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JUDICIAL COUNCIL  
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Dino Scala  
Alan Seidman, Ed.D  
Phillip Utter, Esq.

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Richard E. Samdperil, Acting Executive Director  
State House Annex - Room 120  
25 Capitol Street  
Concord, New Hampshire 03301-6312  
www.judicialcouncil.nh.gov

October 2, 2023

The Honorable Ken Weyler, Chairman  
Fiscal Committee of the General Court and

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, N.H. 03301

**REQUESTED ACTION**

Pursuant to the provisions of RSA 14:30-a, VI, authorize the Judicial Council to amend Fiscal Committee item #FIS 21-307, approved on October 22, 2021, and Governor and Council (G&C) item #49, approved on October 27, 2021, and extended to end on June 30, 2024 by Fiscal Committee item #FIS 23-166, approved on May 19, 2023, and G&C item #160, approved on May 31, 2023 to reallocate federal funds in the amount of \$8,216 to address indigent defense needs resulting from the pandemic, and to create expense classes 040, Indirect Costs, and 041, Audit Fund Set Aside, effective upon approvals by the Fiscal Committee and the Governor and Council, through June 30, 2024. This is an allowable use of American Rescue Plan Act (ARPA) State Fiscal Recovery Funds (SLFRF) under Section 602(c)(1)(A) to respond to the public health emergency or its negative economic impacts. 100% Federal Funds.

Funding is to be reallocated as follows:

02-07-07-070010-24430000<sup>1</sup> Indigent Defense ARP

Class	Title	Funding Source	Current Budget	Increase / (Decrease) Amount	Revised Modified Budget
102-500731	Contracts for Program Services	Federal Funds	\$982,098	\$0	\$982,098
067-500557	Training of Providers	Federal Funds	\$71,010	(\$8,216)	\$62,794
040-500800	Indirect Costs	Federal Funds	\$0	\$6,150	\$6,150

<sup>1</sup> All direct program costs will be accounted for using activity 00FRF602PH0701A and all administrative and indirect costs will be accounted for using activity 00FRF602PH0701Z. Accounting classifications may be subject to technical changes at the discretion of the Department of Administrative Services' Division of Accounting Services.

041-500801	Audit Fund Set Aside	Federal Funds	\$0	\$2,066	\$2,066
		<b>Total Expenses</b>	\$1,053,108	\$0	\$1,053,108

**EXPLANATION**

This project provides federal funds to the Judicial Council for the purpose of temporarily reinforcing existing indigent defense programs while recruiting and training new attorneys through the following measures: 1) temporary, increased administrative fees for contract attorneys taking on new indigent defense cases; 2) a grant for training contract attorneys and assigned counsel taking on new indigent defense cases; and 3) funding for 10 new, temporary attorneys at the Public Defender program.

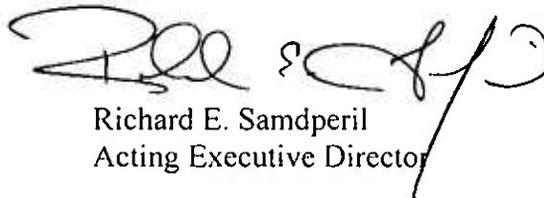
The Judicial Council does not have an accounting unit established to pay the Statewide Cost Allocation Plan (SWCAP) that pays for statewide indirect costs, which are recovered from agencies that benefit from central service support (see RSA 21-I:74). The Judicial Council receives a quarterly invoice from the Department of Administrative Services to recover or reimburse the general fund for SWCAP expenses. The most recent quarterly SWCAP invoice is for \$510.00.

Per State requirements, agencies must set aside a percentage of federal revenue received to pay for financial and compliance audits. This requirement was inadvertently overlooked when these funds were originally accepted. Accordingly, the Council is creating a new expense class 041, Audit Fund Set Aside, to reallocate the \$2,066 in funds that should have been set aside.

The Council is requesting authorization to reallocate funds from existing federal funds currently authorized to facilitate the recruitment and training of attorneys and to create a new expense class 040, Indirect Costs, to pay SWCAP invoices. Based upon the current invoice amounts, the Council estimates that its total contribution to SWCAP will not exceed \$6,150, and that reallocation of these funds will leave sufficient funds remaining in the originating expense class to fund the recruitment and training of indigent defense attorneys.

This Agency will remain at your service to provide any requested information concerning this requested action.

