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New Hampshire Youth Development Center Claims Administration and Settlement Fund

John T. Broderick, Jr.
Administrator

Diane Nicolosi
Assistant Administrator

March 13, 2025

The Honorable Ken Weyler, Chairman
Fiscal Committee of the General Court, and

Her Excellency, Governor Kelly A. Ayotte
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to RSA 21-M:11-a, XII(a) and (c), Additional Funding, authorize the YDC Settlement Fund to receive an additional appropriation from funds not otherwise appropriated in the amount of \$15,000,000 for FY 2025, effective upon Fiscal Committee and Governor and Council approval, through June 30, 2025. **100% General Funds.**

Funding is to be budgeted, as follows:

YDC Settlement Fund				
02-20-20-200010-68260000				
Class - Account	Description	Current Budget	Requested Action	Revised Budget
00S-000010	General Funds	\$83,235,637	15,000,000	\$98,235,637
	Total Revenue	\$83,235,637	15,000,000	\$98,235,637
018-500106	Overtime	\$49,616	-	\$49,616
020-500200	Current Expense	\$2,500	-	\$2,500
039-500189	Telecommunications	\$5,000	-	\$5,000
049-584910	Interagency Payments To AOC	\$2,542,565	-	\$2,542,565
059-500117	Temp Full Time	\$615,259	-	\$615,259
060-500601	Benefits	\$165,689	-	\$165,689
068-500561	Remuneration	\$77,392,365	15,000,000	\$92,392,365
233-500769	Litigation Expense	\$2,462,643	-	\$2,462,643
	Total Expenses	\$83,235,637	15,000,000	\$98,235,637

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EXPLANATION

Statutory Context

The YDC Claims Administration and Settlement Fund statute provides funding to settle verified claims of abuse for eligible Former YDC Residents for abuse perpetrated by or at the behest of a member of YDC Staff. The statute was established with the following *Statement of Purpose*:

“The general court hereby finds that the attorney general's investigation into abuse at New Hampshire's youth development center in prior decades has identified a population of New Hampshire citizens with potential claims against the state. The state wishes to acknowledge those claims and the suffering which has been endured by the victims of abuse by establishing a trauma-informed, victim-centered alternative to litigation for the efficient and fair resolution of those claims.”

HB1677 2022.

- The statute “established in the state treasury the YDC settlement fund which shall be kept distinct and separate from all other funds” for the payment of settlement amounts paid to claimants as determined by the process approved by the Joint Fiscal Committee. 21-M:11-a, II.
- “The fund shall be administered by the attorney general, who shall use the funds for the purpose of administering claims of former YDC residents as defined in this section.” 21-M:11-a, II.
- “The fund shall be nonlapsing and continually appropriated to the department of justice until June 30, 2032, after which date the fund shall lapse to the revenue stabilization reserve account established in RSA 9:13-e, II, unless earlier discontinued by the attorney general, in consultation with the administrator, or as otherwise provided by law.” 21-M:11-a, II.
- The statute “constitutes the state's offer to resolve completely and finally all of the former YDC resident's claims through the claims process established.” 21-M:11-a, VII(d).
- “[T]he administrator may not authorize more than \$75,000,000 in claims to be paid out from the fund in any given fiscal year, provided that the joint fiscal committee and governor and council may, upon the administrator's request, authorize the administrator to exceed this cap by expenditure of any additional funds available in the fund or by expenditure of funds not otherwise appropriated.” 21-M:11-a, XII(a).
- “If the administrator determines that a shortfall in the YDC settlement fund is likely to occur, the administrator, in consultation with the attorney general, shall request an appropriation of additional funds from the legislature.” 21-M:11-a, XIII.

Appropriations for YDC Settlement Fund

The original statute initially appropriated \$100 million in settlement funding, and then the 2024 amendments appropriated an additional \$60 million in funding. Though there is a \$75 million per fiscal year benchmark identified by statute, the second appropriation of \$60 million may

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have been based on an understanding that there was \$15 million remainder of the initial \$100 million original funding to be carried over to FY 2025. However, FY 2025 claim activity began with \$60 million as status of the Fund, with no or minimal carry-over funds.

These appropriations occurred in the context of pending new legislation in 2022 or new amendments thereto in 2024. The administrator was not appointed yet at the time of the 2022 legislation and was not asked to be involved in the 2024 appropriation.

Now, we are in a unique situation.

Recently, the Attorney General informed the administrator that it is the administrator's responsibility or authority to go before the Joint Fiscal Committee to request additional funds for either this fiscal year (FY25) or for future fiscal years. Accordingly, the administrator is proceeding with the appropriation request before the Joint Fiscal Committee and other legislative leadership.

