

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

JOHN T. BRODERICK, JR.
CHIEF JUSTICE



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His Excellency, John H. Lynch
Governor, State of New Hampshire
State House
Concord, New Hampshire 03301

Dear Governor Lynch:

At your request, my colleagues on the Supreme Court along with our Administrative Judges and members of the administrative office have identified reductions that would be necessary to implement your request for an FY10 budget that is 97 % of the FY 09 adjusted appropriation and an FY 11 budget that is set at 100% of the FY 09 adjusted appropriation. My colleagues and I, on behalf of the judicial branch, are fully prepared to participate in ongoing efforts to address the state's revenue shortfall and, as you will see, we are proposing innovative ways to save public funds and improve our efficiency. We remain concerned, however, that deep reductions in our budget will have very serious consequences for the administration of justice in New Hampshire.

As you know, the FY 09 Judicial Branch budget was reduced in June 2008 by \$1,600,000 through the passage of Senate Bill 321. To further control spending, we are working to meet our average annual lapse of \$1,100,000 and have agreed with your request that the Legislature reduce our FY 09 budget by an additional \$441,000. The Administrative Judges and I are working with clerks of court and registers of probate to manage these reductions to minimize their impact on the citizens and businesses of our state. Although the stress of the reductions is felt in every corner of our court system, our judges, marital masters and staff continue to do their best to ensure meaningful and timely access to justice. Despite our best efforts however, there are growing pockets of delay and our one month suspension of jury trials, which was undertaken in an effort to guard against layoffs, has no doubt been disruptive to many litigants. Our

concern is that continuation of certain budget cuts and the possibility of even deeper reductions may jeopardize our ability to provide the timely and efficient dispute resolution services which our citizens and our businesses have a right to expect. Enclosed with this letter are two reduction schedules. The first summarizes cuts from our FY 10 and our FY 11 requests to reach the goal of a 97% - 100% cap for those fiscal years. The second is a calculation of how we arrived at the target reduction amounts.

NEW SOURCE OF FUNDING FOR INFORMATION TECHNOLOGY

Before I comment on those schedules, I want to bring to your attention a proposal that promises to provide funding for judicial branch technical infrastructure at no cost to the general fund. We are asking the Legislature to create a dedicated fund to provide for the maintenance and infrastructure renewal of judicial branch information technology. Funds would come from an increase in the penalty assessment that is added to all fines and from an increase in court filing fees. Our current filing fees are lower than most New England states. Creation of this fund will reduce our request for a general fund appropriation by \$1,835,422 in FY 10 and by \$994,246 in FY 11. Funds would come from those who use the courts and would be used solely to replace and renew our aging technical infrastructure. A dependable and consistent revenue stream is necessary if we are to bring into our business processes the efficiencies that information technology provides, such as remote public access to certain court records. We hope you will support this initiative.

SCHEDULE OF REDUCTIONS

The enclosed schedule of reductions to our FY 10 and FY 11 requests is organized into eight sections: Change Request; Innovations; Efficiencies; Revenue Increases; Cuts that Affect Judges and Staff; Judicial and Non-Judicial Staff Vacancies; Court Consolidations; and Forced layoffs and Reduction in Judge Time.

We project the first seven measures would reduce judicial branch FY 10 expenditures by \$11,290,045. The final category – forced staff layoffs and reduction in judge time – would meet your request for a 97 % reduction and bring our overall cuts up to more than \$14,000,000. We believe it would also seriously damage our court system for years to come and demoralize an already overworked staff. We respectfully urge you not to ask the legislature to take that step.

CHANGE REQUEST

To reach the target reduction, we would have to eliminate our entire change budget request.

INNOVATIONS

My colleagues and I challenged every judge, marital master and staff member to propose innovations that would permit us to save public funds with minimal impact on the citizens we serve. We have developed some of those ideas and included them in our reduction schedule:

- Offer judges and employees the opportunity to take voluntary unpaid furlough for short periods.
- Offer part-time employment to some non-judicial employees who agree to retire from full-time service.
- Contact employees with children under the age of 26 to confirm that their children are still eligible for state-paid health insurance. We may be able to reduce some family plans to two-person plans or even to single-person plans, thereby reducing our benefits line.

One innovation that is not on our list is the federal legislative proposal sponsored by Congressman Ron Kind of Wisconsin and Senator Charles Schumer of New York that would allow the interception of federal income tax refunds to satisfy unpaid court fines. We have asked members of our congressional delegation to support this legislation in hopes it will increase the flow of fine revenue to the general fund.

Importantly, we remain open to other innovative solutions that may be proposed as the budget process continues.

EFFICIENCIES

Judges and staff proposed process changes from turning off personal computers on weekends, to reducing legal subscriptions, to reducing the number of jurors summoned to court and otherwise streamlining the jury selection process. While each of these efficiencies yields relatively minor savings, collectively they amount to more than \$180,000 annually. More importantly, they evidence the spirit of continuous process improvement that makes the judicial branch lean and efficient.

