

**STATE OF NEW HAMPSHIRE  
JUDICIAL COUNCIL**

**FINANCIAL AND COMPLIANCE  
AUDIT REPORT**

**FOR THE YEAR ENDED JUNE 30, 2000**



**STATE OF NEW HAMPSHIRE  
JUDICIAL COUNCIL**

**TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
<b>INTRODUCTORY SECTION</b>	
Reporting Entity And Scope .....	1
Organization.....	1
Responsibilities.....	1
Funding.....	2
Prior Audit.....	3
Audit Objectives And Scope.....	3
<b>CONSTRUCTIVE SERVICE COMMENTS SECTION</b>	
<b>Auditor’s Report On Compliance And On Internal Control Over Financial Reporting .....</b>	<b>5</b>
<b><i>Internal Control Comments</i></b>	
<b><i>Reportable Conditions</i></b>	
1. Standard For Evidencing Court’s Authorizations Should Be Developed .....	7
2. Expenditure Recording And Approval Functions Should Be Segregated.....	8
3. Expenditures Recorded In Database Applications Should Be Reconciled To State Accounting System.....	9
4. Procedures For The Payment Of Contract Attorneys Should Be Improved.....	11
5. Procedure Manuals Should Be Updated Or Developed As Necessary.....	13
<b><i>Compliance Comments</i></b>	
<b><i>State Compliance</i></b>	
6. Information Technology Plan Should Be Developed.....	15
7. Biennial Report Should Be Filed With Governor And Council .....	17
8. Statutes Should Be Amended To Reflect Current Responsibilities .....	18
<b>Auditor’s Report On Management Issues.....</b>	<b>19</b>
<b><i>Management Issue Comments</i></b>	
9. Public Defender Contract Refunds Should Be Made More Often .....	20
10. Reversionary Interest In Equipment Should Be Monitored.....	21
<b>FINANCIAL SECTION</b>	
<b>Independent Auditor’s Report.....</b>	<b>23</b>
<b>Financial Statement</b>	
Statement Of Revenues And Expenditures – Budget And Actual General Fund .....	25
Notes To The Financial Statement .....	26

**TABLE OF CONTENTS (Continued)**

	<b><u>PAGE</u></b>
<b>FINANCIAL SECTION (Continued)</b>	
<b>Supporting Schedule</b>	
Schedule Of Budgetary Components – General Fund.....	32
<b>APPENDIX – Current Status Of Prior Performance Audit Findings.....</b>	<b>33</b>

**ABBREVIATIONS**

Council	Judicial Council
NHIFS	New Hampshire Integrated Financial System
NHPD	New Hampshire Public Defender
NEA	Notification of Eligibility and Appointment of Counsel

This report can be accessed in its entirety on-line at [www.gencourt.state.nh.us/lba](http://www.gencourt.state.nh.us/lba).

**STATE OF NEW HAMPSHIRE  
JUDICIAL COUNCIL**

**INTRODUCTION**

**Reporting Entity And Scope**

The reporting entity and scope of this audit and audit report is the revenue, expenditures, and fixed assets reported by the New Hampshire Judicial Council (Council) for the year ended June 30, 2000. The Council's responsibilities include processing payments for legal representation on behalf of indigent individuals and studying the issues affecting the administration of justice.

**Organization**

RSA 494:1 establishes the 24 member Judicial Council and defines its membership as follows:

- Five members of the judicial branch administrative council,
- Attorney general or designee,
- A clerk of the superior court,
- A clerk of the district court,
- President-elect of the New Hampshire Bar Association,
- Chairperson of the senate judiciary committee,
- Chairperson of the house judiciary committee,
- Eight other members appointed by governor and council, and
- Five other members appointed by the chief justice of the supreme court.

The Judicial Council is supported by an Executive Director, two full-time employees, and one part-time employee. The Executive Director is a non-classified employee who serves at the pleasure of the Judicial Council. Each member of the Executive Director's three-person staff is a classified employee. The Council's office is located in the State House Annex at 25 Capitol Street in Concord.

**Responsibilities**

The Council's duties include processing payments for legal representation and guardian ad litem services provided to indigent individuals. During fiscal year 2000, the Council processed \$13.2 million in payments for those services. The majority of indigent individuals receive legal defense services through the New Hampshire Public Defender (NHPD). The Council contracts with the NHPD for a set contract price to provide this service. If the NHPD can not accept a case, then the courts will appoint another attorney. The courts are responsible for counsel appointments in indigent cases. RSA 604-A:2 directs the sequence of representation choices based on availability. The public defender program is the first choice, followed by contract counsel, then assigned counsel. Contract counsel are attorneys the Judicial Council has contracted with to handle a set number of case units for a specific case unit price.

## **Responsibilities (Continued)**

Assigned counsel is used by the courts when neither the NHPD nor contract counsel is available. The fees paid to assigned counsel are set by the courts. In accordance with RSA 490:26-f, the Judicial Council also contracts with Court Appointed Special Advocates of New Hampshire, Inc. (CASA) and individuals to provide guardian ad litem services. Guardians ad litem are appointed by the courts and services include representing the interests of the child in abuse and neglect, divorce, and termination of parental rights cases. The graphs on page 4 present fiscal year 2000 expenditures and a five year history of cases by service provider. The case history figures were provided by the Council and have not been verified by this Office.

The process to determine whether an individual qualifies for state-funded legal representation involves three state agencies. First, an individual appears before the court and asks for court appointed counsel. If the case qualifies (i.e. criminal) then the individual is required to submit financial and other information. The Department of Administrative Services, Office of Cost Containment (OCC), has the statutory authority to set the standards for determination of indigency for legal representation. Once eligibility has been determined by the courts based on OCC standards, the court notifies the Council of its finding. The Council will not process any payments on behalf of an indigent individual until the courts have issued notification of such to the Council.

The Council's other responsibilities, as described in RSA 494:3, include:

- To serve as an institutional forum for the on-going consideration of issues affecting the administration of justice.
- To survey and study the administration of justice within the State and the organization, procedures, and practices of the operation of the courts of the State.
- To devise ways of simplifying judicial procedure, expediting the transaction of judicial business, and improving the administration of justice.
- To recommend and provide general information to the legislature, the courts, any public official, department, or agency or the State bar association, such changes in the law or rules, organization, or operation of the courts, or with respect to any other matter pertaining to the administration of justice, as it may deem desirable.
- To collect, compile, analyze, and publish statistics pertaining to the judicial system as prepared and provided by the administrative office of the courts.
- To serve as a catalyst for the discussion of legal and judicial issues through seminars, forums and special studies, and other means, within the limits of available state and private funding.

## **Funding**

The Council is funded by General Fund appropriations. The fiscal year 2000 appropriations combined with supplemental warrants, balances forward, and transfers resulted in spending authority of \$14,185,499. Estimated revenue combined with supplemental warrants, balances forward, and transfers resulted in anticipated fiscal year revenue of \$240,000. The actual financial activity of the Council, as reported in the General Fund for the fiscal year ended June 30, 2000, is summarized in the table on the next page.

