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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

November 2, 2020

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, New Hampshire 03301

REQUESTED ACTION

1. Pursuant to RSA 14:30-a, VI, authorize the Department of Justice (DOJ) to budget and expend Consumer Protection Escrow Funds, in the amount of \$580,434, 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, 2021. 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 2021 Current Adjusted Authorized	Request Action	FY 2021 Revised Adjusted Authorized
Expenditures				
010-500100	PERSONAL SERVICES PERM CLASS	\$423,753	\$0	\$423,753
011-500126	PERSONAL SERVICES UNCLASSIFI	\$139,008	\$0	\$139,008
012-500128	PERSONAL SERVICES UNCLASSIFI	\$132,858	\$0	\$132,858
013-500132	PERSONAL SERVICES UNCLASSIFI	\$109,282	\$0	\$109,282
015-500137	PERSONAL SERVICES UNCLASSIFI	\$109,649	\$0	\$109,649
017-500147	FT EMPLOYEES SPECIAL PAYMENT	\$7,629	\$0	\$7,629
018-500106	OVERTIME	\$5,000	\$0	\$5,000

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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	\$35,000	\$0	\$35,000
027-582703	TRANSFERS TO DOIT	\$105,440	\$0	\$105,440
030-500301	EQUIPMENT NEW REPLACEMENT	\$5,500	\$0	\$5,500
037-500174	TECHNOLOGY-HARDWARE	\$4,100	\$0	\$4,100
038-500175	TECHNOLOGY-SOFTWARE	\$2,200	\$0	\$2,200
039-500188	TELECOMMUNICATIONS	\$15,643	\$0	\$15,643
040-501587	INDIRECT COSTS	\$276,664	\$0	\$276,664
042-500620	ADDITIONAL FRINGE BENEFITS	\$3,112	\$0	\$3,112
049-584995	TRANSFER TO OTHER STATE AGEN	\$4,556	\$0	\$4,556
057-500531	BOOKS PERIODICALS SUBSCRIPTI	\$107,200	\$0	\$107,200
060-500601	BENEFITS	\$414,828	\$0	\$414,828
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	\$1,577	\$0	\$1,577
233-500769	LITIGATION EXPENSE	\$350,000	\$580,434	\$930,434
	Total:	\$2,728,584	\$580,434	\$3,309,018
Revenue				
009-407079	AGENCY INCOME	\$209,174	\$580,434	\$789,608
00C-401350	AGENCY INDIRECT COST RECOV	\$254,151	\$0	\$254,151
00S-000010	GENERAL FUNDS	\$2,265,259	\$0	\$2,265,259
	Total:	\$2,728,584	\$580,434	\$3,309,018

- 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 \$1,837,816 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, 2021. 100% General Funds

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

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Class & Object	Class Title	FY 2021 Current Adjusted Authorized	Request Action	FY 2021 Revised Adjusted Authorized
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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	\$35,000	\$0	\$35,000
027-582703	TRANSFERS TO DOIT	\$105,440	\$0	\$105,440
030-500301	EQUIPMENT NEW REPLACEMENT	\$5,500	\$0	\$5,500
037-500174	TECHNOLOGY-HARDWARE	\$4,100	\$0	\$4,100
038-500175	TECHNOLOGY-SOFTWARE	\$2,200	\$0	\$2,200
039-500188	TELECOMMUNICATIONS	\$15,643	\$0	\$15,643
040-501587	INDIRECT COSTS	\$276,664	\$0	\$276,664
042-500620	ADDITIONAL FRINGE BENEFITS	\$3,112	\$0	\$3,112
049-584995	TRANSFER TO OTHER STATE AGEN	\$4,556	\$0	\$4,556
057-500531	BOOKS PERIODICALS SUBSCRIPTI	\$107,200	\$0	\$107,200
060-500601	BENEFITS	\$414,828	\$0	\$414,828
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	\$1,577	\$0	\$1,577
233-500769	LITIGATION EXPENSE	\$930,434	\$1,837,816	\$2,768,250
	Total:	\$3,309,018	\$1,837,816	\$5,146,834
Revenue				
009-407079	AGENCY INCOME	\$789,608	\$0	\$789,608
00C-401350	AGENCY INDIRECT COST RECOV	\$254,151	\$0	\$254,151
00S-000010	GENERAL FUNDS	\$2,265,259	\$1,837,816	\$4,103,075
	Total:	\$3,309,018	\$1,837,816	\$5,146,834

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EXPLANATION

RSA 7:12 provides a means to fund expenses incurred by DOJ in the prosecution of crimes and the defense of the State. The expenses span a range of litigation-related costs. In the current biennium, DOJ was appropriated a sum of \$350,000 for these expenses. This appropriation has been nearly exhausted. I have attached a summary of the expenses incurred since July 1, 2020.

