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**HAWAII STATE  
GOVERNMENT  
ORGANIZATION**

**SELECTED  
MEMORANDA**

***VOLUME II***

**LEGISLATIVE, REFERENCE BUREAU**

***UNIVERSITY OF HAWAII***

**STATE OF HAWAII**

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HAWAII STATE GOVERNMENT ORGANIZATION

Selected Memoranda

Volume II

LEGISLATIVE REFERENCE BUREAU

UNIVERSITY OF HAWAII  
HONOLULU 14, HAWAII

Honolulu, Hawaii  
September, 1959

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## CONTENTS

Papers in these volumes were prepared as separate studies and are separately paged. They are arranged in two volumes in the order indicated below with green summary sheets at the beginning of each report.

### VOLUME I

1. Background of Departmental Reorganization in Hawaii, by Robert M. Kamins (Request No. 7505) ... 12 pp.
2. Principal Departments of Government, by Kenneth K. Lau (Request No. 7526) ... 5 pp.
3. Executive-Initiated Administrative Reorganization, by Joseph M. Gedan (Request No. 7540) ... 5 pp.
4. The Office of Lieutenant Governor in Hawaii, by Margaret E. Holden (Request No. 7535) ... 27 pp.
5. The Hawaiian Homes Commission Within the State Organizational Structure, by Albert H. Ogawa (Request No. 7524) ... 10 pp.
6. The Organization of Centralized Departments for Licensing Trades and Professions, by Joseph M. Gedan (Request No. 7518) ... 12 pp.

### VOLUME II

1. Local School Advisory Councils under the State Constitution of Hawaii, by Mildred D. Kosaki (Request No. 7508) ... 24 pp.
2. Judges and Legislators: Compensation and Retirement, by Mildred D. Kosaki (Request No. 7520) ... 32 pp.
3. Selected References on Government Organization, compiled by Hanako Kobayashi (Request No. 7548) ... 5 pp.

LOCAL SCHOOL ADVISORY COUNCILS  
UNDER THE STATE CONSTITUTION OF HAWAII

Summary

The state constitution of Hawaii provides that members of the board of education "shall be nominated and, by and with the advice and consent of the senate, appointed by the governor from panels submitted by local school advisory councils to be established by law." This constitutional provision introduces a major change in Hawaii's highly centralized system of public education, for it makes possible local participation in the formulation of educational policies without jeopardizing the advantages of state-wide centralization.

This memorandum explores the major problems involved in establishing local school advisory councils, makes a proposal for their establishment and briefly describes mainland practices which are alternatives to the proposal.

Since the proposal attempts to outline areas in which legislative action is needed, the suggested features are many--covering functions, size, selection, qualifications of members, terms, compensation and organization of these councils. The only features which are mandated by the state constitution are two: (1) the submission of nominees to the governor for appointment to the state board of education and (2) the inclusion of a provision for part of the membership of the state board to represent geographic subdivisions of the state.

The two major features of this proposal deal with functions and selection. It is proposed that a local school advisory council be established in each of the four counties with members who are elected by the people on a non-partisan basis to serve in an advisory capacity to the state board of education and to the respective boards of supervisors on the school budget as well as to submit nominees for membership on the state board of education to the governor.

The alternative to election is appointment. The appointment plan of Chicago and the nominating procedure in Evanston, Illinois, are discussed briefly.

## Table of Contents

	<u>Page</u>
Part:	
I. An Introduction to the Problem . . . . .	1
II. A Proposal for the Establishment of Local School Advisory Councils . . . . .	4
The Proposal . . . . .	4
Functions of Councils . . . . .	6
Number of Councils . . . . .	7
Size of the Councils . . . . .	7
Selection of Council Members . . . . .	9
Qualifications and Restrictions of Members . . . . .	11
Term of Office . . . . .	12
Vacancy . . . . .	13
Compensation . . . . .	13
Organization of Councils . . . . .	13
III. Alternatives to the Proposal . . . . .	14
Appointment of Local School Advisory Council Members . . . . .	14
Appointment of School Board Nomination Committees . . . . .	17
Appendix:	
I. A Comparison of School Organization in Hawaii Under Territorial and State Legal Provisions . . . . .	19
II. Proposals on Hawaii's Board of Education Presented at the Hawaii State Constitutional Convention . . . . .	20
III. Proposed Legislation on Local School Advisory Councils; 1957-1959 . . . . .	21
IV. The Odell Survey of Hawaii's Public Schools . . . . .	22
V. The Federal Survey of Education in Hawaii, 1920 . . . . .	23
VI. Person or Agency Responsible for Appointing School Board Members in the 15 States which Provide for Appointment in Some or All School Districts . . . . .	24

LOCAL SCHOOL ADVISORY COUNCILS  
UNDER THE STATE CONSTITUTION OF HAWAII

Part I. An Introduction to the Problem

This memorandum has been prepared to aid the Interim Committee of Hawaii's Thirtieth Legislature in the implementation of one of the provisions of the state constitution of Hawaii: the establishment of local school advisory councils. Section 2 of Article IX provides that

There shall be a board of education, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor from panels submitted by local school advisory councils to be established by law. At least part of the membership of the board shall represent geographic subdivisions of the State.

This constitutional provision introduces a major change in Hawaii's highly centralized system of public education, which currently affords no local or county group an opportunity to participate officially in the formulation of educational policies. The local school advisory councils provide for local participation without jeopardizing the advantages of state-wide centralization.

The major differences between the relevant provisions of Hawaii's state constitution and present territorial law lie in (1) the creation of the local school advisory councils that will submit panels of nominations to the governor for appointment to the board of education; (2) the appointment of the superintendent by the board, not the governor; and (3) the granting of the power to vote to the superintendent of public instruction as an ex officio member of the board.

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A comparison of the provisions of the state constitution and the Revised Laws of Hawaii 1955 is found in Appendix I.

Hawaii's first state legislature, in establishing local school advisory councils, must consider two major questions:

1. What duties will these local school advisory councils be expected to perform?
2. How should the members of the councils be selected?

Responsibilities assigned to these councils will affect, if not largely determine, the means of their selection.

In exploring these two questions, the report of the Education Committee of the Hawaii Constitutional Convention, in proposing the establishment of local school advisory councils, is helpful. Although no specific suggestions were made in this report on the desired method of selecting council members, two recommendations which dealt with the role of local school advisory councils were made:<sup>1</sup>

1. That the local school council function as an advisory committee to meet with the school board member or members, appointed from that county, and with the district superintendent.
2. That the panel be a combined list made up of a specified number of names submitted by each of the local school advisory councils, from which the governor would appoint both the local board member from each county or district, and the board members appointed at-large.

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<sup>1</sup>Constitutional Convention of Hawaii, Education Committee, Standing Committee Report No. 52 (June 9, 1950), p. 6.

The above recommendations indicate the Committee's intent that the function of the councils was not to be limited to the submission of nominees to the governor, but was also to include service in an advisory capacity to their respective members on the board of education, as well as to the district superintendent.

For a discussion of other plans suggested during the Constitutional Convention for Hawaii's board of education, as well as an examination of earlier legislative measures to establish local school advisory councils, see Appendixes II and III, respectively. Appendixes IV and V, respectively, briefly summarize the recommendations of the 1956-57 Odell Survey and of the 1920 federal survey of education in Hawaii.

A proposal for the establishment of local school advisory councils will be presented in Part II, and a discussion of alternatives to the proposed plan will be found in Part III.



Part II. A Proposal for the Establishment of  
Local School Advisory Councils

This proposal is being presented as a means of stimulating discussion of the provisions of the statutes necessary to carry out the constitutional directive for the establishment of local school advisory councils. Basic to the proposal is the thought that the American tradition of placing the control of education close to the people is desirable, and should be included in Hawaii's state system of public education. Education is a matter of concern to all citizens, and when control becomes remote comparatively little interest is shown in local schools because the citizenry has little share in maintaining and directing them.<sup>1</sup> The establishment of local school advisory councils gives Hawaii the occasion to provide for some degree of citizen participation on the county level.

The Proposal.

In brief, it is proposed that a local school advisory council be established in each of the four counties with members who are elected by the people to serve in an advisory capacity to the board of education and to the board of supervisors, as well as to submit nominees for membership on the board of education to the governor.

The following suggested features are presented for consideration in tabular form to facilitate reading and to outline the areas in which legislative action is needed. The only features which are mandated by the state constitution are two: (1) the submission of nominees by local school advisory councils for the board of education to the governor and (2) the inclusion of a provision for part of the membership of the board to represent geographic subdivisions of the State. With these two exceptions, any other suggested features may be amended, without necessarily affecting other parts of the proposal.

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<sup>1</sup>Daniel R. Davies and Fred W. Hosler, The Challenge of School Board Membership (New York: Chartwell House, Inc., 1954), p. 8.

<u>Item</u>	<u>Proposal</u>
1. Functions of councils	<p>a. Submit 3 nominees to the governor for each at-large position (if there are at-large seats on the board) and each position affecting their county on the board of education;</p> <p>b. Serve in an advisory capacity to board of education and local school administration; and</p> <p>c. Serve in an advisory capacity to their respective boards of supervisors on matters relating to the school budget.</p>
2. Number of councils	4 councils; one in each of the four counties.
3. Size of the councils	<p>5 members each for Hawaii, Kauai and Maui counties;</p> <p>9 members for Oahu.</p>
4. Selection of council members	<p>Election of one-half of members every two years at general election;</p> <p>Nomination by petition signed by at least 15 qualified voters;</p> <p>Separate, non-partisan ballot;</p> <p>At-large election in respective counties;</p> <p>Publication costs of candidates' qualifications in newspapers to be borne by county.</p>
5. Qualifications and restrictions of members	<p>Qualified voter of the county;</p> <p>Resident of State for 3 years next preceding election;</p> <p>No minister or person in holy order.</p>
6. Term of office	4 years; overlapping terms; no restriction on number of terms one may serve.
7. Vacancy	Appointment by remaining members of the council for the unexpired term or until the next general election, whichever is earlier.
8. Compensation	None except for reimbursement by county for necessary travel and for expenses incurred in discharge of official duties.
9. Organization of councils	Councils to elect their chairmen for two-year terms with provision that they cannot succeed themselves. Other officers may also be chosen.

The reasons for each of the above proposed features are many; discussion of them follows.

Functions of Councils.--The functions of the local school advisory councils, however they may be defined, furnish the framework within which other related areas may advantageously be considered. Proposals have been made to grant the councils not only the legal duty prescribed in Hawaii's state constitution (the submission of nominees for the board of education to the governor), but also the advisory function of conferring with educational officials and county supervisors.

The desirability of the local school advisory councils conferring with the board of education and the district superintendent of schools was spelled out in the Education Committee report which accompanied the proposal set forth in the Hawaii state constitution.<sup>2</sup> The need for working with the board of supervisors was suggested by Odell.<sup>3</sup> Both recommendations were based on the thought that local participation in educational matters is desirable.

Furthermore, consultation with the local school administration and the board of supervisors is necessary because of the peculiar way in which Hawaii finances its school operations: the State bears the cost of operating the schools, while the counties assume the cost of building and maintaining them. The advisory capacity in which the councils serve would help school officials as well as elected officials to feel the pulse of the community on issues concerning education. Through such councils, school and elected officials "may sound public opinion on important policy matters and gain a fairly accurate estimate of the

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<sup>2</sup>Op. cit., p. 6.

<sup>3</sup>The Odell Survey Staff, "Social Setting, Organization and Finance," Organization and Administration of the Public Schools, Territory of Hawaii (Stanford, California, 1957), p. 131.

relative amounts of opposition and support for . . . proposals. In addition through the lay advisory committee, townsfolk can keep the school board informed of their wishes in an organized way."<sup>4</sup> Members may engage in fact-finding and deliberation, and, as a result, recommend policies and programs to the board of education.

The submission of three names to the governor for each at-large position or for each position which affects the county will enable the governor to make a selection from the panels of nominations. Chicago has a plan whereby three times as many persons are nominated as there are vacant positions.<sup>5</sup>

Number of Councils.--The state constitution of Hawaii prescribes that "at least part of the membership of the board shall represent geographic subdivisions of the State." It seemed best to use the county as a basis for insuring geographic representation because (1) the department of public instruction presently has four school districts--one in each of the counties, and (2) one of the duties of the councils is to confer with the local school administration and with the board of supervisors.

Consequently, the recommendation is made that a local school advisory council be established in each of the four counties.

Size of the Councils.--The number of members on the local school advisory councils should be odd, so that in the event that a vote is necessary, decisions can be reached without resulting in a tie. In most cases, the members will probably

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<sup>4</sup>Davies and Hosler, op. cit., pp. 36-37.

