



# **MICHIGAN E-FILING STRATEGY FOLLOW-UP REPORT**

**August 2014**

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## **EXECUTIVE SUMMARY**

The National Center for State Courts (NCSC) provides this report as a follow-up to a similar report completed in 2012, which outlined recommendations for implementation of a statewide e-filing system in Michigan. In this follow-up report, the NCSC revisits the 2012 recommendations in light of new developments and assumptions relating to several key issues including, in particular, funding alternatives.

Research and analysis for this report focused on stakeholder input, experiences in other states, design decisions, implementation considerations, implementation costs and funding models.

### **Stakeholder Input**

Feedback provided at a stakeholder meeting and in response to a subsequent survey helped the NCSC better understand perceptions and expectations for statewide e-filing. Out of this process arose a vision statement and set of guiding principles. A few of these guiding principles impact decisions relating to design and funding - specifically:

- The electronic record will be the official record.
- The e-filing system should allow user/filer choice for their interactions with the courts.
- Technology employed by the e-filing system should be open and standards-based.
- E-filing should not be an unfunded state mandate.

It was also clear from stakeholder feedback that views of what statewide e-filing should be often varied primarily due to misunderstandings about how different approaches work and the impact of those approaches on other stakeholders. Consequently, the NCSC recommends an outreach and education program as part of the statewide e-filing project.

### **Design Decisions**

Section III of the report presents a number of topics on the design and architecture of the statewide system, including fundamental components of an e-filing system. Of significance is understanding an open standards-based approach that calls for a single Electronic Filing Manager (EFM) and any number of Electronic Filing Service Providers (EFSPs). Also essential to realizing many of the benefits of e-filing is integration with local Case Management Systems (CMSs) and Electronic Document Management Systems (EDMSs). Analysis on these topics resulted in several recommendations relating to adoption of standards and an architecture that allows for any number of organizations and private-sector solution providers to submit filings to the statewide e-filing system, including providing a “free” portal for those who choose not to use a third-party. There are also specific recommendations relating to support for integration with local court systems, including the provision of a state-hosted EDMS for optional use by courts that choose not to implement their own EDMS.

## Build vs. Buy

Three key factors went into the NCSC's recommendation on whether to develop in-house or procure an e-filing solution: (1) experiences in other states, (2) availability of viable commercial e-filing solutions, and (3) challenges that come with initial development and ongoing support of an e-filing system. Based on these factors, the NCSC recommends a "buy" approach.

## Costs and Funding Models

Sections IV, V, and VI of the report provide cost considerations and estimates based on volumes for case filings, documents, and other factors. Based on this analysis, four approaches were considered and included in the stakeholder survey: (1) legislative appropriation without charging for e-filing, (2) increased filing fees, (3) transaction fees, and (4) fees for document access without charging for e-filing, like the federal courts' model.

Any of these funding models can be viable funding options. The best option in a given state often varies depending on existing statutes, court rules, the political landscape, and the willingness and ability to absorb startup costs that will eventually level off and may even be offset by savings through more efficient business processes. Based on these factors, the NCSC recommends increased filing fees similar to those adopted by Texas in their statewide e-filing project.

## Recommendations

Specific recommendations are detailed with relevant narrative in Section VII of the report and reiterated here:

- **Recommendation #1:** Michigan's statewide e-filing initiative should include an outreach and education program. Goals of the program should be to keep stakeholders engaged in the project and informed on progress and decisions, along with the logic behind those decisions. The resulting buy-in will provide a tremendous boost to the success of the project.
- **Recommendation #2:** The Michigan courts should formally adopt the OASIS LegalXML ECF 4.01 specifications, and should require that all components of the statewide e-filing system comply with this standard.
- **Recommendation #3:** The Michigan courts should proceed with plans to engage an e-filing solution provider to stand up the statewide EFM.
- **Recommendation #4:** The architecture of the statewide EFM should be implemented in such a way as to allow for clerk review functionality to be performed either from within the state EFM or at the local court if preferred by the affected jurisdiction for workflow and integration purposes. In other words, local courts would have the option to implement limited EFM capabilities for reviewing and accepting filings.
- **Recommendation #5:** The Michigan courts should adopt an e-filing architecture that allows approved third-party EFSPs to submit filings on behalf of filers. Any agreement

and/or fees assessed to the filer for this service and/or value-add services provided by the EFSP would be at the discretion of the EFSP and agreement with the filer. Any such fees would not change filing fees assessed by the court for the type of filing being submitted. Anyone who wishes to submit filings to any court should be able to choose any approved EFSP.

- **Recommendation #6:** As part of its engagement with the selected statewide EFM provider, the Michigan courts should stand up an e-filing portal that provides basic EFSP functionality at no charge to filers. With basic/minimum functionality required to e-file, this portal would not strive to compete with third-party EFSPs that might offer an enhanced user experience and/or other value-add services. The intent of this free e-filing portal would be to provide a service to litigants and attorneys who choose not to use a third-party EFSP.
- **Recommendation #7:** As part of its implementation of the statewide e-filing portal, the state should provide technical coordination and funding to local courts who seek such assistance in efforts to modify their local CMS and/or EDMS to accept electronic court filings and comply with the ECF standards. Depending on the CMS, directing some of the funding for technical assistance from the CMS vendor may be needed in those situations where integration requires use of CMS Application Programming Interfaces (APIs) and/or direct access to the CMS database.
- **Recommendation #8:** As part of its engagement with the selected statewide EFM provider, the Michigan courts should stand up a state-hosted EDMS for optional use by courts that are unable or choose not to implement their own EDMS. Affected courts should have responsibility for documents filed in their court, including access controls.
- **Recommendation #9:** For implementation of a statewide e-filing system, the Michigan courts should engage a private-sector organization with a proven track record in development and deployment of software systems to support electronic court filing.
- **Recommendation #10:** The NCSC recommends the Michigan courts adopt the same funding model used in the Texas statewide e-filing project, which involves only an increase in case filing fees (including cases still filed via paper). The state's selected EFM vendor would be paid a fixed amount – likely based on an annual fee with an annual escalation – over the life of a multi-year contract, rather than rely on per-transaction or per-document fees.

## 1 INTRODUCTION

In September 2012, the National Center for State Courts (NCSC) completed an e-filing strategic assessment and made recommendations for the Michigan State Court Administrative Office's (SCAO) implementation of a statewide e-filing system. The report focused on a funding model already established in the state's e-filing pilot projects. This model assumed that implementation of statewide e-filing would be funded in part by transaction fees. Action taken by the state legislature in the interim has likely precluded this approach to funding. The SCAO now seeks a solution which does not include an e-filing transaction cost. Instead, the envisioned approach would allow an electronic filing service provider (EFSP) to connect to the state's electronic filing manager (EFM) with a no-fee option available for any filer through the Michigan Legal Help website.

The NCSC understands that further guidance on how best to proceed is subject to several assumptions:

- Although a large number of courts utilize the Supreme Court Judicial Information System applications for case management, Michigan does not have a statewide unified case management system (CMS). Each court will continue to maintain its own locally-funded CMS and, perhaps, electronic document management system (EDMS) as well.
- From the SCAO point of view, the preferred outcome for e-filing would be a system that would eventually be mandatory for all case types and all filers.
- Revenue could be generated from legislative appropriation or, more likely, a dedicated per-case fee for all filers. This revenue would create a pool that would fund the EFM function as well as provide local courts some funding to upgrade their infrastructure or create an EDMS to improve their ability to handle electronic documents.
- It is not the intent of the SCAO at this time to rely on the sale of e-filed documents as a way to recoup funding for e-filing purposes, nor does the SCAO anticipate that third party government agencies (Department of Human Services, prosecutors, law enforcement) would incur any e-filing fees other than connecting into the system by becoming an EFSP or using some other acceptable approach.

In view of these assumptions and developments since 2012, the NCSC was asked to conduct further research and provide recommendations in the following areas:

- How do these new assumptions change recommendations in the NCSC's 2012 report?
- What has been the experience of other states in their decisions to build, buy, or procure a statewide e-filing system?
- Given experiences of states with similar court structures, what would be the advantages and disadvantages of building the system in-house, purchasing a system, or implementing a hybrid model that combines elements of both for Michigan?
- What type of revenue system would be the most efficient?

## 2 METHODOLOGY AND STAKEHOLDER INPUT

For the purposes of this report, the NCSC conducted a multi-faceted approach to data gathering, research, and analysis of several issues relevant to a statewide e-filing initiative in Michigan:

- A meeting of stakeholders from courts, the State Bar of Michigan, and other agencies and organizations (including private-sector participants) who have an interest in how statewide e-filing will be implemented.
- A brief survey of stakeholders to solicit input from different perspectives to better understand perceptions and expectations on the approach and funding alternatives.
- Research and analysis of statewide e-filing initiatives in other states.
- Research and analysis of different business models and system design.
- Research and analysis of costs and potential revenue opportunities.

Research and analysis, including costs and funding options, is summarized in the next four sections of this report. E-filing implementations in other states are examined and considered where relevant throughout the analysis discussion. The remainder of this section summarizes the stakeholder meeting and subsequent survey results.

### 2.1 STAKEHOLDER MEETING

The NCSC facilitated a stakeholder meeting at the Hall of Justice in Lansing to discuss many topics relating to statewide e-filing and to solicit input from those present. The SCAO extended invitations to various agencies and organizations from around the state. Court participants included judges, administrators, and clerks from circuit courts, district courts, probate courts, the Michigan Court of Appeals, and the Michigan Supreme Court. Other participants included representatives from the State Bar of Michigan, Michigan Creditor's Bar Association, Michigan Legal Help, Prosecuting Attorneys Association of Michigan, State Appellate Defender Office, Michigan Association of Counties, SCAO, Process Servers' Alliance, and other private-sector organizations.

A primary objective for this meeting was to provide a forum for those who have an interest in electronic filing for courts in Michigan to share their ideas and concerns as the SCAO considers implementation of a statewide e-filing system. Numerous e-filing related topics were discussed and are summarized below:

#### 2.1.1 Assumptions and Constraints

One purpose of the stakeholder meeting was to review and confirm assumptions that impact decisions on funding and approaches to statewide e-filing. Assumptions discussed included:

- **Court organization/structure:** While the definition of a unified vs. non-unified court system can vary depending on one's perspective, what is clear is that the complexity of

the court structure significantly impacts viable approaches to implementing a statewide e-filing system. States with relatively simple court structures, with the state as the primary funding source, can more readily overcome many of the policy, operational, and technical hurdles typically encountered in an e-filing project. Funding alternatives and system design discussions in this report consider Michigan's relatively complex court structure with much of the funding coming from local sources. Appendix A – Court Structure Charts illustrates this complexity with a few examples, including Michigan's court structure.

- **CMS and EDMS integration:** Integration with existing systems for case management and document management is essential to realizing some of the most important benefits of e-filing. With decisions and funding of such systems at the local level, such integration in Michigan is not easily accomplished. This increases the need for standardization of communications and interfaces necessary to support statewide e-filing.
- **Mandatory e-filing:** Mandatory e-filing is the preferred long-range goal, for all case types and all filers, including accommodation and facilitation for pro se litigants.
- **Funding:** Funding remains an issue. Proposed legislation originally allowed the Michigan Supreme Court to set a "reasonable fee." However, this language was deleted and the final bill that was signed into law only addressed electronic record retention. While the statute does not *disallow* a particular funding model, the legislature needs to identify in future legislation what that model will be.
- **Filer interface:** The adopted approach should allow a filer to experience a consistent look and feel regardless of where they might be filing within the state.
- **Cost considerations:** Analysis of an e-filing system's costs must take into account the potential savings in moving away from a paper-based system, such as equipment, supplies, and personnel time.

### 2.1.2 System Design

The NCSC provided background on system design issues and considerations that affect decisions on how statewide e-filing should be implemented. The intent was to facilitate discussion and sharing of ideas. Key topics during this discussion included:

- **Federal courts:** There was much discussion about the federal courts' e-filing system (called CM/ECF) and the public access interface (called PACER). While not technically accurate, these systems are often referred to collectively as the PACER system. These systems were originally designed and developed in the mid-90s. New versions of these systems implementing more current technologies are being developed and deployed.<sup>1</sup> It was also noted there is not just one federal system; there are actually several

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<sup>1</sup> See: <http://courtechbulletin.blogspot.com/2012/04/federal-courts-update-cmecf-case.html>

different versions of these systems running in federal district courts around the country. Of more significance to Michigan trial courts is the very different model under which CM/ECF and PACER operate. PACER cannot simply be dropped into a state court. Integration with existing CMSs and EDMs was already established. Adoption of a PACER-type system would not be a viable option without significant effort and substantial cost to achieve the necessary level of integration with those systems.

