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E-COURT TRANSITION IN NEW HAMPSHIRE

An Analysis of Short- and Long-Term Implications

Presented to the NH Commission on Innovation, Efficiency and
Transparency

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EXECUTIVE SUMMARY

New Hampshire is currently entering the evaluation and implementation phase of its e-Courts Project, commissioned in July 2011. The project aims to “...increase efficiency in the New Hampshire Judicial Branch (NHJB) by implementing automated systems through re-engineering of business processes resulting in reduced cost of operations and improved customer service.”¹ Initially projected for completion in 2016, the transition is currently being implemented in the Small Claim courts of the 2nd and 6th Circuit and remains on track to finish on time within a more limited scope than anticipated. This report examines the progress of the New Hampshire e-Courts Project since its July 2011 rollout, analyzing the transition’s current status within the scope of several delineated factors. Additionally, through comprehensive comparisons with three U.S. states that have either completed or are currently undergoing a similar transition—New Jersey, Maryland and Oregon—it identifies several key lessons for New Hampshire and other states considering similar projects.

1. NEW HAMPSHIRE AT A GLANCE

New Hampshire’s e-Court Project is the result of a 2011 recommendation from the New Hampshire Judicial Branch Innovation Commission that state courts transition from a paper-based to a digitized document processing system. The Commission concluded that this transition would reduce operational costs, streamline business process flow, and improve customer service in the court system. Subsequent to the 2011 recommendations, the Chief Justice of the New Hampshire Supreme Court identified the initiative as the top priority of the New Hampshire Judicial Branch.² The Commission’s IT subcommittee outlined a plan for transition as part of a broader e-Court Project.

1.1 Context and Motivation

The e-Court Project’s stated overarching goals are to promote efficiency, uniformity, and cost savings in the NH court system. The completed electronic system aims to allow for improved access to case information, enhanced customer service, and faster document filing. The project also aims to lower Judicial Branch operating costs, case processing costs, and mail fees.

Specifically, New Hampshire plans to establish an e-filing system to enter information, transfer this information to other Judicial Branch and external automated systems, and allow for streamlined access to case information. Payments, signatures, notarizations, and certifications will be conducted electronically. Other primary features of the system will include electronic calendars, case initiation, case processing and management, court notifications, and judicial support. These features are intended to allow for increased efficiency and accuracy within the court system.