<sup>5</sup>Letter from Richard J. Daley, Mayor of Chicago, July 9, 1959, to author.

not resort to a vote to reach conclusions, but will attempt to reach a consensus through cooperative study and discussion.

The membership of the councils should be large enough to represent the people of the community, but should be of manageable size so that decisions can be made within a reasonable period of time. Odell suggested six members for each of the Neighboring Islands and 12 for Oahu (if given the right to vote on the Board of Supervisors).<sup>6</sup> Another writer in discussing the size of school boards said: "Seven is a desirable number for a large city, and the largest American city, New York, has a seven-member board. Five members may be fully adequate for a small city."<sup>7</sup> Hall wrote, "Exclusive of small districts, school boards usually consist of five or seven members."<sup>8</sup>

That there be five members each on the councils of Hawaii, Kauai and Maui is proposed on the basis of the above comments. That there be nine members on Oahu's council is suggested as a compromise between Odell's suggestion of 12 members and Reeves' statement on seven as a desirable number for large cities. Furthermore, it was felt that since the city council of Honolulu has nine members, the advisory council could be representative of the people of Oahu without being larger in size.

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<sup>6</sup>Odell, op. cit., p. 130.

<sup>7</sup>Charles E. Reeves, School Boards; Their Status, Functions and Activities (New York: Prentice-Hall, Inc., 1954), p. 29.

<sup>8</sup>Morris M. Hall, Provisions Governing Membership on Local Boards of Education, Bulletin 1957, No. 13, Department of Health, Education, and Welfare (Washington, D. C.: U. S. Government Printing Office, 1957), inside cover.

Selection of Council Members.--Election of the members of the local school advisory councils has been proposed because election is generally considered the most effective means of representing the will of the people in a democratic society. While much can be said for appointment by elected officials who can then be held accountable for their actions, many educators maintain that election of local school board members (granted they are not synonymous with local school advisory councils here discussed) is preferred to appointment because of national experience--(1) election is the most commonly used method, (2) what changes in method have taken place have been from appointive to elective boards, and (3) the general preference of school administrators is for the election of members.<sup>9</sup> Furthermore, as writers in the field have stated, election is better because it is more democratic without sacrificing the quality of educational leadership.<sup>10</sup> It should also be noted that more than 95 per cent of all local school boards are elected by popular vote.<sup>11</sup>

Although Hall noted that a majority of board members are elected on a non-partisan basis at separate elections,<sup>12</sup> it is proposed that election of council members on separate, non-partisan ballots be held at the general election. The National Education Association reported that school board members were elected

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<sup>9</sup>Reeves, op. cit., p. 87.

<sup>10</sup>W. A. Stump and W. S. Miller, "Boards of Education; Elective or Appointive?", American School Board Journal, vol. 125 (August 1952), pp. 19-21. In their comparison of Georgia's appointive and Alabama's elective systems of selecting county school board members, they concluded that there was no superiority found among those appointed as evaluated on the criteria they had established as desirable characteristics of school board members.

<sup>11</sup>Hall, op. cit., p. 14.

<sup>12</sup>Ibid.

at general elections in approximately 40 per cent of the school districts studied in 1946.<sup>13</sup> Reeves discussed the matter of separate or joint school elections and concluded that it was probably better to hold the school election jointly with other elections because (1) most of the advantages claimed for separate elections could be obtained if separate, non-partisan ballots were provided for the election of board members; (2) the holding of separate elections is expensive, and gives few compensatory returns; and (3) usually, relatively few people took the time to vote in special school elections and those people, oftentimes interested in particular candidates or issues, were generally not representative of community opinion.<sup>14</sup>

Hall indicated that most board members were elected to represent the district at-large rather than as representatives of specific areas or districts.<sup>15</sup> He reported that at-large representation is used exclusively in 17 states and at least to some degree in 26 others, making a total of 43. Anderson, in discussing the election of councilmen in a city, pointed out that at-large election has the advantage of making those elected (1) feel responsible to the area as a whole and (2) emphasize general problems while campaigning and while in office rather than stress special needs of their own small districts.<sup>16</sup>

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<sup>13</sup>"Status and Practices of Boards of Education," National Education Research Bulletin, vol. 24 (April 1946), p. 56.

<sup>14</sup>Reeves, op. cit., p. 91.

<sup>15</sup>Hall, op. cit., p. 27.

<sup>16</sup>William Anderson and Edward W. Weidner, American City Government (New York: Henry Holt, 1950), p. 406.

The most common method of nominating candidates for membership on elected school boards is by a petition of qualified voters. The number of signatures required on the petition is generally small (Alabama, 25 signers; Arkansas, 20; California, 3-10; Delaware, 15). On the other hand <sup>15</sup>5,000 to 10,000 signers are necessary to place a name on the ballot in Detroit, Michigan.<sup>17</sup> The proposal requires that candidates file their nomination papers in accordance with the regulations governing candidates for other elective posts, with no fewer than 15 signatures of qualified electors of the county.

An unusual feature to encourage qualified citizens to seek election to the advisory councils without incurring personal financial hardship or obligation to others was offered by Odell. He suggested that the publication costs of official notices of candidates and their qualifications in newspapers having wide circulation be borne by the respective counties.<sup>18</sup> This suggestion has been included as one of the proposals advanced in this memo.

Qualifications and Restrictions of Members.--The most common qualification specified for school board members is that they be qualified voters. This requirement is included in the statutes of 45 states and is the only qualification required for all school boards in 26 states.<sup>19</sup> Only ten states require a longer residence period for board membership than for qualifying to vote.<sup>20</sup>

Hawaii's commissioners of public instruction are required to have resided in the Territory for five years next preceding their appointment. It is proposed that advisory council members be residents of the state of Hawaii for three years

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<sup>17</sup>Hall, op. cit., p. 20.

<sup>18</sup>Odell survey staff, op. cit., p. 131.

<sup>19</sup>Hall, op. cit., p. 17.

<sup>20</sup>Ibid.



next preceding their election; this allows them to meet the residence requirement even if they have not lived in the county for three years. It was felt that some residence requirement would be helpful because an understanding of Hawaii's unusual centralized system of public education and of educational problems would take some time.

The restriction on ministers and persons in holy orders is not new to Hawaii, for it presently applies to the board of commissioners and was adopted as early as 1896 as a means of separating church and state.<sup>21</sup>

Term of Office.--The literature indicates that the terms of office most common for school board members ranged from three to six years.<sup>22</sup> It is suggested that terms be for four years, the same as those for the present commissioners and in line with Odell's recommendation. Furthermore, legal limitations should not be set on the number of terms a board member may serve.<sup>23</sup>

Terms should be over-lapping to obtain continuity and consistency in council action. If the terms of all or even a majority of members expire at the same time, an entirely new council that knows little about the policies of previous councils may be elected. Under such circumstances the new council may through ignorance of conditions ignore existing policies and adopt entirely new ones without full knowledge of the situation.<sup>24</sup> The proposal being offered necessitates

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<sup>21</sup>Benjamin O. Wist, A Century of Public Education in Hawaii (Honolulu: Hawaii Educational Review, 1940), p. 130.

<sup>22</sup>Hall, op. cit., p. 10; The Council of State Governments, The Forty-Eight State School Systems (Washington, D. C.: The Council, 1949), p. 60.

<sup>23</sup>Reeves, op. cit., p. 100.

<sup>24</sup>W. S. Deffenbaugh, "Practices and Concepts Relating to City Boards of Education," Biennial Survey of Education in the United States, 1938-40, vol. 1, p. 14.

that the majority of the council members be elected in alternate years since four-year terms and joint elections have been prescribed. (If six-year terms are accepted, a minority of the council members may be chosen at each election.)

Vacancy.--In the event of a vacancy, it is suggested that the remaining members of the local school advisory council select an individual for the unexpired term or for the period until the next general election, whichever is earlier. This practice makes it unnecessary to call a special election, thus saving money and time. This means is used exclusively in 15 states and used for certain types of school districts in 23 others.<sup>25</sup>

Compensation.--Compensation for school board members is the exception rather than the rule.<sup>26</sup> This proposal requires the respective counties to bear the costs of necessary travel expenses or expenses incurred in the discharge of official duties. This requirement is not different from that ordinarily applied to official bodies. It is felt that a permanent staff will not be necessary since the council will, in all likelihood, call upon the district superintendent's office for clerical help.

Organization of Councils.--In the conduct of business, a chairman and other officers may be needed by the local school advisory councils. A two-year term for the chairman is suggested since he will need some time to become accustomed to his responsibilities; however, he should not be allowed to succeed himself. Capable as the chairman might be, other members of the council should be given an opportunity to exert leadership. It is believed that an advisory group does not require the type of continuing executive leadership necessary to administrative organizations.

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<sup>25</sup>Hall, op. cit., p. 32.

<sup>26</sup>Ibid., p. 35.

### Part III. Alternatives to the Proposal

Certain of the many features proposed in Part II for the establishment of local school advisory councils can be accepted regardless of the duties assigned to the councils or the means of selecting members. In Part III attention is given to these two questions:

1. If members of the local school advisory councils are to be appointed rather than elected, how should they be appointed?
2. If the only function assigned to local school advisory councils is the submission of nominees for the board of education, how can such nominating bodies be established?

#### Appointment of Local School Advisory Council Members.

Among the arguments advanced by those who favor the appointment of members of educational bodies which are policy-making or advisory in nature are the following: (1) it is often possible to secure better members by appointment than by election; (2) the appointing authority can be held accountable for the calibre of members he appoints; (3) appointed members are less politically motivated than those who compete in a popular election; (4) elected members, often-times campaigning on particular issues, commit themselves to certain policy positions, while appointed members have no such commitments.<sup>1</sup>

In providing for the appointment of local school advisory council members, the basic question is "Who should make the appointments?" Practice throughout the nation has been summarized in this manner:

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<sup>1</sup>Reeves, op. cit., p. 89.

Of the relatively small percentage of school boards consisting of appointed members: 65 per cent have members appointed by the city council or similar legislative body; 26 per cent have members appointed by the mayor; and the other 9 per cent have members appointed, variously, by county boards or by judges, the governor of the state, the state legislature, or other government authority.<sup>2</sup>

In most states where the appointive method is used for school board members, the officials responsible for making appointments are themselves elected by the people, with two exceptions.<sup>3</sup> For information on the appointive source in those 15 states which provide for appointment of local school boards in full or in part, see Appendix VI.

If Hawaii is to be guided by the general principle operating in most of the states that appointment of advisory councils should be by a person or body elected by the people, the following sources for appointment exist: (1) the mayor or county chairman, (2) the city council or the board of supervisors, (3) the governor, and (4) the state legislature. Vesting the appointive power in one individual, rather than in a group of individuals, may make it easier for the voters to determine accountability for the appointments. Confirmation by the legislative body could then be provided. Thus local school advisory councils could be appointed by the governor and confirmed by the senate or appointed by the chief executive of the county and confirmed by the board of supervisors (or city council).

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<sup>2</sup>Ibid., p. 83.

<sup>3</sup>In Georgia, members of the grand jury, which selects the school board members, are chosen by lottery from a box containing the names of all eligible persons, and in Virginia, the trustee electoral board is appointed by the circuit judge who is, himself, selected by a joint vote of the state legislature. Hall, op. cit., p. 16.

However, if Hawaii considers the local school advisory councils as being similar to lay advisory committees on public education as found on the Mainland, three methods of choosing members are popular: (1) parent-teacher organizations or community organizations elect or choose their own representatives, (2) the education board or its president selects the members, and (3) a combination of the previous two practices.<sup>4</sup>

In making plans for the appointment of local school advisory councils, consideration might be given to the "caucus" system of Evanston, Illinois.<sup>5</sup> Although the caucus is used to nominate candidates for school board elections, there is no reason why nominations could not be sent to the governor or any other appointing official who would then make the final selection.

The Evanston caucus works as follows: Two delegates are sent from each of 46 Evanston organizations concerned with children, but excluding church and political groups, to a caucus for the purpose of nominating and endorsing persons for school board membership.<sup>6</sup> Although the PTA is probably the most active group, its delegates cannot represent more than 50 per cent of the caucus membership. In the fall preceding each school board election which is generally held in the spring, the caucus elects officers and chooses six members for its executive

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<sup>4</sup>Herbert M. Hamlin, Citizens' Committees in the Public Schools (Danville, Illinois: Interstate Printing Co., 1952), p. 212.

<sup>5</sup>M. B. Perkins, "Evanston's Caucus, Guardian of Its Schools," School Executive, vol. 72 (September 1952), pp. 58-60.

