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FIS 20-006

MICHAEL W. KANE, MPA
Legislative Budget Assistant
(603) 271-3181

CHRISTOPHER M. SHEA, MPA
Deputy Legislative Budget Assistant
(603) 271-3181

State of New Hampshire

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

STEPHEN C. SMITH, CPA
Director, Audit Division
(603) 271-2785

January 10, 2020

Gordon J. MacDonald, Attorney General
Department of Justice
33 Capitol Street
Concord, New Hampshire 03301

Dear Attorney General MacDonald,

The Fiscal Committee, pursuant to the provisions of RSA 14:30-a, VI, on January 10, 2020, approved Request #1 of the Department of Justice to budget and expend reimbursement funds in the amount of \$420,309 received by parties involved with proposed hospital mergers for the purpose of covering projected shortfalls in general litigation expenses incurred in the defense of the State and the prosecution of criminal laws through June 30, 2020, and pursuant to the provisions of RSA 7:12, amended and approved Request #2 of the Department of Justice to accept and expend a sum, not to exceed \$300,000 in general funds, from funds not otherwise appropriated for the purpose of covering projected shortfalls in general litigation expenses incurred in the defense of the State and the prosecution of criminal laws through June 30, 2020, as specified in the request dated December 19, 2019, and did not approve the Department's original request #2 to accept and expend a sum not to exceed \$777,321 in general funds through June 30, 2020.

Sincerely,

Michael W. Kane
Legislative Budget Assistant

MWK/pe
Attachment

Cc: Kathleen Carr, Director of Administration, Department of Justice

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE YOUNG
DEPUTY ATTORNEY GENERAL

FIS 20 006

mlc
sam

December 19, 2019

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

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

REQUESTED ACTION

1. Pursuant to RSA 14:30-a, VI, authorize the Department of Justice (Department) to budget and expend reimbursement funds, in the amount of \$420,309, received by parties involved with proposed hospital mergers for the purpose of covering projected shortfalls in general litigation expenses incurred in the defense of the State and the prosecution of criminal laws effective with the approvals of the Fiscal Committee and the Governor and Executive Council through June 30, 2020. 100% Agency Income.

These funds are to be budgeted in account #02-20-20-200010-2601 entitled "Attorney General" as follows:

Class/Object	Class Title	FY 2020 Current Adjusted Authorized	Request Action	FY 2020 Revised Adjusted Authorized
Expenditures				
010-500100	PERSONAL SERVICES PERM CLASS	\$410,717	\$0	\$410,717
011-500126	PERSONAL SERVICES UNCLASSIFI	\$139,008	\$0	\$139,008
012-500128	PERSONAL SERVICES UNCLASSIFI	\$132,857	\$0	\$132,857
013-500132	PERSONAL SERVICES UNCLASSIFI	\$108,981	\$0	\$108,981
015-500137	PERSONAL SERVICES UNCLASSIFI	\$109,650	\$0	\$109,650
017-500147	FT EMPLOYEES SPECIAL PAYMENT	\$7,629	\$0	\$7,629
018-500106	OVERTIME	\$5,000	\$0	\$5,000
020-500200	CURRENT EXPENSES	\$51,540	\$0	\$51,540

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court

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022-500255	RENTS-LEASES OTHER THAN STAT	\$5,875	\$0	\$5,875
024-500225	MAINT OTHER THAN BUILD-GRN	\$2,000	\$0	\$2,000
026-500251	ORGANIZATIONAL DUES	\$34,000	\$0	\$34,000
027-582703	TRANSFERS TO DOIT	\$103,069	\$0	\$103,069
030-500301	EQUIPMENT NEW REPLACEMENT	\$8,000	\$0	\$8,000
037-500174	TECHNOLOGY-HARDWARE	\$5,300	\$0	\$5,300
038-500175	TECHNOLOGY-SOFTWARE	\$3,400	\$0	\$3,400
039-500188	TELECOMMUNICATIONS	\$15,643	\$0	\$15,643
040-501587	INDIRECT COSTS	\$268,936	\$0	\$268,936
042-500620	ADDITIONAL FRINGE BENEFITS	\$2,994	\$0	\$2,994
049-584995	TRANSFER TO OTHER STATE AGEN	\$4,113	\$0	\$4,113
057-500531	BOOKS PERIODICALS SUBSCRIPTI	\$107,200	\$0	\$107,200
060-500601	BENEFITS	\$398,733	\$0	\$398,733
066-500543	EMPLOYEE TRAINING	\$1,000	\$0	\$1,000
070-500704	IN STATE TRAVEL REIMBURSEMEN	\$4,870	\$0	\$4,870
073-500580	GRANTS NON FEDERAL	\$400,000	\$0	\$400,000
080-500713	OUT OF STATE TRAVEL REIMB	\$10,300	\$0	\$10,300
211-500757	CATASTROPHIC CASUALTY INS	\$1,575	\$0	\$1,575
233-500769	LITIGATION EXPENSE	\$912,340	\$420,309	\$1,332,649
	Total:	\$3,254,730	\$420,309	\$3,675,039
Revenue				
009-407079	AGENCY INCOME	\$204,888	\$420,309	\$625,197
00C-401350	AGENCY INDIRECT COST RECOV	\$247,079	\$0	\$247,079
00S-000010	GENERAL FUNDS	\$2,802,763	\$0	\$2,802,763
	Total:	\$3,254,730	\$420,309	\$3,675,039