Respectfully Submitted,



Richard E. Samdperil  
 Acting Executive Director

# State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES

25 Capitol Street – Room 120  
Concord, New Hampshire 03301  
(603) 271-3201 | [Office@das.nh.gov](mailto:Office@das.nh.gov)

FIS 23 166

MLC



Charles M. Arlinghaus  
Commissioner

Catherine A. Keane  
Deputy Commissioner

Sheri L. Rockburn  
Assistant Commissioner

April 27, 2023

The Honorable Ken Weyler, Chairman  
Fiscal Committee of the General Court and

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

## REQUESTED ACTION

Pursuant to RSA 14:30-a, VI and RSA 124:15, the Department of Administrative Services (DAS) is seeking approval on behalf of State Agencies to amend the accept and expend of American Rescue Plan Act (ARPA) State Fiscal Recovery Funds (SFRF) requests by extending the end date for funding, new positions, and/or new Class 046-Consultants, created in relation to the acceptance of ARPA SFRF funds, from June 30, 2023 to June 30, 2024, effective upon approval of the Fiscal Committee and the Governor and Executive Council. 100% Federal Funds.

## EXPLANATION

The Department of Administrative Services is seeking approval, on behalf of the State Agencies listed in Attachment A, to extend the effective date of the attached items from June 30, 2023 to June 30, 2024. This extension is allowable under the "procedural rules amendment" approved at the previous Fiscal Committee meeting on April 21, 2023. All items included in the attachment have been previously submitted by the respective state agency responsible for the program and approved by both the Fiscal Committee and Governor and Executive Council. In addition, the Governor's Office of Emergency Relief and Recovery (GOFERR) has reviewed the attachment and concurs with the extensions requested.

While all ARPA SFRF must be obligated by December 31, 2024, and expended by December 31, 2026, this request only serves to authorize agencies' program balances that are unspent as of June 30, 2023, as well as positions and consultants created pursuant to RSA 124:15, to carry forward into FY24 and reauthorize projects or programs that were already intended to continue utilizing authorized ARPA SFRF into the next biennium. This will also grant agencies in coordination with GOFERR time to further evaluate projects and programs as the ARPA SFRF obligation deadline approaches in order to

The Honorable Ken Weyler, Chairman  
Fiscal Committee of the General Court

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
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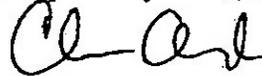
ensure any funds that may need to be reallocated to other uses have sufficient time to do so. Any request to reallocate an existing budget or repurpose funds for new or existing projects will require future Fiscal Committee and Governor and Council approvals and are not contemplated in this item.

If this item is not timely approved, the State would need to issue layoff notices to employees hired into these federally funded positions, created under the original ARPA request, agencies would halt work on time-sensitive projects or payments on existing contracts, and ongoing programs would be unable to issue or follow through on awards. Further, each agency would then need to submit a retroactive request to July 1, 2023 for approval to reauthorize the positions and funding; however, the retroactive requests would not eliminate the need to issue layoff notices in June 2023.

Typically, agencies budget for known federal grants in the upcoming biennial budget; however, the budget guidance issued in August 2022 instructed Agencies to exclude all COVID-related funding from their FY24-FY25 budget submissions in order to maintain the authorization methodology, compliance protocols, and audit trail that had become standard for use and oversight of ARPA SFRF. Moreover, although the funding is authorized by the federal government beyond June 30, 2023, including this one-time funding would have erroneously inflated the FY24-FY25 State budget.

In the event that Federal Funds are no longer available, General Funds will not be requested to support these programs. The Department of Administrative Services seeks approval of this request.