<sup>6</sup>Organizations such as the following belong to Evanston's caucus: medical and dental societies, Boy Scouts, American Association of University Women, American Legion, Real Estate Board, Chamber of Commerce, Interracial Council, YWCA, YMCA, Safety Council, several women's clubs, most of the service clubs, and PTA groups of the public, parochial and private schools.

committee (seven in all, including as ex officio member the caucus chairman of the PTA council). The committee screens nominations sent in by various delegates, schools and organizations and selects two names for each vacancy on the school board for consideration by the entire caucus. About a month before the school election, the caucus meets and elects the official caucus candidate whose name is then placed on the ballot. Other individuals in the community may seek election by presenting a petition signed by 50 qualified voters.

Hawaii could set up a similar caucus in each of the four counties, so that nominations could be sent to the appointing official. At least two nominees should be presented for each position in order to give the appointer some selection.

The education board of Effingham, Illinois, selects the members of its citizens advisory council from a panel suggested by a membership committee (one each from board of education, the teaching staff, the administrative staff, and two from the advisory council).<sup>7</sup> If Hawaii had an elected state board of education, this procedure would be a possibility for selection of local school advisory councils. However, appointment by the education board is not recommended, since the councils would be placed in the awkward position of making nominations for membership in the very body which created them.

#### Appointment of School Board Nomination Committees.

If the local school advisory councils are assigned only one function--the submission to the governor of nominees for the board of education--the following two methods of selecting the councils might be considered:

1. In 1946, Chicago created an advisory commission on school board nominations, consisting of organizations reflecting various social interests within the

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<sup>7</sup>Hamlin, op. cit., p. 274.

city.<sup>8</sup> This commission, which is not provided for by law but which resulted from public pressure, furnishes the mayor each year with a list of citizens eligible for appointment to the city board of education. The mayor of Chicago described the commission as being composed of 17 members, selected as representatives for and by seven universities and various civic, technical and labor organizations.<sup>9</sup> He also reported that this procedure is "most satisfactory" for selecting board members.

2. The following plan was proposed by Boston's Finance Commission for use in the city of Boston, but it was not adopted.<sup>10</sup> The mayor of Boston was to appoint school committee members from lists of nominees proposed by a nominating committee of nine: chief justice of supreme court of Massachusetts, respective presidents of Boston Chamber of Commerce, Home and School Association, Boston Federation of Labor, Boston League of Women Voters, Boston College, Boston University, Harvard University and Simmons College. The mayor was to make his appointments for two years, after which the electorate would vote for or against the continuance of the appointees in office for four more years. If any candidate were rejected by the voters, the mayor would fill the vacancy from a new list of nominees. This procedure is similar to the "modified Missouri" plan presented in proposal 57 of Hawaii's constitutional convention.

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<sup>8</sup>Reeves, op. cit., p. 85. Among the organizations included were: Chicago Association of Commerce, Chicago Bar Association, Chicago Congress of Industrial Organizations, Chicago Federation of Labor, Chicago Medical Society, Chicago Technical Societies Council, Civic Federation of Chicago, PTA groups.

<sup>9</sup>Daley, op. cit.

<sup>10</sup>Reeves, op. cit., p. 84. Reasons for the failure to adopt the plan were not discussed by the author.

## Appendix I

A COMPARISON OF SCHOOL ORGANIZATION IN HAWAII  
UNDER TERRITORIAL AND STATE LEGAL PROVISIONS

Provisions	Territory of Hawaii (Revised Laws of Hawaii)	State of Hawaii (State Constitution)
1. Name	Board of Commissioners of Public Instruction	Board of Education
2. Members		
a. Number	a. Seven	a. Unspecified. Supt. of public instruction an ex-officio voting member.
b. Selection	b. Appointed by Governor with consent of Senate.	b. Appointed by Governor, with consent of Senate, from panels of nominees prepared by local school advisory councils.
c. Qualifications	c. Territorial citizenship for five years next preceding their appointment.	c. - - - - -
d. Restrictions	d. No minister or person in holy order; no more than three women; no more than four of the same political party; superintendent of public instruction not on board.	d. - - - - -
e. Geographical representation	e. Two each from Hawaii and Oahu; one each from Kauai and Maui; one from Territory at-large.	e. Part of Board's membership to represent geographic subdivisions.
f. Terms of Office	f. Four years; staggered terms.	f. - - - - -
g. Compensation	g. None except reimbursement for necessary expenses in attending meetings and in discharging official duties.	g. - - - - -
h. Chairman	h. Member selected at-large.	h. - - - - -
i. Vacancy	i. Governor makes appointment for unexpired term.	i. - - - - -
3. Powers	Has full authority and responsibility for the administration of the department of public instruction; states policies of education; fixes curriculum; prescribes duties of superintendent (who is appointed by Governor and confirmed by the Senate).	Formulates policies, exercises control of public school system by appointing its executive officer, the superintendent of public instruction.



PROPOSALS ON HAWAII'S BOARD OF EDUCATION PRESENTED AT THE  
HAWAII STATE CONSTITUTIONAL CONVENTION\*

Provisions	Proposal No. 10	Proposal No. 57**	Proposal No. 88	Proposal No. 110	Proposal No. 149
Membership	7-9 members	7 members	7 members	7 members	7 members
Selection	4 elected (one from each county on non-partisan basis).  3-5 appointed by Governor, by and with advice and consent of Senate.	7 (3 at large and one from each of the 4 counties) appointed by Governor from list to be submitted as prescribed by legislature, by and with consent of Senate. At next succeeding election, appointees to be ratified by electors of entire state for the 3 members serving at-large, and by electors of the respective counties for the other 4 members. Failure to ratify: position becomes vacant.	All elected by popular vote.	4 elected (one from each county).  3 elected at-large, non-partisan elections.	All (at least one from each of the 4 counties) appointed by Governor, by and with consent of Senate, from panels submitted by county School Advisory Committees appointed by the respective county boards of supervisors.
Term of Office	- - -	- - - - -	4 years	- - -	- - - -
Restrictions	No clergyman or person in holy orders.	- - - - -	No person in holy orders or minister of religion.	No clergyman or other person in holy orders.	- - - -
Vacancy	- - -	Governor appoints according to above.	Governor appoints for unexpired term.	- - -	- - - -

Note: Delegates who offered one or more proposals were: Trude M. Akau, Teruo Ihara, Kazuo Kage, Peter Kawahara, Harold Loper, Richard Lyman, Jr., Thomas Sakakihara, Toshio Serizawa, James K. Trask, Benjamin O. Wist, James K. Yamamoto.

\*Proposal 66 retains the commissioners of public instruction and provides appointment by the Governor and confirmation by Senate.

\*\*Oftentimes referred to as the "modified Missouri" plan.

Provisions	HB 313 and SB 348* (1957)	SB 104** (1959)	SJR 24 (1959)
Membership	3	12 - Honolulu 6 - Other Counties	5
Selection	Appointed by Governor; one council in each of the four counties. One member to be selected from the board of supervisors, one from a service organization, one from an organization of business and professional or university women.	Elected on non-partisan basis during off-election years; one in each county.	Appointed by Governor to be representative of geographical areas of district and as recommended by local Parent-Teacher associations; one in each of six senatorial districts.
Qualifications	Electors of the county for at least three years.	- - - -	Electors of county.
Terms	Serve until such time as Governor appoints successors.	4 years; staggered.	Serve until such time as Governor appoints successors.
Duties	Submit panel of not fewer than five names to Governor for selection for board of education membership.	a. Nominate panels of names for commissioners of public instruction. b. Meet with county boards of supervisors when school budgets are considered.*** c. Confer with district superintendent of schools concerning policies, information and general conduct of the schools.	Submit panel of not fewer than five names to Governor for selection for board of education membership.

\*SB 348 is in "short" form.

\*\*Based on recommendations of the Odell survey staff's report on the Organization and Administration of the Public Schools, Territory of Hawaii.

\*\*\*Odell survey staff recommended further that the councils vote on the matters pertaining to the school budget as members of the Augmented Board of Supervisors, but their votes should not exceed six.

## Appendix IV

### THE ODELL SURVEY OF HAWAII'S PUBLIC SCHOOLS

A public school survey, oftentimes referred to as the "Odell Survey," was conducted in the Territory in 1956-57. Among the many recommendations offered was the establishment of Citizens Advisory Committees on the Public Schools.

We recommend that these committees be elected in each county, on a non-partisan basis (no political party identification), on off-election years, at large, for a period of 4 years, on staggered-terms (half of the committees serving initially two years); and that there be six members of the committees in Hawaii, Kauai and Maui counties, and twelve in Honolulu City and County.<sup>1</sup>

The duties of the Citizens Advisory Committees on the Public Schools were listed as follows:

1. To meet with other Citizens Advisory Committees and to nominate to the Governor names of persons for appointment to the Territorial Commission of Public Instruction.
2. To meet with the County Board of Supervisors on school matters pertaining to the support of the school budget and to vote as members of the Augmented Board of Supervisors and Citizens Advisory Committee on the Public Schools, but in no case shall the Citizens Advisory Committee have more than six votes.
3. To confer with the District Superintendent of Schools concerning matters of policy, information, and the general conduct of the schools.<sup>2</sup>

The Odell survey staff further recommended that there be an odd number of members on the advisory committees if they were not granted the power to vote as part of the Augmented Board of Supervisors.

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<sup>1</sup>The Odell Survey Staff, "Social Setting, Organization and Finance," Organization and Administration of Public Schools, Territory of Hawaii (Stanford, California, 1957), p. 130.

<sup>2</sup>Ibid., p. 131.

## Appendix V

### THE FEDERAL SURVEY OF EDUCATION IN HAWAII, 1920<sup>1</sup>

The federal survey commission felt that many matters considered by the territorial board of school commissioners could more quickly and efficiently be settled if on each island there were a county board of education with the authority to administer the schools within the general policies established by the Territorial board. The commission recommended the appointment of a seven-member Territorial board by the governor. The Territorial board, in turn, would appoint the superintendent and also the following number of members in the county boards of education: Kauai, 3; Maui, 3; West Hawaii, 3; East Hawaii, 3; Oahu, 5.

The commission further believed it desirable "to permit each county board to appoint its own executive and his corps of assistants and supervisors; and to assign, transfer, and dismiss all teachers, all assignments and actions, however, to be subject to review by the Territorial board of commissioners and by the Territorial superintendent of schools."

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<sup>1</sup>The Commissioner of Education, Director, A Survey of Education in Hawaii, Bulletin 1920, No. 16, Department of Interior (Washington, D. C.: U. S. Government Printing Office, 1920), pp. 58-59.

Appendix VI

PERSON OR AGENCY RESPONSIBLE FOR APPOINTING  
SCHOOL BOARD MEMBERS IN THE 15 STATES WHICH  
PROVIDE FOR APPOINTMENTS IN SOME OR ALL  
SCHOOL DISTRICTS\*

<u>State</u>	<u>Appointments are made by:</u>
Alabama	City council or city commission.
Delaware	County resident judge.
Georgia	Grand jury.
Indiana	Mayor, town board, or city council.
Maryland	Governor (in Baltimore, by the mayor).
Mississippi	Governing authority of the municipality.
Montana	County commissioners.
New Jersey	Mayor.
New York	Mayor.
North Carolina	General Assembly.
Pennsylvania	Judge of the court of common pleas.
South Carolina	Governor or county board of education.
Tennessee	County court.
Virginia	Trustee electoral board, county supervisors, or city council.
Wisconsin	Mayor or city council.

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\*Hall, op. cit., p. 16.

## JUDGES AND LEGISLATORS: COMPENSATION AND RETIREMENT

### Summary

A survey of retirement provisions for both judges and legislators in the several states indicates that:

1. All states (excluding Alaska and Hawaii) provide judges who meet certain age and service qualifications with annuities, except Oklahoma whose judges are covered by the federal social security program. The annuity is: (a) full pay in Tennessee; (b) a fixed sum (ranging from \$3,000 in Colorado to \$9,250 in Michigan) in 10 states; (c) a fixed proportion of salaries (ranging from 1/4 minimum in Illinois to 4/5 maximum in Pennsylvania) in 23 states; (d) a sum based on years of service in the remaining 13 states. The amount judges contribute toward retirement varies greatly: none in 17 states for some, if not all, judges; 1.5 to 4 per cent in 10 states; over 4 per cent in 17 states; age determines the amount in the remaining 3 states.

2. At least 19 states and the federal government have established retirement plans for legislators; all of these plans require contributions from legislators, ranging from 1.5 per cent in Mississippi to 7.5 per cent for members of Congress. The amount of annuity is generally based on a fixed proportion of legislative salaries for each year of service. For example, California pays 5 per cent of present legislative salaries multiplied by years of service, with a limit set at 75 per cent. The federal government, on the other hand, pays 2.5 per cent of the average monthly salary times years of service (limit of 30 years).

