

SUPREME COURT OF VERMONT
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July 16, 2009

Representative Michael Obuchowski, Chair
Joint Fiscal Committee
State House
Montpelier, Vermont 05602

Dear Representative Obuchowski:

The Judiciary has reviewed the Administration's savings plan that is being presented to the Committee today. The plan makes several assumptions about the basis for the allocation of savings that works to the benefit of the Executive Branch and to the detriment of the Judicial and Legislative Branches.

First, in the allocation contained in Attachment A, the Administration's plan prorates the shares of the total savings by each Branch's FY 2009 payroll participation in the General Fund. The 13.4 million reduction in Act 2 of the recent Special Session was intended to focus on reducing the portion of the personal services budget allocated to employees who had not taken a 5% reduction, i.e., non exempt employees. Instead of determining the allocation for each Branch based on the budget of non-exempt employees, the Executive Branch has based the allocation on the total personal service budget, including employees that have already contributed 5% of their salaries. This allocation results in a higher share for the Judicial and Legislative Branches because they have a higher proportion of employees who already have taken a 5% reduction.

Second, after already allocating the proportionate share in Attachment A, the Administration claims credit as part of their portion of the savings for Pay Act savings appropriated to the Judiciary and Legislature through the allocations in Attachment E. In addition to the claim of credit, the alternative plan applies a generic percentage for General Fund participation that reduces the appropriations for the Judiciary and Legislature far more dramatically than was intended when Act 206 of 2008 was passed. Act 206 appropriated \$7,147,978 in General Fund for Pay Act. Of that amount \$706,615 was appropriated to the Judiciary and \$143,670 to the Legislature or about 12% of the total. The passage of Act 206 was the first time the Legislature appropriated Pay Act funds directly to a specific branch of government instead of appropriating a lump sum for the Administration to allocate to the

branches. In Attachment E, the Administration approaches the Pay Act as if it had been a lump sum for which the Administration has authority to set the rules and allocate.

As you can see in Attachment E, after the application of the Administration's formula, the Judiciary's and Legislature's Pay Act entitlement is decreased by \$551,868 and becomes 48% of the claimed savings of \$1,145,924. In the process, the Judiciary's and Legislature's share of the Pay Act decreases from 12% to 5% of the total. The Judiciary does not recognize the authority of the Executive Branch to make this determination and use these savings to meet the reductions that should occur in the Executive Branch. Pay Act savings should accrue to each branch and be used by that branch to contribute to the savings demanded in Attachment A.

Third, the Administration's proposal also gives the Executive Branch credit for all the savings in personal services caused by the retirement incentive. Under the law, the retirement incentive program is not tied into Sec. 10 of Act 2 relating to the alternate savings plan. The retirement incentive clearly contemplates that each Branch is responsible for its own decision-making in administering the impact of the results of the incentive within the Branch. Since each Branch is responsible for their own decisions, each Branch should have the incentive to benefit from the savings created by the incentive to mitigate reduced funding levels.

The Judiciary will meet the reductions set forth in Attachment A by reducing \$346,615 from the General Fund appropriation associated with DeptID 2120950000 and \$185,839 from the General Fund appropriation associated with DeptID 2120000000 for a total reduction of \$532,454.

In order to meet FY 2010 funding levels, the Judiciary is keeping 30 of the Judiciary's 356 positions vacant, continuing the ½ day closings each week and is declaring 12 furlough days during which all courts will be closed. The Judiciary will use savings caused by the retirement incentive to help manage our reduced appropriation levels in the hope of mitigating some of the furlough days later in the year.

Please let me know if you have any questions.

Sincerely,



Robert Greemore
Acting Court Administrator

cc: Joint Fiscal Committee
Supreme Court Justices
Neale Lunderville, Secretary of Administration
James Reardon, Commissioner, Department of Finance and Management
Steve Klein, Joint Fiscal Officer