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## Courts' Budget Is Approved Without Cuts

BY JOHN CAHER

ALBANY — With New York income tax revenues falling more than \$1 billion below projections and a two-year state budget deficit of \$7 billion, the Judiciary was understandably frantic this month when it became obvious that the annual give-and-take with Albany number crunchers would be mainly take.

The Pataki Administration was demanding cutbacks, and the Judiciary was an easy and attractive target. Its proposed budget totaled \$1.77 billion and increased general fund spending by 3.5 percent. The Third Branch was coming off several years of extraordinarily good luck when its budgets quietly slipped through the Legislature without alteration. Neither of the other two branches was looking for an increase. There was concern that if anyone was looking for an extra million dollars or so — and there were a lot of advocates inside and outside of government

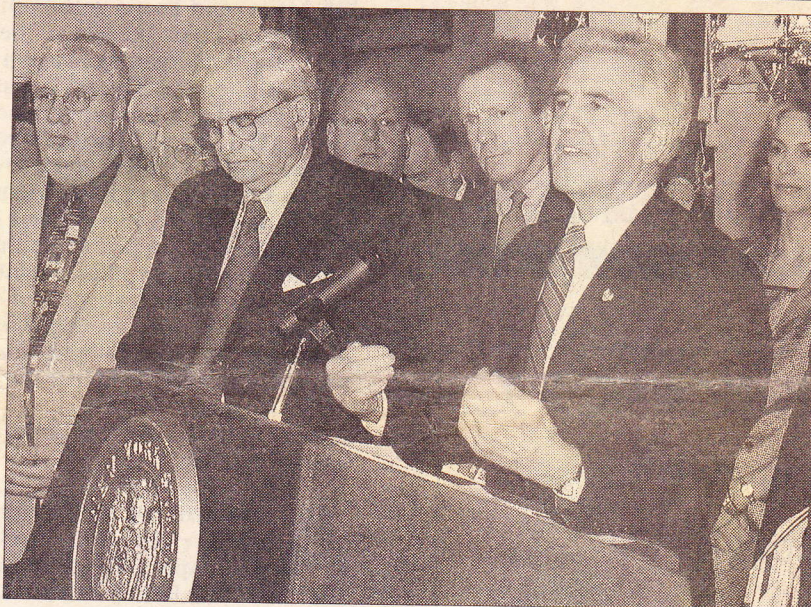


PHOTO BY ALAN SOLOMON

**State Senate Majority Leader Joseph Bruno, surrounded by legislators, discusses the budget passed yesterday at a news conference in Albany.**

scampering for funds — the Judiciary's budget would become the target of a raid, or even a feeding frenzy.

Further, the Judiciary is virtually out of the loop in budget discussions. Chief Administrative Judge Jonathan Lippman has no seat at the negotiating table. He does, however, have a pair of influential representatives

in Senator Judiciary Committee Chairman James J. Lack and Assembly Judiciary Committee Chairwoman Helene E. Weinstein, and a measure of goodwill dating back to Governor George E. Pataki's first year in office, when Chief Judge

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# Courts' Budget Unscathed in Cutbacks

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Judith S. Kaye voluntarily cut her own budget to assist the newly elected executive.

Yesterday, that currency proved valuable as the Judiciary emerged from the budget process almost miraculously unscathed. In the end, not one penny was cut from the Judiciary budget by the Legislature, and there is every indication that Mr. Pataki will sign off on the spending plan.

"The courts are expanding, the cases are expanding and we have a clear recognition of how important the Judiciary is," said Senate Majority Leader Joseph L. Bruno, R-Rensselaer County. "I think the Judiciary has been very responsible, and we have tried to be responsive to their needs."

## Austere Budget

Judge Lippman and his staff have been quietly lobbying for the budget since early December, making a case that the spending plan was already austere and restrained. They stressed, repeatedly, that the budget-in-progress was entirely scrapped after the Sept. 11 attacks, that the new budget cut virtually everything except security and contractual costs, and that the overall requested increase — \$45.4 million — was less than the \$47.5 million needed just to cover negotiated pay raises. Additionally, Judge Lippman imposed a 15-month hiring freeze.

The handful of lawmakers who pay any real attention to the Judiciary Budget praised the efforts of the Third Branch. But, until yesterday, it was uncertain whether the spending plan would survive an election year, when politicians are looking for money to spend, and happy to find it in an area like the courts, where the constituents have little fiscal and political clout.