- **Exclusive versus open:** The notion of an open standards-based approach was discussed and contrasted with an exclusive arrangement using a proprietary solution. This discussion included the concept of a central EFM with multiple EFSPs. Such an open approach would allow for any number of EFSPs to offer different levels of services to filers based on need and cost.
- **ECF standards:** Basic concepts of the OASIS LegalXML ECF<sup>2</sup> standards were discussed, including provisions for communications between different components of an e-filing system, referred to as Major Design Elements (MDEs). The ECF standard has been adopted by the Conference of State Court Administrators (COSCA) and the National Association for Court Management (NACM) as recommended standards for e-filing systems.
- **Architecture of a statewide e-filing system:** Different approaches to implementing e-filing were presented to help provide insight into the many considerations, decisions, and tradeoffs involved. Several ideas and approaches that affect the system design were discussed, including:
  - A centralized state-hosted portal
  - Portals hosted by each court
  - Use of vendor solutions for such portals
  - Distinct functions for an EFM versus an EFSP
  - Provision for multiple third-party EFSPs
  - Provision for bulk filers to act as their own EFSP
- **The filer experience:** A consistent user interface, regardless of where cases are being filed, was conveyed as one of the primary objectives for statewide e-filing. There was clear consensus from the stakeholders on this point, although some confusion about whether that meant the same interface for all filers or an opportunity for individual filers to use a single consistent interface. The latter option would allow any number of different interfaces (i.e., in a multiple EFSP environment), but a given filer would be able to choose an EFSP and use that EFSP to submit filings anywhere in the state.

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<sup>2</sup> Electronic Court Filing (ECF) specifications are a product of the OASIS LegalXML ECF Technical Committee; <https://www.oasis-open.org/committees/legalxml-court-filing>. OASIS is a non-profit international consortium that drives the development, convergence, and adoption of open standards for information technology. LegalXML is a member section of OASIS.

- **Other states:** Most e-filing projects in other states have adopted the ECF standard and, therefore, are going with a model that allows multiple EFSPs (e.g., Arizona, Texas, and Utah). Other states have adopted ECF, but have chosen, at least initially, to use a single EFSP model through their centralized statewide portal (e.g., Florida, Iowa, and Massachusetts). In these states, the vendor implementing their EFM has provided or is implementing the portal. A few states, and numerous local jurisdictions, have entered into exclusive agreements with a proprietary solution, but that model is losing favor and some are already being replaced with standards-based solutions (e.g., Colorado).

Many of the above system design topics are explored further in section III of this report.

### 2.1.3 Funding Model

One of the liveliest topics of discussion at the stakeholder meeting was about how to fund a statewide e-filing project. Opinions varied widely, but most came down to one of four funding models:

- Legislative appropriation (without charging for e-filing)
- Increased filing fees
- A per transaction fee
- Fees for document access (without charging for e-filing, like the federal courts' model)

There could be variations of each of these models and also hybrid models. Some variations are “free” to a court with a vendor taking on the cost of providing e-filing. The vendor typically recoups their cost and ultimately profits by charging fees for use of the service (usually transaction fees and/or document access fees).

All of these funding models have been used successfully in other states. More recent implementations seem to favor a hybrid approach that includes a legislative appropriation that is, at least in part, funded by increased filing fees. Such an appropriation could also be funded by a bond issue.

Many of those present at the stakeholder meeting favored a filing fee increase and felt strongly that transaction fees should be avoided. If filing fees are increased, there was some concern about equity among larger courts and smaller courts and how funds would be managed. All agreed the funding strategy will need to handle non-fee case types and indigence waivers, including different policies in different courts.

### 2.1.4 Guiding Principles

The NCSC led a discussion to seek consensus on guiding principles that should be the basis for the statewide e-filing initiative. Participants identified the following:

- **E-filing should be mandatory for all case types and all filers.** Not on day one, but there should be a plan to attain this.

- **The electronic record will be the official record.** Some exceptions (such as wills and evidentiary materials) will need to be considered. In the transition, this may require scanning case types that still allow paper filing at the counter. Adoption of electronic records as an element of continuous process improvement was also discussed, including the need for judicial tools on the bench and integration with court case management and document management systems.
- **E-filing should ensure facilitation of equal access to justice.** Concerns about individuals who do not have access to technology will need to be addressed.
- **E-filing should be supported in a sustainable, fair, transparent, and equitable way.** There was much discussion about challenges in this area, including concerns and perceptions about profits, direct costs, related costs, etc.
- **E-filing should ensure the protection of private and confidential information.** Appropriate policies and technical capabilities need to be put in place.
- **The e-filing system should allow user/filer choice for their interactions with the courts.** Most of those present at the stakeholder meeting felt a choice of state-approved EFSPs was important, but filers must also be given an option to use a free state-provided interface to submit filings.
- **Technology employed by the e-filing system should be open and standards-based.**
- **The e-filing selection and development process, including vendor contracts, should be transparent and open to public scrutiny and participation.**
- **E-filing should not be an unfunded state mandate.**
- **E-filing systems and processes should be consistent with constitutional requirements and case law.**

### 2.1.5 Defining Success

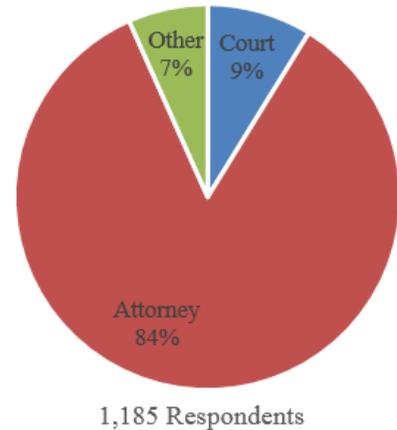
As part of the wrap-up of the stakeholder meeting, the NCSC asked each organization to answer the question “*What does your organization need for statewide e-filing to be considered a success?*”

Common themes naturally varied with different perspectives, although several referred back to some of the guiding principles. Many of the court responses focused on a stable funding mechanism, a migration path for exiting e-filing pilots, and adequate tools for the judiciary. Priorities for filers (including the State Bar of Michigan) focused more on being affordable, user friendly, and providing a consistent filer experience.

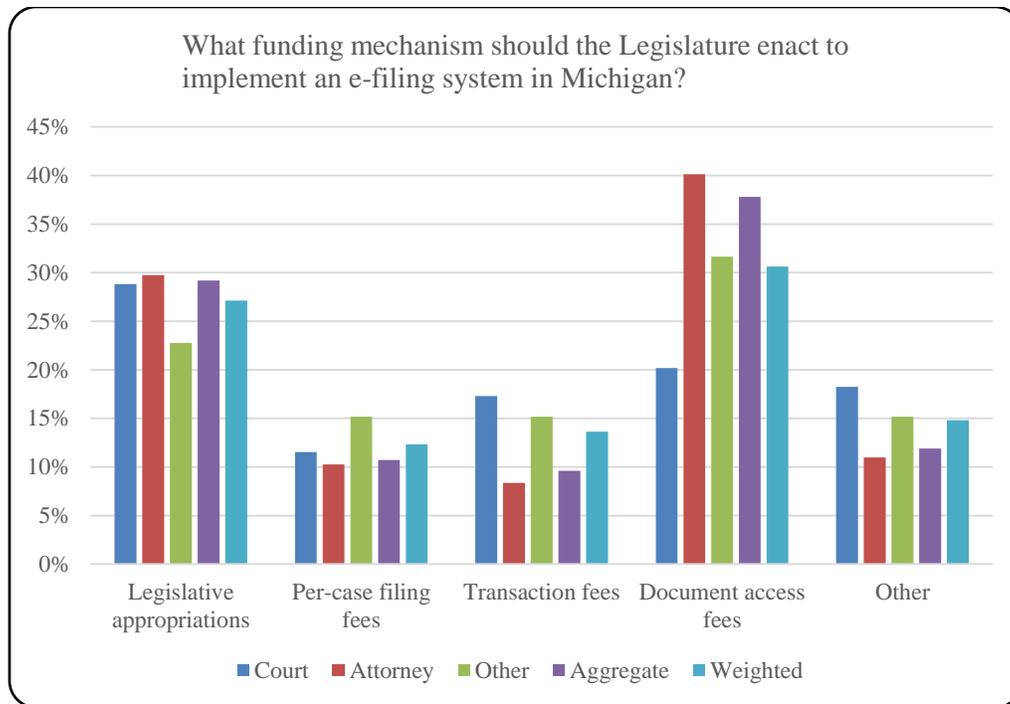
Many of the responses turned into further discussion on some key issues, most of which are covered in this report. Another recurring theme was to consider efficiency gains and savings when determining fees. In other words, users should not bear all costs when there are clear opportunities for savings through more efficient processes.

## 2.2 STAKEHOLDER SURVEY

After the stakeholder meeting, the NCSC developed a brief survey intended to further clarify stakeholder perceptions and expectations for e-filing in Michigan. The survey was limited to just five questions, three of which provided for finite and countable responses. The actual survey is shown in Appendix B – Survey Form and was conducted using an online survey tool. While initially intended as an informal follow-up with stakeholder meeting participants, the survey link was also shared with many stakeholders who did not attend the meeting. There were 1,185 responses. A significant majority of respondents (approximately 84%) were private practice attorneys and law firm staff. Court personnel (including judges, court administrators, and court clerks) accounted for about 9%. Other respondents not falling into one of those groups (including representatives from private-sector organizations and other government agencies) made up about 7%. So the survey results, at least in terms of volume, are weighted to the perspective of typical filers in an e-filing system. There are, of course, many other aspects of an e-filing system that do not involve filers. So any conclusions drawn from results of this survey should consider this factor.

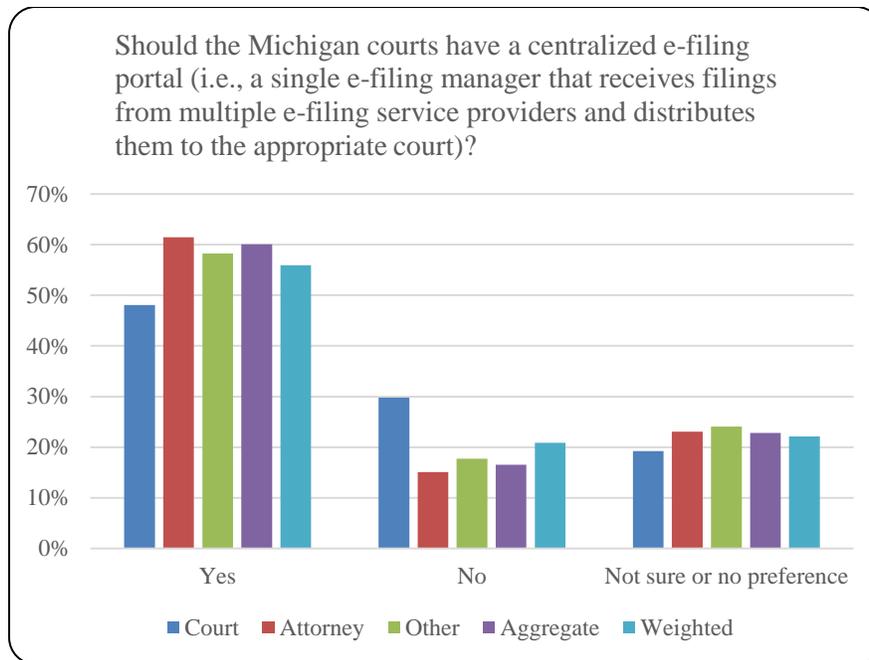


A recap of the survey responses follows. Each chart breaks down the percentage of responses for each of the three aforementioned categories (Court, Attorney and Other) as well as an aggregate percentage (based on all responses) and a weighted percentage (applying equal weight to totals for each of the three groups).



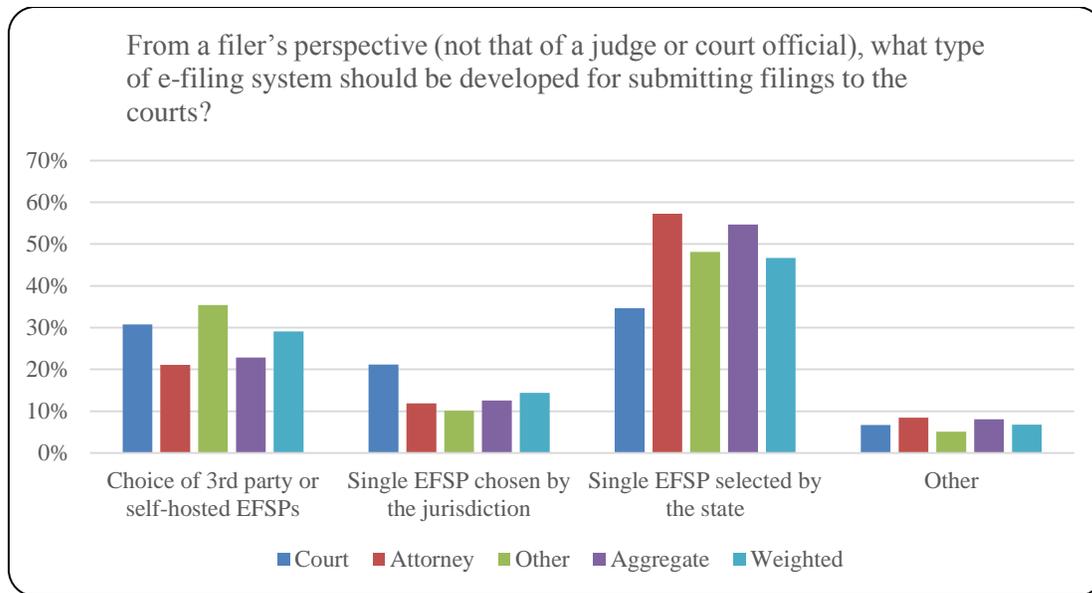
#### Observations regarding funding expectations:

- No single funding approach garnered a majority of responses.
- A couple of notable variances in different categories exist in two of the response options:
  - Court and Other respondents seem more open to the idea of transaction fees than Attorneys.
  - Court respondents are less interested in the idea of document access fees than Attorneys, although neither represented a majority. (Note: Document access fees refer to fees that would be charged for viewing or downloading documents after they are filed. This may be, and often is, accomplished via a public access system that is separate from the e-filing system.)
- A significant percentage of Attorneys, although not a majority, favored use of document access fees. This may likely be because it is what many are accustomed to with the federal courts' PACER system.
- The distinction between separate choices for legislative appropriations and per-case filing fees may be slightly ambiguous in that one way of funding such appropriations could be, even if only in part, increased filing fees.



