

165 lam

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD  
ATTORNEY GENERAL



JANE E. YOUNG  
DEPUTY ATTORNEY GENERAL

April 21, 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 NH 03301

**REQUESTED ACTION**

Pursuant to RSA 7:12, authorize the Department of Justice (DOJ) to accept and expend a sum, not to exceed \$620,832, 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:

Class/Object	Class Title	FY 2020 Current Adjusted Authorized	Request Action	FY 2020 Revised Adjusted Authorized
<b>Expenditures</b>				
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

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

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

April 21, 2020  
Page 2 of 6

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	\$1,632,649	\$620,832	\$2,253,481
	Total:	\$3,975,039	\$620,832	\$4,595,871
<b>Revenue</b>				
009-402325	AGENCY INCOME	\$102,449	\$0	\$102,449
009-407079	AGENCY INCOME	\$822,748	\$0	\$822,748
00C-401350	AGENCY INDIRECT COST RECOV	\$247,079	\$0	\$247,079
00S-000010	GENERAL FUNDS	\$2,802,763	\$620,832	\$3,423,595
	Total:	\$3,975,039	\$620,832	\$4,595,871

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

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

April 21, 2020  
Page 3 of 6

### EXPLANATION

RSA 7:12 provides a means to fund expenses incurred by the Office of Attorney General in the course of prosecution of crimes and the defense of the state. Those expenses span a range of litigation-related costs. In State Fiscal Year 2019, there were 1,981 separate transactions for expenses related to more than 500 cases.

In the current biennium, DOJ was appropriated a sum of \$350,000 for these expenses. On July 25, 2019, the Fiscal Committee authorized an additional \$562,340 (Item FIS 19-169), which was approved by the Governor and Executive Council on July 31, 2019 (Item 99), for a total of \$912,340. On January 10, 2020, the DOJ submitted a request to the Fiscal Committee to budget and expend an additional \$1,197,630 by utilizing \$420,309, in other funds, and \$777,321, from funds not otherwise appropriated for general litigation expenses for Fiscal Year 2020 (Item FIS 20-006) ("January request").

The Fiscal Committee approved DOJ's January request to budget and expend \$420,309 from other funds, but only approved \$300,000 from funds not otherwise appropriated, thereby reducing the DOJ's total request by \$477,321. Based on questioning and statements by Committee members, it was apparent that DOJ's request was reduced because of its defense of two cases brought against the State: *League of Women Voters of New Hampshire and New Hampshire Democratic Party v. Gardner, et. al.* and *Casey and New Hampshire Democratic Party v. Gardner, et. al.* This request, as reduced to \$720,309, was approved by the Governor and Executive Council on January 22, 2020 (Item #79A). DOJ explained that it would need to come before the Fiscal Committee and the Governor and Executive Council for additional litigation funds before the end of Fiscal Year 2020.

At this juncture, DOJ estimates it will need an additional \$620,832 to cover on-going legal expenses through June 30, 2020. At the time this request was submitted to the Department of Administrative Services' Budget Office, the financial statement, dated April 18, 2020, reported \$69,018 remaining in the litigation fund. The specific, ongoing needs of the litigation funds follow:

#### Expenses Relating to the Criminal Bureau

DOJ estimates that for the balance of State Fiscal Year 2020, the Criminal Bureau will spend approximately \$56,700 for investigations and prosecutions of homicides, death-resulting drug cases, Medicaid Fraud cases, and other criminal investigations. These funds will be used for various lab testing, crime scene evaluation, depositions, and expert review for pending prosecutions.

One expense included in this request is \$24,200 for costs associated with the ongoing investigation into the Youth Development Center (YDC). This investigation is focused on

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

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

April 21, 2020  
Page 4 of 6

whether juveniles housed at the YDC between 1990-2000 were subject to physical and sexual abuse. The scope of the investigation is also to determine if the leadership was aware of the abuse but failed to take appropriate action. Because of its unprecedented scope, the New Hampshire State Police dedicated nine troopers and an analyst to assist with this investigation. The current request is for transcription costs related to dozens of witness and victim interviews. Given the volume of evidence to be copied and reviewed, an outside vendor, who had the capacity to manage the enormity of the documents for this project, had to be hired. In addition, experts in the field of delayed disclosure will need to be consulted. These costs, estimated at \$80,000, will be incurred in Fiscal Year 2021.

#### **Expenses Relating to the Civil Bureau**

DOJ estimates that for the balance of State Fiscal Year 2020, the Civil Bureau will incur expenses of \$330,350 relating to the defense of civil claims against the State. Below is a summary of significant expenses for the Civil Bureau.