## Funding (Continued)

### Summary Of Revenues And Expenditures Fiscal Year Ended June 30, 2000

	<u>General Fund</u>
Total Revenues	<u>\$ 243,173</u>
Total Expenditures	<u>\$ 13,374,029</u>
Excess (Deficiency) Of Revenues Over (Under) Expenditures	<u>\$ (13,130,856)</u>

### Prior Audit

This is the first financial and compliance audit that the Office of Legislative Budget Assistant has performed on the Judicial Council. Therefore, there are no prior financial and compliance audit findings included in this audit report.

The Office of Legislative Budget Assistant issued a performance audit report, dated January 1989, titled *Review Of Indigent Defense Program*. The Council's evaluation of the current status of observations that relate to Council operations is located in the appendix of this report on page 33. Copies of the prior performance audit report can be obtained from the Office of Legislative Budget Assistant, Audit Division, 107 North Main Street, State House Room 102, Concord, NH 03301-4906.

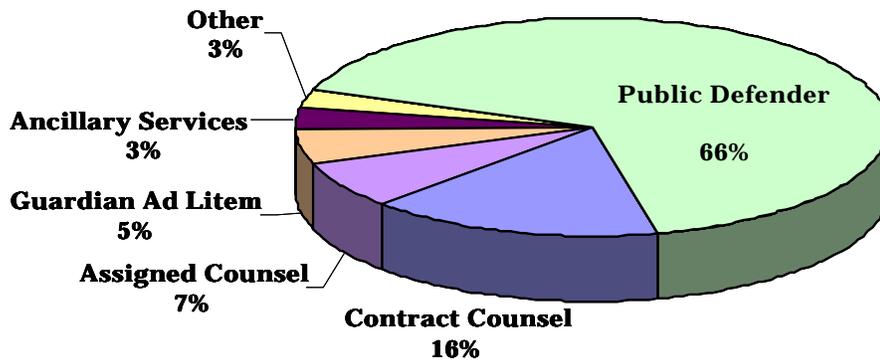
### Audit Objectives And Scope

The primary objective of our audit is to express an opinion on the fairness of the presentation of the financial statement. As part of obtaining reasonable assurance about whether the financial statement is free from material misstatement, we considered the effectiveness of the internal controls in place at the Judicial Council and tested the Council's compliance with certain provisions of applicable State laws, rules, and contracts. Major accounts or areas subject to our examination included, but were not limited to, the following:

- Internal controls,
- Revenues and appropriations,
- Expenditures and encumbrances,
- Equipment, and
- State compliance.

Our reports on compliance and on internal control over financial reporting, and on management issues, the related observations and recommendations, our independent auditor's report, and the financial statement of the Judicial Council are contained in the report that follows.

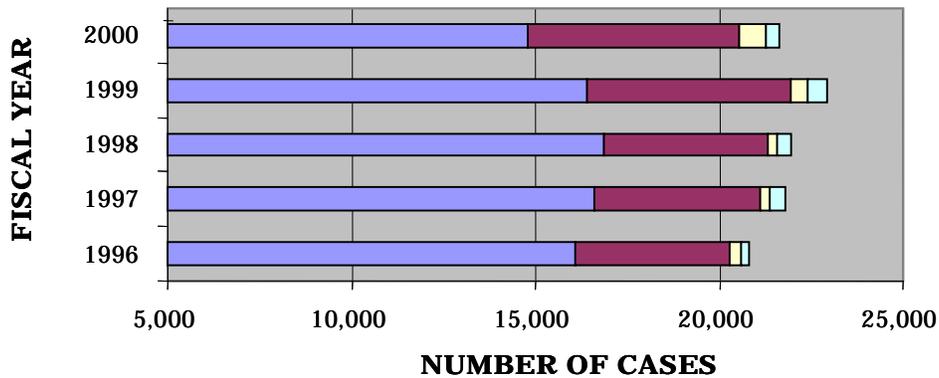
**JUDICIAL COUNCIL  
FISCAL YEAR 2000 EXPENDITURES**



<b>Expenditures</b>	
Public Defender	\$ 8,804,544
Contract Counsel	2,149,805
Assigned Counsel	920,104
Guardian Ad Litem	704,645
Ancillary Services	432,034
Other	362,897
<b>Total</b>	<b>\$ 13,374,029</b>

Source: FY 2000 Statement of Appropriation

**CASES BY PROVIDER TYPE  
FOR FISCAL YEARS 1996 - 2000**



	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>
Public Defender	16,070	16,592	16,878	16,399	14,779
Contract Counsel	4,205	4,543	4,457	5,536	5,782
Assigned Counsel	341	246	231	467	696
Guardian Ad Litem	181	408	401	513	395
<b>Total Cases</b>	<b>20,797</b>	<b>21,789</b>	<b>21,967</b>	<b>22,915</b>	<b>21,652</b>

Source: Case numbers provided by the Judicial Council

## **Auditor's Report On Compliance And On Internal Control Over Financial Reporting**

*To The Fiscal Committee Of The General Court:*

We have audited the Statement of Revenues and Expenditures-Budget and Actual-General Fund of the New Hampshire Judicial Council for the year ended June 30, 2000, and have issued our qualified report thereon dated February 5, 2001, which was qualified with respect to the lack of presentation of the financial position of the Council in the General Fund. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

### Compliance

As part of obtaining reasonable assurance about whether the Judicial Council's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, rules, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*. However, we noted certain immaterial instances of noncompliance which are described in observations No. 6 through No. 8 of this report.

## Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Judicial Council's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the Judicial Council's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statement. Reportable conditions are described in observations No. 1 through No. 5 of this report.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statement being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe that none of the reportable conditions described above is a material weakness.

This auditor's report on compliance and on internal control over financial reporting is intended solely for the information and use of the management of the Judicial Council and the Fiscal Committee of the General Court and is not intended to be and should not be used by anyone other than these specified parties.

*Office Of Legislative Budget Assistant*

Office Of Legislative Budget Assistant

February 5, 2001

**Internal Control Comments**  
**Reportable Conditions**

**Observation No. 1 – Standard For Evidencing Court’s Authorizations Should Be Developed**

*Observation:*

The Council has not developed a standard to use in determining whether the eligibility forms received from the courts are properly authorized. The Council is not responsible for determining eligibility. The courts determine eligibility based on standards set by the Department of Administrative Services’ Office of Cost Containment (OCC). The court system’s Notification of Eligibility and Appointment of Counsel (NEA) form is the source document that identifies the defendant as indigent and authorizes the Council to process payments for costs incurred on behalf of the indigent individual.

The NEA includes a space for the presiding justice to sign the form. However, during our review, we observed variations to a justice-signed NEA form in 157 of the 219 (72%) forms examined during testing. The following variations were noted.

- 80 justices’ names were typed, stamped, or printed rather than signed.
- 34 court personnel signed for the justice.
- 25 signatures were illegible.
  - The Council did not maintain a list of the courts’ authorizing signatures to facilitate identification of the signor and to help ensure the signature is that of an individual authorized to sign the NEA.
- 18 signatures with no indication of someone signing for a justice, although signatures representing the same justice were noticeably different.

The Council increases its risk of making payments on non-indigent cases when there is no standard for determining whether the NEA form was properly authorized by the court. This risk is further increased when there is no consideration of whether the signatures on the documents are the signatures of court personnel authorized to sign the NEAs.