Respectfully submitted,



Charles M. Arlinghaus  
Commissioner

Line	Agency	Project Description	Fiscal Year	Start Date	End Date	Amount	Notes
1	Department of Administrative Services	State Building HVAC Replace and Repair/Maintenance	06/08/2021 - FIS 21-135	06/16/2021 - #154		24780000 24810000 24870000	9T3149 9T3150 9T3151
2	Department of Administrative Services	Temporary Capacity Increase - DPW	08/20/2021 - FIS 21-207	08/18/2021 - #122		24940000	
3	Department of Administrative Services	State Agency recruitment support	02/18/2022 - FIS 22-081; 02/17/2023 - FIS 23-060	03/09/2022 - #96 02/22/2023 - #102		26400000	9T3228 9T3226 9T3227 9T3297
4	Department of Administrative Services	Investments in Deferred Maintenance at State Facilities	07/22/2022 - FIS 22-267	07/27/2022 - #125		26640000	N/A
5	Department of Administrative Services	Cloud Migration of State ERP System	02/17/2023 - FIS 23-050	02/22/2023 - #100		28070000	N/A
6	Department of Agriculture, Markets and Food	NH Meat Processing Infrastructure and Training Investment Program	11/18/2022 - FIS 22-405	11/22/2022 - #57		26900000	N/A
7	Department of Business and Economic Affairs	Broadband Infrastructure	06/08/2021 - FIS 21-136; 03/24/2023 - FIS 23-096	06/16/2021 - #89; 04/12/2023 - #77		24410000	9T3102 9T3103 9T3104
8	Department of Business and Economic Affairs	InvestNH Program Support Staff	03/18/2022 - FIS 22-117	03/23/2022 - #79		26420000	9T3220 9T3233 9T3234
9	Department of Business and Economic Affairs	InvestNH Program Fund	04/15/2022 - FIS 22-150	05/04/2022 - #67		26520000	N/A
10	Department of Corrections	DOC Air Handlers & Ductwork Replacement	06/08/2021 - FIS 21-137	06/16/2021 - #75		24390000	N/A
11	Department of Corrections	Upgrading the Offender Management System (OMS)	01/21/2022 - FIS 22-033	01/26/2022 - #59		26340000	N/A
12	Department of Corrections	Fiber Optic Cable Upgrade and Replacement	01/21/2022 - FIS 22-034	01/26/2022 - #58		26350000	N/A
13	Department of Corrections	National Guard Temporary Staff Support	01/21/2022 - FIS 22-038	01/26/2022 - #57		26360000	N/A
14	Department of Corrections	Air Handlers & Ductwork Replacement - Additional Funds	10/14/2022 - FIS 22-368	10/19/2022 - #43		24390000	N/A
15	Department of Corrections	SWEEP - Technology and Automation Upgrades	10/14/2022 - FIS 22-369	10/19/2022 - #44		26810000	N/A

Attachment A

Line	Agency/Entity	Project/Program/Activity	Fiscal Year	Start Date / Account #	End Date / Account #	Amount	Notes
16	Department of Education	College & Career Skills Mentoring Pilot Program (Big Brothers)	12/17/2021 - FIS 21-393	12/22/2021 - #95		26070000	N/A
17	Department of Education	School Security Project Investment	06/17/2022 - FIS 22-236	06/29/2022 - #158		26610000	N/A
18	Department of Education	School Security Project Investment	07/22/2022 - FIS 22-249	07/27/2022 - #99		26610000	9T3279
19	Department of Environmental Services	Drinking and Wastewater Infrastructure	06/08/2021 - FIS 21-138; 05/20/2022 - FIS 22-171	06/16/2021 - #101; 06/01/2022 - #75		24760000	9T3089 9T3090 9T3091 9T3092 9T3093 9T3094 9T3095 9T3097
20	Department of Environmental Services	Drinking and Wastewater Infrastructure II	10/22/2021 - FIS 21-313	10/27/2021 - #86		24760000	9T3096
21	Department of Environmental Services	Air Permit Relief Program	05/20/2022 - FIS 22-164	06/02/2022 - #72		24760000	N/A
22	Department of Environmental Services	LRM Permitting Positions	05/20/2022 - FIS 22-179	06/01/2022 - #73		24760000	N/A
23	Department of Environmental Services	Investment in State and Municipal Dam Infrastructure	05/20/2022 - FIS 22-195	06/01/2022 - #74		26570000	9T3235 9T3236 9T3237 9T3238
24	Department of Environmental Services	SWEEP - Online Systems and Full time Temporary Position	11/18/2022 - FIS 22-406	11/22/2022 - #99		26950000	9T3278
25	Department of Health and Human Services	Mental Health System Service Improvements (BHIP)	06/08/2021 - FIS 21-139	06/16/2021 - #13		24650000	N/A
26	Department of Health and Human Services	New Hampshire Hospital Upgrades (Lamott Roof, Health & Safety, and Seclusion Room)	06/08/2021 - FIS 21-140	06/16/2021 - #12		24650000	N/A
27	Department of Health and Human Services	Bureau of Family Assistance Call Center	06/18/2021 - FIS 21-169; 06/17/2022 - FIS 22-230; 03/24/2023 - FIS 23-106	06/30/2021 - #7; 06/15/2022 - #12; 03/22/2023 - #20A		24650000	N/A
28	Department of Health and Human Services	Healthcare Workforce Capacity - Underserved Populations	08/20/2021 - FIS 21-243	08/18/2021 - #14		24650000	9T3160
29	Department of Health and Human Services	Hampstead Hospital	10/22/2021 - FIS 21-314; 02/18/2022 - FIS 22-083	10/27/2021 - #7B; 02/16/2022 - Late Item A		24380000	N/A

