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State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER
33 HAZEN DR. CONCORD, NH 03305
603/271-2791

JOHN J. BARTHELMES
COMMISSIONER

July 28, 2017

The Honorable Neal M. Kurk, 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, New Hampshire 03301

Retroactive

Requested Action

1. Pursuant to RSA 14:30-a, authorize the Department of Safety, Bureau of Hearings to retroactively accept and expend funds in the amount of \$136,153.00 from the Department of Safety, Office of Highway Safety, to continue to provide two grant-funded prosecutors to support the New Hampshire State Police for the prosecution of DWI/DUI cases statewide. Effective upon Fiscal Committee and Governor and Council approvals for the period of July 1, 2017 through September 30, 2017. Funding source: 100% Agency Income.

2. Pursuant to RSA 124:15 and contingent upon approval of requested action #1, authorize the Department of Safety, Bureau of Hearings, to retroactively continue two (2) temporary full-time Department of Safety Hearings Examiner Prosecutor (LG 31) positions for continued prosecution of DWI/DUI cases for New Hampshire State Police in circuit courts statewide. Effective upon Fiscal Committee Governor and Council approvals for the period of July 1, 2017 through September 30, 2017. Funding source: 100% Agency Income.

Funding will be budgeted as follows:

02-23-23-231010-51250000 Dept. of Safety – Office of the Commissioner – Hearings-Highway Safety Grants

<u>Class</u>	<u>Description</u>	<u>SFY 2018 Adjusted Authorized Appropriation</u>	<u>Requested Action</u>	<u>Revised SFY 2018 Adjusted Authorized</u>
009-407085	Agency Income	\$0.00	(\$136,153.00)	(\$136,153.00)
020-500215	Current Expense	\$0.00	\$250.00	\$250.00
039-500188	Telecommunications	\$0.00	\$479.00	\$479.00
040-500800	Indirect Costs	\$0.00	\$14,608.00	\$14,608.00
059-500117	Temp Full Time	\$0.00	\$65,020.00	\$65,020.00
060-500601	Benefits	\$0.00	\$32,836.00	\$32,836.00
070-500705	In State Travel Reimbursement	\$0.00	\$22,960.00	\$22,960.00
Total		\$0.00	\$136,153.00	\$136,153.00

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Explanation

This item is **retroactive** as the first scheduled Fiscal Committee meeting to authorize the acceptance of funds into the 2018-2019 budget occurs after the beginning of the new biennium. These funds will provide for the continuation of two (2) temporary full-time prosecutor positions to assist with the prosecution of DWI/DUI cases in circuit courts statewide, with an emphasis on the southern and western part of the state. These cases are not only alcohol-related, but also include driving under the influence of drugs, including opioids. The cases not being handled by these prosecutors due to caseload are being prosecuted by NH State Police troopers from the Troop stations in the applicable areas.

These temporary full-time positions provide not only for attorney prosecution of all DWI/DUI cases, but also provide additional training to State Police to include having a biannual DWI/DUI focused prosecution school that provides training on DWI/DUI case investigation and on sobriety checkpoints. These attorneys are able to provide guidance in the proper investigation and presentation of DWI/DUI cases along with legal assistance, including answering legal questions by phone and email, reviewing search warrant applications on DWI/DUI cases, and other technical assistance. Moreover, this allows prosecutors to provide greater assistance in the larger troops and to assume responsibility of the DWI/DUI prosecution in all secondary courts in Troops A, B, and D.

These positions enable State Troopers to spend more time patrolling and less time on the administrative work that case prosecution requires. These positions allow the state to achieve a greater likelihood of successful case prosecution, and fewer drunk drivers are able to avoid consequences by exploiting legal technicalities. At the present time in trooper prosecuted cases, a trooper may be at a disadvantage when the accused is represented by an attorney who, oftentimes, is an expert at defending DWI/DUI cases.

The funds are to be budgeted as follows:

Funds in Class 20, Current Expenses, are needed to pay for miscellaneous expenses, office supplies, and postage.

Funds in Class 39, Telecommunications, are needed to pay for office phones and cell phones.

Funds in Class 40, Indirect Costs, are needed to pay indirect costs on eligible expenses.

Funds in Class 59, Temp Full Time, are needed to pay salaries for these two temporary full-time positions.

Funds in Class 60, Benefits, are needed to pay the benefits associated with these two positions.

Funds in Class 70, In State Travel Reimbursement, are needed to pay expenses associated with the in-state travel required for these positions.

Funds in Class 80, Out of State Travel Reimbursement, are needed to pay for these positions to attend conferences and training related to impaired driving.

The following information is provided in accordance with the comptroller's instructional memorandum dated September 12, 1981.