REVENUE INCREASES

As mentioned above, we are proposing that the Legislature create a dedicated fund in support of judicial branch information technology

infrastructure. The direct consequence of this legislation would be to reduce our request for appropriations from the general fund to maintain and renew court technology hardware and software in the next biennium by \$2,829,668.

Other revenue proposals include increasing fees for divorce certificates, certified copies, writs of execution, records research, and time payment of fines. We are very sensitive to the risk of pricing court services out of the reach of some who most need access to the courts, but the proposed increases are not burdensome and may be waived in appropriate cases.

CUTS THAT AFFECT JUDGES AND STAFF

We have already asked judges and non-judicial support staff to personally bear part of the burden of the State's revenue shortfall by reducing mileage reimbursement to 40 cents per mile for staff and 25 cents per mile for judges and masters. We have also asked the Legislature to reduce statutory mileage reimbursement allowed to judges and marital masters for commuting to their home court. If the court system budget is reduced in the range called for in your budget reduction exercise, we would

- continue to reduce payments to and on behalf of judges and staff by suspending payment of organization dues.
- amend judicial branch policy to reduce mileage reimbursement to judges and marital masters traveling to special assignments.
- continue to restrict law clerk travel.

These burdens necessarily fall inequitably on different judges and staff members. At the same time, we believe that these solutions are preferable to layoffs.

FORCED VACANCIES OF JUDICIAL AND NON-JUDICIAL POSITIONS

With your cooperation, we hold seven (12%) of the legislatively authorized 59 full-time judicial positions vacant; and some of those positions have been vacant for seven months. While we are able to blunt the impact of judicial vacancies by using part-time and retired judges, all levels of trial court continue to operate with fewer judicial resources than the National Center for State Courts' workload assessments indicate. Today we hold 39 (more than 6%) of our full-time non-judicial positions vacant. The non-judicial vacancy rate is creeping up slowly as we freeze positions that become vacant when people leave. If necessary to meet your budget reduction request, we would ask that those judicial positions remain vacant

and we will add ten vacancies to the non-judicial workforce, through attrition.

Our dedicated judges, marital masters and staff are demonstrating that we can deliver quality justice with a depleted workforce, for a short time. My colleagues and I are concerned however about the cumulative effect of the vacancies on the people and businesses we serve and on the judges, marital masters and staff who provide those services.

COURT CONSOLIDATIONS

Members of our Administrative Council and I have worked with the Bureau of Court Facilities of the Department of Administrative Services to consider possible trial court consolidations that might yield significant savings. While court closings and relocations will be disruptive, the potential direct savings are substantial and the Legislature should give serious consideration to this proposal. Any court closing would require legislative action following public hearings and legislators will want to keep in mind the consequences to our constituents, especially police departments, as court closings will increase the cost of prosecuting crime when prosecutors and their witnesses are required to travel greater distances to attend court proceedings. We have identified indirect savings, especially in security costs, that would accrue if the Legislature decides to consolidate some trial courts.

FORCED STAFF LAYOFFS AND REDUCTION IN JUDGE TIME

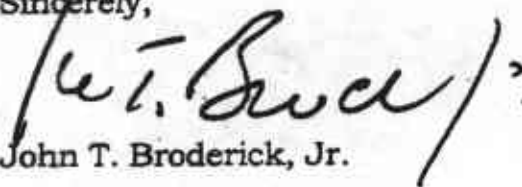
The significant steps outlined above still fall far short of your FY 10 target reduction of \$14,009,308. To meet your goal we would have to seriously cut into the core of our staff and substantially reduce use of per diem and retired judges.

Because 75% of our budget supports salaries and benefits we would have to turn to judicial branch positions, specifically to the three areas over which we have direct control: use of retired judges; use of per diem judges; and employment of non-judicial staff. Theoretically, we could reduce \$1,262,465 from payments to retired and per diem judges and \$1,467,856 from non-judicial salaries and benefits. We strongly recommend against either action. The first would trigger further delays in hearings and trials; the second would result in staff reductions that would seriously interfere with the public's timely access to justice.

The process of searching for over \$14,000,000 in cuts has been difficult, but it has prompted us to explore innovations and efficiencies that,

if implemented, would serve the courts and the public well in years to come. At the same time, as we reviewed the many constitutional and statutory mandates which we must carry out every day, the stark impact that severe budget cuts would have on our ability to carry out our core responsibilities became clear. My colleagues and I pledge to continue to work in good faith with you and legislative leaders to find the most constructive solutions to the State's revenue shortfall, while maintaining our commitment and fulfilling our obligations to the citizens and businesses of New Hampshire to provide a fair and efficient justice system.

Sincerely,



John T. Broderick, Jr.

JTB/id

Enclosures

cc: Commissioner Linda Hodgdon