## Attachment A

Line	Agency	Project Name	Start Date	End Date	Amount	Notes
30	Department of Health and Human Services	Early Intervention and Prevention Behavior Health Support (DBH)	11/19/2021 - FIS 21-354	11/22/2021 - #12	26480000	N/A
31	Department of Health and Human Services	Early Childhood Mental Health Support	11/19/2021 - FIS 21-355	11/22/2021 - #11	24650000	N/A
32	Department of Health and Human Services	Facility & COVID-19 Response Support (EO 2021-12 Reponse)	12/02/2021 - FIS 21-363	12/08/2021 - #6B	24650000	N/A
33	Department of Health and Human Services	Medicaid Care Management Study	01/21/2022 - FIS 22-014	01/26/2022 - #6	24650000	N/A
34	Department of Health and Human Services	Behavioral Health Strike Team	01/21/2022 - FIS 22-042	01/26/2022 - #14	24650000	N/A
35	Department of Health and Human Services	COVID-19 Supplies and Equipment Storage (Warehouse Lease)	03/18/2022 - FIS 22-113	03/23/2022 - #13	24650000	N/A
36	Department of Health and Human Services	COVID-19 Wastewater Testing	04/15/2022 - FIS 22-146	04/20/2022 - #27	24650000	N/A
37	Department of Health and Human Services	Hampstead Hospital Operations Contract	04/15/2022 - FIS 22-152	04/20/2022 - #6	26480000	N/A
38	Department of Health and Human Services	Investment In SUD Related Services and Prevention Efforts	07/22/2022 - FIS 22-269	07/27/2022 - #52	24650000	N/A
39	Department of Health and Human Services	COVID-19 Mobile Testing and Vaccination Services	09/09/2022 - FIS 22-304	09/07/2022 - #26	24650000	N/A
40	Department of Health and Human Services	Birthing Center and Midwife Insurance Premium Stabilization	09/09/2022 - FIS 22-312	09/21/2022 - #11	24650000	N/A
41	Department of Health and Human Services	Short Term and Cold Weather Shelter Support	09/09/2022 - FIS 22-313	09/07/2022 - #25A	24650000	N/A
42	Department of Health and Human Services	COVID-19 Winter Surge Services	10/14/2022 - FIS 22-361	10/19/2022 - #7	24650000	N/A
43	Department of Health and Human Services	COVID PCR Tests for SNH Congregate Living Settings	10/14/2022 - FIS 22-362	10/19/2022 - #8	24650000	N/A
44	Department of Health and Human Services	SWEEP - Appeals Portal	10/14/2022 - FIS 22-363	10/19/2022 - #9	24650000	N/A
45	Department of Health and Human Services	SWEEP - Incident Management System Improvements	10/14/2022 - FIS 22-364	10/19/2022 - #10	24650000	N/A
46	Department of Health and Human Services	SWEEP - Call Center	10/14/2022 - FIS 22-366	10/19/2022 - #12	24650000	N/A
47	Department of Health and Human Services	Forensic Hospital Investments	11/18/2022 - FIS 22-398	11/22/2022 - #11	24650000	N/A
48	Department of Health and Human Services	COVID-19 Testing Service Contracts	11/18/2022 - FIS 22-422	11/22/2022 - #7	24650000	N/A
49	Department of Health and Human Services	SolutionHealth Consolidated Behavioral Health Hospital	09/09/2022 - FIS 22-305	03/22/2023 - #6A	24650000	N/A