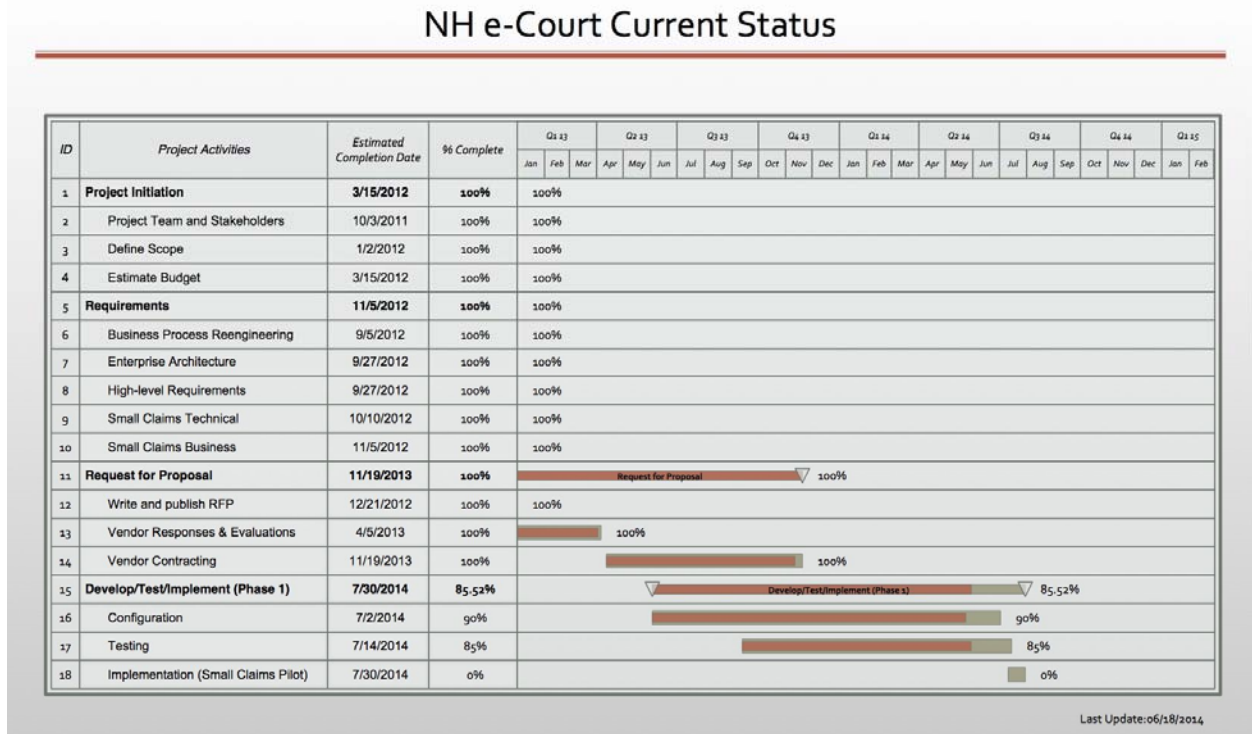


1.2 Timeline

The project’s implementation began in July 2011 and is scheduled for completion in June 2016. The New Hampshire Judicial Branch grouped 122 of the 158 trial court case types into 12 separate workflows, which will be automated in 12 phases.³ The New Hampshire Supreme Court will be the 13th and final phase. For most cases, use of the electronic system will be made mandatory after implementation—those not in possession of a computer will have access to the electronic system on computers in courthouse lobbies. Small Claims, one of the most common case types in the NH court system (over 14,000 annually), is the first category scheduled for implementation.⁴ This pilot implementation, originally scheduled for completion in the first quarter of 2014, is still in progress.

As of early 2014, the project’s completed deliverables include the project mission, business requirements, rules and statute review, budget, and feasibility studies relating to similar projects elsewhere. To track these deliverables, the NH e-Courts project has created an online progress chart that tracks the completion of four primary phases: Project Initiation, Requirements, Request for Proposal, and Development/Test/Implement (Phase 1).⁵

Figure 1.1: NH e-Court Current Status



Source: New Hampshire Judicial Branch⁶



As is evidenced by *Figure 1.1*, the pilot includes laid out deliverables and the status of those expectations. It began by first identifying project team and stakeholders in October 2011 and by 2014 has now moved into the fourth and final phase. Configuration and Testing are nearly complete. As of mid-2014, this figure shows that implementation of the Small Claims Pilot has not yet begun though other sources state the project was to be completed in the first quarter of 2014. There are approximately 14,000 small claims cases a year, one of the highest volume case types in the New Hampshire courts system. The entire project appears to be on track for completion by mid-2016.

1.3 Costs

The New Hampshire e-Courts project is given \$3.2 million in the NHJB capital budget for fiscal year 2014-2015 according to a breakdown from October 2013. The project also received \$1.95 million in fiscal year 2012-2013. It is estimated that an additional \$2.1 million will be necessary to successfully complete the project, which creates a total cost of \$7.25 million.⁷

Costs have become one of the major concerns and obstacles for the e-Court project being implemented in New Hampshire. The original cost was estimated to be \$5 million in 2010.⁸ The project received \$1.95 million instead of its original request. Instead of halting the project because of insufficient budgets, New Hampshire has worked to limit the scope of the project to work within its new fiscal boundaries. At this point, the question becomes whether budget concerns are merely in the short term and that if savings are great enough, future allocations will be forthcoming. If current problems evolve into long-term funding challenges, the e-Courts project will need to carefully consider how it can and/or will proceed on a permanently limited budget.

1.4 Initial Feedback

A 2011 Judicial Branch Innovation Commission Report originally proposed the New Hampshire e-Courts project. Since the project's inception, numerous actors have commented on the project, many citing preparation and business strategy as the keys to success, not the technology.⁹ One respondent claims: "E-File is not about technology, it's about culture change and strategy".¹⁰ Even so, attorneys and employees have expressed their support for the new consolidated call center.¹¹ It is claimed to save time because only one call is needed in lieu of the previous system that required multiple calls to numerous individuals in search of the needed information.¹² Additional feedback is expected to be forthcoming as the Small Claims pilot is implemented.