1) *List of personnel involved:* Two existing temporary full-time Hearings Examiner Prosecutors (LG 31, Step 6 and LG 31, Step 1)

2) *Nature, Need, and Duration:* These positions assist with prosecuting DWI/DUI cases, both alcohol-related and impaired driving cases involving drugs, including opioids. Currently, in the state courts where these cases are being prosecuted, approximately 40% of these cases are being handled by an attorney with the remaining being prosecuted by NH State Troopers. These positions provide for increased attorney prosecution of DWI/DUI cases with the goal being to have all State Police DWI/DUI cases prosecuted by an attorney prosecutor rather than a trooper. These positions will continue as long as funding is received.

3) *Relationship to existing agency programs:* The two DWI/DUI prosecutors enhance the Department of Safety Prosecution unit which, in turn, benefits State Police and other DOS law enforcement divisions such as Marine Patrol and the Fire Marshall's office.

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- 4) *Has a similar program been requested of the legislature and denied?* No.
- 5) *Why wasn't funding included in the agency's budget request?* The duration of these positions was unknown at the time the budget was created.
- 6) *Can portions of the grant funds be utilized?* Grant funds are being utilized for these positions.
- 7) *Estimate the funds required to continue this position:* The approximate cost of these positions is \$217,258.00 over the grant period.

Respectfully submitted,


John J. Barthelmes
Commissioner of Safety

Department of Safety
Hearings - OHS Grants
Fiscal Situation

Federal Funds awarded:	
FFY 2017 – Impaired Driving Prosecutors Grant – 10/1/2016-9/30/2017	<u>\$270,978.16</u>
Total Grant Funds Awarded	\$270,978.16
Less SFY 2017 expenses on FFY 2017 Grants	<u>(\$134,824.60)</u>
Total	(\$134,824.60)
Net Grant Funds Remaining as of July 1, 2017 (SFY 2018)	\$136,153.56
Less SFY 2017 Appropriation including prior year encumbrances 02-23-23-231010-51250000	\$0.00
Excess grant funds available to appropriate	<u>\$136,153.56</u>
This Request	\$136,153.00

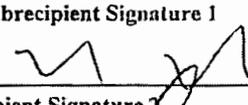
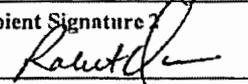
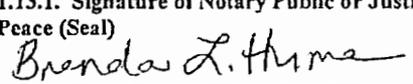
OFFICE OF HIGHWAY SAFETY GRANT AGREEMENT

The State of New Hampshire and the Subrecipient hereby
Mutually agree as follows:
GENERAL PROVISIONS

Project Title: Impaired Driving Prosecutors

Project #: 308-17S-095

1. Identification and Definitions.

1.1. State Agency Name New Hampshire Department of Safety Office of Highway Safety		1.2. State Agency Address 33 Hazen Drive, Room 109A Concord, NH 03305	
1.3. Subrecipient Name Department of Safety Bureau of Hearings		1.4. Subrecipient Address 33 Hazen Drive Concord, NH 03305	
Chief's Email Address: N/A		Grant Contact Email: christopher.casko@dos.nh.gov	
1.4.1 Subrecipient Type (State Govt, City/Town Govt, County Govt, College/University, Other (Specify) State		1.4.2 DUNS 060340564	
1.5. Subrecipient Phone # 223-3888	1.6. Effective Date 10/01/16	1.7. Completion Date 09/30/17	1.8. Grant Limitation \$270,978.16 *
1.9. Grant Officer for State Agency John Clegg		1.10. State Agency Telephone Number 271-2893	
"By signing this form we certify that we have complied with any public meeting requirement for acceptance of this grant, including if applicable RSA 31:95-b."			
1.11. Subrecipient Signature 1 		1.12. Name & Title of Subrecipient Signor 1 Christopher Casko Administrator, Bureau of Hearings Department of Safety	
Subrecipient Signature 2 		Name & Title of Subrecipient Signor 2 Robert L. Quinn, DOS Assistant Commissioner	
Subrecipient Signature 3		Name & Title of Subrecipient Signor 3	
1.13. Acknowledgment: State of New Hampshire, County of <u>Merrim</u> , on <u>9/28/16</u> before the undersigned officer, personally appeared the person(s) identified in block 1.12., known to me (or satisfactorily proven) to be the person(s) whose name is signed in block 1.11., and acknowledged that he/she executed this document in the capacity indicated in block 1.12.			
1.13.1. Signature of Notary Public or Justice of the Peace (Seal) 		1.13.2 Name & Title of Notary Public or Justice of the Peace <u>Brenda L. Hume,</u> <u>Justice of the Peace</u> <u>My commission expires 8-5-201</u>	
1.14. State Agency Signature(s) 		1.15. Name & Title of State Agency Signor(s) John J. Barthelmes, Commissioner NH Department of Safety Date: <u>9-29-16</u>	
1.16. Approval by Attorney General (Form, Substance and Execution) (if G & C approval required) By: _____ Assistant Attorney General, On: / /			
1.17. Approval by Governor and Council (if applicable) By: _____ On: / /			

2. SCOPE OF WORK: In exchange for grant funds provided by the State of New Hampshire, acting through the Agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-P:55-63, the Subrecipient identified in block 1.3 (hereinafter referred to as "the Subrecipient"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being hereinafter referred to as "the Project").