At this juncture, DOJ estimates it will need an additional \$2,418,250 to cover on-going legal expenses through June 30, 2021. In **Requested Action #1**, the Department is requesting to utilize \$580,434, in Consumer Protection Bureau Escrow Funds, to offset the total cost to the General Fund, in **Requested Action #2**, to \$1,837,816. Set forth below is a discussion of the specific, ongoing needs of the litigation fund.

Expenses Relating to the Criminal Bureau

DOJ estimates that the Criminal Bureau will require approximately \$895,800 for investigations and prosecutions of crimes. The majority of this request relates to DOJ's investigation of alleged crimes at the former Youth Development Center. Over the past eighteen months, this has evolved into a complex and multi-faceted investigation. New Hampshire State Police has committed ten Troopers to assist our efforts. This case involves a very large volume of documents, involving decades of records. The present request includes funds we anticipate needing to help store and manage those documents. The balance of the request for the Criminal Justice Bureau involves lab testing, crime-scene evaluation, depositions and expert review for pending prosecutions of homicides, illegal drug-related cases, Medicaid fraud cases and other criminal investigations.

Expenses Relating to the Civil Bureau

DOJ estimates that the Civil Bureau will require approximately \$358,405 for defense of claims brought against the State and associated expenses. The *Amanda D., et al. v. Hassan, et al.*, case resulted in a 2014 settlement agreement relating to the community mental health system. There are ongoing expenses relating to legal fees for plaintiffs' counsel, as well as fees for the court-retained expert reviewer. DOJ estimates that for the balance of Fiscal Year 2021, these expenses will total \$175,000. Another case with a significant anticipated expense is *Aliera Healthcare Inc., et al. v. State of New Hampshire Insurance Department*. We anticipate incurring expense of approximately \$41,500 for depositions, experts and mediation.

The case of *League of Women Voters of New Hampshire v. Gardner and New Hampshire Democratic Party v. Gardner, et al.*, involves a challenge to Senate Bill 3. An appeal on this

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matter is pending at the New Hampshire Supreme Court. Since July 1, 2020, DOJ has paid \$2,100 for electronic data storage for the large volume of discovery in this case. The present request includes estimated costs for continued storage of electronic data of \$5,405. We will not be incurring expenses relating to outside counsel in this case. The matter of *Casey and New Hampshire Democratic Party v. Gardner, et al.*, involved a challenge to House Bill 1264 in the U.S. District Court of the District of New Hampshire. The matter was dismissed shortly after the New Hampshire Supreme Court ruled on certified questions of law on May 20, 2020. There are no further expenses related to this matter. As the attached report indicates, since July 1, 2020, DOJ paid a total of \$19,324 for expenses relating to the *Casey* matter, including for outside counsel.


Expenses Relating to the Consumer Protection and Antitrust Bureau

DOJ estimates that the Consumer Protection and Antitrust Bureau will require approximately \$1,068,900 to discharge its crucial public protection functions. The Bureau is continuing its ongoing antitrust investigations with respect to two significant proposed transactions involving large healthcare systems: one involving Exeter Health Resources, Wentworth-Douglass Hospital and Partners Healthcare; and the second involving Dartmouth Hitchcock and Granite One Health. These transactions are complex and the Bureau's investigation involves gathering, reviewing and evaluating a large volume of evidence. We have retained outside counsel, experts and economists to assist with this effort. The anticipated expenses for these investigations represent the majority of the Bureau's request. **Requested Action #1** requests permission to utilize \$580,434, from the Consumer Protection Escrow account, established pursuant to RSA 7:6-f, in order to offset General Fund costs related to these investigations.

The remaining funding requests are for the Environmental Protection Bureau, the Transportation and Construction Bureau and the Charitable Trust Unit for costs associated with depositions, experts and document storage. The anticipated expenses for these three functions is \$150,600.