1.5 Future Concerns

Figure 1.2

NH e-Court Risks			
	<u>Risk</u>	<u>Degree</u>	<u>Remediation Status</u>
1	Adequate financial resources.	1	Awaiting Budget Bills
2	Sufficient support from Judicial Branch leadership.	2	Active to date
3	Expectation management.	4	Strategy for project start is critical
4	Project management issues.		
	a. Timeline slippage		Many position postings labor intensive
	b. Scope creep	1	Not currently a problem
	c. Staff turnover	3	
	d. Quality control	1	Not currently a problem
	e. Unresolved problems	1	Not currently a problem
	f. Continued demands for enhancements.	1	Not currently a problem
	g. Unmanaged change		
5	Timely staff recruitment	3	
6	Security	3	
7	Decisions prior to e-court knowledge obtained	5	
Degree Key: 1:Low, 2:Med Low, 3:Medium, 4:Medium High, 5:High			

Source: New Hampshire Judicial Branch¹³

Figure 1.2 displays the original assessment of risks in 2011 at the beginning of the e-Courts project. The highest concern was listed as the continued effects of decisions made prior to the inception of the project, followed by expectation management. It is evident that the latter is still a concern as the Small Claims Pilot is not on track to be implemented by its expected date. Figure 1.1 shows that the Small Claims Pilot was expected to have completed testing and implementation by the end of July 2014. As of this report in early August 2014, the New Hampshire e-Courts website shows that these goals have yet to be met. This is an ongoing concern.

Related to a delayed timeline are budget concerns. Though budget concerns are only ranked as a degree one risk in the 2011 assessment, they are having great impacts now. The most recent quarterly report on the website states that “continued evaluation and projections for budget needs for the pilot project phase and entire project continue to indicate the remaining funds will likely not be adequate for the pilot project phase, as we expected when funds we requested were not granted for FY13”.¹⁴ Due to budget restraints, the project has discontinued use of multiple consultants and has instead allocated the duty of project manager to the New Hampshire Judicial Branch’s Chief Technology Officer.¹⁵ In addition, the project is experiencing a narrower scope as it is currently only implementing the e-Courts projects in Small Claims courts. Though funding concerns have not been listed as a factor in the delayed timeline, it is evident they are effecting the project in multiple areas.



2. METHODOLOGY OF SELECTION

2.1 Range of Potential Cases for Comparative Analysis

In evaluating the progress of the New Hampshire e-Courts Project, it is vital to note that the Granite State does not find itself operating in a vacuum. While estimates range based on the specific type of e-filing considered, the National Conference of Appellate Courts and Clerks (NCACC) has reported—using metrics on the prevalence of appellate e-filing—that approximately 33 states across the nation have already launched e-Courts projects, with an additional 10 states planning to launch projects in 2014.¹⁶ Reports like the NCACC’s definitively indicate that policymakers and stakeholders in New Hampshire have a wide range of potential cases to draw from in conducting comparative analysis and identifying best practices. However, in the same vein, they also serve as a reminder that potential case studies must be carefully selected to ensure applicability and relevance to New Hampshire.

2.2 Methodology and Selection

Winnowing cases by demographic and topographical similarities is often used as a first step in case selection. Unfortunately, the e-Courts project poses unique challenges to this technique, with a number of states that are most similar to New Hampshire, such as Maine or Rhode Island, for example, having only just begun implementation or failed to share sufficient information and data for analysis. As such, our analysis took as its first step the compilation of a list of those states that have most extensively shared data and feedback on their e-Courts Projects: Oregon, Maryland, Delaware, Massachusetts, New York, Pennsylvania, Colorado, Hawaii, Arizona, Wisconsin, Minnesota, Michigan, Iowa, New Jersey, Kansas and Texas. We created a profile for each of these states, and then further narrowed the list by eliminating those states that had operationalized e-Courts terminology in a manner different from New Hampshire. Finally, we categorized each state by the extent of its implementation. New Jersey, Maryland and Oregon were selected for case analysis following this process.

3. CASE STUDIES

3.1 New Jersey

3.1.1 Context and Motivation

New Jersey’s path to e-Court development began in 2008, when the state’s Supreme Court formed a Special Committee on Electronic Filing.¹⁷ In June of 2009, this committee delivered a 110-page report to the Garden State’s Chief Justice, listing a number of recommendations for the future of the state’s judiciary. Among these, the Committee urged New Jersey to develop a comprehensive e-filing system, to mandate the



use of such a system, and to explore the feasibility of fixing filing fees in a manner that would render the system self-funding.¹⁸

In an extensive presentation on the New Jersey e-Courts project given to the New Jersey Bar Association, administrators including Chief Information Officer of the Superior Court of New Jersey Jack McCarthy and Chief of the Automated Trial Court Systems Unit Jennifer M. Perez identified a number of key motivating factors behind the state's push to adopt an e-Courts program. Dividing the program's goals into three key "building blocks"—e-filing, document management and case management—McCarthy and Perez et al. have pointed to common motivational benefits including staff-resource savings, standardization and the reduction of clerical errors, and cost-savings.¹⁹ In their analysis, the administrators have also highlighted the convenience offered by such an extensive program.