Behind the scenes, Judge Lippman and his staff worked the halls of the Legislature, lining up crucial support from Mr. Lack, Ms. Weinstein, Assembly Ways and Means Committee Chairman Herman "Denny" Farrell Jr., D-Manhattan, and Senate Finance Committee Chairman Ronald B. Stafford, R-Plattsburgh. By the time yesterday came around, the Judiciary had the support of both Judiciary Committee chairs, both financial committee chairmen, Senate Majority Leader Bruno, Assembly Speaker Sheldon Silver, D-Manhattan, and Governor Pataki's top advisers.

Mr. Lack, who early in the session cited the Judiciary budget as his foremost legislative goal, said the groundwork and follow-up by the

Judiciary made it possible for the spending plan to survive an unusually difficult year.

"If there are ever any questions, Judge Lippman and his staff have the answers often within minutes and certainly that day," Mr. Lack said. "It is not easy for the Judiciary to define, in small 'p' political terms, how the money is being spent. What I mean is, there is no constituency out there. It is not as if they can say, 'We are doing this for education, teachers, kids...' The Judiciary budget is not exactly a sexy document. Politically, that makes it difficult, particularly this year."

Ms. Weinstein yesterday said the Judiciary set the stage by presenting a responsible budget sensitive to the burdens resulting from Sept. 11.

"We recognized that there were cost-cutting measures they imposed, and that the increases were for either contractual expenses or increased security," Ms. Weinstein said.

Judge Lippman was elated yesterday with the passage of his budget, and quickly credited Senators Lack and Stafford and Assembly members Weinstein and Farrell.

"We received total support because, I hope, we were able to demonstrate that we understand the fiscal realities that the state was facing, that we were going to do our share as a partner in government, that we would sacrifice where appropriate but must meet our constitutional obligations," Judge Lippman said. "We recognize that we cannot exist in a vacuum when the state is under such severe fiscal pressures, but we must keep the Judiciary strong. We can't turn cases away that come to us."

## 'Vote of Confidence'

Judge Lippman said the budget agreement is a "vote of confidence in the Judiciary, in the stewardship of the courts."

"When we put in the budget on Dec. 1, we did so with some trepidation. But every place we went — from the chairs of the Judiciary Committees, to the leaders themselves, to the chief fiscal officers, to the rank and file legislators — we had a terrific response," he said. "The Executive Branch has also been extremely supportive. We are very grateful for [Mr. Pataki's] support. The most gratifying thing is the confidence the other branches and the executive have demonstrated in the courts. I couldn't feel better about it."

The budget maintains Chief Judge Kaye's major initiatives in so-called "problem-solving courts," such as drug courts and domestic violence courts. However, neither

the Judiciary budget nor the overall state budget addresses a lingering issue of vital concern to the legal profession: fees for court-appointed counsel. Lawyers, lawmakers and judges have been urging the first increase in assigned counsel fees since 1986, but there is none to be found in the budget documents now heading to the executive chamber.

Regardless, insiders remain optimistic that a fee increase could be negotiated outside of the budget. For that to happen, though, would require a new source of dedicated revenue. One option is to increase court filing fees and attorney registration fees to raise money for assigned counsel, but the New York State Bar Association and the organized trial bar are strongly opposed to that possible solution.

"I had hoped we would have reached agreement on 18-b rates, and I am still hopeful we can continue to have some meaningful discussions outside of the budget," Ms. Weinstein said.

## Triple the Inflation Rate

Overall, the state budget totals \$89.6 billion and raises all-fund spending by about 6 percent, or roughly triple the inflation rate. It is balanced on several one-shot funding sources, including \$2.5 billion in federal aid, and the assumption that the economy will rebound strongly over the next year.

However, it reduces general fund spending for the first time since 1995 by \$1 billion, or 2.6 percent. There are no income tax increases, but there are several increases in fees and in the cigarette tax. There are no layoffs, but an early retirement incentive will be offered to about 4,000 workers, or roughly 2 percent of the state workforce.

"Doing a budget in New York State is extremely difficult, rather dysfunctional — and more so when you have the pressures of deficits," Mr. Bruno said. "This was a particularly challenging year... We have met the challenge, and we met it in a prudent, responsible, sensible way that in no way puts the state in jeopardy. We can go forward with pride."

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