*Recommendation:*

The Council should work with the court system and OCC to jointly develop a standard for evidencing the court’s authorization of an individual’s eligibility to receive legal services at the public’s expense. A standard that defines how the court’s authorization of the NEA is to be illustrated should trigger the Council’s follow-up on those NEAs that don’t meet the standard and help ensure that the Council makes payments only on behalf of eligible individuals. Consideration should be given to maintaining a list of the signatures of the court personnel authorized to sign NEAs and other court documents the Council uses for making payments to legal service providers.

**Observation No. 1 – Standard For Evidencing Court’s Authorizations Should Be Developed (Continued)**

*Auditee Response:*

We concur in part. The Notification of Eligibility, Appointment of Counsel Form is a joint work product of the Department of Administrative Services (Office of Cost Containment) and the Court System. The Judicial Council receives the form from the Office of Cost Containment or in some instances, directly from the Courts. The Judicial Council has agreed to meet with the Office of Cost Containment and the Administrator of the Courts on June 6th to discuss this observation. However, I do not believe that the Judicial Council has any standing legally to set the standard as to what an acceptable signature standard should be. We will participate in this process but the ultimate determination lies with the Courts and the Department of Administrative Services (OCC).

Since the audit began the Judicial Council has obtained sample signatures of all District, Probate and Superior Court Judges. We are in the process of obtaining sample signatures for the Supreme Court and all Marital Masters and for the Judges in the Family Division.

The Judicial Council has no statutory role in determining eligibility. Once the Council receives a Notification of Eligibility of Counsel (NEA) the assignment of counsel has been made by the Courts, and the Judicial Council assumes the individual has been found to be indigent. All this takes place simultaneously and is documented on the NEA.

The detailed issue of developing a standard for evidencing the Court’s determination in the first instance, that an individual is eligible for counsel, should be clarified in the Rules governing eligibility established by the Office of Cost Containment.

**Observation No. 2 – Expenditure Recording And Approval Functions Should Be Segregated**

*Observation:*

There is a lack of segregation of duties over the responsibilities of recording and approving expenditures. The Council employees responsible for recording expenditures in the State’s accounting system (NHIFS) are also responsible for approving those same expenditures in NHIFS. While staff and management have different access and authority levels in NHIFS, the sharing of passwords renders this potential control ineffective. Additionally, there is no subsequent reconciliation between amounts posted to NHIFS and the underlying supporting documentation.

Prior to the employee posting transactions to NHIFS, management reviews the documentation supporting the expenditure and approves the paper copy of the NHIFS input form. While this action serves as a control over expenditures, the absence of management’s actual approval of the electronic posting to the accounting records weakens controls over expenditure processing. The paper copy initially approved by management may not reflect what was posted to NHIFS.

**Observation No. 2 – Expenditure Recording And Approval Functions Should Be Segregated (Continued)**

*Observation (Continued):*

The lack of segregation between the input of transactions in NHIFS and the approval of that input, combined with the password sharing, increases the Council's risk that errors or fraud will not be detected in a timely manner. There is no compensating control to counter this risk due to the absence of the reconciliation of NHIFS expenditure postings to the underlying supporting documentation.

Good internal control practices support controlling access to automated systems (e.g. NHIFS). A password is a common tool used to define an individual's access to an automated system and serves to promote the integrity of the system data. The proper use of passwords supports accountability and helps ensure that duties are adequately segregated so that no one individual is in a position to commit and conceal an error or fraud.

*Recommendation:*

The Council should strengthen controls and accountability over expenditures. The duties of recording and approving expenditures in NHIFS should be segregated and passwords should not be shared. Periodic reconciliations of expenditures recorded in NHIFS to the related supporting documentation should be performed to help ensure errors or fraud are detected in a timely manner.

*Auditee Response:*

We concur. The recommendation contained with this observation has been adopted. Currently the Executive Director and the Administrative Assistant have final approval authority such that no employee currently posts transactions to NHIFS and has final approval. All expenditures are currently being reconciled with NHIFS monthly reports. There has never been any evidence of fraud within the agency.

**Observation No. 3 – Expenditures Recorded In Database Applications Should Be Reconciled To State Accounting System**

*Observation:*

Expenditures recorded in the guardian ad litem and contract attorney database applications are not reconciled to NHIFS. During fiscal year 2000, \$2,854,450 were processed through NHIFS for these expenditures. Data recorded in the database applications are significant to the Council's operations. The databases allow for the accumulation of activity data by case and by contract.

**Observation No. 3 – Expenditures Recorded In Database Applications Should Be Reconciled To State Accounting System (Continued)**

*Observation (Continued):*

Expenditures recorded in the assigned counsel and services other than counsel database application are electronically transmitted to NHIFS. During fiscal year 2000, \$1,352,138 were processed through NHIFS for these expenditures. The expenditures recorded in the database should mirror those recorded in NHIFS if the interface between the database and NHIFS is functioning as intended. Reconciliations of expenditures recorded in the database and NHIFS are not performed.

Periodic reconciliations support the timely detection of errors or fraud and help ensure the accuracy and reliability of the data in all systems.

*Recommendation:*

The Council should perform periodic reconciliations of expenditures posted to its database applications and NHIFS to promote the timely detection of errors or fraud, to gain assurance that the NHIFS interface is operating as intended, and to provide management with reasonable assurance that data in the databases are accurate, complete, and reliable for decision making purposes.

*Auditee Response:*

We concur. At the outset of the audit, we were not routinely able to reconcile Guardian Ad Litem payments with the NHFIS system. Additional programming capabilities were required to enable this function to occur. We had adjustments made in the database for the Guardian Ad Litem payment program to enable these reconciliations to occur. We are now reconciling these accounts on a monthly basis.

The Contract Attorney database program was not developed to interface with NHIFS. However, the Judicial Council has always maintained a manual ledger of Contract Attorney Payments (by batches), Contract Attorney Encumbrances (contracts, addendums, and amendments), and individual Contract Attorney Contracts. This ledger is used to reconcile the individual contract attorney contracts with NHIFS. While this is not the automated system you recommend, there has never been a time that we did not maintain a monthly reconciliation of accounts tied to a funds disbursement on a contract to contract basis.

## **Observation No. 4 – Procedures For The Payment Of Contract Attorneys Should Be Improved**

### *Observation:*

The Council processed payments to contract attorneys based on attorney-submitted documentation that did not identify whether the defendant was eligible for representation services, documentation that did not identify the attorney assigned to the case, and absent documentation. On a monthly basis, contract attorneys submit documentation of their case activity to the Council. The documentation includes Notification of Eligibility and Appointment of Counsel (NEA) forms and correspondence from the courts. Prior to making payment to a contract attorney, the Council reviews the case documentation to determine whether the attorney performed in accordance with contract requirements.

During the testing of contract attorney payments, we reviewed 260 case documents and noted the following:

- 38 documents were notices of review hearings and did not indicate that the defendants were eligible for services. The Council performed no follow-up to ensure these were indigent cases.
- 10 documents did not indicate that the attorney requesting payment on the case was actually assigned to the case. The Council performed no follow-up to ensure the attorney received credit for only the cases assigned.
- 3 cases listed on an attorney-submitted contract monthly summary included no supporting documentation. The Council did not request the missing documentation prior to payment.