Line	Agency	Program Title	Fiscal Year / Comm. / Expiration	Start / End / # of Months	AD / # of Months	Project #
50	Department of Health and Human Services	Strengthening Child Care Workforce	04/21/2023 - FIS 23-124	04/12/2023 - #15	24650000	N/A
51	Department of Information Technology	ARP Cloud Services, Continuity of Operation, IT, and Cybersecurity	06/08/2021 - FIS 21-141	06/16/2021 - #68	24540000 24420000 24600000 24480000	N/A
52	Department of Information Technology	Cyber Insurance/Protection Program	03/18/2022 - FIS 22-114	03/23/2022 - #57	26410000	N/A
53	Department of Information Technology	Portable Wi-Fi Connectivity Support	05/20/2022 - FIS 22-205	06/01/2022 - #45	26590000	N/A
54	Department of Information Technology	State Licensing Portal Modernization	07/22/2022 - FIS 22-265	07/27/2022 - #29	26630000	N/A
55	Department of Justice	Temporary Staff for Criminal Investigation-YDC	06/08/2021 - FIS 21-142; 02/17/2023 - FIS 23-057	06/16/2021 - #137; 03/07/2023 - #95	24620000	9U672 9U673 9U674 9U675 9T3141 9T3142
56	Department of Justice	Grant Aid - COVID 19 Relaxed Restrictions	06/18/2021 - FIS 21-168; 02/18/2022 - FIS 22-065; 07/22/2022 - FIS 22-253	06/30/2021 - #173; 02/16/2022 - #121; 07/27/2022 - #120	24590000	N/A
57	Department of Justice	Support for Increased Victim Services & VOCA	09/17/2021 - FIS 21-252; 02/18/2022 - FIS 22-064; 07/22/2022 - FIS 22-254	10/13/2021 - #92A; 02/16/2022 - #123; 07/27/2022 - #121	24790000	N/A
58	Department of Justice	Internet Crimes Against Children (ICAC)	05/20/2022 - FIS 22-199	05/18/2022 - #105A	26550000	N/A
59	Department of Justice	Support for Increased Victim Services & VOCA	02/17/2023 - FIS 23-056	02/22/2023 - #94	24790000	N/A
60	Department of Justice	Website Update and Modernization	03/24/2023 - FIS 23-100	03/22/2023 - #114	28270000	N/A
61	Department of Labor	SWEEP - OnBase System Improvements	10/14/2022 - FIS 22-353	10/19/2022 - #42	26800000	N/A
62	Department of Military Affairs and Veterans Services	SWEEP - Cloud Based Database	N/A	10/19/2022 - #36	26620000	N/A
63	Department of Military Affairs and Veterans Services	SWEEP - Automated Inventory Tracking Software	N/A	10/19/2022 - #36	26620000	N/A

Line	Agency	Project	Start Date	End Date	Amount	Notes
64	Department of Natural and Cultural Resources	State Parks Projects	06/08/2021 - FIS 21-143; 09/09/2022 - FIS 22-322	06/16/2021 - #93; 09/21/2022 - #76	24670000	9T3143
65	Department of Natural and Cultural Resources	The Save Our Granite Stages (SOGS) Program	02/18/2022 - FIS 22-082	03/09/2022 - #62	26390000	N/A
66	Department of Natural and Cultural Resources	State Parks - Historic Sites Improvements	07/22/2022 - FIS 22-266	07/27/2022 - #61	26660000	N/A
67	Department of Natural and Cultural Resources	Trail Groomer and Trail GIS Mapping Tool	10/14/2022 - FIS 22-352	10/19/2022 - #59	26840000	N/A
68	Department of Natural and Cultural Resources	Digital Online User Generated Review and Compliance System (DOUG R&C)	04/21/2023 - FIS 23-126	05/03/2023 - #75	TBD	N/A
69	Department of Revenue Administration	SWEEP - Highspeed Scanner Investment	10/14/2022 - FIS 22-354	10/19/2022 - #32	26410000	N/A
70	Department of Revenue Administration	SWEEP - RIMS CORE21 Software Improvements	10/14/2022 - FIS 22-355	10/19/2022 - #33	26760000	N/A
71	Department of Revenue Administration	SWEEP - Web Application Upgrade and Enhancement	10/14/2022 - FIS 22-356	10/19/2022 - #34	26790000	N/A
72	Department of Safety	School Physical Security Assessments and IPOC	06/08/2021 - FIS 21-145	06/16/2021 - #133	24740000 24800000	TMPPT6039 TMPPT6040
73	Department of Safety	CDL Licensing Improvements Program	10/22/2021 - FIS 21-311	10/27/2021 - #102	24440000	9T3171 9T3172 9T3173 9T3174
74	Department of Safety	First Responder Recruitment and Training Program	11/19/2021 - FIS 21-350	11/22/2021 - #101	24830000	9T3190
75	Department of Safety	NHSP Forensic Biology Resources	05/20/2022 - FIS 22-201	05/18/2022 - #98A	26540000	9T3277
76	Department of Safety	COVID-19 After Action Report and Improvement Plan	06/17/2022 - FIS 22-235	06/29/2022 - #165	26720000	N/A
77	Department of Safety	SUD Related Public Awareness Campaign	07/22/2022 - FIS 22-270	07/27/2022 - #108	26650000	N/A
78	Department of Safety	SWEEP - DOS Critical IT Investments	10/14/2022 - FIS 22-351	10/19/2022 - #93	26870000 26880000 26890000	N/A
79	Department of Safety	E911 Facility Investment	11/18/2022 - FIS 22-421	11/22/2022 - #159	26920000	N/A
80	Department of Transportation	SWEEP - Winter and Highway Maintenance	10/14/2022 - FIS 22-370	10/19/2022 - #23	26740000	N/A