While the Special Committee also identified a number of similar measurable benefits to implementation in their 2008 report, it is important to note that the committee primarily framed the project's importance through the lens of historical urgency. "This is a critical juncture in the New Jersey court system's history," the Committee wrote in its introductory paragraph, "When to retain and enhance its status, the automated systems required to support the excellence of those personnel must enable, rather than impede, the efficient delivery of justice..."²⁰

With this in mind, it is clear that motivations for the state's e-Courts project must be seen as including not only a focus on tangible costs and benefits, but also an analysis of sweeping technological trends and a focus on improving the Court's efficiency in delivering justice by providing its personnel with new tools. This motivation will be critical to understanding lawmakers' push to fund New Jersey's e-Courts program in spite of early setbacks.

3.1.2 Timeline

Following the Special Committee's report, New Jersey's Supreme Court formed an Advisory Committee on Information Technology, which it tasked with helping to develop policies for the Court's potential new technological path. Headed by the acting administrative director of the Court system, the Advisory Committee developed four subcommittees focused on business rules, strategic planning, e-filing and access, and system security. Over the next four years, the Advisory Committee helped to develop, revise and promulgate a number of new policies intended to prepare the system for the rollout of a sweeping e-Courts system, including but not limited to new guidelines on electronic records management and regulations on the use of electronic signatures.²¹

In May 2014, the state officially launched its program, announcing that it would begin electronically accepting motions in criminal cases that do not require a fee, such as motions to reduce a bail. In its announcement, the state noted that that it would begin the



launch program with only ten counties, but planned to complete a statewide rollout by the end of July.²² By June 15, an additional five counties had been added to the program.²³

3.1.3 Costs

While the ultimate goal of the New Jersey e-Courts project is to create a system that is entirely self-funding, New Jersey has struggled to adequately fund its developing system through the project's early stages. During the initial years of preparation for a statewide launch, lawmakers saw legislation that would help fund the e-Courts program vetoed by the state's Governor in 2012, without an explanation, and then left on the Senate floor following the departure of many members during their election campaigns in 2013.²⁴ A nearly-identical bill to the 2012 and 2013 efforts—which would allow the Court to increase its fees and would set aside state funds in a “21st Century Justice Improvement Fund”—was re-introduced in the Senate on February 25 of this year.²⁵ Similar measures were also included in an omnibus bill on legal reform in January.²⁶

According to reports on the state's rollout, an initial outlay of approximately \$4 million was required to expand the system to 15 counties.²⁷ The Judiciary predicts that once the system is up and running—and has been expanded to motions and document filings that do require a fee—it will generate roughly \$30 million in revenue and \$8.8 million in savings per year.²⁸

3.1.4 Initial Feedback

Initial feedback from attorneys, judges, and system administrators has been reported as positive in a number of publications,²⁹ and the Judiciary has worked to actively identify problem areas through review sessions hosted by the Information Technology Office and the Automated Trial Courts System Unit.³⁰ These bodies have met with Judges, attorneys and law clerks to discuss the new system, and have visited chambers, attorney offices and case management teams to observe the project in action. Given that the system is still in its early stages, however, it is expected that stakeholders — particularly in the political arena — will continue to comment in coming months as the statewide rollout is completed.

3.1.5 Future Concerns

The primary question facing New Jersey's e-Courts program is quite simple: will the program reach statewide implementation within its proposed timeframe? At the time of writing, a lack of a formal statement or press release from the state's Judiciary appeared to indicate delays in the process.

Regardless of these delays, however, one major concern for the program appeared to be answered this August with the passage of Assembly Bill 1910, which contained language



endorsing measures previously outlined by legislation designed to secure funding for the e-Courts program. Although the bill's impact is yet to be determined, it is certainly a promising sign for the future of e-Courts in the Garden State that it received the signature of Governor Chris Christie on August 11.³¹

3.1.6 Lessons for New Hampshire

Although in its early-stages, New Jersey's experience with an e-Courts program provides several lessons for policymakers and stakeholders in New Hampshire. First, New Jersey represents a critical lesson in the importance of incremental rollouts that operate within financial constraints. Even without a steady stream of funding, the Garden State has staggered implementation to allow for the gradual spread of an e-Courts program. Second, New Jersey represents the importance of updating all stakeholders on coming changes and preparing accurately for such changes. Outreach has been seen as critical in bringing the system online, and nearly four years were dedicated to preparing the groundwork for a launch. Last, New Jersey highlights the potential political difficulties in funding e-Courts programs with taxpayer dollars. Legislation must be written carefully to ensure it is not seen as overreaching, or might be combined with other pieces of legislation to ensure passage.