We also noted that the Council manually prepares caseload status reports to monitor each contract attorney's activity by tracking the number of case units assigned and payments made. For fiscal year 2000, there were 38 contract attorneys. Preparation of these manual reports is labor intensive and is a duplication of effort by Council staff. Much of the information posted to these manual reports is also posted to the contract attorney database. During our testing we noted minor clerical errors in these reports.

### *Recommendation:*

The Council should develop procedures that support the detection of attorney-submitted documentation for non-indigent cases prior to payment. Payment should not be made without sufficient evidence that the case activity submitted to the Council represents indigent cases assigned to the attorney. The Council should consider utilizing its Indigent Defense System database to assist in the determination of whether a non-NEA document submitted by an attorney is for an indigent case. The Council should also consider working with the court system on a standard document design that will meet the needs of the Council. In cases where the attorney fails to submit complete case activity documentation, the Council should pursue resolution with the attorney prior to making payment.

## **Observation No. 4 – Procedures For The Payment Of Contract Attorneys Should Be Improved (Continued)**

### *Recommendation (Continued):*

The Council should consider automating its contract attorney monitoring activities to alleviate the labor intensive monthly preparation of caseload status reports and to reduce the potential for clerical-type errors. Consideration should be given to enhancing the current contract attorney database application to include reports to be used for contract monitoring purposes.

### *Auditee Response:*

We concur with the recommendation. During the twelve years that I have worked with the Contract Attorney Program there have been only a handful of cases identified where no documentation could ultimately be provided to indicate that a client was indigent. Payment was deducted for any such case.

The Courts do not routinely provide new documentation for cases in the so-called “other” category. In the general category of “review hearings” the hearing most often results from an underlying case for which a prior determination of eligibility has been made by the Courts. Our database in the Contract Attorney Program contains the name and docket number of all such individuals. When a review hearing is reported, some form of notice from the court is provided. The underlying assumption by the court is that the individual is still eligible and the review hearing remains part of the initial appointment, although the Contract program provides further compensation for these on-going hearings. The attorney of record is obligated by the court to continue representation.

The database that supports the Contract Attorney Program records in great detail the original appointment data for a case along with subsequent changes in appointment of counsel. This documentation is not included by the attorney each month, and the court does not reappoint for every hearing, because the attorney appointed remains the attorney of record for all matters related to the original appointment.

To require the courts to issue a new order of appointment and a new determination of eligibility for each and every hearing an attorney is required to attend would place an enormous paperwork requirement on the court system and its effects would ripple down to both the Office of Cost Containment and the Judicial Council.

This is not to say, however, that the Judicial Council does not need to continue to improve the supervision of the documentation submitted by the Contract Attorneys as the basis for their payments in these “other” cases. It is a delicate balance in terms of the original intent of the Contract Program and its relative ease in administration and appeal to the attorneys who participate. We must remember that Contract Attorneys receive a flat fee and no expenses.

**Observation No. 4 – Procedures For The Payment Of Contract Attorneys Should Be Improved (Continued)**

*Auditee Response (Continued):*

It is important to remember that the Contract Program was established in 1985 as a cost-efficient alternative to Assigned Counsel. If the reporting requirements become too burdensome for the attorneys, they will not stay with the program. Likewise, any significant increase in the need to more carefully monitor documentation will result in the need for some additional staffing. The sole current staff person assigned to deal with the Contract Attorney Program handles a caseload of more than five thousand cases and thirty five contract firms. This is the same staff that we had in 1985 when the program had fifteen lawyers and twelve hundred cases.

**Observation No. 5 – Procedure Manuals Should Be Updated Or Developed As Necessary**

*Observation:*

The Council has not developed a written procedure manual for contract attorney activities. The procedures used to process contract attorney expenditures and monitor the related contracts are not formally documented.

The Council has developed written procedure manuals for processing its guardian ad litem, assigned counsel, and services other than counsel expenditures. The manual for the assigned counsel and services other than counsel activities also includes procedures to operate the related database application. However, the guardian ad litem manual does not include database procedures.

Comprehensive and current procedure manuals provide assistance and guidance to employees by promoting consistency and efficiency in processing transactions. Manuals can be especially helpful to an organization for use as a training tool.

*Recommendation:*

A comprehensive procedure manual for the Council's contract attorney activities should be developed and include procedures to operate the related database application.

The guardian ad litem manual should be updated to include procedures to operate the database application.

Additionally, all procedure manuals should be reviewed periodically to determine whether they remain current with changing laws, court rules, and court orders.

**Observation No. 5 – Procedure Manuals Should Be Updated Or Developed As Necessary (Continued)**

*Auditee Response:*

We concur. Funding was never included when the contract attorney database program was initially developed, nor has there ever been subsequent funding provided during updates, for more than actual program development.

We will add to the needs of our Technology Plan funding for the computer consultant to develop formal documentation for the Contract Attorney data base program. Additionally, it is our goal to develop a Contract Attorney operations manual. None existed when management was hired. It is important to note that the development of such manuals require important time resources. The workload of this office has increased 5 fold in the contract area with no increase in staff. Management has a working knowledge of the program and could train another employee should an emergency arise.

All other office procedure manuals are being reviewed currently and are being updated as time permits. Management is fully versed in the operation of each of the other data base programs and is capable of training new staff. The goal of updating operations manuals is an important one and is tied to the on-going staff needs of the agency. One can only do the kind of documentation required when there are sufficient and competent staff available to do the work.

## State Compliance Comments

### **Observation No. 6 – Information Technology Plan Should Be Developed**

*Observation:*

The Council has not prepared an information technology plan as required by RSA 9:4-b. The statute requires each agency to prepare a plan in accordance with the information technology planning process developed by the director of the Division of Information Technology Management. A portion of the plan should define the capital and operating budgets necessary for implementing the plan. Without a comprehensive information technology plan, the computerization of an agency is haphazard and leads to inefficient operations.

Below are examples of information technology issues for consideration.

- The Council uses three separate database applications to record expenditures on a case or contract basis for, 1) guardian ad litem cases, 2) assigned counsel cases and services other than counsel, and 3) contract attorney cases. The guardian ad litem and contract attorney database applications do not interface with the State accounting system (NHIFS) which causes expenditures to be posted twice, once to NHIFS and again to the database. Posting the same data twice increases the risk for posting errors and decreases efficiency.
- The database application used to record assigned counsel and services other than counsel expenditures does interface with NHIFS, removing the need to post the same data twice. However, the Council has determined that it needs to use an additional stand-alone spreadsheet to track and ensure that expenditures related to certain court authorized fee caps are not exceeded. The use of this spreadsheet requires the Council to re-key transaction data to the spreadsheet. This is a second example of where risk for error is increased by posting the same data twice. In addition, the Council performs no reconciliations between the spreadsheet and the database to ensure that amounts have been properly posted to both the spreadsheet and the database.
- As noted above, the Council operates three separate databases. Each database is related to a certain expenditure type (e.g. guardian ad litem, contract attorney). A single database encompassing all expenditure types may be more efficient and provide additional information to the Council. The feasibility of a single database has not been formally explored.
- The feasibility of developing a computer interface between the Council and the court system has not been formally explored. Given the high volume of paperwork that flows from the courts to the Council, moving toward a controlled paperless environment that provides the Council with the data and authorizations it needs to carry out its payment responsibilities could benefit both the Council and the court system by supporting the efficient and effective use of court and Council resources.