#### Observations regarding a centralized e-filing portal:

- While most respondents think a centralized portal is a good idea, there are a couple of notable variances:
  - The percentage of “no” responses by Court respondents was more than double that of Attorneys, although there were still significantly more “yes” responses in both groups.
  - Conversely, the percentage of “yes” responses by Attorneys was notably higher than that for Court respondents. This may be another situation where familiarity with the federal courts’ PACER system is driving perceptions about how trial court e-filing should work in the state courts.
- Roughly 20% of responses indicating no preference is not insignificant, but the majority seem to concur with the idea of a centralized e-filing portal.



#### Observations regarding the e-filer experience:

- Responses to the first two options (A and B in the survey responses) for this question are combined in this chart. Both of those options represented having a choice of providers, with the second option adding provision for bulk filers and other agencies to electronically submit their filings without having to use a third party EFSP (in other words, they could act as their own EFSP).
- Overall, the majority of respondents indicated a preference for a single EFSP hosted by the state or a selected vendor. The majority of Attorneys selecting this option suggests once again a level of comfort with the federal courts' PACER system. Just as likely though is the limited understanding by Attorneys of how a multiple EFSP environment would work. Persons who attended the stakeholder meeting had the benefit of discussion about how such an environment would work. However, most respondents did not attend that meeting.
- The percentage of Court respondents who preferred a single EFSP selected by the local jurisdiction was notably higher than other categories. This is not likely significant as it was still only 21%, but the variance from other categories may be a sign of some desire by court personnel for more control at the local level.

A better understanding of perceptions and suggestions shared in the survey are useful, but perhaps more telling is a need for more communication and education on the approaches being considered. Responses seem to suggest there are many assumptions that are based on the way the federal courts' PACER system works and limited understanding of implications of such an approach in a non-unified trial court environment.

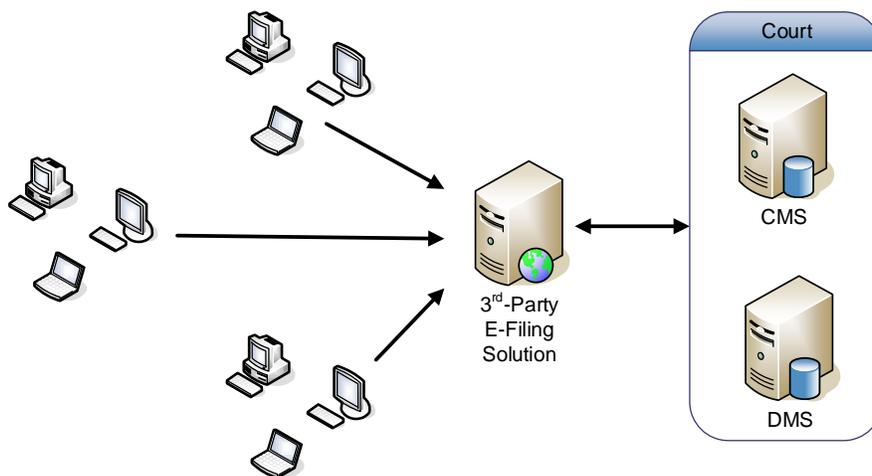
Narrative responses (those asking for explanation of “other” responses and the final question soliciting additional comments) were extensive. These narrative responses were not thoroughly examined by the NCSC, but our review suggests there are some very good ideas and comments that will be useful for further analysis.

### 3 SYSTEM DESIGN

In order to assess costs and consider funding alternatives, it is important to understand architectural components of the complete e-filing environment. The focus of this section is on major components of the architecture, not the technical details of how those components work. Any specific recommendations for these areas of analysis are shared in Section VII.

#### 3.1 ARCHITECTURE OF A STATEWIDE E-FILING SYSTEM

Early e-filing implementations used a very simple model that focused solely on civil matters.



*Figure 1. Proprietary E-Filing Architecture*

These systems were proprietary in nature and involved an exclusive agreement requiring anyone wanting to e-file to use the vendor selected by the court. In some cases, the e-filing system did not provide interfaces to the court's case management and document management systems. Court clerk staff still had the same data entry requirements whether or not the case was e-filed. It was great for filers, but provided little benefit to the courts. Naturally, these interfaces were developed as courts started demanding them. However, there was little attempt or motivation to develop these interfaces in a standardized way. Almost every new e-filing project required customized interfaces to whatever systems the court happened to be running.

Eventually, an effort was initiated to develop some level of standardization to address issues of exclusivity, cost, non-civil case types, and integration with court systems. Hence, the aforementioned OASIS LegalXML ECF standard. ECF defines the major components of an e-filing system (called Major Design Elements – or MDEs) and the messages between them. A relatively simple e-filing implementation for a single court is shown in Figure 2.

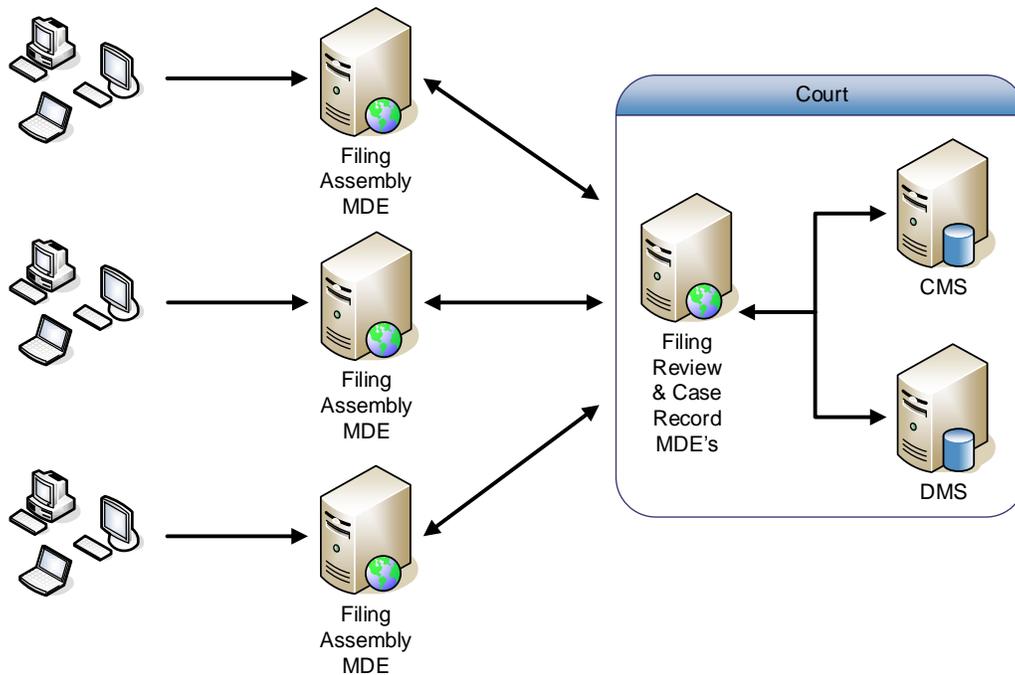


Figure 2. Simple Standards-Based E-Filing Architecture

In this example, a “Filing Assembly MDE” would typically be a third party that offers e-filing services to collect information for a filing and then create the electronic message to submit to the court. A Filing Assembly MDE is often referred to as an EFSP.

The “Filing Review MDE” is typically hosted at the court (or a vendor selected by the court). This component is often referred to as the EFM. For a local court implementation, there would only be one EFM, but the function of the EFM could be split in a statewide implementation that requires interaction with multiple courts. The EFM accepts and processes messages submitted by EFSPs. Part of that processing may include a clerk review step and interaction with another component called the “Case Record MDE.” This is the component that communicates with the court’s information systems. In a simple implementation like this, the Filing Review and Case Record MDEs may actually be the same system.

All of the messages between different components are formatted in a standard way based on the ECF specification. No matter what systems are involved, the messages will look the same.

In a more complex statewide e-filing system, there may be many different courts and different court CMSs. The graphic in Figure 3 illustrates an example of a more complex e-filing environment.

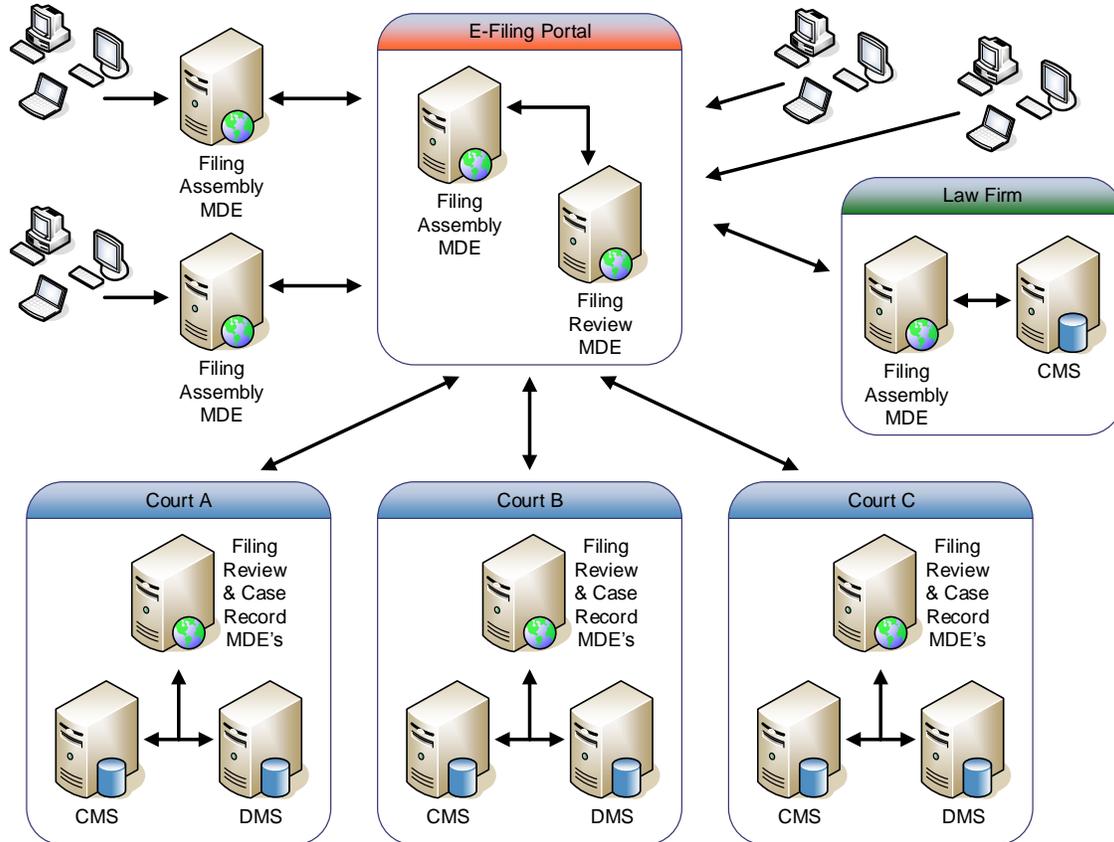


Figure 3. Statewide Standards-Based E-Filing Architecture

Note: The components in Figure 2 are the same as those in Figure 3, there's just more of them. The messages between components are the same in both examples, illustrating scalability of the ECF specification. While not shown in this graphic, the statewide architecture could also include government agencies and bulk filers who, like the law firm shown, would act as their own Filing Assembly MDE.

With this understanding of the architectural components of an e-filing system, two key areas may now be examined in more detail: (1) the filer experience, and (2) integration with local court systems.

### 3.2 E-FILING SERVICE PROVIDERS

An important part of the e-filing system architecture is the Filing Assembly MDE. This component of the e-filing environment is often referred to as an EFSP. In an open standards-based approach, any number of EFSPs may be qualified to submit filings on behalf of filers who register with their service.

