

1 BEFORE THE NEW YORK STATE SENATE FINANCE
2 AND ASSEMBLY WAYS AND MEANS COMMITTEES

3 JOINT LEGISLATIVE HEARING
4 In the Matter of the
5 2011-2012 EXECUTIVE BUDGET ON
6 PUBLIC PROTECTION

7 Hearing Room B
8 Legislative Office Bldg.
9 Albany, New York

10 February 9, 2011
11 9:30 a.m.

12 PRESIDING:

13 Senator John A. DeFrancisco
14 Chair, Senate Finance Committee

15 Assemblyman Herman D. Farrell, Jr.
16 Chair, Assembly Ways & Means Committee

17 PRESENT:

18 Assemblyman James P. Hayes
19 Assembly Ways & Means Committee (RM)

20 Assemblywoman Helene E. Weinstein
21 Chair, Assembly Committee on Judiciary

22 Senator John J. Bonacic
23 Chair, Senate Committee on Judiciary

24 Assemblyman Joseph R. Lentol
Chair, Assembly Committee on Codes

Senator Michael F. Nozzolio
Chair, Senate Committee on Crime Victims,
Crime and Correction

Assemblyman Jeffrion L. Aubry
Chair, Assembly Committee on Corrections

1 2011-2012 Executive Budget
2 Public Protection
2-09-11

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4 PRESENT: (Continued)

5 Senator Stephen M. Saland
Chair, Senate Committee on Codes

6 Assemblywoman RoAnn M. Destito
7 Chair, Assembly Committee on Governmental
Operations

8 Senator Elizabeth O'C. Little

9 Assemblyman Marcus Molinaro

10 Senator Ruth Hassell-Thompson

11 Assemblyman Rory I. Lancman

12 Senator Michael N. Gianaris

13 Assemblywoman Aravella Simotas

14 Senator Gustavo Rivera

15 Assemblyman Philip Boyle

16 Assemblyman William Colton

17 Senator Velmanette Montgomery

18 Assemblyman Clifford W. Crouch

19 Assemblyman J. Gary Pretlow

20 Senator Catharine M. Young

21 Assemblyman Mike Spano

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Chip
Administrative
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Judge
Ann Ryan

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for the courts outside of New York City.
And next to me is Maureen McAlary, who's our
director of the budget.

And before I begin with the fiscal
needs, I really want to just begin by
expressing my great gratitude to the
Legislature for enacting the judicial
compensation law that was recently enacted,
with the salary commission. It really does
produce a long-standing solution to the
crisis that has crippled us for so long with
judicial salaries.

We are very grateful, and we know what
it means for the institution and the future
of New York, that it means that we can
maintain the high-quality bench in New York
that is just so critical to the economic
well-being and to the families who live in
New York. So again, I want to begin by
expressing my great gratitude to you for
that legislation.

I want to also discuss what the budget
looks like this year, which is different
from last year. What we have presented this

1 year, for purposes of clarity and to conform
2 our format to that used by the other
3 branches, are two separate documents. One
4 contains the operating budget, which are
5 really the operating needs for the courts
6 for the coming fiscal year. And the second
7 contains the general state charges; that is
8 the pension and health-related costs --
9 costs that certainly are outside of our
10 control -- again for the judiciary for the
11 coming fiscal year.

12 This is the first step in what we hope
13 to continue working with you to continue to
14 make sure that our budget is as transparent,
15 as simple, and as straightforward as
16 possible so everybody understands very
17 clearly how the taxpayers', hardworking
18 taxpayers' dollars are being put to use in
19 the New York State Judiciary.

20 This year particularly we are very,
21 very aware of the need to make sure that our
22 budget is as fiscally prudent as possible,
23 but at the same time a budget that allows us
24 to carry out our constitutional obligations


1 expenditure of -- and whether you thought
2 that was a prudent expenditure of money?

3 JUDGE PFAU: Yeah, thank you. I
4 appreciate the opportunity to do that.

5 I mean, starting with this year's
6 budget, I would say that, number one, the
7 idea of this use of Centennial Hall is
8 something that started quite a few years ago
9 in a different fiscal time, in a different
10 era, when the city was concerned about
11 having this abandoned building in the middle
12 of the city. So there was a certain sense
13 that it could make sense back in that time.

14 It was submitted in our budget in
15 2006-2007. Obviously, the funding was
16 approved by the Legislature. And the total
17 funds have essentially been expended, so
18 that there is no new money requested in the
19 budget for Centennial Hall for next year.

20 SENATOR BONACIC: Okay. Thank you,
21 Your Honor.

22  And my last question, you know, with
23 the legislative budget we itemize in very
24 specific detail every aspect of every

1 elected official's office. And we're
2 wondering if -- we would like to see the
3 Judiciary do that with respect to every
4 judge and office with personnel and
5 expenditures, to the same standard with
6 respect to the legislative budget. Because
7 we need transparency and accountability.

8 Is that something that you would be
9 willing to undertake and do, to the same
10 degree of itemization as our legislative
11 budget?

12 JUDGE PFAU: I think a couple of
13 things.

14 I think I couldn't agree with you more
15 that our budget, like your budget, like
16 every budget, has to be transparent, has to
17 be readable. Any citizen should be able to
18 pick it up and understand where their
19 taxpayer dollars have gone. So we would
20 absolutely be willing to work with you, to
21 work with the Division of the Budget towards
22 a budget that works and is as transparent
23 and as itemized as possible.

