

THE STATE OF NEW HAMPSHIRE SUPREME COURT

John T. Broderick, Jr.
Chief Justice



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November 10, 2009

Representative W. Douglas Scamman
House Finance Committee
Legislative Office Building, Room 212
Concord NH 03301

Representative Neal Kurk
House Finance Committee
Legislative Office Building, Room 212
Concord NH 03301

Dear Representative Scammon and Representative Kurk:

My colleagues and I have discussed with the Administrative Judges and our administrative staff the request in your October 1, 2009 letter. We are alarmed at the consequences of a 15% reduction in the general fund appropriation to the judicial branch, which would require an additional \$10 million reduction from our current operating budget. Not only would many skilled and loyal employees lose their jobs, but the citizens of New Hampshire would be left without forums for the prosecution of criminal and juvenile charges, the resolution of civil disputes, and the orderly administration of estates.

Your 15% general fund budget reduction exercise presents a special challenge to the judicial branch because the Legislature's allocation of revenue among the general fund and various dedicated funds has left the third branch of government almost entirely dependent upon the general fund while other governmental units are supported by other state revenue sources. Over 90% of the judicial appropriation comes from general fund revenues, as distinct from other sources of state revenue.

Mandatory Expenses

A significant portion of the judicial branch budget consists of mandatory expenditures, including judges' salaries and benefits (we can neither lay off salaried judges nor require that they take furloughs) and interpreter fees (federal regulations require that we provide interpreters). Our inability to reduce these fixed expenses

requires that we take the entire 15% reduction from the remaining parts of the judicial branch budget, principally from non-judicial salaries and benefits.

Discretionary Expenses

In the course of the hearings that yielded the FY 2010-2011 adjusted operating budget, we reduced discretionary expense to the minimum needed to support court operations. We currently have 573 full-time employees on the non-judicial payroll. We hold 59 non-judicial positions vacant and unfunded in order to stay within our reduced appropriation.

Your proposed 15% reduction would fall on four segments of the judicial branch budget:

1. Non-judicial salaries and benefits account for the largest part of discretionary expenses. The 15% reduction necessarily falls directly on our non-judicial staff.
2. We left \$555,000 for per diem judges in our adjusted FY 2011 budget. We would cease using per diem judges in the district courts and in the family division under your proposal, in order to spare non-judicial positions from further layoffs.
3. We would cancel jury trials in the superior court for two months in FY 2011 to save non-judicial positions.
4. We would reduce current expense, consistent with the lack of non-judicial staff.

15% General Fund Budget Reduction

The schedule below shows how the courts would carry out your 15% general fund budget reduction. We make a number of assumptions, including the following:

1. We have applied the reduction to FY 2011, for purposes of this exercise.
2. The reduction you propose would include (and not be in addition to) the \$3.1 Million reduction of judicial branch general fund personnel-related expenses included in the Governor's plan to implement Section 144:289 of HB1. We allocate \$899,000 of this \$3.1 Million reduction to FY 2010 and \$2,201,000 to FY 2011.
3. We converted the non-judicial salary and benefit reductions into staff positions at an average net savings of \$53,000 per position in FY 2011.

**JUDICIAL BRANCH
SAVINGS OF 15% OF FY 2011 GENERAL FUNDS**

	FY 2011
General Funds	\$71,798,348
Footnote Reduction	\$ (400,000)
Net General Funds	\$71,398,348
15% of Net General Funds	\$10,709,752
Savings by eliminating two months of jury trials.	\$ (150,000)
Other achievable savings in current expense.	\$ (21,149)
Judicial Branch portion of \$25M personnel savings required in FY 2011 budget.	\$(2,201,000)
Reduction of 10% district and family division sessions bringing these courts to 80% of judicial sessions.	\$ (554,918)
Remaining savings from layoff of 148 non-judicial personnel effective June 4, 2010.	\$ (7,782,685)

A 15% general fund reduction would trigger the layoff of 148 non-judicial employees. We would try to operate with 207 vacancies, representing 33% of our non-judicial workforce. The surviving non-judicial employees could not possibly provide meaningful service to the public or support to the judges who cannot be laid off and whom we cannot require to take furloughs. The resulting imbalance between judicial and non-judicial staff would be grossly inefficient and a waste of taxpayers' money. Furthermore, elimination of per diem judges would cripple district courts and the family division.

In connection with your search for ways to reduce general fund expenditures, we remind you that current statutes require that we operate 78 courts at 40 locations throughout the state. My colleagues and I joined Governor Lynch in a plan to close eight facilities in order to save annual lease and security expenditures. The Legislature decided to close one court, New London District Court, which was the smallest court in the state, and to study the feasibility of closing courts in Claremont, Colebrook, and Milford. The legislative study committee report is due this month. These court consolidations offer the opportunity to permanently reduce general fund expenditures.

You ask that we “prioritize programs/functions, keeping in mind the lowest priority programs/functions may be entirely eliminated.” The House Finance Committee asked us to identify “core functions” on January 22, 2009. Then, as now, the judicial branch has no programs. All judicial branch resources are applied directly to dispute resolution activities that are required by the New Hampshire Constitution or by New Hampshire statutes or to administrative support services that are necessary to those dispute resolution activities. Even non-traditional activities such as alternative dispute resolution, drug courts, and mental health courts are designed to resolve disputes. Furthermore, each of these dispute resolution techniques offers special advantages and economies that support expansion, rather than curtailment or elimination.

I have posted on the Judicial Branch Intranet all important documents prepared in connection with development and implementation of the FY 2010-2011 budget so that our judges and staff will be fully apprised of important funding matters. I will post on our Intranet your October 1 letter and this response in order to continue to keep judges and staff informed and also to forestall any misunderstanding or confusion concerning the context in which I propose layoffs. More specifically, my colleagues and I have consistently stated that we would consider layoffs only as a last resort. Your 15% budget reduction exercise presents a circumstance so desperate that layoffs would be necessary.

My colleagues and I remain committed to operating a lean and efficient court system. We will continue to work with you and your colleagues as you seek solutions to the State’s current fiscal challenges.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Broderick, Jr.", written in a cursive style.

John T. Broderick, Jr.
Chief Justice

JTB/pah