Line	Agency/Entity	Project Name (Title)	Start Date	End Date	FY	FY Budget
81	Fish and Game Department	Temporary Permit Application Review Staff Support for Water Projects	06/08/2021 - FIS 21-156	06/16/2021 - #90	24750000	9T3101
82	Fish and Game Department	Temporary Permit Application Review Staff Support for Water Projects	08/03/2021 - FIS 21-197	08/18/2021 - #45A	24750000	9T3157 9T3159 9T3158
83	Fish and Game Department	Design and construction of three fish hatchery systems (Late Item)	04/15/2022 - FIS 22-153	04/20/2022 - #68	26490000	N/A
84	Fish and Game Department	SWEEP - IT Solutions Improvements	10/14/2022 - FIS 22-349	10/19/2022 - #55	26830000	N/A
85	Governor's Office for Emergency Relief and Recovery	Expanding and Modernizing Technology Related Programming (NCC Engineering) and Guidehouse Contract	06/08/2021 - FIS 21-146	06/16/2021 - #63	24690000	N/A
86	Governor's Office for Emergency Relief and Recovery	GOFERR Admin Budget	06/18/2021 - FIS 21-172	06/30/2021 - #93	19110000	N/A
87	Governor's Office for Emergency Relief and Recovery	Housing Needs Administration Program	08/03/2021 - FIS 21-203	08/04/2021 - #33A	24690000	N/A
88	Governor's Office for Emergency Relief and Recovery	Youth Residential Facility Improvement Program	10/22/2021 - FIS 21-283; 09/09/2022 - FIS 22-300	10/27/2021 - #62; 09/07/2022 - #63	24690000	N/A
89	Governor's Office for Emergency Relief and Recovery	LNA Recruiting and Training Program	12/17/2021 - FIS 21-391	12/22/2021 - #59	24690000	N/A
90	Governor's Office for Emergency Relief and Recovery	Career Pathways Program	02/18/2022 - FIS 22-080	03/09/2022 - #58	24690000	N/A
91	Governor's Office for Emergency Relief and Recovery	Temporary Relief for Guardian Appointments	03/18/2022 - FIS 22-115	03/23/2022 - #78	24690000	N/A
92	Governor's Office for Emergency Relief and Recovery	Veteran Housing and Retreat Center	03/18/2022 - FIS 22-116	03/23/2022 - #77	24690000	N/A
93	Governor's Office for Emergency Relief and Recovery	CCSNH Licensed Practitioner Nurse (LPN) program	04/15/2022 - FIS 22-148	04/20/2022 - #63	24690000	N/A
94	Governor's Office for Emergency Relief and Recovery	Involuntary Emergency Admissions Case Improvements	04/15/2022 - FIS 22-149	04/20/2022 - #62	24690000	N/A
95	Governor's Office for Emergency Relief and Recovery	County Nursing Home Infrastructure Program	06/17/2022 - FIS 22-237	06/15/2022 - #80B	24690000	N/A
96	Governor's Office for Emergency Relief and Recovery	Investments in SUD Facilities and Programming	07/22/2022 - FIS 22-268	07/27/2022 - #52	24690000	N/A