24 There is a certain flexibility I will

1 say that I think it's important for us to
2 maintain. For example, when we need to make
3 sure -- and one of the reasons many years
4 ago we went from a county-based funding
5 system to a state-based funding system with
6 the state courts was to make sure there was
7 an equalization of the funds that were
8 available to courts. So there are some
9 times in some years -- for example, in
10 Queens, when it turned out that it was
11 really the epicenter of foreclosures, we
12 need the flexibility to make sure that a
13 specific court has the resources it needs
14 when something unexpected occurs.

15 So within the ability to be flexible,
16 we would be absolutely delighted to work
17 with you to make sure that our budget, you
18 know, addresses all of the concerns that you
19 have.

20 SENATOR BONACIC: Thank you,
21 Your Honor.

22 JUDGE PFAU: Thank you.


23 CHAIRMAN FARRELL: Thank you.

24 Jim Hayes.

1 Bonacic's question about the --

2 CHAIRMAN DeFRANCISCO: Excuse me,
3 Senator. I forgot twice now that we have
4 Senators Little and Gianaris who have joined
5 us.

6 SENATOR NOZZOLIO: Thank you,
7 Senator.

8  I'd like to follow up on Senator
9 Bonacic's question regarding an open
10 judicial budget. And I believe your answer
11 missed the point. The point that Senator
12 Bonacic was asking you about were not the
13 budgeting process, not the allocation of
14 those resources during a budgetary review,
15 but rather the itemization of the specific
16 expenditures made by each individual judge
17 and each individual court across this state.

18 Each individual legislator sitting at
19 this dais, as well as all the other
20 legislators, as well as the Executive, have
21 the requirement of itemizing their
22 expenditures. Why don't judges do the same?

23 JUDGE PFAU: Most of -- the vast
24 minority of the expenditures that we have

1 are expenditures associated with an
2 individual judge. A judge has, at the
3 maximum, two employees, the chamber staff
4 that are statutorily authorized for the
5 judge. The nonjudicial employees that make
6 up -- you know, the other thousands that
7 make up the court system are not necessarily
8 affiliated with any individual judge or
9 necessarily even any specific court.

10 Upstate, for example, they would be
11 affiliated with the judicial district, so
12 that we can assign them as needed to a city
13 court or maybe we have a need in the county
14 courts so we would assign them to a county
15 court. So that it is not driven by the
16 judge and the judge's hiring, it is more
17 centrally driven to make sure that they can
18 be assigned as we need them.

19 But I'm happy to continue to have that
20 conversation -- you and I talked about this
21 last year -- happy to have the conversation
22 to make sure that it is as specific, as
23 transparent, as open as we possibly can. It
24 is just a different system where it's not

1 necessarily -- as your system is driven by
2 the members, your budgeting, ours is driven
3 by our court structure and our
4 administrative structure, as opposed to
5 individual judges.

6 SENATOR NOZZOLIO: Well, Judge, let's
7 start with the judges' cost of operating
8 their offices, including their staff. And
9 then the next step would logically be the
10 list, the roster of those researchers and
11 other court personnel connected with the
12 administration of the court.

13 Now, that's what we're asking for. We
14 believe the Judiciary should follow the
15 example of itemizing their expenditures.
16 Whether they be assigned to an individual
17 judge or an individual court is not
18 determinative factor. What is the
19 determinative factor is that each
20 expenditure be open and itemized for public
21 review.

22 And we hope that in order to restore
23 confidence in the Judiciary, as well as
24 we're trying to restore confidence in all

1 areas of government, that the Judiciary does
2 not drag its feet, does not try to hide
3 behind a cloak of secrecy, and itemizes
4 those expenditures appropriately.

5 JUDGE PFAU: And we're happy to do
6 that. I don't think that we -- certainly I
7 have never gone into this wanting to hide
8 behind a cloak of secrecy.

9 You know, is this the budget that tells
10 the story the way it should be told?
11 Probably not. Do we have to do better? Of
12 course. And what exactly the right answer
13 is for us to make sure our budget is one
14 that everyone has confidence in and
15 understands what their dollars are for, I
16 think that's a process that we absolutely
17 will work on with you, with the Division of
18 the Budget. It has to be something that
19 everybody can use and understand. But we
20 will do that, absolutely.

21 SENATOR NOZZOLIO: Thank you, Judge.

22 JUDGE PFAU: Thank you so much.

23 SENATOR NOZZOLIO: Thank you,

24 Mr. Chairman.

1 luxuries being eliminated.

2 JUDGE PFAU: I absolutely agree. And
3 we will provide you with that list.

4 CHAIRMAN DeFRANCISCO: Now, the Pace
5 University -- the judges' school at Pace
6 University. Is it at Pace?

7 JUDGE PFAU: Judicial Institute, yes.

8 * CHAIRMAN DeFRANCISCO: Judicial
9 Institute. It's very -- it's impossible,
10 under this budget, to figure out exactly
11 what the cost of Pace is, because all the
12 personnel are lumped together.

13 And so when you talk about itemized
14 budgets, it's not only itemized budgets of a
15 court, a judge and who participates in that
16 courtroom, but it's also the Pace -- can
17 you, the financial person or somebody tell
18 me what the total cost of the Judicial
19 Institute is in this budget?

20 JUDGE PFAU: I can tell you the
21 operating cost, just operating the building
22 cost, the MPS cost is about \$300,000 a year.

23 CHAIRMAN DeFRANCISCO: To operate the
24 building.