As an example, Texas has developed a statewide e-filing system that allows for multiple EFSPs. They've also created a certification process to ensure e-filing submissions are properly formatted and



conform to the required standards, which are based on ECF. Certified EFSPs may offer any price structure they choose for their service and whatever value-added functionality they might offer. For example, a third-party private EFSP may offer a service to law firms to simplify billings associated with filing fees on submitted cases. They might charge a nominal monthly fee for this service over and above the court filing fee. Court filing fees are not affected, regardless of which EFSP a filer chooses. The state also provides a free portal with basic e-filing functionality. Of course, many filers choose to use the free portal, so third-party EFSPs really need to sell their value-add to make it worthwhile for filers. This method of allowing for any number of EFSPs creates an open environment that fosters competition and innovation. See <http://efiletexas.gov/> for more details on the Texas e-filing system. The State of Utah also supports a multiple EFSP model. More information on the Utah e-filing system may be found at <https://www.utcourts.gov/efiling/>.

Another example of an EFSP could be a self-help organization or legal aid office that provides assistance to self-represented litigants. Some states are using the Access 2 Justice (“A2J”) authoring tool from the Chicago-Kent College of Law to provide guided interviews and generation of documents to be e-filed. At least one of those states (Minnesota) is also generating an ECF-compliant message for submitting the A2J-generated filing electronically.

### **3.3 THE FILER EXPERIENCE**

In the context of an open standards-based e-filing system, the filer interface will vary depending on how the filer elects to submit filings. In the Texas example, the filer interface is provided by whatever EFSP the filer chooses. So how does this affect the request by many Michigan e-filing stakeholders that there be a single and consistent user/filer experience? The key is filer choice. While there is not a single filer interface, the filer chooses which EFSP to use. In that way, the interface experienced by the filer will always be the same regardless of which court in the state they are filing.

Further, frequent or bulk filers (including some government agencies and law firms) may choose to become their own EFSP so that they can automate submission of filings directly from their own CMSs rather than use a web interface that most EFSPs offer. They would need to comply with ECF standards, just like any other EFSP.

Another example might be a company who offers practice management software. They could conceivably offer e-filing services as a value-add to submit filings directly from their software to any court in the state.

Again, whatever method the filer chooses, the interface they use is the same regardless of where in the state they are submitting filings. Indeed, with this model, the interface they use could be their own practice or CMS, or it could be a free portal offered by the state.

### 3.4 INTEGRATION WITH LOCAL COURT SYSTEMS

For courts to realize the full benefits of e-filing, the system must provide integration with the courts' backend systems used for case management and document management. In a statewide implementation, the complexity of the overall system is significantly increased due to the need to integrate with several different systems (at least in states with non-unified courts like those in Michigan). The statewide e-filing portal must be able to direct the filing to the correct court location. Further, interfaces must be developed to interact with the local court case management and document management systems. Such interfaces must be developed for the various CMSs used by different courts in the state. The ECF standards provide specifications for these interactions so that the interface can be written once for each system involved rather than requiring the development of custom interfaces between every combination of systems that need to share information.<sup>3</sup> Establishing standards for e-filing messages is essential to integration with local court systems in a statewide implementation.

### 3.5 SYSTEM DESIGN ALTERNATIVES

There are many different policy and design decisions to be made. This presentation does not attempt to cover all of those issues. However, there are four fundamental components of the design that will have a huge impact on the approach and eventual cost of the system:

#### 1) EFM (or Filing Review MDE)

There are four key decisions relating to the EFM component of the e-filing system:

- A. Should the state host, or have a selected vendor host, the EFM?
- B. Should the state include clerk review and accept capabilities in the state EFM? This would only apply if clerk review and accept is not done at the local level. Note: This does not mean state staff would be reviewing and approving. Rather, local court staff would use the state e-filing system to review and approve.
- C. Should the local court be permitted to stand up an EFM (like e-filing pilot projects do now)? This would not apply in Michigan unless a policy decision is made to allow local courts to host their own e-filing system.
- D. Should the local court implement limited EFM functions? This would be for clerk review and accept functions unless the state system will support all review and accept functions.

#### 2) EFSP (or Filing Assembly MDE)

There are three key decisions relating to the EFSP component of the e-filing system:

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<sup>3</sup> Please note that commercial court CMSs providers have previously developed these LegalXML ECF standardized interfaces in other states. Therefore, they will not be "reinventing the wheel" for Michigan.

- A. Should the state host, or have a selected vendor host, an e-filing portal that provides basic EFSP functionality at no charge to filers?
- B. Should the state allow approved third-party EFSPs to submit filings? EFSPs may charge whatever they feel their value-add justifies.
- C. Should local courts be allowed to stand up an EFSP (like e-filing pilot projects do now)? This would not apply in Michigan unless a policy decision is made to allow local courts to host their own e-filing system.

### 3) CMS Integration

Integration with a court's CMS should not be optional; it should be required:

- A. Local court CMS integration
- B. State CMS integration (for courts using state CMS)

### 4) EDMS Integration

For EDMS integration:

- A. Local court EDMS integration. This would be essential.
- B. Should the state provide EDMS integration (for courts choosing to use the state EDMS; independent of whether the court uses the state CMS)?

#### 3.5.1 Other States

How other states have implemented these components varies based primarily on whether the court structure and funding mechanisms are unified. For example, Utah has a multiple EFSP model, but did not have to concern itself with local CMS integrations because all courts run on the same CMS. Colorado is another example with just one CMS, but in their new e-filing project they've chosen to develop and host the entire system in-house (there are no current plans for third-party EFSPs). These examples can help with understanding why these approaches may not be right for Michigan.

Texas and Florida are better examples for comparison to Michigan. Florida implemented a statewide e-filing portal (through the Clerks' Association) that includes integration with local court systems. The system is based on the ECF standards, but they are not using third-party EFSPs, at least for now. Texas, however, has implemented an ECF-based system with multiple EFSPs and integration with local CMSs and EDMSs.

## 4 COSTS ANALYSIS

This section will address the economics of court e-filing. The first part addresses the overall cost of creating an e-filing capability. Section V lists some potential cost savings in the operation of a new, more efficient way of doing business for the bar and courts. And Section VI revisits options for revenues that have been used by other states to fund e-filing.

Two notes to remember and consider in reading this section. First, population is used as a metric for estimation and projections. The NCSC has used this approach for many years for the simple fact that more population in an area results in more civil and criminal case activity. And this results in more judges and court staff.

Second, estimates can be made for either the number of cases filed, meaning only the first document set to be submitted to the court that is also commonly referred to as “filing fees” or, on each document set submitted. There are many state courts that charge a fee for each document filed in a case with the court. So while this may or may not be the common practice in Michigan, this approach has been previously adopted in other states even before e-filing.

### 4.1 SINGLE SYSTEM APPROACH

#### Estimated Cost to Create “A Single System” (\$75 - \$106 million)

The stakeholder meeting posited the idea that a “single simple system” used by every Michigan court was a possible approach for providing e-filing and EDMS capabilities. Because of varying state court organizational structures that are either state or locally funded systems (like Michigan’s) around the country, and the timing and scope of technology acquisitions, the following estimates are the best that the NCSC can provide at this time.

The State of Maryland courts entered into a \$45 million contract with Tyler Technologies for a single statewide court case management, electronic document, and e-filing replacement system for both their general jurisdiction and limited jurisdiction courts. On a per-capita basis this price extrapolates to \$7.59 for each of the 5.9 million citizens of the state. Please however note that Maryland is a small state geographically which helps to reduce implementation costs.

For comparison, the State of Oregon eCourt<sup>4</sup> project, funded with a legislative bond appropriation of \$42 million, cost \$10.77 for each of the 3.9 million citizens. The Oregon project is a full system replacement for the state general jurisdiction courts that provides one single case and document management system, e-filing system, and judicial courtroom automation.

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<sup>4</sup> Oregon eCourt Implementation; <http://courts.oregon.gov/oregonecourt/Pages/index.aspx>

Therefore, projecting a similar type of project for Michigan with its 9.9 million citizens, based on the Maryland and Oregon projects, the NCSC estimates a projected range of \$75 to \$106 million for this “single system” e-court approach.

## **4.2 EACH COUNTY CREATE THEIR OWN**

### **Estimated Costs for Each Michigan County to Create Their Own E-filing / EDMS (more than \$18.7 million)**

There are 52 counties (see Appendix C – Counties without Clerk of Court EDMS) that, according to the SCAO, do not have EDMS capabilities at this time. For projection purposes, the NCSC used the cost of the Ottawa County electronic document and e-filing system project (263,801 citizens with a project cost of \$1.23 million). By applying that per capita calculation for those counties, it would cost at least an estimated \$14.4 million for those counties to acquire EDMSs.

Next, based on Macomb County’s cost for implementing e-filing only, it would cost those same counties an additional \$1.3 million. And finally, for those counties without EDMSs, it is projected that an additional \$2.9 million would be needed for them to add e-filing. In all, the total is more than \$18.7 million.

While these costs would be spread county-by-county throughout Michigan, it must be noted that many counties that would implement e-filing/EDMS are very small in population, and therefore the costs will very likely be higher per user and per capita compared to the large metropolitan counties (such as Ottawa used for the cost projection above). In other words, economies of scale would not be realized in a local county implementation as they would in a statewide program effort.

## **4.3 STATEWIDE E-FILING ONLY**

### **Estimated Costs of Implementing a Statewide E-filing Only Capability (\$54.1 million)**

As part of the original RFP process, the SCAO received one proposal for an option to purchase a license to run a vendor’s e-filing systems software. The cost proposal was for approximately \$2 million per year for the statewide portal with additional charges for court integration and support. If this option was chosen, the SCAO would have to purchase servers, storage, network equipment and capacity, establish backup systems, develop system fault tolerance via implementation in redundant data centers, and provide system, network, and security management staffing for a 24/7 operation.

By way of comparison, the most recent example of a state entering into a contract for an e-filing only system is the State of New Hampshire. It recently entered into a contract worth \$7.25 million to add that capability to its already existing CMS. This added capacity did not include hardware, network, or operating systems upgrade costs. So once again, using population as a metric, dividing the \$7.25 million software upgrade cost by New Hampshire’s

1,323,459 citizens equates to \$5.47 per capita. Applying this same metric for Michigan's 9,895,622 citizens would equate to a projected cost of \$54,129,052.

Further, earlier this year, the Chief Justice of Maine recently called, in her State of the Judiciary speech before the legislature, for an appropriation of \$15 million to support e-filing and EDMS for their courts. This equates to a cost of \$11.29 for the 1,328,302 citizens in the state. Applying that metric to Michigan could result in a projected cost of over \$111 million dollars.

It should be noted this discussion and related estimates are based on other states that are adding e-filing to their existing CMSs. The difference is that those states are doing this with one standard statewide CMS versus Michigan that would have to deal with not only many more local courts but also with multiple CMSs.

#### **4.4 E-FILING PORTAL APPROACH**

##### **Estimated Costs of an E-filing Portal Approach (\$2.75 million)**

Similarly populous states as Michigan – Texas, Florida, and Georgia – have all chosen to enter into private-public partnerships to enable their courts to have e-filing. It is interesting to note that all three states have locally funded courts just as Michigan does; all three have identified the need for a single point for e-filing as a goal and benefit for their system users; and all three have experience with local courts setting up their own local e-filing systems that have been deemed as both inefficient for the users (both filers and courts) and costly to maintain. In a public-private approach, the services are often paid for with transaction fees charged by the vendor. This in turn means that minimal taxpayer money/governmental appropriation is involved in creating or maintaining the systems. However, some states with policies prohibiting transaction fees have opted for case filing fee increases or legislative appropriations to fund their statewide portal.

For information on these programs, see the states' websites at:

- Texas - <https://efiletexas.gov/>
- Texas Service Providers (EFSP) list - <https://efiletexas.gov/service-providers.htm>
- Florida - <https://www.myflcourtagency.com/authority/links.html>
- Georgia - <https://efile.gsccca.org/>

However, there will be project "startup" costs. Cost projection detail for an E-filing Portal is summarized in the table below. The cost to the state budget is minimized because private corporations (portal vendor and EFSP) will absorb the initial development and implementation costs with the future benefit of realizing transactional revenue from the filers. However, in this scenario, the NCSC has included cost estimates for a simple, free e-filing interface as Texas has done in its project. This system will provide the basic e-filing services required by infrequent public or attorney filers. But this simple system will also likely not provide many advanced capabilities such as a guided step-by-step for pro se filers or multiple case/document filings.

*E-filing Portal Cost Estimate Breakdown*

<b>Cost Estimates</b>	<b>Estimated Potential State Costs</b>
Private portal / state provided / “free” e-filing website	\$750,000
Project implementation and management costs	\$1,000,000
Government agency e-filing implementation assistance	\$1,000,000
<b>Total startup costs</b>	<b>\$2,750,000</b>

These estimates do not include development costs of e-filing integration with local, county or city law enforcement<sup>5</sup> or interfaces with future self-representative “guided” systems. They also do not include Clerk of Court technology upgrade costs, including the cost of improving the individual clerks’ offices and judicial IT capabilities, optimizing the EDMS for court workflow in all courts, and the implementation of E-Bench capabilities that allow the courts to move beyond paper files in the courtroom. Some of these costs are discussed below. This estimate would likely provide the local courts with the tools and training for their IT staff to do that customization. E-Bench would either have to be budgeted and funded at an additional level or else acquired by the individual counties themselves. This is not necessarily a bad thing because E-Bench software design is at the beginning phase of development and therefore courts may wish to wait for it to mature. But it also means that Michigan courts will have to budget for this cost in the future and will not immediately receive the optimum cost savings that e-filing/EDMS provides.