**Observation No. 6 – Information Technology Plan Should Be Developed  
(Continued)**

*Observation (Continued):*

Formally identifying information technology needs and determining related feasibilities facilitates the development of a strategy that moves toward fulfillment of those needs.

*Recommendation:*

The Council should prepare an information technology plan in accordance with RSA 9:4-b. Assistance from the Division of Information Technology Management should be obtained as necessary. Considerations should include determining the feasibility of using one database, of NHIFS interfaces for the guardian ad litem and contract attorney databases, of a court system and Council interface, and the enhancement of the assigned counsel and services other than counsel database to remove the need for the stand-alone spreadsheet used for tracking certain fee caps.

*Auditee Response:*

We concur. The Judicial Council has a nearly complete draft of its Technology Plan which will need to be revised to take into consideration the components of this observation. This plan was scheduled to be completed just as this audit project began. The convergence of staff changes and the impact of a major medical emergency for another staff member, redirected efforts from the Technology Plan to the more pressing day to day operations of the office. Additionally, time was required for the audit.

Our revised Technology Plan will include references to the recommendations made in this audit. It was of interest that the Department of Administrative Services bid out the contract for the new stand alone data system for Assigned Counsel and Services Other Than Counsel, with no effort being made to coordinate the new system either in format or in system development with the existing contract attorney database. This new Access based system appears to offer significant opportunities to develop increased control over expenditures in these two cost centers. We will be working with the program designers to make adjustments in the existing program to add a spreadsheet to track minimum/maximum fee compliance.

Conversion of the Contract Attorney Database could well be as costly as was the conversion of the Assigned Counsel and Services Other Than Counsel program from the Honeywell Bull at a cost of more than \$65,000. These are large databases that we need to be able to access to determine history for payment purposes. The Contract Attorney data base is not a financial management system.

**Observation No. 6 – Information Technology Plan Should Be Developed  
(Continued)**

*Auditee Response (Continued):*

We have also begun very preliminary discussions with the Office of Cost Containment as to possible means to reduce duplication of data entry and record keeping between the two offices. For both offices, it is likely that once our technology needs have been identified and clearly defined, that additional funding could be needed to support these technological improvements and efficiencies.

As part of our involvement with the Interbranch Criminal and Juvenile Justice Commission, the Judicial Council has offered suggestions to the Judicial Branch as to its information needs which could be better accomplished with their new technology systems. There is no question that a reduction in the volumes of paper could improve efficiencies for both the courts, the Judicial Council and the Office of Cost Containment.

**Observation No. 7 – Biennial Report Should Be Filed With Governor And Council**

*Observation:*

The Council has not submitted its biennial report as required by statute. RSA 494:4 requires the Council to report to Governor and Council (G&C) biennially on its activities and submit its recommendations, if any, for improving the administration of justice. According to management, the most recent biennial report submitted to G&C was for the two-year period ending June 30, 1988, approximately 13 years ago.

*Recommendation:*

The Council should report to G&C on a biennial basis as required by RSA 494:4. If the biennial report is deemed unnecessary, the Council should seek legislation to amend or repeal RSA 494:4.

*Auditee Response:*

We concur. The Judicial Council agrees with the audit observation that the Council should report its activities to the Governor and Council as required by RSA 494:4 but does not agree that we have failed to provide any reporting to them during this period. We have not prepared the Biennial Report since 1988 but in accordance with the wording of RSA 494:4 have provided subject matter reports of considerable significance to the Governor, Council and Legislature. When RSA 494:4 was amended it was the intent of the Council to reflect the significant change in workload that had arisen for the two person staff and the limitations this imposed on production of the quite significant biennial report that it had previously produced. Additionally, the Legislature itself no longer referred substantial volumes of legislation to the Council for study instead using Interim Study for its own committees. Thus our old substantive report is no longer a document we can provide.

**Observation No. 8 – Statutes Should Be Amended To Reflect Current Responsibilities**

*Observation:*

When the appropriation and subsequent responsibility for indigent defense payments and other related activities were transferred in fiscal year 1998 from the Department of Administrative Services to the Council, RSAs 604-A:8 and 604-A:10, II, III were not amended to reflect the change in responsibilities.

- RSA 604-A:8 states that the commissioner of administrative services is responsible for the payment of indigent defense expenses.
- RSA 604-A:10, II states that the commissioner of administrative services is responsible for recording the case type and the attorney’s fee once a final bill has been approved for payment to a private attorney.
- RSA 604-A:10, III requires the commissioner of administrative services to compile the gross monthly costs for bills approved for services other than counsel.

These activities are now the responsibility of the Council.

*Recommendation:*

The Council should seek legislation to amend RSA 604-A:8 and RSA 604-A:10, II, III to reflect current responsibilities.

*Auditee Response:*

We concur. A legislative member of the Judicial Council has sponsored the legislation recommended in this observation. A drafting request was filed for the upcoming 2002 legislative session which must be drafted in concert with the Department of Administrative Services.

## **Auditor's Report On Management Issues**

*To The Fiscal Committee Of The General Court:*

We have audited the Statement of Revenues and Expenditures-Budget and Actual-General Fund of the New Hampshire Judicial Council for the year ended June 30, 2000 and have issued our qualified report thereon dated February 5, 2001 which was qualified with respect to the lack of presentation of the financial position of the Council in the General Fund.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement.

In planning and performing our audit of the financial statement of the Judicial Council for the year ended June 30, 2000, we noted certain issues related to the operation of the Council that merit management consideration but do not meet the definition of a reportable condition as defined by the American Institute of Certified Public Accountants, and were not issues of noncompliance with laws, rules, or contracts.

Those issues that we believe are worthy of management consideration but do not meet the criteria of reportable conditions or noncompliance are included in observations No. 9 and No. 10 of this report.

This auditor's report on management issues is intended solely for the information and use of the management of the Judicial Council and the Fiscal Committee of the General Court and is not intended to be and should not be used by anyone other than those specified parties.

*Office Of Legislative Budget Assistant*

Office Of Legislative Budget Assistant

February 5, 2001

**Management Issue Comments**

**Observation No. 9 – Public Defender Contract Refunds Should Be Made More Often**

*Observation:*

The Council’s contract with the New Hampshire Public Defender (NHPD) does not support minimizing the time between the Council’s disbursement of funds to the NHPD and the NHPD’s use of those funds. The contract requires that unused funds, if any, be returned to the State at the end of the two-year contract period rather than at interim points during the contract.

Under current contract provisions, the Council remits the full contract amount to the NHPD in quarterly allotments. At the end of the second year of the contract, NHPD sends the Council an accounting of the funds used and returns any excess funds to the Council. As shown in the table below, over the last three contract periods, the NHPD has returned to the Council, on average, 5% of the contract amount.

