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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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CONCORD, NEW HAMPSHIRE 03301-6397

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ATTORNEY GENERAL



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August 6, 2013

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

Your Excellency and Members of the Council:

REQUESTED ACTION

That approval be and hereby is given for the salary increases referenced in Appendix A for attorneys in the Department of Justice, effective for the pay period ending August 22, 2013, to be paid on September 6, 2013, upon Governor and Council approval, as authorized by RSA 94:1-a, I (c) and 2013 Session Law Ch. 144, sec. 161.

EXPLANATION

First, I thank the Governor for including appropriations for salary increases for the unclassified attorneys in the Attorney General's Office in her proposed budget and the Legislature for including the unclassified attorney salary increases in the final version of the 2014-2015 Budget. This request seeks your approval to implement salary increases for those attorneys. These salary increases will result in an average increase of approximately 3% for the attorneys as a group. While our Office did receive the additional 1.5% pay increase that classified State employees received, this pay increase was distributed in accordance with our merit based system. Because our attorneys are compensated on a merit based system, salary increases range from no increase to a few increases greatly in excess of the 3% average.

I am proud of the effort and productivity of this Office. Our attorneys have and will continue to diligently represent the State in so many capacities. Their dedication and hard work serve the people of New Hampshire well.

By way of background, in 2000, the Legislature examined state salaries in general with the aid of the Hay Group, a consulting firm, and specifically examined the compensation for attorneys in unclassified service with the Attorney General's Office. The Hay Group's conclusion was that the range and structure of the step system for attorneys inhibited the effectiveness of the operation of the Attorney General's Office. As a result, in 2001, the

Legislature changed the salary structure for the unclassified attorney positions in this Office in order to address longstanding recruitment and retention problems. The change eliminated increases based on both cost of living and steps. A market anchor pay structure and a set of merit based criteria were established, which we have used to designate salary levels, and salary increases, subject to your approval and within the appropriations made to this agency. RSA 94:1-a, (c)(1-3). See Appendix B.¹

2013 Session Laws, Ch. 144, sec. 161, amended the relevant statute and reset the market anchors and ranges for the various attorney positions in the Department. Effective on July 12, 2013, the statute sets an overall range for attorney pay from \$45,796 to \$109,306. The statute covers four different positions: attorney, assistant attorney general, senior assistant attorney general, and associate attorney general. Each position has been assigned a market anchor:

Attorney	\$ 55,205
Assistant Attorney General	\$ 75,199
Senior Assistant Attorney General	\$ 92,841
Associate Attorney General	\$102,250

The statute authorizes the placement of the salary of each attorney “within the overall range, above, at, or below the market anchor salary.” This salary structure is designed to allow our agency to retain and recruit effectively. Unfortunately, recent pay freezes and failures to appropriate funds to the Department have made this goal essentially impossible to achieve. Instead, it left the Department with salary compression – that is lawyers with many years of experience in the Department making the same or little more than newly hired attorneys with much less experience.

In addition, it is rare that a lawyer makes the same or more than the market anchor. Instead, 37 out of 52 attorneys earn less than the market anchor set by the statute even with the proposed pay increases. The last pay increases for attorneys in the Attorneys General’s Office occurred in January 2009. At that time, the lower paid attorneys received an average of a 2% pay increase while higher paid attorneys received only a \$500 pay increase to offset the increase cost of health insurance that was implemented by the State. Further, there were no funds available to grant pay increases to attorneys receiving their first commission or other promotions. Note that these minor pay increases occurred at a time when all other State employees received a 5% pay increase.

In determining the proposed salaries set forth in Appendix A, we considered and applied the seven criteria but also made adjustments to alleviate some of the compression caused by the years of no or minor pay adjustments. As a result, some attorneys did not receive the average 3% pay increase as doing so would lead some to earn more than comparably performing and experienced peers. These smaller pay increases should not be considered to reflect negatively on the excellent work that these attorneys do. In addition, \$154,000 was appropriated for pay increases of which only approximately \$125,000 will be allocated with these proposed salaries. The remaining funds are available for our agency to meet other obligations.

¹ The merit based salary structure does not apply to the Attorney General or the Deputy Attorney General who both remain in the traditional step plan with cost of living adjustments applied to most unclassified State employees.

