

COMMENTARY OF THE GOVERNOR ON THE JUDICIARY

In accordance with Article VII, Section 1 of the State Constitution, I am transmitting herewith the appropriations requested by the Judiciary for fiscal year 2010-11. As required by the Constitution, I am presenting the Judiciary budget as it has been submitted by the Chief Judge.

The Judiciary has requested appropriations totaling over \$2.7 billion, which reflects an increase of \$183.5 million, or 7.3 percent, from the prior year. A portion of this growth is attributable to an \$84.6 million increase in the Judiciary's contribution to the State's pension fund. However, even after excluding this increase that is arguably beyond the control of the Judiciary, support for court operations is still projected to grow by 3.9 percent. This increase stands in contrast to the recommended overall budget increase for State Funds of 1.8 percent.

The Judiciary advances at least three new initiatives that result in increased costs.

First, the proposed budget contains language authorizing an increase in judicial salaries retroactive to April 1, 2005. Under the proposal, judicial salaries would increase by approximately 31 percent in the coming fiscal year at an annual cost of \$48 million. While it is regrettable that judges have not received a salary increase since 1999, the size of the increase is quite large given the current economic climate.

Second, the Chief Judge has doubled the amount judges receive annually from the Judicial Supplemental Support Fund as a supplement to their salaries. Under this proposal, each judge receives \$10,000 to compensate for the cost of goods and services purchased "in the performance of their judicial responsibilities". There appears to be little restriction on how these funds are spent.

Third, the proposed budget includes a new \$15 million subsidy for civil legal services, a program for which the Judiciary has no direct responsibility. While I have long been a staunch supporter of adequate funding for civil legal services, I believe it is inappropriate to include this funding as part of the Judiciary budget. Indeed, I requested that the Judiciary not include it, as I believe the action runs contrary to the Executive Budget process as outlined in the State Constitution.

I recognize that the economic climate has severely reduced the interest earnings upon which this program relies. Therefore, after much consideration, I have chosen to submit legislation to increase certain court fees. By increasing fees charged at the initiation of a case or a motion, sufficient revenue is generated to support not only the \$15 million subsidy for civil legal services contained in this request, but a \$10 million investment in improving indigent legal services as well. The fees are designed to provide disincentives for the filing of frivolous cases and motions, while not creating access to justice concerns. It is my hope that the proposed fee structure will assist in reducing the backlog in our courts, while also funding legal services for those to whom justice might otherwise be denied.

Aside from these three specific initiatives, the Judiciary budget appears to lack initiatives to restrain spending or consolidate operations. Admittedly, the operation of the courts and their reform is no simple matter; but it must also be acknowledged that the \$2.7 billion Judiciary budget is a significant part of the overall State budget. The Judiciary must accept that each branch of government can no longer conduct "business as usual", and that all branches share an obligation to taxpayers to restructure government in light of the State's new fiscal reality. For example, adherence by the Judiciary to my proposed spending cap would have generated savings of \$132 million.

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Given the serious fiscal situation in which the State finds itself, I am transmitting the Judiciary's budget submission along with a strong charge to the Legislature to evaluate this request carefully. I also call upon the Chief Judge to revisit this request and offer suggestions for how it may be reduced. Although the court's workload has indeed increased, my Executive branch agencies are facing similar challenges to maintain or improve the quality of their services – and must do so with budgets that are smaller than they were a year ago.