<u>Contract Period</u>	<u>Contract Amount</u>	<u>Amount Returned</u>	<u>Percent Returned</u>
1998-1999	16,786,300	953,618	5.7%
1996-1997	15,400,000	560,804	3.6%
1994-1995	<u>14,900,000</u>	<u>955,044</u>	6.4%
Totals	<u>\$47,086,300</u>	<u>\$2,469,466</u>	5.2%

Effective cash management practices reduce the time between the disbursement of funds and the use of the funds. Contract provisions that result in the State waiting for the conclusion of a two-year period for the return of surplus contract funds unnecessarily delays the availability of these unused funds to the State.

*Recommendation:*

The Council should consider revising its contract with the NHPD to allow the Council more flexibility in requesting the return of unused funds at interim points during the biennium.

*Auditee Response:*

We concur. The proposed new contract with the New Hampshire Public Defender will include language which more clearly defines the ability of the Council to seek the return of any unused funds at interim periods during the biennium. This practice has been in effect but clearer language within the contract will more precisely define this most important flexibility for the Judicial Council in its role of manager and overseer of the entire indigent defense system.

**Observation No. 9 – Public Defender Contract Refunds Should Be Made More Often (Continued)**

*Auditee Response (Continued):*

It is important to note that it is precisely for the purpose of effective caseload management that the Judicial Council believes that its current contracted methods of disbursement of funds remains appropriate. The Council has amended the NHPD contract in recent years to provide the return of any surplus funds to the state within a shorter time frame. We also work with the Department of Administrative Services to “Book” a guaranteed refund within the thirteenth month. Then after the NHPD audit is complete the remaining balance of refund is returned to the state, all in accordance with the language of the contract. The State now receives any refund in a much more timely fashion.

**Observation No. 10 – Reversionary Interest In Equipment Should Be Monitored**

*Observation:*

The Council does not monitor the State’s reversionary interest in the equipment purchased by the NHPD with contract funds. According to the contract between the Council and the NHPD, the State retains a reversionary interest in all equipment purchased by the NHPD with contract funds. In the event that the NHPD ceases to operate the Public Defender Program, the NHPD is required to return the equipment within thirty days of the State’s request.

If the NHPD were to cease operations, the State’s interest in the equipment may be unknowingly compromised if the Council is not aware of the extent of its interest. The NHPD’s audited financial statements for the year ended June 30, 2000, reported a total gross equipment value of \$1.2 million. The Council has held contracts with the NHPD since 1985.

*Recommendation:*

The Council should determine the extent of and periodically monitor the State’s reversionary interest in the equipment purchased by the NHPD with contract funds. Identifying the composition of the interest and quantifying that interest will help safeguard the State’s interest should the NHPD cease to operate. Consideration should be given to requesting the NHPD periodically report its equipment inventory to the Council. This inventory report should contain sufficient detail to allow for the ready identification of the equipment items.

**Observation No. 10 – Reversionary Interest In Equipment Should Be Monitored  
(Continued)**

*Auditee Response:*

We concur. There has always been an inventory of equipment maintained by the Public Defender Program. The Council will establish an oversight process to periodically review and quantify the state's interest in this property. A request has been made to the Public Defender to provide the Judicial Council with a detailed inventory of property currently reported on their financial statement. Discussions will take place regarding a process for keeping this information current.

## **Independent Auditor's Report**

*To The Fiscal Committee Of The General Court:*

We have audited the Statement of Revenues and Expenditures-Budget and Actual-General Fund of the New Hampshire Judicial Council for the year ended June 30, 2000. This financial statement is the responsibility of the Judicial Council's management. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As more fully discussed in Note 1, the financial statement referred to above is not intended to present the financial position of the New Hampshire Judicial Council in the General Fund.

In our opinion, except for the matter discussed in the previous paragraph, the financial statement referred to above presents fairly, in all material respects, certain financial activity of the Judicial Council for the year ended June 30, 2000, in conformity with generally accepted accounting principles.

Our audit was conducted for the purpose of forming an opinion on the financial statement referred to in the first paragraph. The Schedule of Budgetary Components – General Fund on page 32 is presented for the purpose of additional analysis and is not a required part of the financial statement of the Judicial Council. Such information has been subjected to the auditing procedures applied in our audit of the financial statement referred to in the first

paragraph and, in our opinion, is fairly presented in all material respects in relation to the financial statement taken as a whole.

In accordance with *Government Auditing Standards*, we have also issued a report dated February 5, 2001 on our consideration of the Judicial Council's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, rules, and contracts.

*Office Of Legislative Budget Assistant*

Office Of Legislative Budget Assistant

February 5, 2001

**STATE OF NEW HAMPSHIRE  
JUDICIAL COUNCIL**

**STATEMENT OF REVENUES AND EXPENDITURES  
BUDGET AND ACTUAL - GENERAL FUND  
FOR THE YEAR ENDED JUNE 30, 2000**

	<b>General Fund</b>		
	<b><u>Budget</u></b>	<b><u>Actual</u></b>	<b>Favorable/ (Unfavorable) <u>Variance</u></b>
<b><u>Revenues</u></b>			
<u>Unrestricted Revenues</u>			
Probate Recovery	\$ -0-	\$ 3,173	\$ 3,173
<b>Total Unrestricted Revenues</b>	<b><u>\$ -0-</u></b>	<b><u>\$ 3,173</u></b>	<b><u>\$ 3,173</u></b>
<u>Restricted Revenues</u>			
Guardian Ad Litem	\$ 240,000	\$ 240,000	\$ -0-
<b>Total Restricted Revenues</b>	<b><u>\$ 240,000</u></b>	<b><u>\$ 240,000</u></b>	<b><u>\$ -0-</u></b>
<b>Total Revenues</b>	<b><u>\$ 240,000</u></b>	<b><u>\$ 243,173</u></b>	<b><u>\$ 3,173</u></b>
<b><u>Expenditures</u></b>			
Public Defender Program	\$ 8,804,544	\$ 8,804,544	\$ -0-
Contract Counsel	2,631,362	2,149,805	481,557
Assigned Counsel	965,000	920,104	44,896
Guardian Ad Litem	919,000	704,645	214,355
Ancillary Non-Counsel Services	435,000	432,034	2,966
New Hampshire Legal Assistance	200,000	200,000	-0-
Salaries & Benefits	157,871	142,332	15,539
Other Administrative Costs	72,722	20,565	52,157
<b>Total Expenditures</b>	<b><u>\$ 14,185,499</u></b>	<b><u>\$ 13,374,029</u></b>	<b><u>\$ 811,470</u></b>
<b>Excess (Deficiency) Of Revenues Over (Under) Expenditures</b>	<b><u>\$ (13,945,499)</u></b>	<b><u>\$ (13,130,856)</u></b>	<b><u>\$ 814,643</u></b>

The accompanying notes are an integral part of the financial statement.

**STATE OF NEW HAMPSHIRE  
JUDICIAL COUNCIL**

**NOTES TO THE FINANCIAL STATEMENT  
FOR THE YEAR ENDED JUNE 30, 2000**

**NOTE 1 -- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The financial statement of the Judicial Council has been prepared in conformity with generally accepted accounting principles (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles.