Insufficient Current Funds

Significant holistic funding has been anticipated by several government leaders to address verified abuse claims which are permitted to be filed through the administrative claims process through June 30, 2025, by statute. By way of example, during House Finance and Joint Fiscal Committee meetings in May of 2024 (such as 5/8/2024 & 5/13/2024), projected figures of \$500 million to \$750 million were discussed and anticipated as calculations apparently developed by state legal experts.

In 2024, the administrator coordinated with the Attorney General's Office in relation to accounting for committed funds for the initial \$100 million appropriation. Coordination has continued during claims activity in relation to the status of the second appropriation for the \$60 million funding. The administrator formally informed the Attorney General by letter dated February 24, 2025 (with Attachment A), that \$60 million was likely insufficient for the remainder of FY 2025. This letter was provided to government leaders for informational purposes during the current state budget cycle, including to the Governor, the House Speaker, the Senate President, Chair of House Finance and Joint Fiscal Committee, and Chair of House Finance-Division 1.

Recently, the administrator learned that no request is pending before state budget leadership for any further funding for the YDC Settlement Fund - either for FY2025 or for FY2026/FY2027. The Governor's proposed budget does not include any line item for the YDC Settlement Fund.

Attorney General Formella informed the administrator that he has determined not to request any further appropriations for the YDC Settlement Fund and may oppose any such request, at least for FY 2025 additional funding. The administrator continues to make efforts to coordinate with the Attorney General's Office and will provide updates during a presentation before Joint Fiscal Committee or other government leadership, if granted the opportunity.

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As of March 7, 2025, the current volume of pending claims is approximately 755 and growing daily. The claim filing period concludes on June 30, 2025.

Should government leadership provide no further funding (despite the \$75 million per fiscal year benchmark), then the YDC Settlement Fund would essentially be discontinued no later than June 30, 2025.

Should government leadership determine not to provide further funding or sufficient funding, the administrator sees this as running counter to the reasonable expectations of claimants and their counsel in assisting to develop the statute and the amendments.

Time Sensitive

The administrator is asking for the request for additional funding to receive time of the essence treatment.

Limiting FY2025 funding to \$60 million will impact claim resolution activity, likely as soon as April 2025.

If the Legislature is not going to fund the claims process beyond current appropriations, including for FY26/FY27, the administrator would need to know that in the very near term in order to, either:

1. prudently manage current claim activity and develop the next operating budget for claims administration (including consultant contracts), or,
2. prudently wind-down claims processing and operations within the existing remainder of the current \$60 million appropriation.

These activities, under either pathway, take time to appropriately implement, with decisions to be made by the administrator starting in mid-April. For example:

1. Any resolution activity that encumbers public monies will need to temporarily pause or completely cease, such as issuing final resolution decisions by the administrator and receiving negotiated agreed-upon award resolutions from the Attorney General's Office.
2. Until we know whether additional funding is coming for the next two fiscal years, the claims administration cannot enter into contracts or commit to employment beyond June 30, 2025 with current staff.
3. We need to inform the landlord for the rental premises where the claims administration is located whether we can renew our lease, as it expires May 31, 2025.

If there is a different channel available for expedited attention, such as a "fast track" for a separate piece of legislation (or otherwise amend any current piece of relevant legislation), please advise.

The administrator remains neutral in the performance of his duties set out under the statute and is simply advocating for the settlement process that the Legislature created and funded to date.

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Presentation and Projections

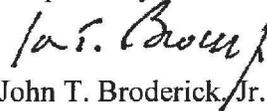
Administrator Broderick very much looks forward to the opportunity, if granted, to present on this requested action item for discussion and questions in a public forum (30 minutes requested).

The administrator, as the appointed neutral, is prepared to give a presentation on the value of the claims administration settlement fund process for both the State of New Hampshire and for the claimants, to resolve eligible and verified claims of abuse in a prompt fashion, as an alternative to costly litigation.

The administrator is prepared to provide data-based grounding for the request for appropriation.

The administrator is prepared to provide developed forecasts and projections based on current claim activity data, including but not limited to accounting for committed funding for claims already resolved during FY25 with periodic installment awards to be paid during FY26 through future fiscal years.

Respectfully submitted,



John T. Broderick, Jr.