#### **4.5 CLERK OF COURTS TECHNOLOGY UPGRADE**

##### **Estimated Costs for Clerk of Courts Technology Upgrade (\$5.3 million)**

Using a survey of the courts conducted during the NCSC’s initial engagement with Michigan in 2011 (results shown below), it is estimated that there would be at least \$5.3 million in additional computer infrastructure cost to support e-filing regardless of whether a local or

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<sup>5</sup> eCitation systems described: <http://courtechbulletin.blogspot.com/2013/06/ecitation-now.html> and Arizona’s eCitation program also described at: <http://courtechbulletin.blogspot.com/2013/08/arizona-traffic-ticket-and-complaint-e.html>

statewide system is implemented. The survey received 118 responses with both circuit and district courts nearly equally represented.

**Will you need implementation support to integrate or improve E-filing with your CMS and/or EDMS? (q20)**

Yes	91.0%
No	9.0%
<b>Total</b>	<b>100.0%</b>

**Does your court need technology equipment upgrades in order to implement or improve E-filing? (q21)**

Yes	60.2%
No	3.3%
Don't know	36.6%
<b>Total</b>	<b>100.0%</b>

**What is your cost estimate for the upgrade? (q22)**

Less than \$10,000	13.7%
\$10,000-\$50,000	37.0%
\$50,000-\$100,000	28.8%
\$100,000-\$250,000	13.7%
More than \$250,000	6.8%
<b>Total</b>	<b>100.0%</b>

Unfortunately, the survey does not represent a complete inventory or evaluation of individual courts' technology needs. Therefore, this estimate is very likely to represent only the minimum amount required. And while the state may wish to have these costs borne by the individual courts, the lack of project funding to address these deficiencies will likely slow e-filing adoption as the staff would not have sufficient computer speed or monitor displays (see photo below) to be able to effectively implement a fully electronic environment.



*An automated court clerk's monitor configuration*

## 5 BENEFITS ANALYSIS

In the following section the financial benefits of implementing e-filing in Michigan are discussed. In brief they are:

- Attorney / client time and cost savings
- Court efficiency and cost avoidance savings
- Court return on investment (ROI) savings
- Other government agency information storage and retrieval savings
- Reduction in the cost of noticing and service
- Archival / physical storage savings

The point of this section is that the conversion to digital information not only involves costs but over time, real savings can be realized throughout the legal system. This in turn allows Michigan to be cost competitive for both legal and business services with other states and particularly, internationally.

### 5.1 POTENTIAL PRACTICING ATTORNEY / CLIENT TIME AND COST SAVINGS

There are 33,995 practicing lawyers in Michigan according to the American Bar Association.<sup>6</sup> Further, over 9,000 lawyers have reportedly e-filed documents in the Oakland County courts from 2007 to 2010.

Regarding the potential cost savings of an e-filing system, an article published in the January 2013 Illinois Bar Journal noted the extra work required for paper filing:

The length of time attorneys spend on the traditional way of filing papers due in court – delivering the typed, reviewed, and signed papers from the law office to the courthouse via a hired courier or by the attorney’s own hand, and having them physically file-stamped by the clerk’s office and returning them to the law office, where copies are scanned and stuffed into envelopes to be mailed to opposing counsel and parties – can be shaved significantly with a few mouse clicks and computer key strokes via the e-filing method, said Chicago personal injury lawyer Bruce R. Pfaff. [Kantzavelos, *E-Filing Gets the Green Light*, 101 Illinois B J 20 (January 2013)  
<<http://www.isba.org/ibj/2013/01/efilinggetsthegreenlight>>.]

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<sup>6</sup> American Bar Association, National Lawyer Population by State, 2013,

[http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/2013\\_natl\\_lawyer\\_by\\_state.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/2013_natl_lawyer_by_state.authcheckdam.pdf)

A study by the e-filing company CaseFileXpress in conjunction with the Texas Paralegal Journal ([http://txpd.org/tpj/tpj\\_archive.asp](http://txpd.org/tpj/tpj_archive.asp)) showed that the cost savings could be “over \$75 per filing” (<[https://www.casefilexpress.com/CaseFileXpress\\_Efiling%20Saves%20Time%20and%20Money.pdf](https://www.casefilexpress.com/CaseFileXpress_Efiling%20Saves%20Time%20and%20Money.pdf)>).

Oakland County, Michigan, reported that the average number of documents in each of their circuit court case files was 14.25 in 2011. For estimate purposes, it is assumed that half of those documents were court created. Therefore, based on state caseload statistics collected by the SCAO, it is projected that more than 1.8 million documents are filed in civil matters in circuit and district courts in Michigan each year.

For the projection below, the NCSC has taken an even more conservative approach. Instead of using the 50% estimate of 7.1 external filed documents per case as is the case in circuit and probate courts, because district courts that receive fewer documents in each case are included, a 30% rate is used or 4.275 documents per case. At that rate, more than 3.2 million documents are estimated to be filed in civil matters each year in all courts. Therefore, using that count, the cost of litigation could be reduced by the following amounts:

- Assuming \$25 per filing savings - \$78.3 million
- Assuming \$50 per filing savings - \$156.6 million
- Assuming \$75 per filing savings - \$235 million

## 5.2 ESTIMATES FOR COURT EFFICIENCY AND COST AVOIDANCE

At the 2006 E-filing Conference, the bankruptcy court in San Diego reported that, due to their e-filing and integrated CM/ECF system, it was able to process more than 50% more cases with 25% less staff in 15% less time than before it had the system. Similarly, a 2012 report by the Unified Courts of New York summarized comments of Chief Judge Lippman from his State of the Judiciary address in which he estimated that the overall savings to the courts, litigants, the bar, and county clerks from universal e-filing would eventually exceed \$300 million a year. The report quoted Chief Judge Lippman as stating, “In the year 2012, this is not a pipe-dream; it is the very least that we should do to move the courts boldly and efficiently into the 21st Century.” [*Report on Electronic Filing in Criminal Actions and Proceedings: A Report to the Governor, Legislature and Chief Judge, New York State Unified Court System (2012)*], page 3. Because the Michigan state courts have already suffered staff losses, the ability to process more cases in less time by implementing a statewide e-filing system is significant. Additional system benefits for local courts include:

- Reduced or potentially no data entry for e-filed documents
- Minimal or potentially no fee processing data entries
- An electronic file room via local CMS-EDMS or centralized EDMS (No need to maintain physical file folders, thus providing 24/7 access for judges and court staff. Judges will

also be able to carry their entire case file document portfolio on their laptops or tablets. This also saves physical space in the courthouse that could be re-purposed.)

- Eliminated need for the local court systems to provide e-filing user training and support

### 5.3 COURT RETURN ON INVESTMENT (ROI) SAVINGS

In 2012, the Clerk of Court of Manatee County, Florida, and his staff published the results of their long-term data collection effort to record the costs and benefits of their digital transformation. Their results were audited at several points to ensure an accurate account of their work.

Their analysis looked at four cost scenarios that are the common path from paper to electronic records operation. The following costs per page calculations were reported:

Electronic Intake; Electronic Storage; Electronic Use	\$ 0.11 per page
Electronic Intake; Electronic Storage; Paper Use	\$ 0.24 per page
Paper Intake; Electronic & Paper Storage; Paper Use	\$ 0.69 per page
Electronic Intake; Electronic & Paper Storage; Paper Use	\$ 0.57 per page

It is also important to note the cost of the court staff scanning and printing in the scenarios listed above, and that the best possible scenario is to e-file and to not print anything. Unfortunately, Manatee County has not been allowed to eliminate the paper copy requirement. But it has transitioned from “file folders” to date-based box storage for the paper copies. In other words, potential maximum cost and operational efficiency are being hampered by legal records requirements. (<<http://courttchbulletin.blogspot.com/2012/02/calculating-e-court-return-on.html>>).

It is also important to point out the difference in costs between partially paper-based and fully electronic systems. As one can see in the chart above, it can be up to five times more expensive to partially maintain paper systems. Many courts with e-filing systems nevertheless provide documents in paper form to their judges. But that cost has provided the impetus for Manatee County to be one of the first courts to help develop what is now commonly known as the judge’s “E-Bench.” For more on this see:

<<http://courttchbulletin.blogspot.com/2011/12/electronic-judicial-bench.html>>.

### 5.4 OTHER GOVERNMENTAL AGENCY SAVINGS

All governmental agencies that file with the courts will over time obtain benefits from an electronic environment in terms of increased information efficiency and reductions in operational costs. However, these agencies and the general government will need to invest in the paper to electronic operational conversion. Over 130,000 criminal, juvenile, and adult personal protection cases were filed in 2013 in Michigan. If even \$10 of time or effort were saved per case due to the elimination of paper document compilation, storage, and retrieval,

that could save prosecutors and public defender's offices \$2.6 million per year combined. Other agencies such as social services, corrections, and law enforcement would also benefit.

## 5.5 NOTICING COSTS AND SAVINGS

**Description:** The cost of physically mailing reminders and other court notices is considerable. The courts in Philadelphia, Pennsylvania, estimate that they save more than \$7,000 per month in postage costs. It is highly likely that the Michigan courts can realize similar savings by using the authenticated EFSP system to automatically send formal notices and, if desired, reminders to the parties and attorneys. Over time this service could evolve into a tiered service approach if particular reminders or notices are needed.

**Estimated cost recovery:** There is a potential for developing tiered services for the authenticated filers that might allow the courts to charge a subscription fee for particular types and formats of notices or reminders. However the immediate cost benefit would be the reduction in postage costs to the courts.

## 5.6 ARCHIVAL / PHYSICAL SPACE SAVINGS

This section will discuss the cost of court file storage borne by state, county, and municipal government and the potential savings that can be realized as this data is converted to digital form. Courthouses are expensive paper warehouses. Today, courthouse construction costs often run to \$200 per square foot or more. While many courthouses in the state are long-paid-for, they still have operational costs such as heating, cooling, and maintenance. The results of the following examples are based on a calculator for physical file cabinet document storage as provided by ILM Corporation at: <<http://www.ilmcorp.com/tools-and-resources/roi-calculator>>.

- Annual cost per file cabinet at \$75 per square foot = \$1,575
- Annual cost per file cabinet at \$100 per square foot = \$2,100
- Annual cost per file cabinet at \$150 per square foot = \$3,150

The web site also has a calculator for "the cost associated with finding and retrieving documents in a paper based document management system" and the cost of scanning and indexing documents.

Knowing these costs can assist courts to make their future space planning and utilization more efficient. And, it can also free space to better serve the public by allowing for re-engineering of building services and more efficient adjacencies and movement for all concerned.

## 5.7 OTHER CONSIDERATIONS

### 5.7.1 Potential Statewide Access for Self-Represented Filers

Using this approach, the Texas courts provide a single government funded free e-filing website for all users. And on the “back side of the portal,” the courts have only one connection to implement. This simplifies the system and saves money at all levels.

It is important to note that self-represented (pro se) filers may not understand court rules or filing procedures. This is why projects such as Access 2 Justice (A2J) and i-CAN™<sup>7</sup> were created to provide a TurboTax®-like guided interface to help ordinary citizens to file correctly, thus avoiding frustration by the filer and problems for the judges and court staff.

The portal approach allows for guided systems to be created for all the courts, not just the large ones that can afford to develop one.

### 5.7.2 National Information Exchange Model (NIEM) Funding Support

In any e-filing implementation, it will be important for the e-filing system to support NIEM standards in order to be eligible for criminal justice information sharing grants from the federal government. This is particularly important as the overall system expands beyond civil case e-filing (which represents only part of the court and legal systems overall workload) to support criminal and juvenile justice as well as health and social service information sharing. In other words, a standardized portal that supports these messages will decrease development and implementation costs for all courts and local justice partners as that design and software can potentially be shared among all partners.

Further, in FY 2014, over \$30 million in U.S. Department of Justice, Office of Justice Programs funding was targeted for NIEM standard electronic information sharing. In order for Michigan e-filing to take advantage of this potential revenue source, the project should adopt the Oasis-Open LegalXML ECF standard that conforms with the NIEM. And if that is done, the NCSC concludes that it is likely that a statewide e-filing portal could qualify for federal grant assistance to implement information sharing between criminal and social services agencies and the courts.

### 5.7.3 Security

Information security is expensive because it must be continually developed, enhanced, and monitored. A single connection allows highly trained and scarce staff resources to be focused via the statewide system while providing benefits to all participants. In addition, the project

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<sup>7</sup> i-CAN!™ Legal, <http://www.legalican.com/>

could implement the U.S. government GFIPM<sup>8</sup> security model, thus making the SCAO and local courts eligible for federal funding.