**A. Financial Reporting Entity**

The Judicial Council is an organization of the primary government of the State of New Hampshire. The accompanying financial statement reports certain financial activity of the Council. The financial activity of the Council is accounted for in the General Fund in the State of New Hampshire's Comprehensive Annual Financial Report (CAFR). The Council, as an organization of the primary government, accounts for only a small portion of the General Fund and those assets, liabilities, and fund balance as reported in the CAFR that are attributable to the Council cannot be determined. Accordingly, the accompanying financial statement is not intended to show the financial position of the Council in the General Fund and the change in this fund balance is not reported on the accompanying financial statement.

**B. Basis Of Presentation - Fund Accounting**

The State of New Hampshire and the Council use funds and account groups to report on their financial position and the results of their operations. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fund is a separate accounting entity with a self-balancing set of accounts. An account group is a financial reporting device designed to provide accountability for certain assets and liabilities that are not recorded in the funds because they do not directly affect net expendable available financial resources.

*Governmental Fund Types*

General Fund

The General Fund accounts for all financial transactions not specifically accounted for in any other fund. By law, and with certain exceptions, all revenues of governmental funds are paid daily into the State Treasury. All such revenues, other than certain designated revenues, are credited to the General Fund. Annual expenditures that are not allocated by law to other funds are charged to the General Fund.

## **NOTE 1 -- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

### **B. Basis Of Presentation - Fund Accounting (Continued)**

#### *Account Groups*

##### General Fixed Assets

General fixed assets acquired for use by the Council for the performance of its operations are reflected in the General Fixed Assets Account Group at the time of acquisition. As of June 30, 2000, the Council had recorded in the General Fixed Assets Account Group the cost of general fixed assets based on available historical cost records. Donated fixed assets are recorded at fair market value at the time donated.

### **C. Measurement Focus And Basis Of Accounting**

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. All governmental funds are accounted for using the flow of current financial resources measurement focus and reported on a modified accrual basis of accounting. Accordingly, the State of New Hampshire accounts for its financial transactions relating to the General Fund on the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized when measurable and available to finance operations of the fiscal period. "Measurable" means the amount of the transaction can be determined and "available" means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. Expenditures are recognized in the period in which obligations are incurred as a result of the receipt of goods or services.

### **D. Budgetary Data**

#### *General Budget Policies*

The statutes of the State of New Hampshire require the Governor to submit a biennial budget to the Legislature for adoption. This budget, which includes annual budgets for each year of the biennium, consists of three parts: Part I is the Governor's program for meeting all expenditure needs as well as estimating revenues to be received. There is no constitutional or statutory requirement that the Governor propose, or the Legislature adopt, a budget that does not resort to borrowing. Part II is a detailed breakdown of the budget at the department level for appropriations to meet the expenditure needs of the government. Part III consists of draft appropriation bills for the appropriations made in the proposed budget.

The operating budget is prepared principally on a modified cash basis and adopted for the governmental and proprietary fund types with the exception of the Capital Projects Fund. The Capital Projects Fund budget represents appropriations for individual projects, which extend over several fiscal years. Fiduciary-type funds are not budgeted.

## **NOTE 1 -- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

### **D. Budgetary Data (Continued)**

The New Hampshire biennial budget is composed of the initial operating budget, supplemented by additional appropriations. These additional appropriations and estimated revenues from various sources are authorized by Governor and Council action, annual session laws, and existing statutes which require appropriations under certain circumstances. As shown on the Schedule of Budgetary Components - General Fund on page 32, the final budgeted amount includes the initial operating budget plus supplemental appropriation warrants, balances brought forward, and transfers.

Budgetary control is at the department level. All departments are authorized to transfer appropriations within their departments with the prior approval of the Joint Legislative Fiscal Committee and the Governor and Council. Additional fiscal control procedures are maintained by both the Executive and Legislative Branches of government. The Executive Branch, represented by the Commissioner of the Department of Administrative Services, is directed to continually monitor the State's financial system. The Legislative Branch, represented by the Joint Legislative Fiscal Committee, the Joint Legislative Capital Budget Overview Committee, and the Office of Legislative Budget Assistant, monitors compliance with the budget and the effectiveness of budgeted programs.

Unexpended balances of appropriation at year end will lapse to undesignated fund balance and be available for future appropriations unless they have been encumbered or are legally defined as non-lapsing accounts. Capital Projects Fund appropriations are scheduled to lapse two years from the date appropriated unless extended or designated as non-lapsing by law.

A Statement Of Revenues And Expenditures - Budget And Actual - General Fund is presented as the Judicial Council's financial statement. The Council has no activity recorded in the Capital Projects Fund.

#### *Variances - Favorable/(Unfavorable)*

The variance column on the Statement Of Revenues And Expenditures - Budget And Actual - General Fund highlights differences between budget and actual revenue and expenditures. For revenue, these variances are caused by actual revenue exceeding budget generating a favorable variance or actual being less than budget generating an unfavorable variance. For expenditures, a favorable variance results from actual expenditures being less than the amount budgeted for the fiscal year. The favorable expenditure variances represent a combination of ending available balances and unliquidated encumbrances. Unfavorable expenditure variances represent actual expenditures for the reporting period exceeding the amounts budgeted for the fiscal year.

**NOTE 1 -- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**D. Budgetary Data (Continued)**

*Encumbrances*

Contracts and purchasing commitments are recorded as encumbrances when the contract or purchase order is executed. Upon receipt of goods or services, the encumbrance is liquidated and the expenditure and liability are recorded. The Council's unliquidated encumbrance balance at June 30, 2000 in the General Fund was \$391,583.

**E. Fixed Assets - General**

General fixed assets are not capitalized in the funds used to acquire or construct them. Instead, capital acquisition costs are reflected as expenditures in governmental funds, and the related assets are reported in the General Fixed Assets Account Group. All purchased fixed assets are valued at cost where historical records are available and at an estimated historical cost where no historical records exist. Donated fixed assets are valued at their estimated fair market value on the date received. Interest costs incurred during construction are not capitalized. Assets in the General Fixed Assets Account Group are not depreciated.

**NOTE 2 -- GENERAL FIXED ASSETS ACCOUNT GROUP**

Equipment is recorded at historical cost if known, estimated cost if historical cost is unknown, or fair market value at date of acquisition if the asset is donated.

The following is a schedule of equipment balances and activity reported by the Judicial Council to the Department of Administrative Services for the year ended June 30, 2000. Equipment purchases are funded through budgeted appropriations.

Equipment Balance at July 1, 1999	\$ 27,222
Additions	6,105
Deletions	<u>(7,910)</u>
<b>Equipment Balance at June 30, 2000</b>	<b><u>\$ 25,417</u></b>

**NOTE 3 -- EMPLOYEE BENEFIT PLANS**

*New Hampshire Retirement System*

The Judicial Council, as an organization of the State government, participates in the New Hampshire Retirement System (Plan). The Plan is a defined benefit plan and covers substantially all full-time employees of the Council. The Plan qualifies as a tax-exempt organization under Sections 401 (a) and 501 (a) of the Internal Revenue Code. RSA 100-A established the Plan and the contribution requirements. The Plan, which is a cost-sharing,

### **NOTE 3 -- EMPLOYEE BENEFIT PLANS (Continued)**

#### *New Hampshire Retirement System (Continued)*

multiple-employer Public Employees Retirement System (PERS), is divided into two membership groups. Group I consists of employees and teachers. Group II consists of firefighters and police officers.