Administrator

New Hampshire Youth Development Center
Claims Administration and Settlement Fund

CC (via email):

Sherman Packard, Speaker of the House
Paul Smith, Clerk of the House
Sharon Carson, Senate President
Matthew Schelzi, Executive Assistant to Senate President
Dan McGuire, Chair, House Finance – Div. I
Jose Cambrils, Vice Chair, House Finance – Div. I
Gerald Griffin, House Finance – Div. I
Joe Sweeney, House Finance – Div. I
Ken Weyler, House Finance – Div. I (*direct addressee*)
Karen Ebel, House Finance – Div. I
Chris Muns, House Finance – Div. I
Rosemarie Rung, House Finance – Div. I
Janet Clayman, Committee Assistant, House Finance – Div. I
James Gray, Chair, Senate Finance
Daniel Innis, Vice Chair, Senate Finance
Sharon Carson, Senate Finance
Regina Birdsell, Senate Finance
Howard Pearl, Senate Finance
Timothy Lang, Senate Finance
Cindy Rosenwald, Senate Finance

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David Watters, Senate Finance
Deb Martone, Senate Finance Committee Aide
Christopher Connelly, Governor's Chief of Staff
James Gerry, Governor's Budget Director
Meagan Rose, Executive Council Assistant
John Formella, Attorney General
Kim Schmidt, Executive Assistant to Attorney General
Michael Kane, Legislative Budget Assistant

Enclosure:

- February 24, 2025 Letter from Administrator Broderick to Attorney General Formella, with Attachment A

New Hampshire Youth Development Center Claims Administration and Settlement Fund

John T. Broderick, Jr.
Administrator

Diane Nicolosi
Assistant Administrator

February 24, 2025

John Formella, Attorney General
New Hampshire Department of Justice
1 Granite Place South
Concord, NH 03301
attorneygeneral@doj.nh.gov

Dear General Formella,

As you know our staffs have been working closely these last many months to monitor the claims fund balance to fulfill our statutory obligations. Under the claims statute I am expressly tasked, as administrator, with monitoring the fund balance and ensuring that there are sufficient funds available to pay out claims not to exceed \$75 million in any fiscal year. 21-M:11-a, XII(a). According to the statute, if I have reason to believe that in any fiscal year claim payouts may exceed the statutory limit of \$75 million and therefore a shortfall is likely to occur, I am instructed, after consultation with you, to recommend to the legislature that they make an additional appropriation. 21-M:11-a, XII (a), XIII. Whether they do or not is their call.

At the beginning of FY 2025 the legislature appropriated \$60 million for the dedicated claims fund. SB 591-FN-A-Final Version, 92:3. To my knowledge, no additional appropriation has been made to bring the fund to \$75 million. I have no knowledge whether the legislature will appropriate additional funds this fiscal year. As you know, the statute declares that all payments authorized by me are contingent upon the legislature appropriating sufficient funds to pay them. 21-M:11-a, XII (c). At this point, I do not believe my obligation has been triggered to advise the legislature that approved payouts will likely exceed \$75 million this fiscal year, nor do I yet know whether they likely will.

However, I am concerned that payouts may exceed \$60 million in FY 2025. It is my understanding that you feel confident they will not, and while I hope you are correct, I have reasonable concerns based on the fund's current balance and projections that approved payouts for verified claims may exceed \$60 million. Attachment A to this letter provides data-based grounding for my concern. Because the statute gives me express authority to approve payouts up to \$75 million in claims in any fiscal year, I believe I am required to fulfill that obligation for verified claims in the normal course of administrative claim resolutions. However, if the legislature does not fund the full statutory amount, I would be issuing decisions or approving payments for settlements negotiated by your office with no legislative appropriation to pay them. It is unclear whether I have the authority to do that, and I would appreciate guidance in relation to the statutory cap of \$75 million.

It would be very helpful to know in the near-term whether any additional appropriation will be made for FY 2025 so that I can manage the administrative process for the balance of this fiscal year. Any current information you have on this status would be most helpful to know. Also, any guidance you have on managing the administrative claims process in the event the \$75 million is not fully funded is most welcome.

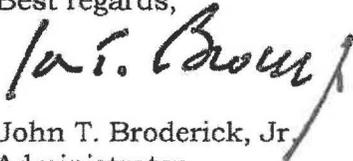
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February 24, 2025

If I am instructed by your office not to approve payouts over \$60 million this fiscal year, I will of course abide by your directive.