Basic to retirement provisions are the schedules for compensation. A comparison of Hawaii's salaries for judges, under statehood, with those of the national median in 1958-59 indicates the following: supreme court justices--\$22,000 against a median of \$17,000; circuit court judges--\$19,000 against a median of \$12,500.

Hawaii's legislators, under statehood, will receive salaries of \$4,000 for the biennium, while the median in 1958-59 was a range of \$3,000-\$3,600 for the 33 states which set salaries for the biennium; New York being the highest with \$15,000. Over-all per diem payments in Hawaii are higher than those of other states.

JUDGES AND LEGISLATORS:  
COMPENSATION AND RETIREMENT

<u>Part</u>	<u>Page</u>
Summary . . . . .	1
I. Background . . . . .	1
Hawaii's Constitutional Convention . . . . .	1
Hawaii's Present Retirement Provisions for Judges and Legislators . . . . .	3
II. Judges . . . . .	4
Compensation Provisions . . . . .	4
Retirement Provisions . . . . .	7
Illinois . . . . .	16
III. Legislators . . . . .	19
Compensation Provisions . . . . .	19
Retirement Provisions . . . . .	24

Appendix

I. Retirement Planning for Public Employees . . . . .	27
II. Judicial Retirement in Missouri . . . . .	29
III. Judicial Retirement in New Mexico . . . . .	31

Table

1. Compensation of Judges of State Appellate Court and Trial Courts of General Jurisdiction . . . . .	5
2. Retirement and Pension Provisions for Judges of State Appellate Courts and Trial Courts of General Jurisdiction . . . . .	9
3. Rate of Contributions to the Retirement System . . . . .	14
4. Salaries and Compensation of Legislators . . . . .	20

## PART I. BACKGROUND

This report has been prepared to aid the Interim Committee on Government Reorganization of Hawaii's Thirtieth Legislature in providing for judicial retirement. Hawaii's state constitution sets the compulsory retirement age at 70 and prescribes that justices of the supreme court and judges of the circuit courts "shall be included in any retirement law of the State."<sup>1</sup>

The committee reports of the Constitutional Convention have been examined to furnish background for these retirement provisions and to indicate the recommendations of Convention members on judicial retirement. As a matter of general interest and for purposes of comparison, information on legislators is also given, despite the fact that the constitution makes no reference to legislative retirement. Hawaii's present retirement law for judges and legislators is presented. Furthermore, mainland retirement practices for judges and legislators have been studied and are discussed to suggest possible provisions which might be included in the statutes providing for retirement of Hawaii's judges. Since retirement and compensation plans are integrally related, information on the latter is also presented.

Appendix I presents a summary of basic principles governing retirement planning for public employees in general. These essentials might be considered in the formulation of statutes by the legislature.

### Hawaii's Constitutional Convention

In establishing the judiciary branch of the state of Hawaii, the Judiciary Committee of the Constitutional Convention recognized at the outset that "adequate

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<sup>1</sup>Article V, Section 3.



provision must be made for the compensation of judges and for their pensioning upon their retirement."<sup>2</sup>

The Judiciary Committee, in presenting Committee Proposal 7 on the establishment of the state judiciary, included judicial retirement. Section 6 of that proposal provided:

The justices of the supreme court and the judges of the circuit courts shall receive for their services such compensation as may be provided by law which shall not be diminished during their continuance in office. They shall retire upon attaining the age of seventy years. Provisions for pensioning them shall be made by law. [Emphasis supplied.]

In making its recommendation that the compulsory age for retirement be set at 70, the Committee stated: "The compulsory retirement provision is to prevent incapacitated judges from remaining on the bench after the time when they are no longer able fully to discharge their duties."<sup>3</sup> While the Committee itself was aware that fixing the age at 70 is debatable, it likewise knew that any age selected would be somewhat arbitrary since the mental powers of individuals fail at different ages.

In providing for the pensioning of judges, the Judiciary Committee stated:

Your Committee is strongly in favor of pensioning judges when they reach the age of retirement or if they fail to be reappointed for any reason than misconduct in office. The matter of fixing irrevocably in the constitution the subject of pensions was considered at length; whether it should be a pension with full salary, one-half salary or based on the number of years of service. Your Committee finally concluded that this is a proper subject of legislation and should be left to the good judgment of the Legislature.<sup>4</sup>

The Committee of the Whole, in discussing these two features presented by the Judiciary Committee, decided to amend the second provision in support of the expression of one of the delegates that "a special pension would be discriminatory . . . [that judges] should contribute towards retirement . . . ."<sup>5</sup> In spite of the

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<sup>2</sup>Constitutional Convention of Hawaii, Judiciary Committee, Standing Committee Report No. 37 (June 2, 1950), p. 1.

<sup>3</sup>Ibid., p. 5.

<sup>4</sup>Ibid., p. 7.

<sup>5</sup>Constitutional Convention of Hawaii, Committee of the Whole Report No. 8 (June 20, 1950), p. 13.

arguments against this sentiment, the original provision, as found in section 6 of Committee Proposal 7, was changed as follows:

Original: "Provisions for pensioning them shall be made by law."

Amended: "Provision shall be made by law for the inclusion of such justices and judges in any retirement law of the state."

During this considerable debate, the point was made that Hawaii has one retirement system, covering territorial (now state) and county personnel. Thus, it seems apparent that the members of the Constitutional Convention intended to include judges in the Employees' Retirement System of the state of Hawaii.

Following the adoption of the amended form of the provision for retirement of judges, another motion was passed: "that it was the intention of this body that in the writing of any retirement for the future State of Hawaii that prior service of our circuit judges and supreme court judges would be considered as though they were officers of the State of Hawaii."<sup>6</sup>

After amendment by the Style Committee of the Convention, the provision appears in the Constitution thus: "They shall be included in any retirement law of the State."

#### Hawaii's Present Retirement Provisions for Judges and Legislators

Judges.—Section 6-24.5 of the Revised Laws of Hawaii 1955 provides that judges at their option may, any time after May 22, 1945, become members of the Employees' Retirement System of the Territory and that they are entitled to purchase credit for prior service with the territorial or county government, including service prior to May 22, 1945.

Legislators.—Section 6-38 of the Revised Laws of Hawaii 1955 provides that legislators can elect to join the Employees' Retirement System. Service as a legislator prior to July 1, 1951, can be claimed for credit, and, upon verification by the System, legislators shall be allowed credit therefor without purchasing it. While the contributions made to the System are small (based on the salaries of legislators, exclusive of per diem payments), the legislators are given membership service credit for the entire period in which they are in office.

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<sup>6</sup>Ibid., p. 14.

## PART II. JUDGES

### Compensation Provisions

The transition provision found in Article XVI, Section 18, of Hawaii's state Constitution sets the compensation of judges until such time as otherwise provided for by law. Justices of the supreme court were to receive \$17,000 (\$500 more for the chief justice) and circuit court judges were to receive \$15,000 annually. However, the Thirtieth Legislature of the Territory in Act 215 set the salaries of judges as follows: \$22,000 for supreme court justices (\$500 more for the chief justice) and \$19,000 for circuit court judges.

In comparing the salaries of Hawaii's judges, under statehood, with those of other states as presented by the Council of State Governments for 1958-1959, it is found that: (1) supreme court justices in Hawaii will receive higher salaries than do those in most of the states; only Alaska, California, Illinois, New Jersey, New York and Pennsylvania have higher salaries, and (2) circuit court judges in Hawaii will receive higher salaries than do those in most of the states; only New Jersey, New York and the upper salary range in Georgia, Illinois, Michigan and Pennsylvania are higher.

The Council of State Governments indicated that at least 25 states increased the salaries of the justices of the courts of last resort in 1957. Their median salary for the country at large was \$17,000, an increase of 18.1 per cent over the preceding biennium. Twenty-seven states increased the salaries of judges of trial courts of general jurisdiction. Their median salary then approximated \$12,500, an increase of about 14 per cent over the preceding biennium.<sup>7</sup> For information on the compensation of judges in each of the states, see Table 1.

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<sup>7</sup>The Council of State Governments, The Book of the States, 1958-1959 (Chicago: The Council, 1958), p. 98.

Table 1

COMPENSATION OF JUDGES OF STATE APPELLATE  
COURTS AND TRIAL COURTS OF GENERAL JURISDICTION\*

<u>State</u>	<u>Court of Last Resort</u>	<u>Circuit Court</u>
Alabama	\$14,000	\$10,000-12,000
Alaska	22,500 (b) **	19,000 **
Arizona	15,000	12,500 (a)
Arkansas	15,000	12,600-13,800
California	23,000 (b)	15,000-18,000 (a)
Colorado	12,000	9,000 (c)
Connecticut	19,000 (b)	18,500 (a)
Delaware	17,000 (b)	15,000 (a,d)
Florida	17,500	13,500 (e)
Georgia	18,000	12,500-19,700 (a)
Idaho	10,500	9,500 (c)
Illinois	24,000	15,000-22,000
Indiana	17,400	6,600-13,500
Iowa	12,000	10,000 (c)
Kansas	12,000 (b)	9,000 (c)
Kentucky	12,000	7,500-8,400
Louisiana	18,000	10,000-17,000 (c)
Maine	13,000 (b)	12,500 (a)
Maryland	21,000 (b)	15,000
Massachusetts	22,000 (b)	19,000 (a,d)
Michigan	18,500	12,500-25,000
Minnesota	19,000 (b)	14,500-16,000 (c)
Mississippi	12,500 (b)	9,000
Missouri	17,500	11,000-14,000
Montana	11,000	9,000 (c)
Nebraska	12,000	10,000 (c)
Nevada	18,000	15,000 (c)
New Hampshire	15,000 (b)	15,000 (a,d)
New Jersey	24,000 (b)	20,000 (a)
New Mexico	15,000	12,500 (c)
New York	37,500 (b)	26,000-32,000 (f)
North Carolina	16,000 (b)	15,500 (a)
North Dakota	10,000	8,000 (c)
Ohio	18,000 (b)	6,300-15,000 (g)
Oklahoma	12,500	7,200-12,400 (c)
Oregon	16,000	13,000
Pennsylvania	30,000 (b)	18,000-25,000 (g)
Rhode Island	17,000 (b)	15,000 (a,d)
South Carolina	14,000 (b)	14,000
South Dakota	11,000	9,000

Table 1 (continued)

<u>State</u>	<u>Court of Last Resort</u>	<u>Circuit Court</u>
Tennessee	\$15,000 (b)	\$10,000
Texas	20,000	12,000 (c)
Utah	12,000	10,000 (c)
Vermont	10,500 (b)	10,000 (d,h)
Virginia	15,500 (b)	10,700
Washington	20,000	15,000 (a)
West Virginia	17,500	9,000-11,000
Wisconsin	17,500 (b)	11,000-18,000
Wyoming	13,000	11,500 (c)
<hr/>		
HAWAII	17,000 (b) ***	15,000 ***

\*The Council of State Governments, The Book of the States, 1958-1959 (Chicago: The Council, 1958), p. 103.

\*\*"Alaska Legislature Passes Enabling Act for Judiciary," Journal of the American Judiciary Society, vol. 42 (April 1959), p. 202. An interesting feature of Alaska's compensation plan for judges provides that "for each pay check each judge must sign an affidavit that no case before him has been undecided more than six months."

\*\*\*With statehood, salaries have been set as follows: Supreme Court chief justice, \$22,500; associate justices, \$22,000; Circuit Court judges, \$19,000. Session Laws of Hawaii 1959, Act 215.

(a) Superior Court.

(b) These jurisdictions pay additional amounts to the chief justices of the courts of last resort. The additional sums are: \$500 in Delaware, Hawaii, New Hampshire, North Carolina, Pennsylvania, Vermont, Virginia and Wisconsin; \$1,000 in Alaska, California, Connecticut, Kansas, Maine, Maryland, Massachusetts, Minnesota, Mississippi, New Jersey, Rhode Island and South Carolina; \$1,500 in Tennessee; \$2,000 in Ohio; \$2,500 in New York.

(c) District Court.

(d) Presiding judges of these courts receive an additional \$500 in Delaware, New Hampshire and Vermont; \$1,000 in Massachusetts and Rhode Island.

(e) Salaries may be supplemented by counties.

(f) Supreme Court.

(g) Courts of Common Pleas.

(h) County Courts.