- Upon approval of requested action #1, Pursuant to RSA 7:12, authorize the Department of Justice (DOJ) to accept and expend a sum, not to exceed \$777,321, from funds not otherwise appropriated for the purpose of covering projected shortfalls in general litigation expenses incurred in the defense of the State and the prosecution of criminal laws effective with the approvals of the Fiscal Committee and the Governor and Executive Council through June 30, 2020. 100% General Funds

These funds are to be budgeted in account #02-20-20-200010-2601 entitled "Attorney General" as follows:

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court

His Excellency, Governor Christopher T. Sununu
and the Honorable Council

December 19, 2019

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Class/Object	Class Title	FY 2020 Current Adjusted Authorized	Request Action	FY 2020 Revised Adjusted Authorized
Expenditures				
010-500100	PERSONAL SERVICES PERM CLASS	\$410,717	\$0	\$410,717
011-500126	PERSONAL SERVICES UNCLASSIFI	\$139,008	\$0	\$139,008
012-500128	PERSONAL SERVICES UNCLASSIFI	\$132,857	\$0	\$132,857
013-500132	PERSONAL SERVICES UNCLASSIFI	\$108,981	\$0	\$108,981
015-500137	PERSONAL SERVICES UNCLASSIFI	\$109,650	\$0	\$109,650
017-500147	FT EMPLOYEES SPECIAL PAYMENT	\$7,629	\$0	\$7,629
018-500106	OVERTIME	\$5,000	\$0	\$5,000
020-500200	CURRENT EXPENSES	\$51,540	\$0	\$51,540
022-500255	RENTS-LEASES OTHER THAN STAT	\$5,875	\$0	\$5,875
024-500225	MAINT OTHER THAN BUILD-GRN	\$2,000	\$0	\$2,000
026-500251	ORGANIZATIONAL DUES	\$34,000	\$0	\$34,000
027-582703	TRANSFERS TO DOIT	\$103,069	\$0	\$103,069
030-500301	EQUIPMENT NEW REPLACEMENT	\$8,000	\$0	\$8,000
037-500174	TECHNOLOGY-HARDWARE	\$5,300	\$0	\$5,300
038-500175	TECHNOLOGY-SOFTWARE	\$3,400	\$0	\$3,400
039-500188	TELECOMMUNICATIONS	\$15,643	\$0	\$15,643
040-501587	INDIRECT COSTS	\$268,936	\$0	\$268,936
042-500620	ADDITIONAL FRINGE BENEFITS	\$2,994	\$0	\$2,994
049-584995	TRANSFER TO OTHER STATE AGEN	\$4,113	\$0	\$4,113
057-500531	BOOKS PERIODICALS SUBSCRIPTI	\$107,200	\$0	\$107,200
060-500601	BENEFITS	\$398,733	\$0	\$398,733
066-500543	EMPLOYEE TRAINING	\$1,000	\$0	\$1,000
070-500704	IN STATE TRAVEL REIMBURSEMEN	\$4,870	\$0	\$4,870
073-500580	GRANTS NON FEDERAL	\$400,000	\$0	\$400,000
080-500713	OUT OF STATE TRAVEL REIMB	\$10,300	\$0	\$10,300
211-500757	CATASTROPHIC CASUALTY INS	\$1,575	\$0	\$1,575
233-500769	LITIGATION EXPENSE	\$1,332,649	\$777,321	\$2,109,970
	Total:	\$3,675,039	\$777,321	\$4,452,360
Revenue				
009-407079	AGENCY INCOME	\$625,197	\$0	\$625,197
00C-401350	AGENCY INDIRECT COST RECOV	\$247,079	\$0	\$247,079

The Honorable Mary Jane Wallner, Chairman
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00S-000010	GENERAL FUNDS	\$2,802,763	\$777,321	\$3,580,084
	Total:	\$3,675,039	\$777,321	\$4,452,360