Line	Agency/Entity	Program Name/Project	Commitment Approval	Program Completion Approval	SAU/	Position or Extend
97	Governor's Office for Emergency Relief and Recovery	Municipal Boat Launch Investment Program	09/09/2022 - FIS 22-318	09/21/2022 - #70	24690000	N/A
98	Governor's Office for Emergency Relief and Recovery	County Emergency Equipment Investment Program	10/14/2022 - FIS 22-357	10/19/2022 - #47	24690000	N/A
99	Governor's Office for Emergency Relief and Recovery	Judicial Branch Infrastructure Investments	10/14/2022 - FIS 22-358	10/19/2022 - #48	24690000	N/A
100	Governor's Office for Emergency Relief and Recovery	Community Center Investment Program	10/14/2022 - FIS 22-359	10/19/2022 - #49	24690000	N/A
101	Judicial Council	Support for Indigent Defense	10/22/2021 - FIS 21-307	10/27/2021 - #49	24430000	N/A
102	New Hampshire Commission for Human Rights	SWEEP - Case Management and Public Information Portal	N/A	11/22/2022 - #58	26960000	N/A
103	New Hampshire Employment Security	Transportation Workforce Recruitment	10/22/2021 - FIS 21-306	10/27/2021 - #48	24460000	N/A
104	New Hampshire Employment Security	NH Emergency Medical Technician (EMT) Training Program	11/18/2022 - FIS 22-426	11/22/2022 - #56A	26940000	N/A
105	New Hampshire Insurance Department	SWEEP - Modernize critical IT Infrastructure	11/18/2022 - FIS 22-407	11/22/2022 - #59	26930000	N/A
106	New Hampshire Veterans Home	NH Veterans Home Support - Fire Suppression Improvements	09/09/2022 - FIS 22-321	09/07/2022 - #70A	26730000	N/A
107	New Hampshire Veterans Home	SWEEP- IT Infrastructure and Resident Safety Improvements	10/14/2022 - FIS 22-360	10/19/2022 - #84	26860000	N/A
108	Pease Development Authority - DPH	Pease Development Authority (PDA)	11/19/2021 - FIS 21-351	11/22/2021 - #58	24560000	N/A
109	Pease Development Authority - DPH	PDA Port Authority Investments	06/17/2022 - FIS 22-234	06/15/2022 - #80A	26600000	N/A
110	Police Standards and Training Council	PSTC A/C Replacements and Range Ventilation	06/08/2021 - FIS 21-144	06/16/2021 - #132	24880000	N/A

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 Gina Belmont, Esq.  
 Sen. Sharon Carson  
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 Rep. Edward Gordon  
 John Formella, Esq.  
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 Phillip Utter, Esq.

Sarah T. Blodgett, Executive Director  
 25 Capitol Street, Room 120  
 Concord, New Hampshire 03301-6312

October 1, 2021

The Honorable Ken Weyler, Chairman  
 Fiscal Committee of the General Court  
 State House  
 Concord, N.H. 03301

His Excellency, Governor Christopher T. Sununu  
 And the Honorable Executive Council  
 State House  
 Concord, N.H. 03301

**REQUESTED ACTION**

Pursuant to RSA 14:30-a, VI, authorize the Judicial Council to accept and expend, federal funds in the amount of \$2,066,000 from the American Rescue Plan Act of 2021 (ARPA), State Fiscal Recovery Funds (SFRF) to address indigent defense needs resulting from the pandemic, effective upon Fiscal Committee and Governor and Council approval through June 30, 2023. 100% Federal Funds. This is an allowable use of ARP FRF funds under Section 602 (c)(1)(A) to respond to the public health emergency or its negative economic impacts.

Funding is to be budgeted as follows:

02-07-07-070010-24XX0000<sup>1</sup> ARP Indigent Def

Class	Description	FY22 Requested Budget	FY23 Requested Budget	Total FY22/23
102 - 500751	CONTRACTS FOR PROGRAM SERVICES	1,091,000	900,000	1,991,000
067 - 500557	TRAINING OF PROVIDERS	75,000	0	75,000
	<b>TOTAL EXPENSES</b>	<b>1,166,000</b>	<b>900,000</b>	<b>2,066,000</b>
000 - 400338	FEDERAL FUNDS	1,166,000	900,000	2,066,000
	<b>TOTAL REVENUE</b>	<b>1,166,000</b>	<b>900,000</b>	<b>2,066,000</b>

**EXPLANATION**

States across the country are struggling with a significant indigent defense crisis.<sup>2</sup> New Hampshire is unable to meet the current need for indigent defense representation. Hundreds of defendants – including

<sup>1</sup>All direct program costs will be accounted for using activity 00FRF602PH0701A and all administrative and indirect costs will be accounted for using activity 00FRF602PH0701Z. Accounting classifications may be subject to technical changes at the discretion of the Department of Administrative Services' Division of Accounting Services.

incarcerated individuals – are waiting to have an attorney appointed to their case as required by both the United States and New Hampshire Constitutions. These federal funds will allow the Judicial Council to provide temporary reinforcement to existing indigent defense programs while recruiting and training new attorneys through the following measures: 1) temporary, increased administrative fees for contract attorneys taking on new indigent defense cases; 2) a grant for training contract attorneys and assigned counsel taking on new indigent defense cases; and 3) and funding for 10 new, temporary attorneys at the Public Defender's Office.