## Retirement Provisions

All of the states provide judges with an annuity, except for Oklahoma where judges are covered by social security provisions. Judges in Vermont and Wisconsin are members of both the social security program and the state retirement system. The amount of annuity, based on Table 2 of this report, is determined in the 47 states (excluding Hawaii and Alaska) as follows:

<u>Annuity is:</u>	<u>No. of States</u>	<u>Remarks</u>
1. Full pay	1	Tennessee (supreme, appeals, circuit); although Louisiana and Vermont also for certain judges only.
2. A set sum	10	Range from \$3,000 in Colorado to \$9,250 in Michigan. Five states have set sums below \$5,000 and five states above this figure.
3. A fixed proportion of salaries	23	Range from $\frac{1}{4}$ in Illinois (which grants additional sums for each year of service above 12) to 80 per cent maximum in Pennsylvania. Five states grant annuities below $\frac{1}{2}$ of salary; 8 states at $\frac{1}{2}$ of salary; 10 states above $\frac{1}{2}$ of salary.
4. Based on service	12	Some states (Florida, Kansas, Nebraska) grant annuities on basis of $3\frac{1}{3}$ per cent of average compensation for each year of service; others (Iowa and West Virginia) in addition to setting a specific percentage of compensation for each year, also set a maximum to the annuity.
5. Based on age and service	1	Ohio (details not available)

In most states, minima are set for the retirement age and years of service in such a way as to be related to each other; a judge who has served for a longer period is able to retire at an earlier age. The minimum age ranges from 55 in Ohio and Wisconsin to 70 in Connecticut, Idaho, Maine, Massachusetts, Minnesota and New Jersey. Fifteen states set no minimum age for retirement for some, if not all, of their judges. The minimum length of service ranges from five years in Ohio to 20 years in

North Dakota and Tennessee. Several states—Connecticut, Maryland, New Hampshire, New York, North Carolina and Wisconsin—set no minimum service period for a retirement allowance for some, if not all, of their judges.

Retired judges serve in various capacities in the following states: Alabama (as supernumerary judges subject to call to assist judges), Kentucky (as commissioners of the Court of Appeals), Missouri (as referees or commissioners), and North Carolina (as emergency judges). Most, if not all, disabled judges may retire on pensions at any age if they have served a minimum period of time in the following states: Oregon, South Carolina, North Carolina, Arizona, Florida, New Hampshire, South Dakota, Tennessee, Washington, Illinois, Minnesota, Georgia, Arkansas, New Jersey and Louisiana.

See Table 2 for detailed information on retirement provisions in the 48 states.<sup>8</sup>

The amount which judges contribute to the retirement system in the 47 states varies from no contribution to 10.21 per cent (maximum in Vermont) of their salaries. Seventeen states require no contribution for some, if not all, of their judges, while 10 states require from 1½ to 4 per cent and 17 states require over 4 per cent. The remaining three states determine the amount of contribution on the basis of age. See Table 3 for a comparison of the rate of contributions of state employees and judges. Unfortunately, figures are not available for state employees and judges in any one year, but the three periods selected for judges should give some indication of how contributions of judges are related to those of other state employees.

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<sup>8</sup>For more specifics on judicial retirement provisions of each state, see the two publications of the Institute of Judicial Administration, Judicial Retirement; Statutory Provisions and Comment (May 8, 1956) and Pensions and Benefits for Judicial Dependents (August 17, 1956).

Table 2

RETIREMENT AND PENSION PROVISIONS FOR JUDGES OF STATE  
APPELLATE COURTS AND TRIAL COURTS OF GENERAL JURISDICTION\*

State	Minimum age	Years minimum service	Amount of annuity	Amount of judge's contribution	Judges to whom applicable
Alabama	70	15	\$6,000(a)	none	Supreme
	70	15	4,000(a)	none	Appeals
	65(b)	15	4,000(a)	none	Circuit
	Any age	25	4,000(a)	none	Circuit
Arizona	65	12(c)	up to 2/3 pay(d)	5%	Supreme, superior
Arkansas	70	10(c)	$\frac{1}{2}$ pay	$1\frac{1}{2} - 3\%$ (e)	Supreme
	65	15(c)	$\frac{2}{3}$ pay	(e)	Supreme, circuit, chancery
	70	20(c)	$\frac{2}{3}$ pay	(e)	Circuit, chancery
	Any age	24(c)	$\frac{2}{3}$ pay	(e)	Circuit, chancery
California	70	10(f)	$\frac{1}{2}$ pay(g)	$2\frac{1}{2}\%$	Supreme, appeals, superior
	60	20	$\frac{2}{3}$ pay(g)	$2\frac{1}{2}\%$	Supreme, appeals, superior
Colorado	65	10	\$3,000 - 5,000(h)	none	Supreme
	65	20	4,000	none	Supreme
	65	30	5,000	none	Supreme
	65	10	2/5 pay(i)	6%	Supreme, district
	65	16	$\frac{1}{2}$ pay(i)	6%	Supreme, district
Connecticut	70	No minimum	2/3 pay	none	Supreme, superior
Delaware	65	12	\$3,600 (Min.)	5% (Max. \$375)	Supreme, superior
Florida	Any age	20(c)	3-1/3% of aver. comp.	6%	Supreme, district, courts of appeal,
	60	10(c)	for each year of service(j)	6%	circuit
Georgia	70	10	2/3 pay	none	Supreme, appeals
	65	20	2/3 pay	none	Supreme
	Any age	19(c)	2/3 pay	5%	Superior
	70	11(c)	2/3 pay	5%	Superior
Idaho	70	10	$\frac{1}{2}$ pay	3%	Supreme, district
Illinois	60	12(c)	$\frac{1}{4}$ pay(k)	5%(l)	Supreme, appellate, circuit, superior
	60	18	$\frac{1}{2}$ pay	5%(l)	Supreme, appellate, circuit, superior



Table 2 (Continued)

State	Minimum age	Years minimum service	Amount of annuity	Amount of judge's contribution	Judges to whom applicable
Indiana	65	12(m)	up to \$4,000(n)	5%(o)	Supreme, appellate, circuit, superior
Iowa	67	6	up to 2/5 of last salary(p)	3%	Supreme, district
Kansas	65	10	3-1/3% of pay for each year of service	4%	Supreme, district
Kentucky	Any age	8	\$5,000(q)	none	Court of appeals
	60	10	\$3,500(r)	2%	Circuit
Louisiana	80(s)	20	Full pay	none	Supreme, appeals, district
	70	15	2/3 pay	none	Supreme, appeals, district
	65	20	2/3 pay	none	Supreme, appeals, district
	Any age	23	2/3 pay	none	Supreme, appeals, district
Maine	70(t)	7	3/4 pay	none	Supreme
	70(t)	7	3/4 pay	none	Superior
Maryland	60	No minimum	up to \$9,000(u)	none	Court of appeals, circuit, Supreme Bench of Baltimore
Massachusetts	70	10	3/4 pay	none	Supreme, superior, district
Michigan	70(t)	12	\$9,250	5% (Max. \$925)	Supreme
	70(t)	12	6,250	5% (Max. 725)	Circuit, superior, recorders
	65	18	6,250	5% (Max. 725)	Circuit, superior, recorders
	Any age	30	6,250	5% (Max. 725)	Circuit, superior, recorders
Minnesota	70	12(c)	1/2 pay(v)	none	Supreme
	70(t)	12(c)	1/2 pay	none	District
Mississippi	65	15	(w)	1.65%	Supreme, chancery, circuit
Missouri	65	12	1/3 pay(q)	none	Supreme, appellate, circuit
Montana	60	10	(w)	varies(ac)	Supreme, district
Nebraska	65(x)	10	3-1/3% of pay for each year of service	4%	Supreme, district

Table 2 (Continued)

State	Minimum age	Years minimum service	Amount of annuity	Amount of judge's contribution	Judges to whom applicable
Nevada	60	20	2/3 pay	none	Supreme, district
	60	15	1/3 pay	none	Supreme, district
New Hampshire	65	No minimum(c)	up to 1/2 pay(w)	up to 9.41%(y)	Supreme, superior
New Jersey	70	10(c)	3/4 pay	none	Supreme, superior
New Mexico	64	10	\$6,000	6%	Supreme, district
	60	18	6,000	6%	Supreme, district
New York	60	No minimum	up to 1/2 pay(w)	varies(ac)	Court of appeals, supreme, county
North Carolina	80	No minimum	2/3 pay(q)	none	Supreme
	65	12(c)	2/3 pay(q)	none	Supreme
	65	15(c)	2/3 pay(q)	none	Superior
	Any age	24	2/3 pay(q)	none	Supreme, superior
North Dakota	65	20(z)	1/2 pay	5%	Supreme, district
Ohio	60	5	(aa)	6%	Supreme, appeals, common pleas
	55	30	(aa)	6%	Supreme, appeals, common pleas
	Any age	36	(aa)	6%	Supreme, appeals, common pleas
Oklahoma			Social Security		Supreme, district, superior, common pleas, county
Oregon	70	12(c)	1/2 pay	5% of salary	Supreme, circuit
	65(ab)	16	1/2 pay	5% of salary	Supreme, circuit
Pennsylvania	Any age	10	80% (Max.)	varies(ac)	Supreme, superior, common pleas
Rhode Island	70	15	3/4 pay	none	Supreme, superior
	65	20	3/4 pay	none	Supreme, superior
	Any age	25	3/4 pay	none	Supreme, superior
South Carolina	72	10(c)	\$7,200	4%	Supreme, circuit
	70	15	7,200	4%	Supreme, circuit
	65	20	7,200	4%	Supreme, circuit
	Any age	25	7,200	4%	Supreme, circuit
South Dakota	65	15(c)	1/2 pay	4%	Supreme, circuit

Table 2 (Continued)

State	Minimum age	Years minimum service	Amount of annuity	Amount of judge's contribution	Judges to whom applicable
Tennessee	70	20(c)	Full pay	8%	Supreme, appeals, circuit
	65	24	Full pay	8%	Supreme, appeals, circuit
	60	30	Full pay	8%	Supreme, appeals, circuit
Texas	65	10	$\frac{1}{2}$ pay	5%	Supreme, appeals, district
	Any age	24	$\frac{2}{3}$ pay	5%	Supreme, appeals, district
Utah	70	10	\$4,200(ad)	none	Supreme, district
	Any age	20	4,200(ad)	none	Supreme, district
Vermont	65(x)	12 - 18	2/5 pay	up to 10.21%(af)	Supreme, superior
	65(x)	18 - 24	3/5 pay	up to 10.21%(af)	Supreme, superior
	65(x)	24 - 30	4/5 pay	up to 10.21%(af)	Supreme, superior
	65(x)	30 & over	Full pay	up to 10.21%(af)	Supreme, superior
Virginia	65(ae)	12	3/4 pay	up to 3%(af)	Supreme
	60	25	3/4 pay	up to 3%(af)	Circuit, corporation
Washington	70	10(c)	$\frac{1}{2}$ pay	6 $\frac{1}{2}$ %	Supreme, superior
	Any age	18	$\frac{2}{3}$ pay	6 $\frac{1}{2}$ %	Supreme, superior
West Virginia	65	16	up to $\frac{1}{2}$ pay(ag)	6%	Supreme, circuit
	73	8	$\frac{2}{3}$ pay	6%	Supreme, circuit
Wisconsin	55(t,x)	No minimum	up to 60% pay(w,x)	(ah)	Supreme, circuit
Wyoming	65	18	40% of salary(g)	none	Supreme, district

\*The Council of State Governments, The Book of the States, 1958-1959 (Chicago: The Council, 1958), pp. 104-105. No retirement provisions for Alaska's state judges could be found in the literature.

(a) Because the Alabama Constitution prohibits the payment of pensions, retired judges serve as supernumerary judges and are subject to call to assist judges in the state.

(b) 60 if permanently and totally disabled.

(c) Disabled judges in these states may retire on pensions at any age if they have completed the following number of years of service: Oregon, 6; South Carolina,

7; North Carolina, 8; Arizona, Florida, New Hampshire, South Dakota, Tennessee and Washington, 10; Illinois, Minnesota (Supreme), 12; Minnesota (District), 15.

In Georgia disabled Superior Court judges may retire at age 62 after 10 years' service; elected judges in Arkansas during any term of service; disabled judges in New Jersey retire at 3/4 pay regardless of length of service.

(d) After 20 years' service.

(e) 1 $\frac{1}{2}$ % the first 4 years; next 6 years, 2%; next 5 years, 2 $\frac{1}{2}$ %; thereafter, 3%.

(f) 10 years within 15 year period immediately

preceding retirement or 20 years, the last 5 of which immediately preceded retirement.

(g) Pension is  $\frac{1}{2}$  salary (40% in Wyoming) being paid to sitting justices. Amount of pension changes with changes in salary.