3.2 Maryland

3.2.1 Context and Motivation

In April 2009, the Maryland Administrative Office of the Courts released their *Integrated Statewide Case Management System Project Charter*:

“The Maryland Electronic Courts (MDEC) project will create a single Judiciary-wide integrated case management system that will be used by all the courts in the state court system. Courts will collect, store and process records electronically, and will be able to instantly access complete records as cases travel from District Court to Circuit Court and on to the appellate courts. The new system will ultimately become ‘paper-on-demand,’ that is, paper records will be available when specifically requested (MDEC 2009).”

Maryland's current automated system consists of five primary case management systems (CMSs) and 22 subsidiary court applications that support the courts and associated organizations. The Judiciary acknowledges a number of problems that exist within the current state of CMS: (1) lack of functional support, as evidenced by limited error prevention and lack of case processing flexibility; (2) inefficient and inconsistent functionality; and (3) missing capabilities. The Advisory Committee defines essential functionality for a successful system as a “web-based case processing and interoperability for the intergovernmental transfer of data, document management, improved access to



selected data, electronic filing and payment, and statistics and reports for enhanced court management.”³² In pursuing this predefined goal of functionality, the MDEC cites “complete, accurate and timely information” as the “currency of any effective justice system, anchoring the project with three primary strategic goals: (1) *public safety*, to “facilitate better-informed decision-making” and “enable more rapid dissemination and enforcement of court orders;” (2) *access to justice*, to “improve support to litigants” and “reduce barriers to access;” and (3) *fair and efficient administration of justice*, to “better enable and manage flexibility and improvement in court operations statewide” and “better schedule and coordinate use of . . . government resources.”³³ Through compiling all existing applicants into an integrated CMS, the Judiciary also aims to produce business value by eliminating paper files for new cases enhancing “interoperability between case management and other applications both internally and externally.”³⁴

3.2.2 Costs

In 2009, the committee cited the need for both financial and human resources to support project development and implementation of the project over a five-year period. As of 2012, Judge Clyburn expected that putting the system in place will cost an estimated \$45 million.³⁵ At that point, about \$15 million has been spent on the system—mostly on putting the database infrastructure in place. He said that the rest of the funds should come out of what he hopes will become an annual \$8.3 million appropriation from the land record fund. This fund gets its money from land transfers, and supports land record office operations as well as the judiciary’s major information technology projects.³⁶ Costs for human resources include: (1) personnel with information technology skills and experience; (2) project and program managers to coordinate projects and manage complex procedures; and (3) subject matter experts from Maryland courts to assist with project design, system configuration and policy implementation.³⁷

3.2.3 Initial Feedback

The project’s initial announcement and early implementation yielded positive feedback from stakeholders across the Maryland court system. James E. McMillan, a lead consultant for the National Center for State Courts, cited the nationwide movement towards e-Court systems as a driving factor in influencing Maryland’s ambitions.³⁸ Although no state has completely abandoned paper, the project pushes Maryland in line with the national trend away from the justice system’s historic reliance on paper. District Court Chief Judge Ben C. Clyburn, head of the e-Court advisory committee, expressed confidence in the project’s ability to streamline tasks and responsibilities for himself and fellow judges: “This is going to be able to consolidate everything. If I am a judge, I can look in the system and see it all.”³⁹ Meanwhile, the paperless transition seems to come at even less of a shock for lawyers and attorneys across the state, many of whom have become accustomed to the federal court’s electronic system. As Dana Williams, a lawyer who heads the Maryland State Bar Association’s liaison group on e-Courts, aptly summarizes: “There really hasn’t been any opposition to it.”⁴⁰



3.2.4 Future Concerns

In 2009, the committee delineated projected risks and constraints in development and implementation. The project's constraints are cited to include limited capital budget, limited staff capacity and the court system's capacity for adaptation.⁴¹ The judiciary system's existing rules, administrative orders and legal structure—which have grown increasingly outdated over the past decade—do not provide optimal automation support for the transition project. This is largely due to the court system's slow technological progress, a common characteristic among the majority of governmental organizations, which presents a subject matter that experts must identify to require rules for adjustment. Furthermore, the report admonished court management resources as inadequate in meeting the needs resulting from ISCMS. To combat this concern, the committee aimed to develop communications plan to encourage shared ownership among all courts involved in the statewide transition process.