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

Respectfully submitted,


Gordon J. MacDonald
Attorney General

Department of Justice
Fiscal Year 2021 Litigation Report July 1, 2020 to October 30, 2020

Fiscal Year 2021 Budget Summary

Authorized Budget Fiscal Year 2020:	\$350,000.00
Add Encumbrance Carried Forward:	\$26,538.50
Minus Remaining Encumbrance:	(\$2,250.75)
Minus Expenditures July 1, 2020 to October 30, 2020:	(\$318,832.83)
Remaining Balance in Litigation Expenditure Class Line:	<u>\$55,454.92</u>

Fiscal Year 2021 Detailed Expenditures

Case	Expenditure
2020 State of Emergency	\$890.92
2020 State Primary Election	\$70.27
Amanda D fka Ellsworth, Barry, et al. v. New Hampshire Governor, et al.	\$22,120.00
Anna Carrigan v. State of New Hampshire Department of Health and Human Services	\$800.00
Appeal of Jeffrey Isaacs v. USC Keck School of Medicine et al.	\$46.78
Attorney General v. Project VetCare, Inc.	\$6.30
Boumil Grove Condos	\$332.70
Casey et al. v. State of New Hampshire Secretary of State et al.	\$19,324.20
Charles Gresham, et al. v. Alex Azar, II, et al.	\$368.66
Chinook Solar, LLC	\$6.49
Christopher Bashaw v. Control Technologies, Inc., et al.	\$7.15
Civil Bureau Miscellaneous FY 20 and 21	\$229.12
Civil Bureau Miscellaneous FY 20 and 22	\$62.80
Daniel Frye, et al. v. William M. Gardner, et al.	\$163.29
Daniel Ryan v. Patrick Murphy, et al.	\$1,147.53
David Gauthier v. State of New Hampshire, Division of Parks and Recreation	\$998.25
David Herlicka Investigation	\$770.25
Death of C.I.	\$778.05
Death of D.V.	\$1,350.00
Death of L.C.	\$43.63
Death of M.B.	\$119.25
Death of S.D.	\$1,078.10
Death of S.H.	\$50.00
Death of W.M.	\$90.86
Deaths of A.M. and R.F.	\$45.99
Emergency Order 40 Issues (EO52)	\$941.70
Exeter Health Resources and Wentworth-Douglass/Massachusetts	\$75,576.11
Extradition of Jewel Breed	\$7.18
Extradition of Joshua Thibodeau	\$7.18
Extradition of Mark Fairhurst	\$7.18
Extradition of Matthew Johnson	\$14.28
Extradition of Tyson Hazelton	\$7.18
Governor's Reopening Task Force	\$9.30
In re: Brian D. Fernald	\$49.20
In re: Crotched Mountain Entities	\$1,450.00
In re: Hillsborough County Attorneys Office	\$117.00
In re: Pitbull Realty Group, Inc.	\$22.50
In re: Purdue Pharma, L.P., et al. (Opioids)	\$22,000.00
In re: Salem Police Department Review	\$29.70
In re: State Police	\$539.12
In re: White Birch Brewing LLC	\$27.75
Investigation of E.G.	\$1,685.00
Investigation of L.L.	\$25.00
Investigation of T.F.	\$7,428.04
Investigation of YDC	\$37,408.19
Jacob Johnson v. New Hampshire Department of Corrections	\$2,000.00