EXPLANATION

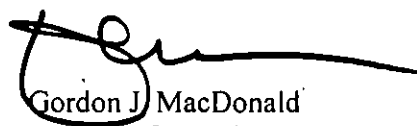
The Department was appropriated a sum of \$350,000 and authorized an additional \$562,340, approved by the Fiscal Committee of the General Court on July 25, 2019, item FIS 19-169, and approved by the Governor and Executive Council on July 31, 2019, item #99, for a total of \$912,340, to utilize for general litigation expenses for Fiscal Year 2020. The Department estimates it will need an additional \$1,197,630 to cover on-going legal processes through the end of Fiscal Year 2020.

The Department will incur significant litigation costs in the Criminal Bureau for investigations and prosecutions of homicides, death-resulting drug cases and Medicaid Fraud cases. The Department anticipates that it will incur estimated expenses for various lab tests, crime scene evaluations and expert reviews for upcoming hearings and trials. The Department also anticipates incurring expenses relating to discovery, depositions, experts, and retention of counsel in the course of defending civil claims against the State. The Consumer Bureau will continue to incur significant costs with respect to a proposed affiliation between health systems and expects to be partially reimbursed by the parties involved. Those reimbursements will be received as revenue and will offset General Funds. The Department also anticipates costs for litigation for the Environmental Protection Bureau, the Transportation and Construction Bureau, and the Charitable Trust Unit.

The Department incurred costs with respect to proposed affiliations between health systems. Since July 1, 2019, the Department received partial reimbursement, in the amount of \$367,465 for the Exeter Health/Wentworth Douglas/Mass General proposed merger and \$52,844 for the Dartmouth Hitchcock/GraniteOne merger, for a total of \$402,309. **Requested Action #1** requests permission to utilize those reimbursement funds (Non General Funds) to offset litigation costs through June 30, 2020. **Requested Action #2** requests permission to utilize \$777,321 in General Funds to further offset litigation costs through June 30, 2020.

Please let me know if you have any questions regarding this request. Your consideration is greatly appreciated.

Respectfully submitted,


Gordon J. MacDonald
Attorney General

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ATTORNEY GENERAL 10'19 # 1009 1009
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

FIS 19 169
GC #99

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

July 10, 2019

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

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

REQUESTED ACTION

Pursuant to the provisions of Chapter 145, sub-paragraph I,(a), Laws of 2019, and RSA 7:12, the Department of Justice (DOJ) requests authorization to exceed the 3/12 limitation of said resolution in the amount of \$562,340 in general litigation expenses incurred in the defense of the State and the prosecution of criminal law, effective upon approval of Fiscal Committee and Governor and Executive Council through September 30, 2019. 100% General Funds.

These funds are to be budgeted in account #02-20-20-200010-2601 entitled "Attorney General" as follows:

Class/Object	Class Title	FY 2020 Current Adjusted Authorized	Request Action	FY 2020 Revised Adjusted Authorized
Expenditures				
010-500100	PERSONAL SERVICES PERM CLASS	\$81,797	\$0	\$81,797
011-500126	PERSONAL SERVICES UNCLASSIFI	\$34,993	\$0	\$34,993
012-500128	PERSONAL SERVICES UNCLASSIFI	\$33,442	\$0	\$33,442
013-500132	PERSONAL SERVICES UNCLASSIFI	\$27,013	\$0	\$27,013
015-500137	PERSONAL SERVICES UNCLASSIFI	\$27,600	\$0	\$27,600
017-500147	FT EMPLOYEES SPECIAL PAYMENT	\$18,398	\$0	\$18,398
018-500106	OVERTIME	\$250	\$0	\$250
020-500200	CURRENT EXPENSES	\$13,280	\$0	\$13,280