3.3 Oregon

3.3.1 Context and Motivation

The Oregon e-Court transition began in 2012 and is set to be completed by 2016.⁴² The initiation of the program is occurring on a rolling basis—some counties have already completed the transition, while others have yet to begin. The counties that have already finished transitioning present a very wide range of county types and characteristics. Currently the largest county to have completed the transition is Multnomah County. The county has a population of 735,344, which is larger than every county in New Hampshire.⁴³ Many of the smaller, rural counties in Oregon that have completed the transition are similar to many of New Hampshire's smallest counties.

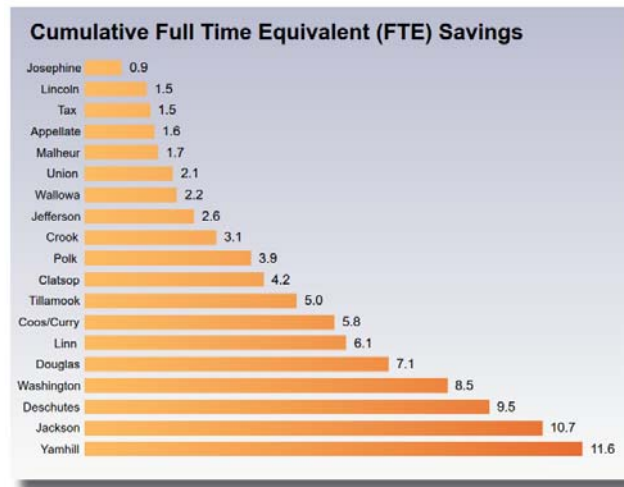
3.3.2 Costs

Cost savings primarily motivated the Oregon e-Court transition. Due to reductions in federal timber payments, rural Oregon county budgets have been stretched thin. Although the project required increased funding to begin, the e-Court transition has allowed for greater long-run cost savings. These savings have accrued from reduced printing expenses and increased centralization throughout the project's execution.⁴⁴ Digitization has allowed the centralization of accounting and collections that have facilitated a more efficient workflow and greater employee productivity. Meanwhile, short-term cost increases have stemmed from increased personnel and contracting expenses during the transition.⁴⁵ The estimated savings from the e-Court transition for several Oregon counties are presented in figure 3.1.

The primary goal of Oregon's e-Court transition is to store all court documents digitally and has included “virtual courthouse services like e-filing, e-payments, and further centralization of court accounting, central printing, and collections functions,” according

to David T. Moon, the Division Director of Business and Fiscal Services Division at the Oregon Judicial Department.⁴⁶ The transition has utilized software developed by Tyler Technologies, a tech-consulting firm that specializes in the public sector.⁴⁷

Figure 3.1 – Cumulative Full Time Equivalent Savings



3.3.3 Initial Feedback

Early feedback from the transition has been largely positive. As Polk County presiding Judge Monte Campbell said, "I was a little concerned about my ability to analyze it quickly, but I have found that I don't have to print out anything to analyze it . . . I would not go back at this point."⁴⁸ Oregon's Chief Justice Thomas Balmer summarized the program's success positively:

*"In the 10 courts that have gone live with Oregon e-Court, staff and judges are enthusiastic about the changes, almost to a person, and eager to embrace the advantages of the new technology. We are on time and on budget ... Oregon e-Court is making the courts' internal work easier and more efficient, and we are expanding the tools that will apply those benefits to the work of the legal community, public safety agencies, social service agencies, and the public at large. These internal and external improvements will provide better access, better information, and better outcomes for all Oregonians."*⁴⁹

Two factors that were vital to the success of the Oregon e-Court transition were the phased rollout of the e-Court transition and the choice to pay the contractor as deliverables were completed. The phased rollout began in small rural counties before expanding to densely-populated urban areas. This rollout allowed administrators to focus their energies on one county at a time and to apply lessons learned from earlier counties to later ones. The decision to pay the contractor as deliverables were completed was also



significant in helping the transition avoid the notable difficulties experienced by some other large Oregon technology projects.⁵⁰

3.3.4 Future Concerns

However, the transition has not been entirely without difficulty. One issue is that the increased centralization of the department's functions has overburdened the department's headquarters.⁵¹ Even though total personnel requirements have been lower, the department's central office has reached capacity, and will need more space and personnel to facilitate the greater levels of centralization. Additionally, there have been cultural difficulties. Judiciary personnel have needed time to adjust to the new technology and infrastructure. Overall, these difficulties have been fairly mild, and the transition has been so far been successful.