Case	Expenditure
James Dale v. Corey Riendeau, Warden, Norther New Hampshire Correctional Facility	\$18.80
Jane Doe, et al. v. New Hampshire Hospital	\$600.00
Janet Bisceglia v. State of New Hampshire Secretary of State, et al.	\$192.65
John Doe v. Jeffrey A. Meyers, Commissioner of State of New Hampshire Department of Health and Human Services	\$141.15
League of Women Voters of New Hampshire, et al. v. William Gardner, et al.	\$2,099.75
Libertarian Party of New Hampshire v. Governor Christopher T. Sununu,	\$23.61
LRGHealthcare Financial Review	\$13.23
Matter of Z.C.	\$44.20
Miscellaneous Court Costs	\$25.00
Mount Washington Commission	\$45.31
NE Metal Recycling LLC (DBA Schnitzer Northeast) NEMR	\$55.53
New Hampshire Commission on Law Enforcement Accountability, Community	\$1,107.75
New Hampshire Department of Labor Injunction against Construction Company use of Undocumented Workforce	\$20.00
New Hampshire Department of Natural and Cultural Resources FY 20 and 21	\$167.44
New Hampshire Judicial Branch v. Human Rights Commission	\$4,672.00
New Hampshire Public Integrity	\$458.74
New Hampshire Registry of Deeds	\$114.10
Pacer Service Center	\$1,968.70
Paul Maravelias v. Gordon MacDonald	\$10.00
Review of out-of-state income tax policies	\$13,612.19
Robert Frese v. Gordon MacDonald	\$6.26
Robert Karash v. State of New Hampshire	\$12.60
Ryan Hardy, et al. v. Chester Arms, LLC, et al.	\$631.95
State Charity Registration Portal (SinglePortal)	\$71.74
State of New Hampshire v Community Legal Services Inc.	\$91.75
State of New Hampshire v. Andrew Duffy	\$11.07
State of New Hampshire v. Austin Stachura	\$52.00
State of New Hampshire v. Brandon Castiglione	\$176.00
State of New Hampshire v. Britany Barron	\$270.00
State of New Hampshire v. Christina Lariviere	\$46.50
State of New Hampshire v. Damien Seace	\$25.00
State of New Hampshire v. Darvi Rosenberg	\$75.00
State of New Hampshire v. David Mazzaglia	\$10.00
State of New Hampshire v. Devin Tappan	\$130.00
State of New Hampshire v. Drake D. Dargon, Sr. fka Daniel Paul Dargon	\$350.00
State of New Hampshire v. Emerson Figueiredo	\$3,182.76
State of New Hampshire v. Enviromart Green Industries	\$394.25
State of New Hampshire v. Frank Sargent, Jr. and Twin State Property Maintenance	\$44.00
State of New Hampshire v. Gregory O'Brien	\$0.00
State of New Hampshire v. Isaiah Rivera-Perez	\$1,340.45
State of New Hampshire v. Jaiden Ciruzzi	\$348.78
State of New Hampshire v. Jaime DeForge	\$55.50
State of New Hampshire v. Jeffrey Woodburn	\$742.37
State of New Hampshire v. Jennifer Clow	\$5,075.00
State of New Hampshire v. Jeramie Colella	\$190.34
State of New Hampshire v. Jonathan Betancourt	\$45.93
State of New Hampshire v. Jonathan Folds	\$117.31
State of New Hampshire v. Jorge Sanchez	\$746.40
State of New Hampshire v. Justin Belanger	\$68.10
State of New Hampshire v. Justin Stripp	\$119.25
State of New Hampshire v. Matthew Fay	\$9,100.00
State of New Hampshire v. Michael Ethier dba Mike Ethier, Excavation, Contractor	\$567.60
State of New Hampshire v. Nathaniel Smith	\$23.60
State of New Hampshire v. Patrick Irish	\$24.08
State of New Hampshire v. Paul Dimick	\$25.00
State of New Hampshire v. Ramon Rivera Muniz	\$580.00
State of New Hampshire v. Richard Ellison	\$1,672.76

Case	Expenditure
State of New Hampshire v. Richard Sargent	\$618.93
State of New Hampshire v. Robert Pavao	\$7.18
State of New Hampshire v. Santo Baez-Arias	\$24.00
State of New Hampshire v. Shawn M. Minson	\$65.11
State of New Hampshire v. Spencer Grayson	\$700.00
State of New Hampshire v. Teresa Mercon	\$85.25
State of New Hampshire v. Timothy Verrill	\$108.10
State of New Hampshire v. Volodymyr Zhukovsky	\$20,461.74
State of New Hampshire v. William Argie	\$300.12
State of New Hampshire v. Worldwide Push Foundation Inc Petition For	\$41.00
Taylor Houser v. New Hampshire Department of Children, Youth, and Families	\$557.10
Teva-Centric GDMS Multistate	\$12,523.62
Tobacco NPM 2020	\$6.32
Veteran's Home Fiscal Year 20 and 21	\$120.41
Video Conferencing Setup For Court Related Activities	\$25,049.75
Vrooman, Joseph; State of New Hampshire v.	\$49.70
Water Division-Miscellaneous	\$3,684.80
Wayfair - Civil Bureau	\$1,614.00
Yanoff, Almaisa v. New Hampshire Division of Motor Vehicles	\$750.00
Total Litigation Expenditures July 1, 2020 to October 30, 2020	<u>\$318,832.83</u>