The *League of Women Voters of New Hampshire* case challenges the constitutionality of Senate Bill 3. The litigation commenced in 2017. There were two trials, the second of which took place in December 2019. The Superior Court has issued an opinion, and the State will appeal. For the balance of State Fiscal Year 2020, we expect to incur approximately \$1,500 in expenses related to the storage of discovery data. Those are the only funds associated with this case included in this request. The January request included \$227,000 for this case. Bills paid since January total \$170,636 for data storage and expert witness fees as well as \$132,740 in outside counsel's fees, including for the December 2019 trial, as well as post-trial briefing to the Superior Court. After subtracting the bills paid for all services plus the continuing data storage fee, the DOJ will spend \$54,864 less than the January request in this matter.

The *Casey* case challenges the constitutionality of House Bill 1264. This litigation commenced in 2019 in the U.S. District Court for the District of New Hampshire. That court certified questions of law to the New Hampshire Supreme Court. At present, there is a trial scheduled for late May or early June 2020 in federal court. For the balance of State Fiscal Year 2020, we expect to incur \$118,000 in expenses for data storage, stenographers, experts, and outside counsel services. That sum is included in this request. The January request included \$270,000 for this case. Bills paid since January total \$31,213.21 for data storage, document production, and stenographers fees as well as \$12,666 in outside counsel's fees. After subtracting the bills paid for all services plus the estimated bills leading up to and including trial, the DOJ will spend \$120,787 less than the January request in this matter.

In the matter of *New Hampshire Department of Corrections (DOC) Nurses*, DOJ estimates incurring approximately \$40,000 in expenses for the defense of approximately 13 DOC nurses who were named in licensing actions by an inmate alleging inadequate medical treatment.

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

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

April 21, 2020  
Page 5 of 6

In accordance with RSA 99-D:11, the State is required to defend state employees and officials subject to licensing board actions based on their state employment. Because there are different claims against the 13 DOC nurses, the Rules of Professional Conduct prohibit the Attorney General's Office from representing all of the nurses. We expect to retain outside counsel to represent these nurses. This request also includes expected costs to retain a joint medical expert. This matter could require additional funds if the claims are not dismissed early in the process.

The *Amanda D., et al. v. Hassan, et al.*, 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 2020, the legal fees will be \$50,000 and the expert reviewer's fees will be \$70,000.

#### **Expenses Relating to the Consumer Protection and Antitrust Bureau**

DOJ estimates that for the balance of State Fiscal Year 2020, the Consumer Protection and Antitrust Bureau will spend approximately \$257,800. The significant expenses included in this request relate to our two ongoing antitrust investigations with respect to the proposed transactions involving Exeter Hospital and Partners Healthcare as well as Dartmouth Hitchcock and Granite One Health. The expenses associated with these investigations primarily involve outside legal counsel and economic consultants. The amount included in this request for these investigations is \$255,000.

#### **Expenses Relating to Other Bureaus**

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.

Finally, it is important to note that DOJ's ongoing work is subject to the larger challenges we all face as a result of the public health emergency arising from the outbreak of the Novel Coronavirus 2019. It is quite possible that some of the work described above or otherwise subject to the litigation fund request may necessarily be delayed or altered. Any unspent appropriations would lapse to the General Fund at the end of the Fiscal Year.

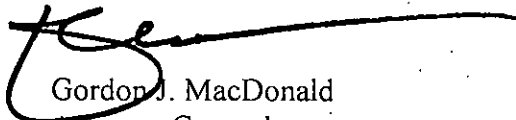
The Honorable Mary Jane Wallner, Chairman  
Fiscal Committee of the General Court

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

April 21, 2020  
Page 6 of 6

Please let me know if you have any questions regarding this request. Thank you for your consideration of this request.

Respectfully submitted,



Gordon J. MacDonald  
Attorney General

#2717213

Estimated Litigation Expenses As of 04/18/2020  
April 2020 to June 30, 2020

Criminal	\$ 56,700
Civil	\$ 330,350
Charitable	\$ 5,000
Environmental	\$ 5,000
Transportation	\$ 35,000
Consumer	\$ 257,800
<b>Total</b>	<b>\$ 689,850</b>
Available Balance As Of 04/18/2020	\$ 69,018
<b>Request</b>	<b>\$ 620,832</b>