(h) Justices may come under Public Employees Retirement System in lieu of above pension.

(i) Based on highest average salary during 5 consecutive years of last 10 years of service.

(j) Options available for reduced annuities with continuing annuities for surviving spouse and benefits to other named beneficiaries.

(k) Plus  $25/72$  of 1% for each month in excess of 12 years' service, with a maximum of 50% of pay.

(l) 5% during the first 18 years (plus  $1\frac{1}{2}\%$  if married); nothing thereafter.

(m) Judges must contribute to pension system for 16 years. Can retire after 12 years by paying up for remaining 4 years.

(n) Pension is 50% of average salary received from state but not more than \$4,000.

(o) 5% of salary paid by state but not to exceed \$500 annually nor payable for more than 16 years.

(p) 2% of pay for each year of service, up to 40% of last salary.

(q) Retired judges may be called to serve as commissioners of the Court of Appeals in Kentucky; as referees or commissioners in Missouri; and as emergency judges in North Carolina.

(r) Plus \$150 per year for each year (not exceeding 20) of service in excess of 10 years.

(s) Disabled judges retired at  $2/3$  pay when certified by majority of Supreme Court.

(t) Failure of judges in Maine, Michigan, Minne-

sota or Wisconsin to retire at the ages shown causes them to lose all pension benefits.

(u) \$450 for each year of service; judges of Court of Appeals allowed \$100 additional for each year of service.

(v) Plus  $2\frac{1}{2}\%$  of annual salary for each year (not exceeding 10) of service in excess of 12 years.

(w) Mississippi, Montana, New Hampshire, New York, Wisconsin. Based on length of service.

(x) Also under social security. Retirement optional at 65 (55 in Wisconsin), compulsory at 70.

(y) Integrated state retirement system and O.A.S.I. Judges contribute to retirement system 2.59 - 9.41% on salary of \$1,200 - \$4,200; 4.32% - 9.41% on salary in excess of \$4,200.

(z) Minimum years of service decrease each year by 2, so that minimum of 10 years is required by age 70. For fewer years of service, amount of annuity is decreased proportionately.

(aa) Based on age and length of service.

(ab) Judges under 60 when defeated for reelection and having served for an aggregate of 18 years, may begin to receive a pension at 65.

(ac) Depending on age. In Pennsylvania, from 5.16% of salary at age 21 to 8.33% at age 59 or over.

(ad) Includes social security benefits.

(ae) Compulsory retirement at 75.

(af) Depending on age upon taking office: Vermont, at 35, 5.86%, at 40, 6.14%, at 50, 7.04%, at 60, 10.21%; Virginia, under 40, 2%, to 55,  $2\frac{1}{2}\%$ , over 55, 3%.

(ag) 4% for each year of service, up to  $\frac{1}{2}$  pay.

(ah) 5% of compensation under \$4,200; 7% in excess of that amount. In addition, judges may contribute up to \$500 in 1 year.

Table 3

## RATE OF CONTRIBUTIONS TO THE RETIREMENT SYSTEM

State	State	J u d g e s***		
	Employees*	1950-1951	1954-1955	1958-1959
	1952-1953			
	(%)	(%)	(%)	(%)
Alabama	3½	0	0	0
Arizona	3½**	---	5	5
Arkansas	---	0	1½-3	1½-3
California	(a)	2½	2½	2½
Colorado	5	5	0	0
Connecticut	(a)	0	0	0
Delaware	0	---	---	5
Florida	5	2	2	6
Georgia	5	5	0	0
Idaho	---	3	3	3
Illinois	6	2½ or 5	5	5
Indiana	5	---	5	5
Iowa	3½**	0	3	3
Kansas	---	---	4	4
Kentucky	---	0	0	0
Louisiana	5	0	0	0
Maine	5	0	0	0
Maryland	(a)	0	0	0
Massachusetts	5	0	0	0
Michigan	5	---	5	5
Minnesota	6	0	0	0
Mississippi	4	---	1.65	1.65
Missouri	---	---	0	0
Montana	(b)	(a)	(b)	(b)
Nebraska	---	---	(d)	4
Nevada	5	0	0	0
New Hampshire	(a)	(a)	up to 7.24	up to 9.41
New Jersey	(a)	0	0	0
New Mexico	5**	4	6	6
New York	(c)	(b)	(b)	(b)
North Carolina	5	0	0	0
North Dakota	1½	---	5	5
Ohio	6	(a)	6	6
Oklahoma	---	---	(d)	(d)
Oregon	(b)	3	0.5	5

Table 3 (continued)

State	State Employees*	J u d g e s***		
	<u>1952-1953</u> (%)	<u>1950-1951</u> (%)	<u>1954-1955</u> (%)	<u>1958-1959</u> (%)
Pennsylvania	(a)	(a)	5.08-8.33	(b)
Rhode Island	5	0	0	0
South Carolina	4	0	0	4
South Dakota	---	---	3	4
Tennessee	7	0	0	8
Texas	5	5	5	5
Utah	---	3	(d)	0
Vermont	(a)	(a)	up to 10.21	up to 10.21
Virginia	4	0	up to 3	up to 3
Washington	5**	2½	6½	6½
West Virginia	---	6	4	6
Wisconsin	3½**	0	7	5-7
Wyoming	2**	0	0	0

\*American Federation of State, County and Municipal Employees, Civil Service Department, Retirement Systems for State Employees (November 1952).

\*\*American Federation of State, County and Municipal Employees, Civil Service Department, An Outline of Recent Changes in State Employees Retirement Laws (August 7, 1953).

\*\*\*The Council of State Governments, The Book of the States, 1950-1951, pp. 512-13; The Book of the States, 1954-1955, pp. 440-41; The Book of the States, 1958-1959, pp. 104-05.

(a) Actuarially determined.

(b) Rate variable depending on age.

(c) Rate variable depending on age, sex and occupation.

(d) Social Security.

Public employees in Hawaii who belong to the Employees' Retirement System presently make contributions over a range indicated as follows:<sup>9</sup>

Age	<u>General Employees</u>		<u>Teachers</u>		<u>Policemen and</u>
	<u>Men</u>	<u>Women</u>	<u>Men</u>	<u>Women</u>	<u>Firemen</u>
20 and under (Minimum)	4.46	5.22	4.68	5.31	6.37
59 and over (Maximum)	7.85	9.19	7.76	9.15	9.85

Illinois.<sup>10</sup>--It was felt that description of a retirement system established solely for judges would be especially valuable because it could serve as a guide regardless of whether the state of Hawaii decides to include judges in the present Employees' Retirement System as ordinary members or under the System with a few special features, or to establish a separate retirement system for judges. The judges retirement system of Illinois is described in some detail to indicate the scope of legislation which Hawaii might consider in establishing judicial retirement.

The purpose of the Judges Retirement System of Illinois is

to establish a sound and efficient means of providing retirement annuities and other benefits for Judges in the State of Illinois; thereby, enabling such Judges to accumulate reserves for themselves and their dependents in case of old age, disability, death, and termination of employment, and thereby effecting economy and efficiency in the public service by furnishing an orderly method of retiring, without hardship and prejudice, Judges who have become aged or otherwise incapacitated.<sup>11</sup>

All eligible judges are considered participants in the system unless a written notice of election not to participate in the system is filed within 30 days of the

<sup>9</sup>Employees' Retirement System of the Territory of Hawaii, phone call (July 23, 1959).

<sup>10</sup>Illinois Revised Statutes 1957, ch. 37, sec. 441.1 - 441.9b; Judges Retirement System of Illinois, seventeenth annual statement of the Board of Trustees (June 30, 1958), pp. 34-37.

<sup>11</sup>Illinois Revised Statutes 1957, sec. 37-441.2.

date of eligibility. Each married participant is subject to the provisions governing widows' annuities, unless he notifies the board to the contrary within a specified period of time.

Participants who entered the system prior to December 1, 1947, are required to contribute  $2\frac{1}{2}$  per cent of their salaries; those who entered after December 1, 1947 but before December 1, 1957 must contribute 5 per cent; and those who become participants after November 30, 1957 will contribute at the rate of  $7\frac{1}{2}$  per cent of their salaries for the retirement annuity benefit. However, judges who became participants before January 2, 1954, cease making contributions after completion of 18 years of service. In all other cases participants continue to make their contributions during the entire period of service. All married participants who have subscribed to the widows' annuity benefit must make an additional contribution of  $2\frac{1}{2}$  per cent of their salaries for the entire period of service.

The State of Illinois is obligated to make contributions through biennial appropriations to meet the demands on the retirement system after contributions of participants and interest income have been determined.

The minimum retirement age for Illinois judges is 60; the minimum period of service is 12 years. The rate of annuity is equal to 25 per cent of salary for 12 years of service, increased by  $\frac{25}{72}$  of 1 per cent (.3472222) for each month of service above 12 years, with a maximum of 50 per cent of salary for 18 years of service. For judges who joined the system after November 30, 1957, the annuity is 25 per cent of salary for the first 12 years of service, plus  $2\frac{1}{2}$  per cent of salary for each year of service in excess of 12 years, with a maximum of 60 per cent of salary.

The widow of a judge who is a participant in the widows' annuity plan, in order to qualify for the annuity, must have been married to the deceased judge at least



seven years immediately preceding death and also on the last day of his employment as a judge. The widows' annuity is payable on the date of death if the widow is 55 years or older; if not, the annuity is deferred until she reaches that age. The annuity is equal to 50 per cent of the retirement annuity the participant would have received or to 50 per cent of the retirement annuity he had been receiving.

Provisions for death benefits of judges who are participants or annuitants, as well as for refund of contributions, are also included in the Illinois statutes.

For further examples of legislation on judicial retirement, see Appendixes II and III. The former describes Missouri's provisions, which do not require any contribution from the judges; the latter describes New Mexico's statutes, which require deductions from the salaries of judges as well as the setting aside of a portion of the docket fees for the judges' retirement fund.

### PART III. LEGISLATORS

#### Compensation Provisions

Legislators in Hawaii, under statehood, will receive a salary of \$4,000 per biennium (\$2,500 for the general and \$1,500 for the budget session), plus \$750 for each special session. Out of the 33 states which set salaries for the biennium, 11 states have higher salaries than those of Hawaii; New York being the highest with \$15,000. A recent summary of legislators' compensation indicated that

The range of legislative salaries, per biennium, in these states [using the salary plan] is from \$200 in New Hampshire to \$15,000 in New York. The median biennial salary is in the \$3,000-\$3,600 range.

The amounts paid under daily pay plans [as differentiated from the salary plan] vary greatly—from \$5.00 in Kansas, North Dakota and Rhode Island up to \$50 in Louisiana. For these . . . states, the median daily pay is \$15.<sup>12</sup>

Legislators in many states receive expense allowances in addition to their basic salaries. In 18 states this allowance is in the form of per diem payments, while in 10 states lump-sum or monthly allowances are made. Per diem rates range from \$5 in Georgia, Tennessee and Utah to \$40 (under statehood) in Alaska. Hawaii, under statehood, will have the highest over all per diem rates—\$32.50 for Oahu legislators and \$45 for neighbor island legislators. Expense allowances range from \$450 for the 1957 session in South Dakota to \$3,000 annually in Pennsylvania, while Wisconsin grants a monthly expense allowance of \$175 during the legislative session and Louisiana, \$150 only when the legislature is not in session.

Thirteen states grant no expense allowances, while nine pay only for postage, stationery and other legislative communication costs. All states make some allowance for travel. See Table 4 for more details on the compensation of legislators.

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<sup>12</sup>The Council of State Governments, op. cit., p. 30.

