

**Supreme Court of Vermont
Office of State Court Administrator**

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To: Sen. Dick Sears, Chair
Senate Judiciary Committee

From: Patricia Gabel, Esq., State Court Administrator

Date: April 22, 2020

Re: Judicial Offsets

The Judiciary appreciates this opportunity to explain our process of tax offsets to the Committee. Over the past few years, revenues collected through tax offset have grown significantly, leading the Judiciary and other revenue partners to be more reliant on this collection method.

The Judiciary only keeps a small portion of the revenues collected on Judicial debt. The three sources of revenue supporting the Judiciary are as follows:

- Administrative surcharge for civil violations (\$12.50) under 13 V.S.A. §7252
- Failure to Answer fee (\$20) under 4 V.S.A. §1105
- Failure to Pay fee (\$30) under 4 V.S.A. §1109

The remaining revenues collected get allocated to other revenue partners, such as the Defender General, the Victims Compensation Special Fund, the Domestic and Sexual Violence Special Fund, the Crime Victims Restitution Special Fund, and the General Fund. In addition, municipalities and the Vermont Transportation Agency receive funds from civil violations collected by the Judiciary. I am not able to report on revenues that flow to these revenue partners or the consequences of not collecting.

FY20 offsets Y-T-D

| Intercept Type | Agency Name | Loaded Count | Loaded Amount | Collected Count | Collected Amount |
|----------------|----------------------------------|--------------|---------------|-----------------|------------------|
| 90920 | Defender General | 1,769 | 136,915.47 | 1,135 | 113,673.99 |
| 90925 | Vermont Judicial Bureau | 74,062 | 14,498,409.29 | 1,914 | 330,434.05 |
| 90923 | Vermont Judiciary - Trial Courts | 43,158 | 12,136,680.06 | 3,977 | 989,692.50 |

A decline in collections creates a complexity of consequences, including an increase in accounts receivables and staff time managing the larger volume of debt. One of those consequences is that the Judiciary (and other revenue partners) have become more reliant on tax offset to collect a greater percentage of the revenue.

| | Pre – 2017 | 2017 – Present Act 147 of 2016 |
|---------------------------|------------|-----------------------------------|
| Fine for Violation | ✓ | ✗ |
| Suspend License | ✓ | 30 days on point violations only |
| Failure to Pay/Answer Fee | ✓ | ✗ |
| \$80 Reinstatement Fee | ✓ | ✓ |
| Credit Reporting | ✗ | ✗ |
| Interest Charges | ✗ | ✗ |
| Monthly Billing | ✗ | ✗ |
| Tax Offset | ✓ | ✓ |

The funds that do support the Judiciary go into the Court Technology Fund, created in 2007 under 4 V.S.A. § 27, provides as follows:

There is established the court technology special fund which shall be managed in accordance with subchapter 5 of chapter 7 of Title 32. Administrative fees collected pursuant to 13 V.S.A. § 7252 and revenue collected pursuant to fees established pursuant to sections 1105 and 1109 of this title shall be deposited and credited to this fund. The fund shall be available to the judicial branch to pay for contractual and operating expenses and project-related staffing not covered by the general fund related to the following:

- (1) **The acquisition and maintenance of software and hardware needed for case management**, electronic filing, an electronic document management system, and the expense of implementation, including training.*
- (2) The acquisition and maintenance of electronic audio and video court recording and conferencing equipment.*
- (3) The acquisition, maintenance, and support of the judiciary's information technology network, including training. [Emphasis added.]*

Subsection (3) permits the Judiciary to use the Court Technology Special Fund for the ongoing support of its information technology needs, including the general operations of the information technology unit of the Judiciary (known as the “Research and Information Services” or “RIS” unit). The Judiciary has used the Fund extensively for that purpose when General Funds were not available to support the entirety of the RIS budget.

Currently, the RIS unit's operating budget is approximately \$2.9M annually, of which \$1.6M is budgeted from the Court Technology Special Fund and \$1.3M is effectively filling a hole in the General Funds budget to cover payroll for permanent positions. This \$1.3M budget hole in the General Fund budget is a hangover from the Great Recession. The Tech Fund struggles to achieve \$1.6M additional money annually in revenue, so effectively the entirety of anticipated Tech Fund revenues had been budgeted to prop up the General Fund budget hole. As a result, historically, there had been little or no Fund revenue available to support the other statutory purposes.

Recently, several developments have occurred that have allowed – and should continue to allow – the Judiciary to support the ongoing maintenance of its newly acquired Next Generation Case Management System (NG-CMS). The development of an annual fund balance in the Court Technology Fund – has allowed the Judiciary to target this balance toward projects such as the NG-CMS.

The Judiciary plans to utilize \$2.4M from the Court Technology Special Fund toward the five-year acquisition and implementation cost of the NG-CMS. Specifically, the Judiciary has identified “staffing backfill” (at an estimated cost of \$1.75M) as a critical project component, and has targeted the Court Technology Special Fund as an appropriate funding source. “Staffing backfill” involves hiring additional “line staff” (generally temporary employees) to keep the critical court operations of the Judiciary at full functional levels while key Judiciary staff members from throughout the organization are removed from their daily activities and dedicated to the project team implementing the NG-CMS. The consensus of current project management doctrine identifies staffing backfill as a critical component of IT project implementation success. Given that staffing backfill involves annual personnel costs, funding it with the Court Technology Special Fund avoids the issue as to whether it is an appropriate use of Capital Funds. The authorizing statute for the Court Technology Special Fund broadly allows these funds to be used for “expenses of implementation” of the NG-CMS.

We have also targeted the Court Technology Special Fund for annual Software maintenance for the NG-CMS. This annual payment of \$322K begins in FY2020. In addition, the Judiciary's use of ADS network services (including bandwidth and storage) may increase due to the use of the more powerful technology, however it is premature to estimate the additional usage and ADS would not be in a position to estimate the corresponding increase in costs at this time. Finally, the system envisioned would have an “electronic filing” capacity that the vendor will support under a subscription charge whereby users, rather than the Branch, will support those costs.

The Judiciary believes that the Court Technology Special Fund can support the future maintenance costs of the NG-CMS. However, that commitment assumes that actions of the Executive or Legislative Branches do not place the Judiciary back into a fiscal posture whereby the Court Technology Special Fund must further supplant General Funds for general RIS operations.