  
742 34.041, Florida Statutes, is amended to read:

743 34.041 Filing fees.—

744 (1)

745 (b) The first \$80 of the filing fee collected under  
746 subparagraph (a)4. shall be remitted to the Department of  
747 Revenue for deposit into the General Revenue Fund. The next \$15  
748 of the filing fee collected under subparagraph (a)4., and the  
749 first \$15 of each filing fee collected under subparagraph (a)6.,  
750 shall be deposited in the state courts' Mediation and  
751 Arbitration Trust Fund. ~~One-third of any filing fees collected~~  
752 ~~by the clerk under this section in excess of the first \$95~~  
753 ~~collected under subparagraph (a)4. shall be remitted to the~~  
754 ~~Department of Revenue for deposit into the Department of Revenue~~

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755 ~~Clerks of the Court Trust Fund.~~ An additional filing fee of \$4  
756 shall be paid to the clerk. The clerk shall transfer \$3.50 to  
757 the Department of Revenue for deposit into the Court Education  
758 Trust Fund and shall transfer 50 cents to the Department of  
759 Revenue for deposit into the Clerks of the Court ~~Department of~~  
760 ~~Financial Services' Administrative~~ Trust Fund to fund clerk  
761 education. Postal charges incurred by the clerk of the county  
762 court in making service by mail on defendants or other parties  
763 shall be paid by the party at whose instance service is made.  
764 Except as provided herein, filing fees and service charges for  
765 performing duties of the clerk relating to the county court  
766 shall be as provided in ss. 28.24 and 28.241. Except as  
767 otherwise provided herein, all filing fees shall be remitted to  
768 the Department of Revenue for deposit into the Clerks of the  
769 Court Trust Fund ~~retained as fee income of the office of the~~  
770 ~~clerk of circuit court.~~ Filing fees imposed by this section may  
771 not be added to any penalty imposed by chapter 316 or chapter  
772 318.

773 Section 8. Subsection (5) of section 43.16, Florida  
774 Statutes, is amended to read

775 43.16 Justice Administrative Commission; membership, powers  
776 and duties.—

777 (5) The duties of the commission shall include, but not be  
778 limited to, the following:

779 (a) The maintenance of a central state office for  
780 administrative services and assistance when possible to and on  
781 behalf of the state attorneys and public defenders of Florida,  
782 the capital collateral regional counsel of Florida, the criminal  
783 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem

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784 Program, and the Florida Clerks of Court Operations Corporation.

785 (b) Each state attorney, public defender, ~~and~~ criminal  
786 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem  
787 Program, and the Florida Clerks of Court Operations Corporation  
788 shall continue to prepare necessary budgets, vouchers that  
789 represent valid claims for reimbursement by the state for  
790 authorized expenses, and other things incidental to the proper  
791 administrative operation of the office, such as revenue  
792 transmittals to the Chief Financial Officer and automated  
793 systems plans, but will forward same to the commission for  
794 recording and submission to the proper state officer. However,  
795 when requested by a state attorney, a public defender, a  
796 criminal conflict and civil regional counsel, or the Guardian Ad  
797 Litem Program, the commission will either assist in the  
798 preparation of budget requests, voucher schedules, and other  
799 forms and reports or accomplish the entire project involved.

800 Section 9. Section 43.27, Florida Statutes, is amended to  
801 read

802 43.27 Office hours of clerks of court.—With the advice and  
803 consent of the chief judge of the circuit, the clerks of the  
804 courts of the several counties may establish the hours during  
805 which the office of clerk may be open to the public. The hours  
806 should conform as nearly as possible to the customary weekday  
807 hours of business prevailing in the county. The clerk may  
808 prescribe that the office be open such additional hours as  
809 public needs require. The clerk of court may not close any  
810 office of the clerk of court during customary weekday hours  
811 without the consent of the chief judge of the circuit.

812 Section 10. Section 142.01, Florida Statutes, is amended to

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813 read:

814 142.01 Fine and forfeiture fund; disposition of revenue;  
815 clerk of the circuit court.-

816 (1) There shall be established by the clerk of the circuit  
817 court in each county of this state a separate fund to be known  
818 as the fine and forfeiture fund for use by the clerk of the  
819 circuit court in performing court-related functions. The fund  
820 shall consist of the following:

821 (a)~~(1)~~ Fines and penalties pursuant to ss. 28.2402(2),  
822 34.045(2), 316.193, 327.35, 327.72, 379.2203(1), and 775.083(1).

823 (b)~~(2)~~ That portion of civil penalties directed to this  
824 fund pursuant to s. 318.21.

825 (c)~~(3)~~ Court costs pursuant to ss. 28.2402(1)(b),  
826 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and  
827 (11)(a), and 938.05(3).

828 (d)~~(4)~~ Proceeds from forfeited bail bonds, unclaimed bonds,  
829 unclaimed moneys, or recognizances pursuant to ss. 321.05(4)(a),  
830 379.2203(1), and 903.26(3)(a).

831 (e)~~(5)~~ Fines and forfeitures pursuant to s. 34.191.

832 (f)~~(6)~~ All other revenues received by the clerk as revenue  
833 authorized by law to be retained by the clerk.

834 (2) All revenues received by the clerk in the fine and  
835 forfeiture fund from court-related fees, fines, costs, and  
836 service charges are considered state funds and shall be remitted  
837 monthly to the Department of Revenue for deposit into the Clerks  
838 of the Court Trust Fund within the Justice Administrative  
839 Commission.

840 (3) Notwithstanding the provisions of this section, all  
841 fines and forfeitures arising from operation of the provisions

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842 of s. 318.1215 shall be disbursed in accordance with that  
843 section.

844 Section 11. Paragraph (qq) of subsection (1) of section  
845 216.011, Florida Statutes, is amended to read  
846 216.011 Definitions.—

847 (1) For the purpose of fiscal affairs of the state,  
848 appropriations acts, legislative budgets, and approved budgets,  
849 each of the following terms has the meaning indicated:

850 (qq) "State agency" or "agency" means any official,  
851 officer, commission, board, authority, council, committee, or  
852 department of the executive branch of state government. For  
853 purposes of this chapter and chapter 215, "state agency" or  
854 "agency" includes, but is not limited to, state attorneys,  
855 public defenders, criminal conflict and civil regional counsel,  
856 capital collateral regional counsel, the Florida Clerks of Court  
857 Operations Corporation, the Justice Administrative Commission,  
858 the Florida Housing Finance Corporation, and the Florida Public  
859 Service Commission. Solely for the purposes of implementing s.  
860 19(h), Art. III of the State Constitution, the terms "state  
861 agency" or "agency" include the judicial branch.

862 Section 12. Each clerk of court shall provide financial  
863 data concerning his or her expenditures for court-related  
864 duties, including expenditures for court-related information  
865 technology, to the Executive Office of the Governor for the  
866 purposes contained in SB 1796 or similar legislation.

867 Section 13. The Clerks of the Court Trust Fund within the  
868 Department of Revenue, FLAIR number 73-2-588, is transferred  
869 along with all balances and obligations to the Justice  
870 Administrative Commission.

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871           Section 14. The Legislature finds and declares that this  
872 act fulfills an important state interest.

873           Section 15. This act shall take effect July 1, 2009.