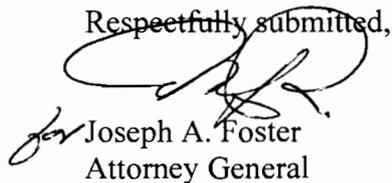
A significant amount of time, thought and energy was devoted to applying the statutory, merit-based criteria in recommending the attached raises. My senior staff has personally evaluated each attorney. I firmly believe that the attached raises are well-deserved and necessary to keep talented and experienced attorneys at our Office.

We are hopeful that we will be able to convince the Legislature to continue its work this year and further enhance salaries in the Department and create additional positions. I am convinced both will be money well spent on behalf of New Hampshire taxpayers.

This request is retroactive because the Department did not have the necessary information regarding how much money had been appropriated for raises prior to the July Governor and Council Meeting. Further, all classified and unclassified employees pay raises are effective July 12, 2013 in accordance with 2013 Session Law, Ch. 144, sec. 161.

We thank you for your attention to this vitally important matter, which is designed to retain the individuals who are the backbone of this Office and its future. Deputy Attorney General Ann Rice and I will be happy to answer any questions you may have. Thank you for your consideration.

Respectfully submitted,



Joseph A. Foster
Attorney General

JAF/p
Enclosure

#922395

**APPENDIX A
DEPARTMENT OF JUSTICE
Attorney Pay Raise**

8/6/2013

<u>Bureau</u>	<u>Pos #</u>	<u>Title</u>	<u>Current Salary</u>	<u>New Salary</u>	<u>Percentage Increase</u>
Administration	9U487	ASSOCIATE ATTORNEY GENERAL	94,321	97,500	3.37%
Criminal	9U050	SR ASST ATTORNEY GENERAL	85,500	88,065	3.00%
Criminal	9U222	ASSISTANT ATTORNEY GENERAL	78,822	81,187	3.00%
Criminal	9U499	SR ASST ATTORNEY GENERAL	86,229	88,816	3.00%
Criminal	9U504	ASSISTANT ATTORNEY GENERAL	75,226	80,000	6.35%
Criminal	9U260	ASSOCIATE ATTORNEY GENERAL	92,816	97,500	5.05%
Criminal	9U350	SR ASST ATTORNEY GENERAL	92,397	95,169	3.00%
Criminal	9U056	SR ASST ATTORNEY GENERAL	87,857	90,493	3.00%
Criminal	9U045	ASSISTANT ATTORNEY GENERAL	75,500	77,765	3.00%
Criminal	9U307	SR ASST ATTORNEY GENERAL	71,877	74,033	3.00%
Criminal	9U540	ASSISTANT ATTORNEY GENERAL	65,000	66,950	3.00%
Criminal	9U289	ASSISTANT ATTORNEY GENERAL	62,909	70,000	11.27%
Criminal	9U553	ASSISTANT ATTORNEY GENERAL	59,500	66,500	11.76%
Criminal	9U054	ASSISTANT ATTORNEY GENERAL	61,000	62,830	3.00%
Criminal	9U541	ATTORNEY III	58,000	59,160	2.00%
Criminal	9U057	ASSISTANT ATTORNEY GENERAL	58,500	60,255	3.00%
Consumer	9U552	ASSISTANT ATTORNEY GENERA	82,000	84,460	3.00%
Consumer	9U355	SR ASST ATTORNEY GENERAL	82,594	82,594	0.00%
Consumer	9U223	SR ASST ATTORNEY GENERAL	80,444	81,248	1.00%
Consumer	9U500	SR ASST ATTORNEY GENERAL	80,994	85,000	4.95%
Consumer	9U565	ASSISTANT ATTORNEY GENERAL	61,000	62,220	2.00%
Consumer	9U543	ASSISTANT ATTORNEY GENERAL	59,000	62,749	6.35%
Antitrust	9U290	ASSISTANT ATTORNEY GENERA	67,739	69,771	3.00%

