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March 31, 2014

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court
State House
Concord, N.H. 03301

M. Wallner
Approved by Fiscal Committee: _____ Date: 4/25/14

Her Excellency, Governor Margaret Wood Hassan
And the Honorable Executive Council
State House
Concord, N.H. 03301

REQUESTED ACTION

Pursuant to RSA 604-A:6, Services Other Than Counsel, and RSA 604-A:1-b, Additional Funding, to authorize the Judicial Council to receive an additional appropriation from funds not otherwise appropriated in the amount of \$150,000 effective upon Fiscal Committee and Governor and Council approval through June 30, 2015. Source of funds is 100% General Fund. Funding is to be budgeted according to the following schedule:

02-07-07-070010-11030000 Ancillary Non-Counsel Services 100% General Funds

Class	Description	Current Budget	Change	Revised Budget
108 (500751)	Provider Payments Legal Services	\$700,000	\$150,000	\$850,000

EXPLANATION

N.H.R.S.A. 604-A:1-b provides that “[i]n the event that expenditures for indigent defense by the Judicial Council are greater than amounts appropriated in the operating budget, the Judicial Council may request, with prior approval of the Fiscal Committee of the General Court, that the Governor and Council authorize additional funding. For funds requested and approved, the Governor is authorized to draw a warrant from any money in the treasury not otherwise appropriated.”

Expenditures for indigent-defense include court-ordered and constitutionally-mandated expert and other ancillary services, as provided in N.H.R.S.A. 604-A:6, “[i]n any criminal case in which counsel has been appointed to represent a defendant who is financially unable to obtain

investigative, expert or other services necessary to an adequate defense in his case, counsel may apply therefore to the court, and, upon finding that such services are necessary and that the defendant is financially unable to obtain them, the court shall authorize counsel to obtain the necessary services on behalf of the defendant.”

When the courts issue orders providing indigent defendants with services other than counsel, the vendors who provide these services send invoices to the courts for the courts’ review and approval. These court-approved invoices are then sent to the Judicial Council for payment. The Judicial Council has no control over the volume of court-approved invoices it receives for the provision of services other than counsel.

The Council received an appropriation of \$700,000 in this account. Monthly expenditures for indigent defense services so far in FY 2014 have averaged approximately \$70,000. As of April 1, 2014, the Council will have paid invoices totaling roughly \$628,000.

Funds currently available in account 02-07-07-070010-1103 are insufficient to cover anticipated payables through the end of the current fiscal year. Based on the monthly expenditures since July 1, 2013, the account will have a zero balance on or about May 1, 2014. The addition of \$150,000 will meet the forecast expenditures in this line through June 30, 2014.

If additional funding is not approved, these unpaid liabilities will carry forward into FY 2015, and providers may suspend their efforts on behalf of the accused, which could result in the interruption of trials, delays or even dismissal of criminal charges.

This Agency will remain at your service to provide any requested information concerning the critical importance of this additional funding to the orderly administration of justice.

Thank you for your consideration.

Respectfully Submitted,



Christopher Keating
Executive Director