The ability to provide a secure and validated environment to facilitate criminal case e-filing is possible. Since the proposed approach is to create secure network connections, there is the ability to create a specialized EFM that could segregate criminal case documents from other case types. The courts would then be able to specifically download or consume these documents as their CMS allows. Enhanced tracking and audit functionality could also be provided for these important cases.

#### **5.7.4 Focused Development and Implementation**

If Michigan adopts the statewide e-filing portal approach featuring one statewide system with shared EDMS capabilities, development could be centralized, well-tested, and standardized. Each court would not have to create their own e-filing and data consumption capability – that development and implementation would be provided by the project at no additional cost.

#### **5.7.5 Shared Training and Re-engineering**

If Michigan adopts the statewide e-filing portal approach, project staff would be able to develop training and assist the courts in their re-engineering efforts to transition to the electronic document environment.

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<sup>8</sup> Global Federated Identity and Privilege Management (GFIPM);

<https://it.ojp.gov/default.aspx?area=nationalInitiatives&page=1179>

## 6 PROJECT FUNDING

### 6.1 COST PROJECTIONS

In Section IV, a list of possible project approaches was provided and costs were identified. The NCSC has extrapolated these project options and **estimate the state courts/government costs over 5 years**. In summary from Section IV along with an additional four years of maintenance costs at 20% per year, the options that were identified are:

Option	Initial Cost Projection	Five Year Cost Projection
1. Purchase and implement a "Single System" statewide e-courts case / document management / e-filing capability	\$75 million	\$150 million
2. Cost for each county to create their own e-filing / EDMS	\$18.7 million	\$37.4 million
3. Purchase and implement a single statewide e-filing only system	\$54.1 million	\$108.3 million
4. State cost projection for the e-filing portal approach (without Clerk of Court technology upgrades)	\$2.75 million	\$5.5 million
5. State cost projection for the e-filing portal approach (with Clerk of Court technology upgrades)	\$8.05 million	\$16.1 million

Note that **Option 4 does not include** the cost of Clerk of Court technology upgrades. Some, but likely not all, of these costs are shown in Option 5.

### 6.2 FUNDING OPTIONS

In reviewing this section, the reader should note that the NCSC has been very conservative in the case and document counts in the estimates below.

The NCSC recommendations in Section VII reflect the e-filing portal approach outlined in Options 4 and 5. Assuming some level of Clerk of Court technology upgrades will be needed, the projected cost of \$16.1 million over five years would be the starting point for funding needs of a statewide e-filing program. The next critical question is how can the state pay for it?

Several options are identified below and, of course, combinations of these options at lower levels are also possible to meet the project funding needs. The options and revenue projections are as follows:

Potential Revenue Scenarios	First Year Revenue	5 Year Total
A. Civil fee increase \$5 per case to JTIF (Crossroads report recommendation for funding; 700,000 civil cases per year filed at one document set per case; see Appendix D – Crossroads Report Excerpts)	\$3,500,000	\$17,500,000
B. Civil fee increase \$9 per case to JTIF (Crossroads report alternate recommendation for funding; 700,000 civil cases per year filed at one document set per case; see Appendix D – Crossroads Report Excerpts)	\$6,300,000	\$31,500,000
C. \$5 per document fee to JTIF (NCSC estimate 3.686 million civil case documents e-filed per year in circuit, probate, and district courts with a 50% user adoption uptake factor; see "User Adoption Uptake Factor" below)	\$9,215,000	\$46,075,000
D. \$9 per document fee to JTIF (NCSC estimate 3.686 million civil case documents e-filed per year in circuit, probate, and district courts with a 50% user adoption uptake factor; see "User Adoption Uptake Factor" below)	\$16,587,000	\$82,935,000
E. Continuation of \$8 e-filing fees per document (NCSC estimate 3.686 million civil case documents e-filed per year in circuit, probate, and district courts with a 50% user adoption uptake factor; see "User Adoption Uptake Factor" below)	\$14,744,000	\$73,720,000
F. Case information data access fee approach (U.S. federal courts model) at 732,821 circuit, probate, and district court civil case per year + 1,993,835 district court non-traffic and traffic cases judgments per year		
F-1. \$1 dollar retrieval fee per case	\$2,726,656	\$13,633,280

Potential Revenue Scenarios	First Year Revenue	5 Year Total
F-2. \$2 dollar retrieval fee per case	\$4,720,491	\$23,602,455

The State Bar of Michigan in its 2011 Crossroads Technology report recommended that funding be obtained from an increase in the JTIF program fee (Revenue Option A). As one can see, the five year total funding projection would meet the budget needs of option 4.

Interestingly, there is a point in Revenue Option F (the federal court approach) shown in F-1 and F-2 that would also meet the budget needs. This estimate is based on only one paid retrieval per case. NCSC experience in other states is that a judgment is the key document that is retrieved by credit and background check services. Therefore both civil and district court traffic judgments are of interest.

While there may be philosophical views regarding private services using and compiling public court records, it is a fact that these services are allowed and are active in Michigan. Therefore, the NCSC believes that this is a conservative estimate because there are already multiple background check services currently operating in Michigan, including Intelius, PeopleSmart.com, and USSearch.com.

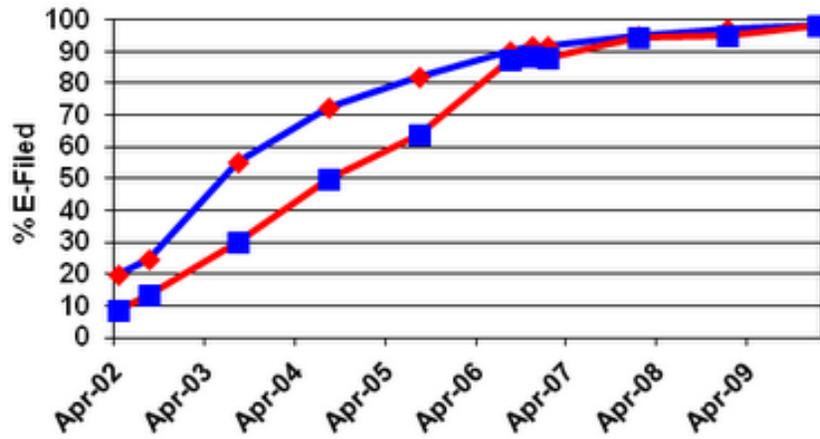
This would also suggest that Michigan could implement a rule similar to that of the federal courts that allows for a dozen free searches and retrievals per month by registered users. And it would also suggest that non-judgment documents could potentially be searched for free.

And again a smaller increase in the filing fee combined with a small case information access fee would also meet the needs as well as a lower e-filing transaction fee (Revenue Option E).

### 6.2.1 User Adoption Uptake Factor

Some of the revenue scenarios described above include an “uptake factor.” As noted in the 2012 NCSC report, uptake (user adoption) of e-filing takes time. As reported:

The uptake of a statewide e-filing solution can be projected from Colorado’s experience. As shown in the chart - Colorado Courts Civil Case Percent of All Cases E-Filed from 2002-2010 below, Colorado’s system has grown from 20% in 2002 to more than 95% of all civil case documents currently. Please note that the Colorado system has been provided through a contract with LexisNexis and limited to civil litigation. The system has been permissive and only in recent years when a few counties mandated use of the system for specific case types. Colorado wishes to add other case types, in particular criminal case documents to the system and as a result the Administrative Office of the Courts took over the system in 2011.



Therefore, the final budget / revenue option that is selected must also factor in time for adoption that will impact costs, revenues, and savings.

## 7 RECOMMENDATIONS

This section is organized into subsections addressing several key issues to consider in a statewide e-filing project. This is not an exhaustive list. Consistent with aforementioned objectives for this report, the focus is instead on issues pertinent to decisions that must be made with regard to the general approach (system design), build vs. buy, and funding.

### 7.1 VISION AND GUIDING PRINCIPLES

While not conveyed as a formal recommendation, the NCSC suggests that the SCAO adopt a vision statement and set of guiding principles to help with decisions and alignment with goals for the project. The NCSC offers the following vision statement for Michigan's statewide e-filing project. This should be vetted and revised as appropriate, but may serve as a good starting point:

*The Michigan E-filing project provides the foundation for the transition to a fully electronic court (E-Court) environment in order to support a more effective and efficient judiciary for the citizens of the state. The end result will open a virtual courthouse 24 hours a day, 7 days a week by using technology to improve public access to the courts and ensure that the judges and court staff have complete and timely information with which to make the most effective dispositions. The project will leverage private/public partnerships that allow for innovation and cost competition benefiting the courts, the litigants, and the attorneys, while supporting improvements in local court technology capabilities.*

For guiding principles, the NCSC suggests the SCAO start with the following principles that were reviewed and updated at the stakeholder meeting:

- E-filing should be mandatory for all case types and all filers.
- The electronic record will be the official record.
- E-filing should ensure facilitation of equal access to justice.
- E-filing should be supported in a sustainable, fair, transparent, and equitable way.
- E-filing should ensure the protection of private and confidential information.
- E-filing system should allow user/filer choice for their interactions with the courts.
- Technology employed by the e-filing system should be open and standards-based.
- The e-filing selection and development process, including vendor contracts, should be transparent and open to public scrutiny and participation.
- E-filing should not be an unfunded state mandate.
- E-filing systems and processes should be consistent with constitutional requirements and case law.

## 7.2 STAKEHOLDER PERCEPTIONS

Based on feedback provided at the stakeholder meeting and narrative comments provided in the subsequent survey, there seems to be differing views of what statewide e-filing should be. However, there is agreement on guiding principles and fundamental concepts that will drive how the statewide e-filing system is ultimately implemented. So the problem appears to be a combination of (1) a need for more open communication about the state's plans for e-filing; (2) misunderstandings about the different approaches being considered to achieve statewide e-filing; and, (3) misguided expectations seeded by familiarity and comfort with the federal courts' PACER system.

Many attorneys assume that the federal courts' PACER system could simply be adopted and used in the state courts. This assumption is incorrect. First, the technology used by that system is actually quite dated and an effort to revise and implement it would not be a wise investment. Further, the system does not support the many different case types in the state courts. More importantly, the federal courts' PACER system is tightly integrated with (and is actually a component of) their CMS. It is not compatible with any of the various CMSs used by Michigan courts. Those who attended the April 2014 stakeholder meeting should understand why attempts to use the federal courts' PACER system would be problematic, but most stakeholders (even some people in the courts) do not fully appreciate the distinctions.

**Recommendation #1:** Michigan's statewide e-filing initiative should include an outreach and education program. Goals of the program should be to keep stakeholders engaged in the project and informed on progress and decisions, along with the logic behind those decisions. The resulting buy-in will provide a tremendous boost to the success of the project.

## 7.3 SYSTEM DESIGN

Section III included discussion on system design alternatives. Four fundamental components of the e-filing system design were presented as a set of decision points within each of those four components. The four components and corresponding recommendations are detailed below. First, however, recommendations relating to the system design are based on an open, standards-based approach to the statewide e-filing system. As such, adoption of ECF is recommended:

**Recommendation #2:** The Michigan courts should formally adopt the OASIS LegalXML ECF 4.01 specifications, and should require that all components of the statewide e-filing system comply with this standard.

### 7.3.1 EFM (or Filing Review MDE)

**Recommendation #3:** The Michigan courts should proceed with plans to engage an e-filing solution provider to stand up the statewide EFM.

**Recommendation #4:** The architecture of the statewide EFM should be implemented in such a way as to allow for clerk review functionality to be performed either from within the state EFM or at the local court if preferred by the affected jurisdiction for workflow and integration purposes. In other words, local courts would have the option to implement limited EFM capabilities for reviewing and accepting filings.

### 7.3.2 EFSP (or Filing Assembly MDE)

**Recommendation #5:** The Michigan courts should adopt an e-filing architecture that allows approved third-party EFSPs to submit filings on behalf of filers. Any agreement and/or fees assessed to the filer for this service and/or value-add services provided by the EFSP would be at the discretion of the EFSP and agreement with the filer. Any such fees would not change filing fees assessed by the court for the type of filing being submitted. Anyone who wishes to submit filings to any court should be able to choose any approved EFSP.

**Recommendation #6:** As part of its engagement with the selected statewide EFM provider, the Michigan courts should stand up an e-filing portal that provides basic EFSP functionality at no charge to filers. With basic/minimum functionality required to e-file, this portal would not strive to compete with third-party EFSPs that might offer an enhanced user experience and/or other value-add services. The intent of this free e-filing portal would be to provide a service to litigants and attorneys who choose not to use a third-party EFSP.

### 7.3.3 CMS and EDMS Integration

**Recommendation #7:** As part of its implementation of the statewide e-filing portal, the state should provide technical coordination and funding to local courts who seek such assistance in efforts to modify their local CMS and/or EDMS to accept electronic court filings and comply with the ECF standards. Depending on the CMS, directing some of the funding for technical assistance from the CMS vendor may be needed in those situations where integration requires use of CMS Application Programming Interfaces (APIs) and/or direct access to the CMS database.