Details	
Criminal	
State v. Timothy Verrill-Outstanding Depositions	\$ 1,000
State v. Roderick Munstis-Dr. Drukteinis Evaluation	\$ 1,000
State v. Castiglione-Dr. Drukteinis Evaluation	\$ 10,000
State v. Seace-Expert Depositions	\$ 2,000
Pamela Murphy, Death of; Belmont-DNA Testing	\$ 3,500
State v. Jennifer Clow-Dr. Drukteinis Evaluation	\$ 10,000
State v. Ian McPherson-Dr. Drukteinis Evaluation	\$ 5,000
YDS-Witness Interviews and Victim Interviews	\$ 24,200
Civil	
Purdue Bankruptcy Case-Cost Share Agreement With Other States	\$ 7,500
NHDOC Nursing Complaints-Outside Counsel	\$ 40,000
Cardin v. DES-Exhibit Copying For Final Hearing	\$ 500
Ballard v. NHDOC-Depositions	\$ 1,000
Carrigan v. DHHS-Mediation Fee	\$ 1,000
Houser v. DCYF-Depositions and Medical Records	\$ 6,500
Bisceglia v. State-Depositions	\$ 2,000
Casey v. Gardner, NHDP v. Gardner-Depositions, Discovery, Trial Prep., Expert Witness Testimony Expenses and Electronic Document Storage.	\$ 118,000
League of Women Voters Of NH v. Gardner, NHDP v. Gardner-Discovery and Data Storage February Through June.	\$ 1,500
National Council on Alcoholism DHHS v. Lamourex-Courtcall Expenses	\$ 100
Amanda D.- \$50,000 Plaintiffs' Attorneys' Fees and \$70,000 Expert Reviewer.	\$ 120,000
Gauthier v. DNCR-Depositions and Expert Fees	\$ 10,000
Doe v. NH Hospital-Mediation Fee	\$ 1,000
Wayfair-Outside Counsel	\$ 20,000
Bashaw v. Department of Administrative Services-Mediation Fee	\$ 1,000
Isaacs v. NH Board of Medicine-Pro Hac Vice Admission 9th Circuit Court Of Appeals.	\$ 250
Charitable	
Various Cases	\$ 5,000
Environmental	
Various Cases	\$ 5,000
Transportation	
Nathan Buell v. Department of Safety-Depositions	\$ 1,000
Stearns v. Town of Gorham-Trial Costs, Exhibits, Experts.	\$ 15,000
Suarez v. State Police-Expert Witness and Hearing Prep.	\$ 5,000
McCrea-Trial Costs-If it goes in June.	\$ 1,000
Hardy/O'Conner v. State Police-Depositions.	\$ 5,000
Nelson v. NHDOT-Mediation	\$ 1,500
United Road v. DOT-Mediation	\$ 1,500
Exline v. McCormack-Depositions	\$ 2,500
White v. Wilber-Depositions	\$ 2,500
Consumer	
Dain Stokes Investigation-Documents and Electronic Storage	\$ 2,500
State v. Condodematrakey-Trial Exhibits	\$ 300
Hospital Mergers	\$ 255,000

JUL10'19 PM12:37 DAS

99 sam

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

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
<b>Expenditures</b>				
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



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  
Page 2 of 4

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
<b>Revenue</b>				
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

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  
Page 3 of 4

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

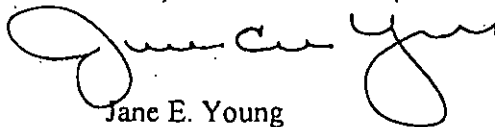
His Excellency, Governor Christopher T. Sununu  
and the Honorable Council

July 10, 2019  
Page 4 of 4

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,

A handwritten signature in black ink, appearing to read "Jane E. Young". The signature is fluid and cursive, with a large loop at the end of the last name.

Jane E. Young  
Deputy Attorney General

#2442296

79A sam



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

FIS 20 006

GORDON J. MACDONALD  
ATTORNEY GENERAL



JANE YOUNG  
DEPUTY ATTORNEY GENERAL

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
<b>Expenditures</b>				
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

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

December 19, 2019

Page 2 of 4

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
<b>Revenue</b>				
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

Page 3 of 4

Class/Object	Class Title	FY 2020 Current Adjusted Authorized	Request Action	FY 2020 Revised Adjusted Authorized
<b>Expenditures</b>				
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
	<b>Total:</b>	<b>\$3,675,039</b>	<b>\$777,321</b>	<b>\$4,452,360</b>
<b>Revenue</b>				
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  
Fiscal Committee of the General Court

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

December 19, 2019

Page 4 of 4

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



*Sam*

ATTORNEY GENERAL  
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 1,(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
<b>Expenditures</b>				
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

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  
Page 2 of 4

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

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  
Page 3 of 4

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

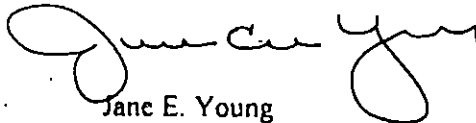
His Excellency, Governor Christopher T. Sununu  
and the Honorable Council

July 10, 2019  
Page 4 of 4

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