4. LESSONS FOR NEW HAMPSHIRE

4.1 Stakeholder Engagement

Analysis of e-Courts rollouts across the country highlights the necessity of effective stakeholder engagement. As described above, New Jersey highlights the importance of maintaining effective partnerships with elected officials, Maryland offers unique solutions for communicating with stakeholders across the judiciary and legal committee, and Oregon offers a reminder that even a successful role out might face difficulties in updating personnel to a cultural shift.

As seen previously, communication with the state's legislature and executive branches appears to be particularly important for securing short-term funding during the early planning and implementation phases. In New Jersey, for example, a lack of effective engagement with the state's legislature and executive branch delayed implementation — and left officials scrambling to locate funds necessary to continue a rollout. Although advocates of the e-Courts project in New Hampshire will be no strangers to funding concerns — and funding will be addressed in more detail below — it is nevertheless important to note here that elected officials must be engaged and brought on board during the early stages of any large-scale rollout. Strategies may include linking funding requests to more general legislation like New Jersey Assembly Bill 1910, identifying a dedicated policymaker who will continually champion the system, and offering a fully transparent analysis of the short-term costs of establishing an e-Courts system.

During the later stages of e-Courts implementation, attorneys, judiciary officials and users of the e-Courts system must both be presented with information on changing requirements and engaged for feedback on the ground level. Although it is tempting to note reported satisfaction from the legal community in New Jersey, Maryland and Oregon and assume that system reception will be positive without much outreach, it is vital to recall that each state has vigorously worked to help train and inform system users.



Maryland in particular has developed an e-Courts liaison group for its system in the state's Bar Association and has formulated a communications plan intended to create shared ownership in the system. Simply put, it appears that continual engagement is vital to the success of early e-Courts roll-outs.

4.2 Funding

Funding is a significant concern looking at the case studies included in this report. Before considering the implications for new Hampshire, it is interesting to note that in its original evaluation of risks, New Hampshire classified securing adequate financial resources as a degree one risk, the lowest classification in their system. Since their original evaluation, New Hampshire has met funding setbacks and has been forced to limit the scope of their project. Future funding is still uncertain.

One of the greatest differentiations is between initial funding for implementation and long-term funding to maintain the program. New Jersey has experienced similar difficulties in securing preliminary funding to even begin early phases of their project. Without funding, many projects will not come to fruition. Maryland, however, has been more successful in its proposals and was able to move into implementation phases. State legislatures can be unpredictable but it is important to carefully consider support before proceeding. Separate from initial funding is the long-term budget. The case studies show plans from New Jersey's self-funding project to Maryland's annual \$8.3 million budget from funded from land transfers. There are numerous options; New Hampshire has opted to seek annual allocations that put it on a permanently unstable timeline. If funding is not secured in a certain year, the program will halt or experience additional cuts and setbacks.

4.3 Phased Rollout

Oregon has substantially benefited from its phased rollout. By conducting its implementation of its e-Courts transition one county at a time, it has been able to focus the entire justice department's resources on one county while that county is at the most important stage for its transition. This has permitted the department to apply lessons learned from the earlier counties to later ones. An important strategic choice made by the Oregon e-Courts transition was to begin with small rural courts. This ensured that if mistakes were made early on, they would affect a small amount of the Oregon court system. A phased rollout also has the benefit of spreading costs out over several years, rather than concentrating them at the beginning of the transition.

Still, a phased rollout does not come without downsides. It requires a significant slow-down during the transition, which must take place over the course of years rather than. Moreover, while a phased rollout delays spending, it also delays benefits. Since it backloads the transition in the most populous counties, it ensures that any benefits from implementing e-Courts technologies in those counties will be delayed as well. Finally, it



could result in overall greater costs, since it may be more expensive to maintain a low level transition effort over several years rather than to make a quick transition all at once.