**Recommendation #8:** As part of its engagement with the selected statewide EFM provider, the Michigan courts should stand up a state-hosted EDMS for optional use by courts that are unable or choose not to implement their own EDMS. Affected courts should have responsibility for documents filed in their court, including access controls.

## 7.4 BUILD VS. BUY

The NCSC examined e-filing implementations in several states and found excellent examples of both in-house developed solutions (e.g., Colorado, Missouri, New York, New Jersey) and states that acquired commercially available e-filing solutions (e.g., Arizona, Florida, Iowa, Texas).

States that have successfully developed their own e-filing solutions generally have more depth and technically current skill sets than the typical court IT staff. They've also required more time

to implement than commercial packages. Several private-sector companies offer functionally robust e-filing solutions and can often have early stages of the project up and running within four to six months (depending on customization and many other factors). In other words, many products are ready to go with little customization beyond integration with systems that are not yet compliant with ECF standards. Timing considerations, staff capabilities and capacity, availability of proven products, and experiences in other states with similar court organizational structure lead us to recommend against trying to develop a statewide e-filing system in-house.

**Recommendation #9:** For implementation of a statewide e-filing system, the Michigan courts should engage a private-sector organization with a proven track record in development and deployment of software systems to support electronic court filing.

## 7.5 FUNDING

Sections IV, V, and VI provide cost considerations and estimates based on volumes for case filings, documents, and other factors. In reality there are many ways one could approach funding. Four approaches were included in the stakeholder survey:

- Legislative appropriation (without charging for e-filing)
- Increased filing fees
- A per transaction fee
- Fees for document access (without charging for e-filing, like the federal courts' model)

At the stakeholder meeting, there was little interest in imposing transaction fees or document access fees, although not everyone was ready to rule them out. Ironically, in the stakeholder survey, document access fees garnered more support than other options, but not a majority. The NCSC believes this is likely a result of attorneys (who were 84% of the survey responses) being accustomed to the federal courts' PACER system, which uses that model.

In any case, viable funding options are probably driven more by the political environment and the willingness and ability to absorb startup costs that will eventually level off and may even be offset by savings through more efficient business processes.

Based on analysis and feedback received, three identified funding options are:

1. Increase case filing fees – based on estimates in Section VI, this would likely require at least \$5 per case to cover five years of costs related to e-filing. This could decrease as startup costs are offset.
2. Transaction fees – this is a more difficult number to estimate at this stage, but it could be combined with a smaller increase in the case filing fee.
3. A hybrid of document access fees that would assess a fee only for judgments. Since judgments are the documents most non-case participants want to see (particularly commercial interests), these would likely generate revenue to offset costs of the e-filing

system. Policy could be established to ensure that case parties are not charged for documents in their cases.

Options 2 and 3 are obviously a little more complicated to administer, and also tend to be not as well received by the public and other stakeholders who feel all access should be free.

**Recommendation #10:** The NCSC recommends the Michigan courts adopt the same funding model used in the Texas statewide e-filing project, which involves only an increase in case filing fees (including cases still filed via paper). The state’s selected EFM vendor would be paid a fixed amount – likely based on an annual fee with an annual escalation – over the life of a multi-year contract, rather than rely on per-transaction or per-document fees.

## 7.6 OTHER CONSIDERATIONS

While not specifically called for in the objectives for this report, discussions with stakeholders and experiences in other states compels the NCSC to raise a number of other considerations that may not be on Michigan’s radar, but that should be considered in a statewide e-filing project:

- Judicial tools – Functionality to help judges and court staff work more effectively with electronic case records. Experiences in Michigan’s e-filing pilots should help understand some of the challenges and needs that such tools could address.
- Policies requiring paper copies – Some judges are still requiring attorneys to submit paper copies to chambers. This is related to the tools issue, but every effort should be made to avoid situations like this that defeat the purpose of electronic records.
- Pro se litigants – This has been covered to some degree, but the needs of the self-represented should be considered as the courts move to all electronic records.
- Responsibility for e-records archiving, retention, and disposition in local EDMS systems versus a state-hosted EDMS. Strive for consistent retention management.

Recommendations in this section focused on specific issues identified in the scope of work guiding this effort. However, as noted previously, there are a myriad other issues to consider and decisions to be made in an e-filing project. A good resource identifying some of these issues is a recent JTC<sup>9</sup> white paper titled “*Strategic Issues to Consider before Starting an E-filing Initiative.*”<sup>10</sup>

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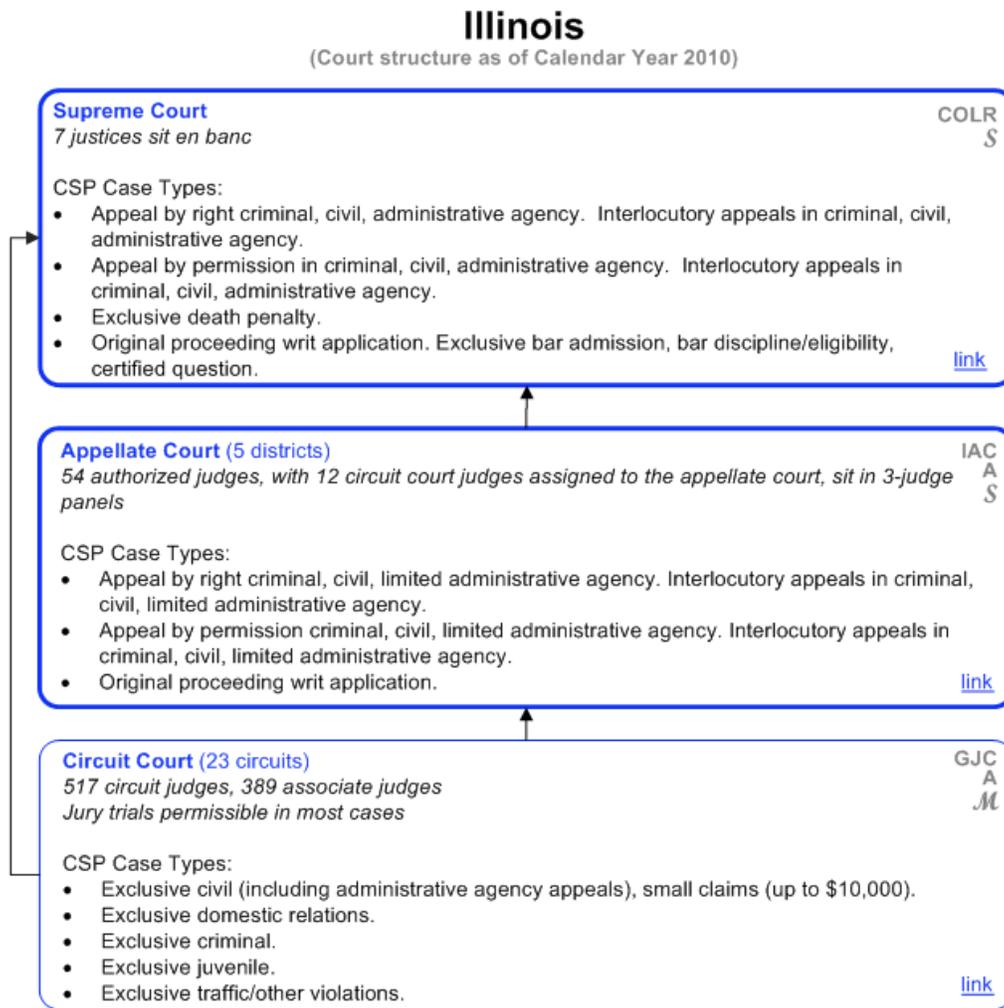
<sup>9</sup> The Joint Technology Committee (JTC) was established by the Conference of State Court Administrators (COSCA), the National Association for Court Management (NACM) and the National Center for State Courts (NCSC) to develop and promote technology standards for the courts. [<http://www.ncsc.org/About-us/Committees/Joint-Technology-Committee.aspx>]

<sup>10</sup> *JTC Resource Bulletin: Strategic Issues to Consider before Starting an E-filing Initiative (white paper)*; Version 1.0 – Adopted July 14, 2013.

## APPENDIX A – COURT STRUCTURE CHARTS

From NCSC Court Statistics Project ([http://www.courtstatistics.org/Other-Pages/State\\_Court\\_Structure\\_Charts/](http://www.courtstatistics.org/Other-Pages/State_Court_Structure_Charts/))

Example of a relatively simple court structure:

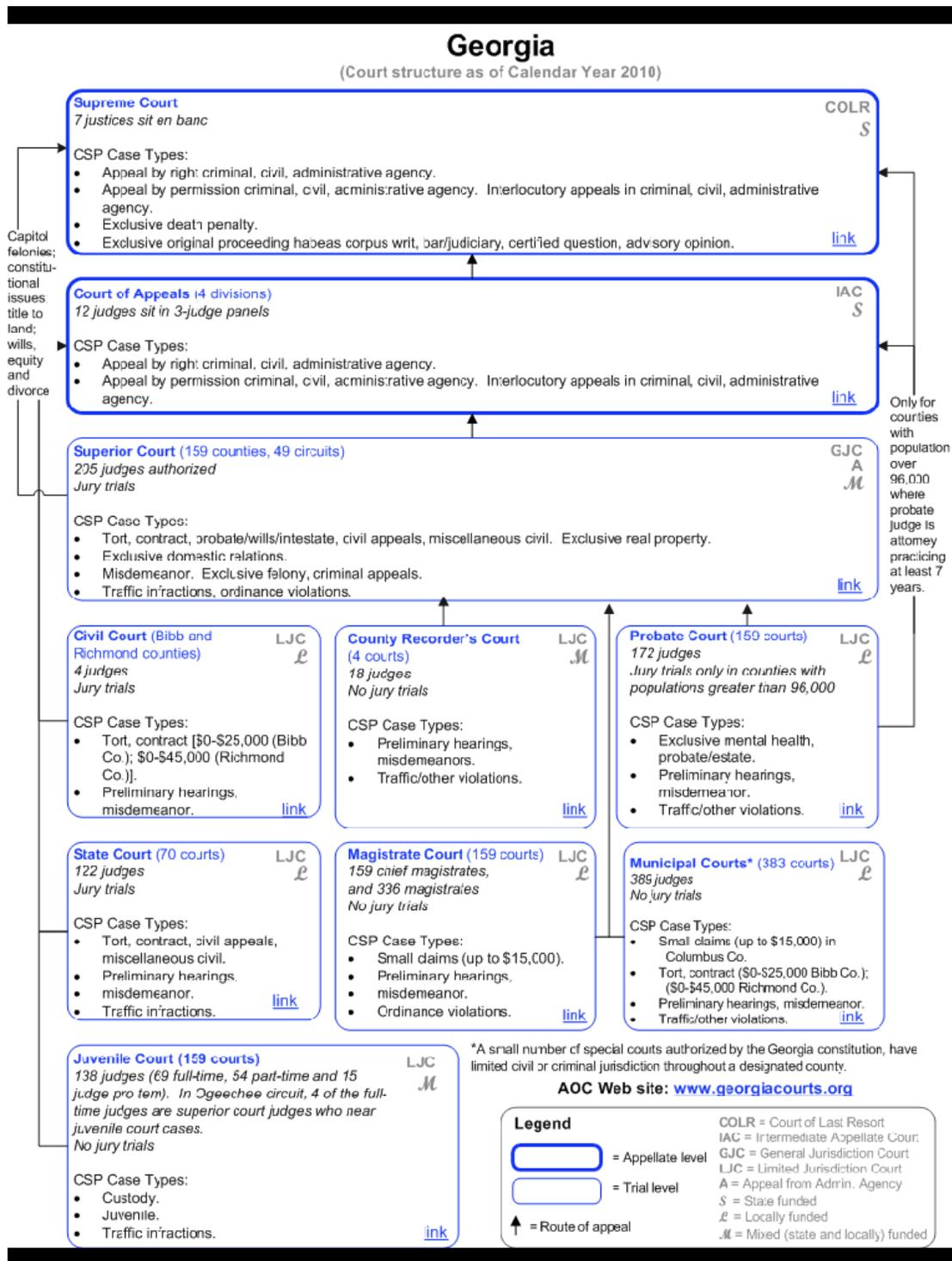


AOC Web site: [www.state.il.us/court](http://www.state.il.us/court)