Table 4. SALARIES AND COMPENSATION OF LEGISLATORS\*

State or other juris- diction	S A L A R Y   A N D   D A I L Y   P A Y   P L A N S					A D D I T I O N A L   C O M P E N S A T I O N   F O R   L E G I S L A T O R S		
	R e g u l a r   s e s s i o n		S p e c i a l   s e s s i o n			T r a v e l   a l l o w a n c e		A d d i t i o n a l   e x p e n s e a l l o w a n c e s d u r i n g   s e s s i o n
	Amount	Limit on no. of days of pay	Amount of salary cal- culated for biennium	Amount of pay per day	Limit on no. of days of pay	Amount per mile	Number of trips during session	
Ala.	\$10	36 L(a)	.....	\$10	36 L	10¢	One round trip	\$20 per day(a)
Alaska	15	60 C	**	15	30 C	15¢	.....	\$20 per day; \$100 for post- age and other communication costs**
Ariz.	8	60 C(b)	.....	8	20 C	20¢	One way	\$17 per day(c)
Ark.	...	.....	\$ 1,200	6	15 C	5¢	One round trip	None
Calif.	...	.....	12,000(b)	...	.....	5¢(d)	.....	\$18 per day; extra allowances for committee members(d)
Colo.	20	120 C	3,600(b,x)	20	None	(e)	One round trip	None
Conn.	...	.....	600	...	.....	10¢	.....	None
Del.	...	.....	2,000	...	.....	15¢	Unlimited mileage	\$25 stationery and supplies
Fla.	...	.....	2,400	...	.....	10¢	Round trip per week	\$15 per day
Ga.	10	40 C(b)	.....	10	70 C(f)	10¢	One round trip	\$5 per day
Idaho	10	60 C	.....	10	20 C	10¢	One round trip	Additional \$15 a day for maxi- mum of 60 days for committee members
Ill.	...	.....	12,000(i)	...	.....	10¢	Round trip per week	\$50 for postage and stationery
Ind.	...	.....	3,600	...	.....	6¢	Round trip per week	None
Iowa	30	.....	.....	30	None	7¢	One round trip	None
Kan.	5	90(b,g)	.....	5	30 L	15¢	One round trip	\$7 per day
Ky.	25	60 L(h)	.....	25	None	15¢	One round trip	\$10 per day, not to exceed \$600; \$50 in lieu of sta- tionery
La.	50	90 C(b,g)	.....	50	30 C	10¢	Eight round trips and four round trips during bud- get session	\$150 per month while legis- lature not in session
Maine	...	.....	1,400(i)	10	None	5¢	Round trip per week	Small allowance for postage, telephone, etc.
Md.	...	.....	3,600(b)	...	.....	20¢(j)	.....	\$1,200 per biennium

Table 4 (Continued)

State or other juris- diction	S A L A R Y   A N D   D A I L Y   P A Y   P L A N S					A D D I T I O N A L   C O M P E N S A T I O N   F O R   L E G I S L A T O R S		
	R e g u l a r   s e s s i o n		S p e c i a l   s e s s i o n			T r a v e l   A l l o w a n c e		Additional expense allowances during session
	D a i l y   p a y   p l a n		S a l a r y   p l a n					
	Amount per day	Limit on no. of days of pay	Amount of salary cal- culated for biennium	Amount of pay per day	Limit on no. of days of pay	Amount per mile	Number of trips during session	
Mass.	...	.....	\$10,400(b)	(k)	None	7¢(l)	Each day(l)	\$1,000 per biennium; weekly expense allowance according to distance from capitol(l)
Mich.	...	.....	8,000(b)	...	.....	10¢	Round trip per month	\$2,000 per biennium; plus al- lowance for postage, tele- phone and telegraph
Minn.	...	.....	4,800	\$25	None	15¢	One round trip	\$1,200 or \$800 at 1957 ses- sion (m)
Miss.	...	.....	3,000(n)	22.50(n)	None	10¢	One round trip(o)	None
Mo.	...	.....	3,000	...	.....	10¢	One round trip	\$10 per day
Mont.	\$20	60 C	.....	20	60 C	7¢	.....	None
Neb.	...	.....	1,744	...	.....	6¢	One round trip	\$100 postage allowance
Nev.	15	60 C	.....	15	20 C	10¢	Daily commuting(p)	\$15 per day(p); \$60 for post- age, etc.
N.H.	...	.....	200	3	15 C	(q)	Rate-distance ratio(q)	None
N.J.	...	.....	10,000(b)	...	.....	...	State railroad pass	None
N.M.	20	60 C	.....	20	30 C	10¢	One round trip	Stationery, postage, tele- phone and telegraph allow- ance
N.Y.	...	.....	15,000(b)	...	.....	(e)	Round trip per week	\$1,000 expense allowance at 1957 annual session
N.C.	...	120 C	.....	15	25 C	7¢	One round trip	\$8 per day subsistence
N.D.	5	60 L	.....	5	None	10¢	One round trip	\$20 per day
Ohio	...	.....	10,000	...	.....	10¢	Round trip per week	Postage and stationery
Okla.	15	75 L(r)	3,950(r)	15	75 L(r)	10¢	One round trip	Postage, stationery, tele- phone and telegraph allow- ance and shipping legisla- tive supplies
Ore.	...	.....	1,200(s)	...	.....	10¢	One round trip	Postage, stationery and ship- ping legislative supplies

Table 4 (Continued)

State or other juris- diction	S A L A R Y   A N D   D A I L Y   P A Y   P L A N S					A D D I T I O N A L   C O M P E N S A T I O N   F O R   L E G I S L A T O R S		
	R e g u l a r   s e s s i o n			S p e c i a l   s e s s i o n				
	D a i l y   p a y   p l a n		S a l a r y   p l a n			T r a v e l   a l l o w a n c e		A d d i t i o n a l   e x p e n s e a l l o w a n c e s d u r i n g   s e s s i o n
	Amount per day	Limit on no. of days of pay	Amount of salary cal- culated for biennium	Amount of pay per day	Limit on no. of days of pay	Amount per mile	Number of trips during session	
Pa.	...	.....	\$6,000	(t)	(t)	10¢	Round trip per week	\$3,000 annual
R.I.	\$ 5	60 L(b)	.....	...	.....	8¢	.....	None
S.C.	...	.....	2,000(b)	\$25	40 L	7¢	Round trip per week	None
S.D.	...	.....	1,800(i)	10	None	5¢	One round trip	\$450 expense allowance for 1957 session
Tenn.	10	75 C	.....	10	20 C	16¢	One round trip	\$5 per day
Texas	25	120 C	.....	25	30 C	10¢	One round trip	Small expense allowance de- termined at session
Utah	...	.....	1,000	...	.....	10¢	One round trip	\$5 per day
Vt.	...	.....	1,750(y)	...	.....	20¢	One round trip	Stationery
Va.	...	.....	1,080	(t)	.....	7¢	One round trip	None
Wash.	...	.....	2,400	10	.....	10¢	One round trip	\$15 per day
W.V.	...	.....	3,000(b)	...	.....	10¢	One round trip	None
Wis.	...	.....	7,200(i)	...	.....	(u)	Rate-distance ratio(u)	\$175 monthly expense allow- ance(v)
Wyo.	12	40 C	.....	12	None	8¢	One round trip	\$12 per day
HAWAII	...	.....	1,000***	(t)	.....	20¢	One round trip	\$20 per day for members from Oahu; \$30 for legislators from outer islands****

\*The Council of State Governments, The Book of the States, 1958-1959 (Chicago: The Council, 1958), pp. 36-37.

\*\*With statehood, Alaska's salary for the biennium is \$6,000; per diem is \$40; presiding officers of both houses receive an extra \$600 yearly. The Council of State Governments, Legislative Research Checklist, vol. 1 (May 1959), p. 5.

\*\*\*With statehood, the salary of the legislators is as follows: "the sum of two thousand five hundred dollars for each general session, the sum of one thousand five hundred dollars for each budget session and the sum of seven hundred

and fifty dollars for each special session." Constitution of the State of Hawaii, Article XVI, Section 17.

\*\*\*\*In 1959 the per diem allowances were changed to \$32.50 for Oahu and \$45 for the outer islands. Session Laws of Hawaii 1959, Act 1.

Abbreviations: L - Legislative days; C - Calendar days.

(a) In practice the legislature meets for 18 weeks. Legislators receive \$210 a week in combined daily salary and expense allowance, a total of \$3,780 for each regular

Table 4 (Continued)

biennial session.

- (b) Annual sessions.
- (c) For regular and special sessions.
- (d) 10¢ a mile for committee meetings and \$15 a day for maximum of 60 days for interim committee meetings.
- (e) Actual and necessary expenses.
- (f) 70-day limit on special sessions called by Governor; 30-day limit on sessions convened by legislature except for impeachment proceedings.
- (g) 90 days biennial total: 60-day regular session, 30-day budget session.
- (h) Legislators are paid for Sundays and holidays during session, consequently compensation period usually is 72 to 74 days.
- (i) This salary becomes effective at the 1959 session. For Illinois this is an increase from \$10,000 a biennium; except that holdover Senators continue to receive the old salary until present terms expire. In Wisconsin, holdover Senators will continue to receive \$4,800 a biennium, while those elected in 1958 and thereafter will receive \$300 per month or \$7,200 for the biennium.
- (j) In terms of fixed amount for each legislator.
- (k) Determined at each session.
- (l) Within 40-mile radius, \$10 per week expense allowance plus 7¢ a mile daily, to amount to not less than \$4.50 a week; outside 40-mile radius, \$38.50 per week living expenses plus 7¢ a mile for one round trip per week.
- (m) \$1,200 was allowed for expenses except that legislators who did not have to leave their homes to attend session received \$800.

- (n) This salary becomes effective at the 1958 session.
- (o) Plus one extra round trip each 7 days at 6¢ a mile.
- (p) 10¢ a mile for daily commuting or \$15 per day if living in capital.
- (q) 20¢ per mile for first 45 miles, 8¢ for next 25 miles, 6¢ for next 25 miles, 5¢ over 95 miles.
- (r) Legislators receive \$15 for first 75 legislative days, including intervening non-legislative days, for regular or special session, otherwise \$100 a month.
- (s) Proposed constitutional amendment to be voted November, 1958, and effective upon proclamation of the Governor, if adopted, would increase legislative salaries from \$1,200 to \$2,400 a biennium.
- (t) Fixed amount for special sessions: Pennsylvania, \$500, or \$750 if longer than one month; Virginia, \$540; Hawaii, \$750.
- (u) 10¢ a mile for one round trip; thereafter, 7¢ a mile for first 2,000 miles per month, 6¢ a mile for each additional mile once a week during the session.
- (v) For legislators filing affidavit regarding necessity of establishing temporary residence at capital during regular or special session.
- (w) Minimum \$10.
- (x) Legislators receive \$50 a month during biennium plus \$2,400 per biennium, paid at rate of \$20 a day during regular and special sessions with remainder paid as a lump sum.
- (y) In 1957 session, each legislator received \$70 per week for a total of \$1,750.

## Retirement Provisions

A report of the Legislative Reference Bureau indicated that there were at least 14 states and the federal government which provided legislators with retirement plans in 1949.<sup>13</sup> In 13 of these states, legislators were included in the retirement systems for state employees, except for California which set up a special retirement system for legislators similar to the federal retirement plan for members of Congress. A 1956 report of the Texas Legislative Council pointed out that Illinois likewise has retirement provisions which are not part of the state system.<sup>14</sup> Oklahoma, Wisconsin and Mississippi provide social security coverage for their legislators.<sup>15</sup>

Since the California plan is sometimes considered a model in this field, its significant features are briefly discussed. California in 1947 established its legislative retirement plan under the state employees retirement system, but it operates as a separate plan. A legislator may elect to join the retirement system during his incumbency in office, and while a member, he is required to contribute 4 per cent of his compensation as a legislator. Service credit (number of years in office) prior to the establishment of the system can be purchased. Although there is no compulsory retirement age, eligibility comes at age 63 with six years of service, or after 20 years of credited service. The retirement allowance is equal to 5 per cent of the pay of present legislators multiplied by the number of years of credited

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<sup>13</sup>Betty Jane Echternach, Retirement Systems for Legislators, Legislative Reference Bureau, Report No. 5, 1949 (Honolulu: University of Hawaii), p. 1.

<sup>14</sup>Texas Legislative Council, Compensation of Legislators and Frequency of Legislative Sessions (Austin, Texas: 1956), p. 14.

<sup>15</sup>Legislative Auditor, Survey of Retirement Systems, State of California, Part I (October 1954), p. 62.

service, but is not to exceed 75 per cent of present legislative salaries. Provisions for dependents to receive death benefits and for legislators to receive disability benefits are also included.<sup>16</sup>

The Texas Legislative Council, in discussing the rate of contributions legislators are expected to make, summarized the national scene thus:

All legislative retirement plans are contributory, and deductions range from 1.5 per cent in Mississippi to 7 per cent in Illinois. Annual state appropriations supply contributions, which vary from actuarial needs to a fixed sum as high as 7.2 per cent in California.<sup>17</sup>

After January 1, 1959, legislators in Illinois contribute 6 per cent of their salaries for a retirement annuity; male participants contribute an additional 2 per cent for a widow's annuity.<sup>18</sup> Slightly higher is the rate imposed presently upon members of Congress belonging to the federal retirement system, who contribute 7.5 per cent of their basic salaries (compared to the 6.5 per cent rate of other members).<sup>19</sup>

A 1954 report of California's legislative auditor stated that "Little uniformity exists as to the normal retirement benefit formulas [for legislators] among the . . . states." It also presented the following table to illustrate this conclusion.<sup>20</sup>

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<sup>16</sup>California Government Code, title 2, div. 2, pt. 1, ch. 3.5.