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022-500255	RENTS-LEASES OTHER THAN STAT	\$375	\$0	\$375
024-500225	MAINT OTHER THAN BUILD-GRN	\$750	\$0	\$750
026-500251	ORGANIZATIONAL DUES	\$8,500	\$0	\$8,500
027-582703	TRANSFERS TO DOIT	\$14,398	\$0	\$14,398
030-500301	EQUIPMENT NEW REPLACEMENT	\$747	\$0	\$747
037-500174	TECHNOLOGY-HARDWARE	\$500	\$0	\$500
038-500175	TECHNOLOGY-SOFTWARE	\$200	\$0	\$200
039-500188	TELECOMMUNICATIONS	\$6,725	\$0	\$6,725
040-501587	INDIRECT COSTS	\$41,257	\$0	\$41,257
049-584995	TRANSFER TO OTHER STATE AGEN	\$999	\$0	\$999
057-500531	BOOKS PERIODICALS SUBSCRIPTI	\$26,474	\$0	\$26,474
060-500601	BENEFITS	\$104,135	\$0	\$104,135
066-500543	EMPLOYEE TRAINING	\$125	\$0	\$125
070-500704	IN STATE TRAVEL REIMBURSEMEN	\$1,051	\$0	\$1,051
073-500580	GRANTS NON FEDERAL	\$37,500	\$0	\$37,500
080-500713	OUT OF STATE TRAVEL REIMB	\$1,524	\$0	\$1,524
232-500767	WITNESS FEES	\$75,000	\$0	\$75,000
233-500769	LITIGATION EXPENSE	\$87,499	\$562,340	\$649,839
	Total:	\$644,532	\$562,340	\$1,206,872
Revenue				
009-407079	AGENCY INCOME	\$31,988	\$0	\$31,988
00C-401350	AGENCY INDIRECT COST RECOV	\$41,257	\$0	\$41,257
00S-000010	GENERAL FUNDS	\$571,287	\$562,340	\$1,133,627
	Total:	\$644,532	\$562,340	\$1,206,872

EXPLANATION

The DOJ was appropriated a sum of \$87,499 to utilize for general litigation expenses through September 30, 2019. The Department estimates it will need an additional \$562,340 to cover on-going legal processes.

Listed below are answers to standard questions required of all Fiscal Committee item requests, related to RSA 9:16-a, "Transfers authorized", RSA 14:30-a, VI "Expenditure of funds over \$100,000 from any Non State Source", or RSA 124:15, "Positions Authorized", or both, and all emergency requests pursuant to "Chapter 145, subparagraph I, (a), Laws

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of 2019, making temporary appropriations for the expenses and encumbrances of the State of New Hampshire”:

1. Is the action required of this request a result of the Continuing Resolution for FY2020?
~~This action is a result of the Continuing Resolution for FY2020. Please note that,~~ because of the current caseload, the Department would need to come before the Fiscal Committee of the General Court and the Governor and Executive Council to cover projected shortfalls in general litigation pursuant to RSA 7:12; to accept and expend from funds not otherwise appropriated.
2. If this request is **retroactive** what is the significance and importance of the action being effective from an earlier date?
This item is not retroactive.
3. Is this a previously funded and ongoing program established through Fiscal Committee and Governor and Executive Council action? (If so, include as an attachment the original documents as approved and cite the specific dates of authorization and end dates for each action as part of your answer to this question).
This was not a previously funded program established through the Fiscal Committee and Governor and Executive Council.
4. Was funding for this program included in the FY 2018-2019 enacted Budget or requested and denied?
This funding was requested in the FY 2018-2019 Budget.
5. Is this program in total or in part, included in the vetoed FY 2020-2021 Operating Budget proposal currently pending for your department, or was it requested and denied?
This program is included in the vetoed FY 2020-2021 Operating Budget.
6. Does this program include, either positions or consultants, and if so are the positions filled, vacant, or have offers pending? (Please provide details for each position and note whether consultant contracts have been awarded).
This program does not include positions or consultants.
7. What would be the effect should this program be discontinued or not initiated as a result of this request being denied?
The Department will be unable to pay for depositions, lab tests, court fees, experts or retention of counsel. This will interfere with ongoing cases involving public safety, prosecution of criminal law and defense of the state.

The Department will incur major litigation costs in the Criminal Bureau for investigations and prosecutions of homicides, death-resulting drug and Medicaid fraud cases. The Department

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court

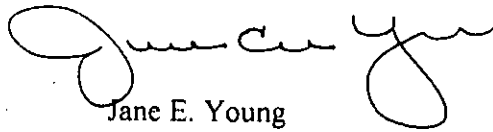
His Excellency, Governor Christopher T. Sununu
and the Honorable Council

July 10, 2019
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anticipates that it will incur estimated expenses for various lab tests, crime scene evaluations and expert review for upcoming trials and hearings. The Department also anticipates incurring expenses relating to depositions, experts, and retention of counsel to be incurred in the course of defending civil claims against the State. The Consumer Bureau is expected to incur significant costs with respect to a proposed affiliation between health systems. This request also reflects the anticipated needs of the Environmental Protection and Transportation and Construction Bureaus, as well as the Charitable Trusts Unit.

Please let me know if you have any questions regarding this request. Your consideration is greatly appreciated.

Respectfully submitted,



Jane E. Young
Deputy Attorney General

#2442296