**Legend**

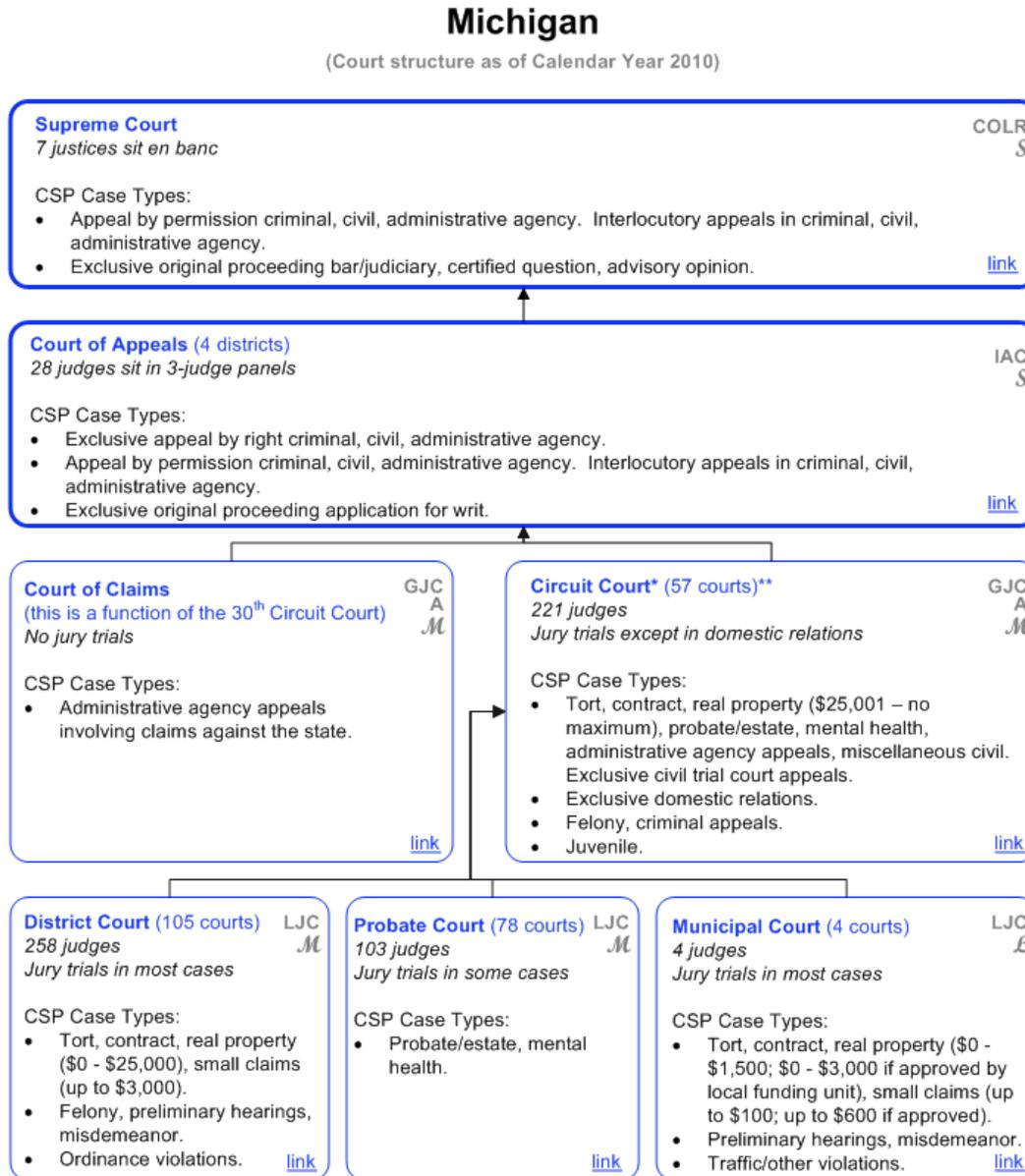
<span style="border: 1px solid blue; display: inline-block; width: 20px; height: 10px;"></span>	= Appellate level	COLR = Court of Last Resort	A = Appeal from Admin. Agency
<span style="border: 1px solid blue; display: inline-block; width: 20px; height: 10px;"></span>	= Trial level	IAC = Intermediate Appellate Court	S = State funded
		GJC = General Jurisdiction Court	ℒ = Locally funded
		LJC = Limited Jurisdiction Court	M = Mixed: state and locally funded
		↑ = Route of appeal	

Example of a more complex court structure:



Michigan’s court structure:

Note: This chart was published in 2010. The Court of Claims is now located within the Court of Appeals, and the number of judgeships in each court may have changed.



\*The Recorder’s Court of Detroit merged with the Circuit Court effective October 1, 1997.

\*\*A Family Division of Circuit Court became operational on January 1, 1998.

AOC Web site: [www.courts.michigan.gov](http://www.courts.michigan.gov)

**Legend**

= Appellate level

= Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

S = State funded

L = Locally funded

M = Mixed: state and locally funded

## APPENDIX B – SURVEY FORM

This survey is being distributed to those people who attended the Michigan E-Filing Stakeholders' Meeting on April 7, 2014, and other individuals who are interested in implementing e-filing in Michigan.

Answers will be generated and analyzed by NCSC staff and used for internal purposes.

All answers are confidential. If you have additional comments or observations, please contact Nial Raaen at [nraaen@ncsc.org](mailto:nraaen@ncsc.org).

1. Please enter your name, title and organization in this text box: (this is optional, but the information will help us better understand your perspective)

Name:

Title:

Organization:

2. What funding mechanism should the Legislature enact to implement an e-filing system in Michigan?

- A. Legislative appropriations to implement the system and for ongoing support and maintenance
- B. Increased per-case filing fees
- C. A per transaction/transmission fee
- D. Fee for document access (similar to the federal system approach) with no filing fee increase or transaction fee
- E. Other, please describe:

3. Should the Michigan Courts have a centralized e-filing portal (i.e., a single e-filing manager that receives filings from multiple e-filing service providers and distributes them to the appropriate courts)?

- Yes
- No
- Not sure or doesn't really matter

4. From a filer's perspective (not that of a judge or court official), what type of e-filing system should be developed for submitting filings to the courts?

- A. Filers should be permitted to choose (based on features and price) from multiple "state approved" e-filing service providers to submit filings.
- B. Same as option "A" plus allow law firms, bulk filers, self-help centers, and government agencies to act as their own e-filing service providers if they satisfy the necessary e-filing standards.
- C. Filers should be required to use a single, e-filing service provider chosen by the jurisdiction.
- D. Filers should be required to use a single e-filing service provider hosted by the state (or a selected vendor).
- E. Other, please describe:

5. Please share any additional comments or suggestions you feel are relevant to implementation of a statewide E-Filing System.

## APPENDIX C – COUNTIES WITHOUT CLERK OF COURT EDMS

This list was provided by the Judicial Information Systems (JIS) Division of the SCAO. It is based on information provided in 2012 by private-sector companies who deliver EDMS solutions to courts throughout Michigan. JIS is in the process of updating this list, so some of these counties may now have an EDMS. Populations shown are based on U.S. Census Bureau figures for 2010.

	<b>County Name</b>	<b>Population</b>
1	Alger	9,602
2	Allegan	111,408
3	Arenac	15,899
4	Baraga	8,860
5	Barry	59,173
6	Benzie	17,525
7	Berrien	156,813
8	Branch	45,248
9	Cass	52,293
10	Charlevoix	25,949
11	Chippewa	38,520
12	Clare	30,926
13	Crawford	14,074
14	Delta	37,069
15	Dickinson	26,168
16	Emmet	32,694
17	Gogebic	16,427
18	Hillsdale	46,688
19	Houghton	36,628
20	Huron	33,118
21	Ingham	280,895
22	Iosco	25,887
23	Iron	11,817
24	Jackson	160,248
25	Kalkaska	17,153
26	Kent	602,622
27	Keweenaw	2,156
28	Lake	11,539
29	Lapeer	88,319
30	Livingston	180,967
31	Luce	6,631
32	Mackinac	11,113
33	Manistee	24,733
34	Mason	28,705

	<b>County Name</b>	<b>Population</b>
35	Mecosta	42,798
36	Menominee	24,029
37	Missaukee	14,849
38	Montmorency	9,765
39	Muskegon	172,188
40	Oceana	26,570
41	Ogemaw	21,699
42	Ontonagon	6,780
43	Oscoda	8,640
44	Otsego	24,164
45	Presque Isle	13,376
46	Roscommon	24,449
47	Saginaw	200,169
48	St Joseph	61,295
49	Schoolcraft	8,485
50	Shiawassee	70,648
51	Van Buren	76,258
52	Wexford	32,735
	<b>Total</b>	<b>3,106,764</b>

## APPENDIX D – CROSSROADS REPORT EXCERPTS

### Michigan Judicial Crossroads Technology Committee Report on Funding

(<[http://www.michbar.org/generalinfo/jcft\\_only/TechCrossroadsFullReport.pdf](http://www.michbar.org/generalinfo/jcft_only/TechCrossroadsFullReport.pdf)>).

Pages 29-31:

“The identification of a statewide funding strategy as well as new, sustainable, and dedicated funding sources is critical to the success of the Judicial Crossroads recommendations.

The Technology Committee has outlined below a number of recommendations (pages 29-31) for how to fund the establishment of a single statewide system, and other technology initiatives.

- Development of a strategic long-term plan for sustainable centralized funding of statewide integrated court technology initiatives.
- Creation of multiple new sources of sustainable, dedicated state funding that will be used to: (1) promote integration of court information and services through a single case management system, and (2) develop new statewide technology solutions to support and maintain the technology vision and plan going forward.
- Priority should be given to the creation of new funding sources for statewide court technology projects before existing fees assessed and collected by courts for outside agencies are increased.
- There is no one miracle funding cure. The solution should be a combination of approaches and funding sources, especially as political realities will make some avenues more difficult.

Some specific new funding strategies for consideration include the following:

- Augment JTIF by increasing civil filing fees \$5 across the board for district, circuit and probate courts. Civil filing fees have not been increased since 2003. The entire increase would be deposited in JTIF. Estimated new revenue is \$3,250,000 to \$3,500,000 based on the following estimated projections:
  1. District Court \$2,750,000 - \$3,000,000 (550,000 – 600,000 cases per year)
  2. Circuit/Probate \$500,000 (100,000 cases per year)
- Expand the JTIF fee to cover criminal, traffic and parking dispositions by creating a new JTIF fee to be collected as part of state minimum costs on all misdemeanors, a new JTIF fee to be collected as part of JSA fees on all civil infractions and a new JTIF fee on all parking dispositions. Based on approximately 2.4 million district court dispositions and a 75% collections rate, the following chart summarizes potential new revenues based on different fee levels.

<b>Proposed New JTIF Fee</b>	<b>Projected New Revenues</b>
\$2	\$3.6 million
\$3	\$5.4 million
\$4	\$7.2 million
\$5	\$9 million

- Assess specific enhanced access fees, as have the SOS and other states, to E-filing, E-tickets, searchable E-records, and the Judicial Data Warehouse. Revenue projections would be based on the nature and scope of the surcharge. The Michigan Supreme Court would approve the parameters for these fees and collect the revenue stream into the JTIF. In the Oakland County Pilot E-filing Project, charging a \$5.00 E-filing alone or with a \$3.00 E-service fee in 2008 collected over \$205,000 for 27,000 filings. In 2009, Oakland County collected close to \$350,000 with over 44,000 filings. The Oakland Project noted approximately \$66,000 in reduced employee costs that resulted directly from less staff time spent handling paper. When the processing minutes per file are reduced to seconds per file the savings add up quickly. One E-ticket vendor charges about \$5.00 for paying e-tickets online. Some courts currently use other systems and charge no fee. This type of fee could be added to the judicial branch revenue stream along with other specific fees that help courts maintain, upgrade, and develop technology.
- Phase out or reduce user fees for all courts on single mandated systems as implementation progresses because higher levels of implementation staff will no longer be necessary. For example, reduce all fees by 50% when implementation is 50% complete etc. This will move funding out from local court budgets.
- Bond Proposal – A bond proposal could be packaged as a method for expediting the integration process across the state. Participation by all courts in the statewide system is critical. A significant amount of revenue, generated quickly, could be used to initiate that process and create sufficient momentum to ensure maximum compliance. The concern here is that the lifespan of the bond would be shorter, requiring multiple revenue streams to ensure sufficient funds. Moreover, the revenue streams must be sufficient to convert courts to the new case management system, add courtroom presentation systems and video conferencing, and also criminal systems data sharing.

All these options can be tied together into a single strategy targeted to different goals – for example:

In order to provide local courts with technical assistance to address their most pressing technology needs and assist them financially with interim technology purchases so as to ensure they are positioned to quickly take advantage of the statewide infrastructure as it becomes available, a large infusion of funding in the short term is desirable. Assistance (both technical and financial) on the front end, in addition to participation with the Michigan Supreme Court Technology Advisory Group and/or other oversight committees, would go a long way to engendering support and a sense of project ownership at the local level.

However, a large lump sum does not provide for long term sustainability – a different kind of funding strategy is needed to ensure the continued viability of the statewide infrastructure.

Multiple funding plans can be used to ensure that both of these objectives are met. A bond proposal could be put forth to obtain a large source of funding upfront, and new fees or fee increases could be instituted parallel to the bond proposal in order to provide revenue to pay back the bond over a period of years. While a portion of the fee revenue pays off the debt, remaining funds support the ongoing expansion of the statewide infrastructure. Several fees/fee increases are proposed to provide some much needed flexibility that would allow for nominal increases to be spread across several or all courts so the obligation is not burdensome.

Additionally, once the short term debt has been eliminated the continued revenue generated by fees/fee increases could be used to reduce the cost of participation in the JIS Next Gen system, making participation in the statewide infrastructure even more attractive.

The funding opportunities presented here should not be viewed from an either/or perspective but as a range of tactics that can be combined in a number of ways, thereby maximizing their impact.”