Group I - Members contributing through age 60 qualify for a normal service retirement allowance based on years of creditable service. The yearly pension amount is 1/60 (1.67%) of average final compensation (AFC), multiplied by years of creditable service. AFC is defined as the average of the three highest salary years. At age 65 the yearly pension amount is recalculated at 1/66 (1.5%) of AFC multiplied by years of creditable service. Members in service with ten or more years of creditable service who are between ages 50 and 60 are entitled to a retirement allowance with appropriate graduated reduction based on years of creditable service. In addition, any Group I member who has completed at least 20 years of creditable service that, when combined with his or her age equals at least 70, is entitled to retire and have benefits commence immediately at a reduced service retirement allowance.

Group II - After attaining the age of 45, members with 20 years of creditable service qualify to receive a retirement allowance at a rate of 2.5% of AFC for each year of creditable service, not to exceed 40 years. Members in service at age 60 qualify to receive a prorated retirement allowance.

Members of both groups are entitled to disability allowances and also death benefit allowances subject to various requirements and rates based on AFC or earnable compensation. All covered Council employees are members of Group I.

The Plan is financed by contributions from the members, the State and local employers, and investment earnings. During fiscal year 2000, Group I and II members were required to contribute 5% and 9.3%, respectively, of gross earnings. The State funds 100% of the employer cost for all of the Council's employees enrolled in the Plan. The annual contribution required to cover any normal cost beyond the employee contribution is determined every two years based on the Plan's actuary.

The Council's payments for normal contribution costs for the year ended June 30, 2000 amounted to 3.94% of the covered payroll for its Group I employees. The Council's contributions for the year ended June 30, 2000 were \$4,026, equal to the required employer contributions for the period. The Plan does not make separate measurements of assets and pension benefit obligation for individual employers. The New Hampshire Retirement System Comprehensive Annual Financial Report contains detailed information regarding the Plan as a whole, including information on payroll, contributions, actuarial assumptions and funding method, and historical trend data. The New Hampshire Retirement System operates on a fiscal year ending June 30.

**NOTE 3 -- EMPLOYEE BENEFIT PLANS (Continued)**

*Post-employment Health Care Benefits*

In addition to the benefits described above, the Council, as an organization of the State government, provides post-employment health care benefits, in accordance with RSA 21-I:30, to all retired employees and their spouses on a non-contributory basis, as authorized by State statute.

During the year ended June 30, 2000, the State paid for the full cost of health insurance premiums for the retired employees and spouses on a pay-as-you-go basis. The cost of the health insurance for Council employees and spouses is a budgeted amount and is paid from an appropriation made to the administrative organization of the New Hampshire Retirement System. Accordingly, the cost of health insurance benefits for the retired Council's employees and spouses is not included in the Council's financial statement.

**STATE OF NEW HAMPSHIRE  
JUDICIAL COUNCIL**

**SCHEDULE OF BUDGETARY COMPONENTS  
GENERAL FUND  
FOR THE YEAR ENDED JUNE 30, 2000**

	<u>Operating Budget</u>	<u>Supplemental Appropriation Warrants</u>	<u>Balances Brought Forward</u>	<u>Net Transfers In/(Out)</u>	<u>Budget</u>
<b><u>Revenues</u></b>					
<b><u>Unrestricted Revenues</u></b>					
Probate Recovery	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
<b>Total Unrestricted Revenues</b>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>
<b><u>Restricted Revenues</u></b>					
Guardian Ad Litem	\$ 240,000	\$ -0-	\$ -0-	\$ -0-	\$ 240,000
<b>Total Restricted Revenues</b>	<u>\$ 240,000</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ 240,000</u>
<b>Total Revenues</b>	<u>\$ 240,000</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ 240,000</u>
<b><u>Expenditures</u></b>					
Public Defender Program	\$ 8,904,544	\$ -0-	\$ -0-	\$ (100,000)	\$ 8,804,544
Contract Counsel	1,900,000	-0-	231,362	500,000	2,631,362
Assigned Counsel	1,100,000	-0-	-0-	(135,000)	965,000
Guardian Ad Litem	875,000	-0-	44,000	-0-	919,000
Ancillary Non-Counsel Services	700,000	-0-	-0-	(265,000)	435,000
New Hampshire Legal Assistance	200,000	-0-	-0-	-0-	200,000
Salaries & Benefits	160,297	2,856	-0-	(5,282)	157,871
Other Administrative Costs	<u>72,722</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>72,722</u>
<b>Total Expenditures</b>	<u>\$ 13,912,563</u>	<u>\$ 2,856</u>	<u>\$ 275,362</u>	<u>\$ (5,282)</u>	<u>\$ 14,185,499</u>
<b>Excess (Deficiency) Of Revenues Over (Under) Expenditures</b>	<u>\$ (13,672,563)</u>	<u>\$ (2,856)</u>	<u>\$ (275,362)</u>	<u>\$ 5,282</u>	<u>\$ (13,945,499)</u>

## APPENDIX

### Current Status Of Prior Performance Audit Findings

The following is a summary of the status of the observations, as of February 5, 2001, contained in the performance audit report of the Indigent Defense Program, dated January 1989. A copy of the prior report can be obtained from the Office of Legislative Budget Assistant, Audit Division, 107 North Main Street, State House Room 102, Concord, NH 03301-4906. The table below represents the Council's evaluation of the status of the observations in the prior report that are relevant to the Council and have not been verified by this Office.

	<b>Status (Per the Council)</b>
<b>1. <i>Funding Of The Public Defender Program</i></b>	
➤ Minimize the use of assigned counsel in order to maximize the efficiency and effectiveness of the indigent defense program.	● ● ●
<b>2. <i>Alternate Public Defender Program</i></b>	
➤ The Judicial Council should conduct a search for and pursue negotiations with an alternate public defender program.	● ● ●
<b>3. <i>Alternate Delivery Systems - Abused And Neglected Children</i></b>	
➤ The Legislature should explore alternative delivery systems for non-criminal abuse and neglect cases.	● ● ●
➤ Non-criminal abuse and neglect cases should be separated from assigned counsel appropriations so that they can be clearly identified.	○ ○ ○
<b>4. <i>Services Other Than Counsel</i></b>	
➤ The Council should investigate the feasibility of establishing contracts for providers of services other than counsel.	● ● ●
➤ Services other than counsel should be separated from the assigned counsel line item.	● ● ●
<b>5. <i>Organizational And Functional Responsibilities Of The Indigent Defense Program</i></b>	
➤ The various agencies involved in the administration of the indigent defense program should coordinate their efforts.	● ● ●
➤ The Legislature should consider if both the Council and the Department of Administrative Services should have the authority to contract for the same indigent defense program services.	● ● ●

<b>Status Key</b>			
Fully Resolved	●	●	●
Substantially Resolved	●	●	○
Partially Resolved	●	○	○
Unresolved	○	○	○

**THIS PAGE INTENTIONALLY LEFT BLANK**