### **Temporary Hires at NH Public Defender: \$1.8 million**

Our indigent defense system relies on a robust, statewide Public Defender. The New Hampshire Public Defender (NHPD) is the backbone of our indigent defense system. In a typical year, NHPD handles 85% of the indigent caseload, with contract attorneys handling 14% and assigned counsel appointed to the remaining 1%.

High staff turnover and case backlogs have created a perfect storm for indigent defense. Fewer cases resolved during the pandemic, leading to stagnant caseloads. Twenty-six attorneys (with a combined total of over 200 years of experience) left NHPD in FY21 – more than twice the normal attrition rate. An additional six attorneys have already tendered their resignations since July 1, 2021. When attorneys leave the program, their cases are split among the remaining attorneys, exacerbating stress levels and caseloads.

The Public Defender has the ability to close or reduce intake of new cases if attorney caseloads become excessive. With one exception, the program has not needed to do this for more than twenty years - until now. NHPD has limited intake at its trial offices across the state, resulting in hundreds of additional cases going to contract or assigned counsel – many more than these systems were designed to support.

The \$1.8 million funding (\$900,000/year, two-year period per position) would allow NHPD to hire up to 10 new, temporary attorneys to assist with the current caseload challenges. The need is greatest in the near future as the older cases proceed to trials and new cases continue to need counsel. This will allow NHPD to take a greater percentage of the caseload and reduce the reliance on contract attorney and assigned counsel programs.

### **Temporary Assistance for Contract Attorneys: \$191,000**

During the NHPD closures, contract attorneys have taken significantly more appointments than originally contracted. Many of these attorneys are solo practitioners who do not have support staff. This funding would provide temporary fee increases to compensate for the increased shared of the caseload: Contract attorneys would receive an additional \$70 for misdemeanor and juvenile assistance (41%), an additional \$105 for felony assistance (58%), and an additional \$140 (1%) for serious felonies. This reflects the court rule which allows up to \$35/hour reimbursement for paralegal assistance. Amendment to an existing CRF CARES Act allocation to allow use for the same purpose through December 31, 2021 is being requested from Governor and Council concurrently. This ARPA funding will be used after the CRF funding is exhausted.

Several contract attorneys have stopped taking new cases (unless the defendant is a current client) because of their significant workloads. Approximately 968 additional cases were assigned to contract attorneys in FY21, compared to FY20. Due to the ongoing nature of the office closures, it is expected that contract attorneys will continue to absorb an increased percentage of cases. This assistance will allow contract attorneys to take on future cases rather than appointing the more costly assigned counsel.

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<sup>2</sup> [New England public defenders' 'crisis' may lead to poor representation \(seacoastonline.com\)](#); [Prosecutors, public defenders seek \\$15.5 million to handle court reopening - VTDigger](#); [Exodus of lawyers for low-income Mainers prompts worry that cases won't be covered \(bangordailynews.com\)](#); [2021-5-25-responding-to-the-emergency-caused-by-pandemic-driven-increased-public-defense-workloads.pdf \(wsba.org\)](#)

**Criminal Defense Training: \$75,000**

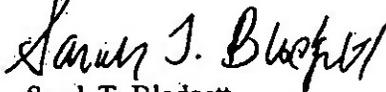
This funding would facilitate recruitment and training of attorneys taking on new cases through contract and assigned counsel programs. This is for reimbursement for expenses related to training contract attorneys and assigned counsel and distinct from the Public Defender's training program for new hires and is not intended to subsidize that training. The Judicial Council may, however, be reimbursed for the cost of contract attorneys and assigned counsel attendance at Public Defender training events, and attorneys in attendance of trainings will be paid an hourly rate of \$60 during trainings.

This crisis has highlighted the lack of criminal training available to new attorneys who are not hired by NHPD. This funding would allow the Judicial Council to compensate attorneys to put on a statewide training on criminal defense. It would also compensate attorneys for their time to undergo the training. These attorneys would be able to accept misdemeanor cases shortly after their training, relieving the burden on attorneys already taking cases. This would also help sustain the contract and assigned counsel programs by providing invaluable experience and training to future practitioners in an area of law with a constant need.

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,



Sarah T. Blodgett  
Executive Director