<u>Bureau</u>	<u>Pos. #</u>	<u>Title</u>	<u>Current Salary</u>	<u>New Salary</u>	<u>Percentage Increase</u>
Environmental	9U503	ASSISTANT ATTORNEY GENERAL	76,534	78,830	3.00%
Environmental	9U038	ASSISTANT ATTORNEY GENERAL	62,778	65,500	4.34%
Environmental	9U216	ASSISTANT ATTORNEY GENERAL	60,000	61,800	3.00%
Environmental	9U225	SR ASST ATTORNEY GENERAL	80,995	81,805	1.00%
Environmental	9U220	SR ASST ATTORNEY GENERAL	82,827	84,484	2.00%
Environmental	9U042	SR ASST ATTORNEY GENERAL	74,000	79,220	7.05%
Medicaid Fraud	9U217	ASSISTANT ATTORNEY GENERAL	68,000	70,040	3.00%
Medicaid Fraud	9U583	ASSISTANT ATTORNEY GENERAL	63,180	65,075	3.00%
Civil	9U531	ASSISTANT ATTORNEY GENERAL	87,623	90,251	3.00%
Civil	9U047	SR ASST ATTORNEY GENERAL	91,795	94,548	3.00%
Civil	9U288	SR ASST ATTORNEY GENERAL	93,144	95,939	3.00%
Civil	9U049	SR ASST ATTORNEY GENERAL	85,000	87,550	3.00%
Civil	9U359	SR ASST ATTORNEY GENERAL	93,813	96,628	3.00%
Civil	9U488	ASSOCIATE ATTORNEY GENERAL	94,495	97,500	3.18%
Civil	9U041	ASSISTANT ATTORNEY GENERAL	70,897	73,024	3.00%
Civil	9U048	ASSISTANT ATTORNEY GENERAL	72,430	74,603	3.00%
Civil	9U052	ASSISTANT ATTORNEY GENERAL	62,000	64,500	4.03%
Civil	9U360	ASSISTANT ATTORNEY GENERAL	61,000	63,800	4.59%
Civil	9U577	ATTORNEY III	46,616	48,014	3.00%
Civil	9U224	ASSISTANT ATTORNEY GENERAL	60,000	61,800	3.00%
Civil	9U375	ATTORNEY III	56,500	57,065	1.00%
Transportation	9U061	ASSISTANT ATTORNEY GENERAL	74,689	74,689	0.00%
Transportation	9U060	ATTORNEY III	56,500	58,195	3.00%
Transportation	9U053	ASSISTANT ATTORNEY GENERAL	77,000	79,310	3.00%
Transportation	9U584	ASSISTANT ATTORNEY GENERAL	63,684	65,595	3.00%
Transportation	9U357	ASSISTANT ATTORNEY GENERAL	60,000	62,800	4.67%

<u>Bureau</u>	<u>Pos. #</u>	<u>Title</u>	<u>Current Salary</u>	<u>New Salary</u>	<u>Percentage Increase</u>
Debt Recovery	9U059	ASSISTANT ATTORNEY GENERA	78,453	79,238	1.00%
TSRP	9U537	ASSISTANT ATTORNEY GENERA	63,392	65,294	3.00%

APPENDIX B

1. RSA 94:1-a,I(c)(1) For attorney positions in the department of justice, except for the attorney general and deputy attorney general, the following shall apply commencing on July 1, 2013:

	<u>Minimum</u>	<u>Market Anchor</u>	<u>Maximum</u>
	\$45,796		\$109,306
Attorney		\$ 55,205	
Assistant Attorney General		\$ 75,199	
Senior Assistant Attorney General		\$ 92,841	
Associate Attorney General		\$102,250	

2. The attorney general shall have the authority to place all attorneys of the department of justice in the appropriate position within the overall range, above, at, or below the market anchor salary. A market anchor designation for a position is the reference point within the overall range to aid in salary management and recruitment when done at a level other than entry level. The attorney general shall consider the following criteria in considering compensation for department attorneys.

- (a) Tenure and progressive experience;
- (b) The nature of the work performed;
- (c) Increased independence of work performed and judgment exercised;
- (d) Achievement of pre-determined performance standards;
- (e) The acquisition and application of further education and training;
- (f) Demonstration of an increased frequency of undertaking the type and complexity of work normally associated with the next position level; and
- (g) Fulfilling a leadership or management role.

3. Designation of position, salary levels, and salary increases for attorneys in the department of justice shall be determined by the attorney general, subject to approval of the governor and council, within appropriations made to the department of justice. The provisions of RSA 94:3 shall not apply to attorney positions governed by this subparagraph.