4.4 Contractor Selection

As purchases by military and civilian installations average nearly \$600 billion a year, the U.S. government remains the world's single largest buyer of products and services.⁵² These purchases can range from infrastructural projects such as highway expansion to more common services such as janitorial maintenance. The process of government procurement is prevalent to e-Court transition because the statewide projects are often carried out by private corporations. Legally, contracting between public and private organizations exhibits the same legal elements as contracting between private organizations: a lawful purpose, competent contracting parties, an offer, an acceptance that complies with the terms of the offer, mutuality of obligation, and consideration.⁵³ Yet whereas private parties entering a commercial contract with one another are much freer to establish terms through mutual consent, government contracts are subject to heavy regulation and statutes.

Although government contracting is necessary to the completion of all e-Court transition projects, the process has been subject to scrutiny across several states. A primary concern is the decision to work with a single contractor or multiple contractors. Whereas negotiation between multiple contractors can produce lower costs for state governments, opting to diversify the transition process may decrease system interoperability and overall efficiency. In Maryland, multiple vendors will funnel documents to the courts, avoiding concerns that have arisen elsewhere that a single company has preferential access to all court records, and the state plans to retain control over court material. Meanwhile, Oregon has worked with a single contractor throughout the process, opting to pay the contractor as deliverables were completed in order to maintain accountability to project funding and deadlines.

5. CONCLUSION

The New Hampshire e-Court transition project began in July 2011. As of July 30, 2014, electric filing will be, or has been, implemented in the Second and Sixth Circuit Small Claims courts.⁵⁴ E-Courts technologies hold great promise for New Hampshire, but also contain many pitfalls. By examining the states of New Jersey, Maryland and Oregon, we have identified key lessons for New Hampshire that can help the state maximize benefits of an e-Courts program while avoiding previous mistakes. In particular, a focus on stakeholder engagement, the provision of a steady source of funding, the use of a phased rollout, and careful contractors are vital for a successful e-Courts rollout. By applying these takeaways, New Hampshire can use e-Courts technology to "...develop an end-to-end electronic court case processing system in a digital environment, eliminating paper processes and decreasing case processing time, while increasing information management



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efficiency, accuracy, and constituent service through leveraged uniform work processes.”⁵⁵



APPENDIX A: GLOSSARY

- **Electronic court filing** (ECF), or e-filing, is the automated transmission of legal documents from an attorney, party or self-represented litigant to a court, from a court to an attorney, and from an attorney or other user to another attorney or other user of legal documents.
- **E-Citation** is a set of computer programs that allow law enforcement officers to create, print, and electronically transmit cite-and-release citations to the ... court system.⁵⁶
- **e-Portal** is the capability for the public and litigants to access court files and court services through the internet.
- **e-Self Help** is the capability for litigants to access procedural guidance and step by step instructions through the e-Portal.
- **e-Court Services** is an electronic directory of miscellaneous transactions that provides information and related services to the public (e.g. certified copies, electronic record checks, transcripts, etc.).
- **e-Calendar** is the capability to display the court hearings calendars to the public through the e-Portal.
- **e-File** is the capability for attorneys, self-represented litigants, and other participants to electronically file case documents through the e-Portal.
- **e-Signature** is the capability to allow authorized parties to sign court documents electronically.
- **e-Payments** is the capability to accept the electronic payment of filing fees, fines and other court fees for all courts through the e-Portal
- **e-Citations** is an electronic interface to transmit motor vehicle citation transactions between the court and state police and local law enforcement.
- **e-Case Initiation** is the electronic process of submitting, receiving and acknowledging case filings and payments (if required) that initiates the opening of a new case in the court Case Management System (CMS).
- **e-Case Documents** is the capability to access electronic images of certain court file documents, through the e-Portal, consistent with the NH Judicial Branch's public access policy.
- **e-Document Index** is the capability to electronically search and display the history of filings, events, and case statuses to the public through the e-Portal.
- **e-Document Management** is the electronic storage and organization of certain case file document images.
- **e-Case Processing/Management** is a series of actions following case initiation that further advances a case in the CMS up to and including the closing of a case. Actions may include automated review, automated workflows, work queues, automated scheduling, electronic notifications and notices, payment processing, and automatic indexing of documents.
- **e-Notice** is the capability to electronically generate and distribute court notices to parties.



- **e-Notification** is the capability to electronically notify parties of case events and updates on the e-Portal and through email.
- **e-Courtroom** is the electronic interaction involving the parties, the judge and the court that allows for the efficient and timely adjudication of legal proceedings in the courtroom.
- **e-Judicial Support** is all electronic activities and resources that support the judicial officers in the decision-making process through the use of the judge's virtual desk (chambers, home, off-site, other court locations, clerk's office).
- **e-Data Exchanges** is the electronic transmission of data between agencies, departments and all courts.

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