<sup>17</sup>Op. cit., p. 14.

<sup>18</sup>Illinois Revised Statutes 1957, ch. 63, secs. 61, 61a. For a detailed discussion of Illinois' provisions, see General Assembly Retirement System of Illinois, eleventh annual statement of the Board of Trustees (June 30, 1958), pp. 30-31.

<sup>19</sup>5 USCA sec. 2254; U.S. Civil Service Commission, Your Retirement System, Pamphlet 18 (Washington, D. C.: U.S. Government Printing Office, March 1957), p. 1.

<sup>20</sup>Legislative Auditor, op. cit., p. 63. Other states with retirement systems for legislators mentioned in the report of the Legislative Reference Bureau, but not included in this listing are: Massachusetts, Montana, Nevada, New Jersey and Utah.



<u>State</u>	<u>Retirement Formula</u>
Mississippi	$1\frac{1}{4}$ per cent average monthly pay times years of service. Also covered by Social Security.
Wisconsin	50 per cent average salary upon attaining age of 65 and with required years service. Also covered by Social Security.
California	5 per cent pay to incumbent position held times years service (limit 15 years).
Illinois	$2\frac{1}{2}$ per cent pay to incumbent of position last held times years service (limit 20 years).
United States Congress	$2\frac{1}{2}$ per cent average monthly pay times years service (limit 30 years).
Florida	2 per cent average monthly pay times years service.
Ohio	Member's annuity plus matching pension to equal 2 per cent average monthly pay times years service.
Pennsylvania, Rhode Island	$1\frac{2}{3}$ per cent average monthly pay times years service.
Maryland, New York	$1/70$ average monthly pay times years service.
Louisiana	$1\frac{1}{2}$ per cent average monthly pay times years service (limit 35 years).
North Dakota	50 per cent of first \$75 average pay per month, plus 15 per cent next \$175 per month, plus 1 per cent of total times years service.
South Carolina	Actuarial equivalent of members' and states' [sic.] contributions.
Washington	Members' annuity plus state pension (pension limited to \$1,800 per year).

## Appendix I

### RETIREMENT PLANNING FOR PUBLIC EMPLOYEES

The following excerpt is taken from the April 1958 report of the Municipal Finance Officers Association of the United States and Canada, entitled Retirement Plans for Public Employees.

#### General Summary

Certain basic principles must be observed if a retirement plan is to fulfill its purposes satisfactorily. Conditions for membership, amounts of benefit, rates of contribution and other basic provisions should be formulated to meet the specific needs of the employees and the employer. A predetermination of costs must be made in order that a plan may be devised which is within reasonable financial limitations. The development of a plan on this basis will insure its successful operation.

Purpose. The primary purpose of a retirement plan is to meet the conditions arising from old age and disability among employees. Unless death intervenes, every worker ultimately reaches an age when he is no longer fully efficient at his work. With no retirement plan in force, the choice will be to dismiss the employee or allow him to continue on the active payroll. Rather than face adverse public opinion, the aged and disabled employees are kept on the payroll. As a result a hidden pension roll is created. Thus a charge to the taxpayers is made which is greater than that required for the support of a formal retirement plan. A well-conceived and financially secure retirement plan, therefore, provides the governmental unit with a systematic method of meeting these conditions at minimum cost.

Objectives. The several fundamental objectives of a retirement plan are: (1) to remove from the payroll aged and disabled employees who are in fact hidden pensioners; (2) to aid in recruiting new employees; (3) to stabilize employment by reducing turnover in personnel; (4) to make public employment more attractive to employees of proved ability and capacity, thereby increasing efficiency by keeping a constant flow of younger persons into positions of responsibility through the orderly retirement of aged and disabled employees; (5) to provide security in old-age, thereby improving employee morale; and (6) to effect certain economies in administration.

Membership. It is important that all permanent employees be included in the plan as a condition of employment. If possible, all occupational groups should be covered under a single plan. Within a single plan special provisions can be made for the peculiar conditions of certain occupations by providing different qualifying conditions and different rates of benefits for certain occupational groups. Employees holding appointive and elective positions should be included

in the membership of the plan. The only employees to be excluded should be persons employed in positions normally requiring less than a certain number of hours of work per year. The number of hours specified depends upon the nature of the services rendered by the governmental unit and usually is a number between 600 and 1200 hours.

Benefits. The principal provision of a retirement plan is the retirement benefit which should primarily be viewed as a provision for old age. It should not be considered in terms of a bounty or reward. The benefit should represent a reasonable proportion of the employee's average salary for a certain number of years just prior to retirement. Payment of the benefit should be conditioned upon the attainment of a minimum age representing the approximate age at which employees, on the average, will reach the end of their productive period. Retirement based upon years of service alone with no consideration of a minimum age is unjustifiable and costly. It violates the fundamental purpose of a plan.

The cost implications of disability benefits need careful consideration. Disability benefits can prove extremely burdensome and cause serious financial difficulties unless they are properly restricted and rigidly administered under well-defined rules and regulations. Certain well-defined limitations should be prescribed in the plan.

Benefits for dependents involve social rather than personnel aspects and should be governed chiefly by the ability of the employer to meet the costs entailed. Such benefits may be provided either by special provisions in the retirement plan or by means of federal social security under a practical method of coordination.

Financing. The cost of a retirement plan should be determined before the plan is adopted. Since insurance principles govern the operation of a retirement plan, it is necessary to comply with actuarial requirements. Rates of contribution should be fixed at levels which will insure the accumulation of reserves sufficient to meet the liabilities accruing under the plan. Such a method reflects the accrual basis and is usually referred to as "current budgeting" or "funding." This is the most economical and most certain method of financing a retirement plan. The advice of an actuary, trained to deal with the insurance problems involved in the retirement plan, should be sought in the preparation of the plan and its subsequent operation.

## Appendix II

### JUDICIAL RETIREMENT IN MISSOURI\*

476.450. Judges may become special commissioners, when-- salary or retirement compensation.--Any person having reached the age of sixty-five years and having in this state served an aggregate of twelve years, continuously or otherwise, as a judge or commissioner of the supreme court, or as a judge or commissioner of any of the courts of appeals, or as a circuit judge, or as a judge of a court of criminal correction, or as a judge of a court of common pleas, or either or both as judge or commissioner of any of said courts, and who shall have ceased to hold such office by reason of the expiration of his term, or voluntary resignation or retirement by reason of having reached the age of seventy-five years, under section 25, article 5, of the Constitution of Missouri, shall, if he so elects as hereinafter provided, be made, constituted and appointed a special commissioner or referee for and during the remainder of his life and shall, while he remains a resident of Missouri, be entitled to and shall receive as annual compensation, salary or retirement compensation during the remainder of his life a sum equal in amount to one-third the salary or compensation then or thereafter provided for by law for the office from which he has retired, and said sum shall be payable monthly out of the general revenue of the state of Missouri. (L. 1951, p. 442, sec. 1)

476.455. All judges under nonpartisan plan eligible for retirement.--Any person having reached the age of sixty-five years, and having served an aggregate of twelve years continuously or otherwise as a judge of any of the courts whose judge or judges are required to be selected under the provisions of section 29, article V of the constitution, shall have the same rights and privileges upon the same conditions as are provided for the judges and commissioners specified in section 476.450. (L. 1953, p. 391, sec. 1)

476.460. Special commissioner subject to temporary duty.--Each such special commissioner or referee shall be subject to call by the supreme court for temporary duty in any court of the state to render such duties as may be directed by the supreme court or as may now or

Appendix II (continued)

hereafter by prescribed by law. (L. 1951, p. 442, sec. 2)

476.470. Judge not eligible for retirement, when.--Any judge retiring from office under the provisions of section 27, article 5 of the Constitution of Missouri, shall not be eligible for the retirement provided by sections 476.450 to 476.510 during the period of his compensation under such constitutional provisions, but upon the completion of such period he shall be and become eligible for the retirement privileges provided for in sections 476.450 to 476.510 if he be otherwise qualified as to age and length of service. (L. 1951, p. 442, sec. 3)

476.480. Judges convicted, impeached or removed from office ineligible.--Sections 476.450 to 476.510 shall not apply to any person who has been convicted of a felony in any court or who has been impeached or removed from office for misconduct. (L. 1951, p. 442, sec. 4)

476.490. Expenses of special commissioner.--In addition to the compensation herein provided, any such special commissioner or referee shall be allowed and paid out of the general revenue, his actual expenses incurred in performing such services outside the county of his residency. (L. 1951, p. 442, sec. 5)

476.500. Acceptance by judge--procedure.--Any person who desires to accept the provisions of sections 476.450 to 476.510 shall notify the governor in writing of such fact; and if he be qualified the governor shall certify such fact to the comptroller and state auditor and to the chief justice of the supreme court. (L. 1951, p. 442, sec. 6)

476.510. Practice of law prohibited.--Any person who shall elect to retire under the provisions of sections 476.450 to 476.510 and who accepts the benefits thereof, shall not thereafter engage in the practice of law. (L. 1951, p. 442, sec. 7)

\*Missouri Revised Statutes, Cumulative Supplement 1957.

### Appendix III

#### JUDICIAL RETIREMENT IN NEW MEXICO\*

Sec. 3-1624. Retirement of judges--Eligibility--Retirement pay.--Any person who has attained the age of sixty-four (64) years while occupying either of the offices hereinafter mentioned, and who upon retirement therefrom has served as a judge of the district court or justice of the Supreme Court, or as both combined, for not less than ten (10) years in the aggregate, continuously or otherwise, within the period of eighteen (18) years immediately preceding retirement from either of said offices after attaining such age, and has ceased to hold said office by reason of expiration of his term or voluntary resignation; or shall attain the age of sixty (60) years while in either of such offices and shall have served eighteen (18) years in the aggregate, continuously or otherwise, within the period of twenty-four (24) years immediately preceding retirement, shall be entitled to and receive an annual retirement allowance during the residue of his natural life in the amount of \$6,000.00 payable in monthly installments by the state treasurer from the fund hereinafter created. Provided, that any former judge or justice who has heretofore retired and is receiving retirement pay shall continue to receive only the annual amount of retirement pay fixed by the law in force at the date of his retirement. (Laws 1947, ch. 132, sec. 1; 1953, ch. 124, sec. 1)

Sec. 3-1625. Judges' retirement fund established.--The several clerks of the district courts shall segregate the sum of \$2.50 from each \$7.50 docket fee provided to be paid under the provisions of sec. 16-346, 1941 Compilation and shall credit said sum to a fund to be designated "Judges' Retirement Fund." Within ten (10) days after the first of each month the said clerks shall pay over to the county treasurer all accumulations to said "judges' retirement fund," and the county treasurer shall remit to the state treasurer within thirty (30) days all such funds. The state treasurer shall upon receipt of said retirement funds credit the same to a fund in his office to be designated "judges' retirement fund." Any portion of said "judges' retirement fund" not required to be disbursed as herein provided may be invested by the state treasurer as other funds of the state of New Mexico are invested. (Laws 1947, ch. 132, sec. 2; 1953, ch. 124, sec. 2)

Appendix III (continued)

Sec. 3-1626. Deductions from judges' salaries--From and after the effective date of this act (secs. 3-1624--3-1628), the state auditor shall deduct six per cent (6%) from the salary payable to judges of the district court and justices of the Supreme Court who do not expressly in writing duly acknowledged, filed with the state auditor waive the benefits of this act, and cause the same to be paid into the "Judges' Retirement Fund"; provided, that any judge or justice, who shall have heretofore waived, or may hereafter waive, the benefits of this act, may again become entitled to such benefits by withdrawing such waiver while still holding office, authorizing in writing the state auditor to deduct six per cent (6%) of his salary in the future, and paying into said "Judges' Retirement Fund" an amount equal to the total of the deductions from his salary which would theretofore have been made, except for such waiver, with interest at 6% per annum on such deductions from the respective dates when they would have been made. (Laws 1947, ch. 132, sec. 3; 1949, ch. 143, sec. 1; 1953, ch. 124, sec. 3)

Sec. 3-1627. Accumulated contributions--Payment to beneficiary.--Should any person, who has served as a judge of the district court or justice of the Supreme Court, or both combined, die, resign or cease to be a judge or justice of either of said courts, prior to the time he shall have retired as provided herein eighty per cent (80%) of the amount of his accumulative contribution shall be paid to his beneficiary nominated by written designation duly filed with the secretary of state, or to him, as the case may be. (Laws 1947, ch. 132, sec. 4; 1953, ch. 124, sec. 4)

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**GOVERNMENT OF THE TERRITORY OF HAWAII**