I fully respect your charge over the fund. 21-M:11-a, II. Unfortunately, if there is a \$60 million fixed cap for this fiscal year, then once it is reached (if it is) the claims process may have no choice but to cease issuing final award resolutions until there are additional appropriations for the fund in FY 2026. That circumstance, in my judgment, would be very regrettable given all the progress that has been made since 2023, including revamping the process after significant amendments were made to the fund statute in 2024. Much of that progress, of course, is due to your leadership and legislative leadership, as well. Any funding less than the full \$75 million commitment by statute could be seen as running counter to the reasonable expectations of claimants and their counsel who worked in good faith with your office on the statutory amendments.

Given my justified concerns that approved payouts this fiscal year may exceed \$60 million, I feel an obligation as administrator to provide executive and legislative leadership with a respectful "heads-up." I am sending copies of this letter to the Governor, the House Speaker, the Senate President and the Chairman of the Joint Fiscal Committee.

Best regards,



John T. Broderick, Jr.
Administrator

C: Kelly Ayotte, Governor, New Hampshire
Sherman Packard, Speaker, New Hampshire House of Representatives
Sharon Carson, President, New Hampshire Senate
Kenneth Weyler, Chair, House Finance Committee/Joint Fiscal Committee
Representative Dan McGuire, Chair, House Division I
Michael Kane, Legislative Budget Assistant

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New Hampshire Youth Development Center Claims Administration and Settlement Fund

Attachment A

This Attachment provides data on current Fiscal Year expenditures, estimated projections for expenditures for the remainder of this Fiscal Year, and historical data on resolved Claims. Claims activity is ongoing and estimated projections may vary based on continued activity and differing abuse claim amounts ultimately resolved under the process.

- **Table 1 – Committed Funds for Resolved Claims.** This table updates the FY Impact Table in the 2024 Quarter 4 Report for resolved claims and provides a projection based on estimated weekly award amounts of fully resolved claims with disposition dates.
- **Table 2 – Resolved Claims and Projected Payments.** This table provides a projection based on estimated weekly approved award amounts with additional claims likely reaching final resolution. The additional claims activity includes anticipated expenditures within FY 2025. Projections of expenditures also include consideration of Claims that are in advanced procedural stages, to include:
 - Approximately 25 Claims are currently in the evaluation stage with the Claims Administrator.
 - Approximately 55 hearings on Claims are scheduled through April, any or all of which could therefore reach final resolution by June 30, 2025.
- **Total Resolved Claims** – This section includes relevant data from YDCCA’s most recent Quarterly Report, for reference.

Any forecasts herein give informed, data-based estimates and, by the very nature of projections, cannot be finite or guaranteed. Projection analysis is further complicated in the YDC Settlement Fund environment. Each claim of abuse is unique in terms of type, frequency, and severity of sexual and/or other abuse that is verified, evaluated, and resolved. There is no ‘average’ Claim award or payout term for those claims that resolve with an award.

New Hampshire Youth Development Center Claims Administration and Settlement Fund

TABLE 1

FY Impact Table - Results through 2/18/25				
FY Impact	Thru FY24	FY25	Future FYs	Total
Lump Sum Payments	95,627,500	5,891,125		101,518,625
Periodic Payments	-	20,567,789	26,680,391	47,248,180
Total	\$95,627,500	\$26,458,914	\$26,680,391	\$148,766,805
FY25 Trend Analysis:				
Change from Q4 2024 Cumulative Total		\$10,071,820		
<u>Average per week Q1 2025 (6 weeks)</u>		\$1,678,637		
Remaining Q1 2025 Estimated Increase (6 weeks)		\$10,071,820	<i>(Weekly Average * 6 weeks)</i>	
Projected Q1 2025 FY25 Cumulative Total		\$36,530,734	<i>Total FY25 Impact thru 2/18/25 + Remainder of Q1 FY25 Est Increase</i>	
Projected Q2 2025 FY25 Cumulative Total		\$56,674,374	<i>Projected Q1 2025 Cume Total + 12 weeks at Weekly Average</i>	
Estimated AGO & CA Costs		\$4,000,000	<i>(\$1.965M incurred through Q4 2024)</i>	
Total FY25 Estimated Expenditures		\$60,674,374		

TABLE 2

FY Impact Table - Results through 2/18/25 - with Projected Expenditures				
FY Impact	Thru FY24	FY25	Future FYs	Total
Lump Sum Payments	95,627,500	5,891,125		101,518,625
Periodic Payments	-	20,567,789	26,680,391	47,248,180
Projected FY25 Claim Payments		2,793,382		2,793,382
Total	\$95,627,500	\$29,252,296	\$26,680,391	\$151,560,187
FY25 Trend Analysis:				
Change from Q4 2024 Cumulative Total		\$12,865,202		
<u>Average per week Q1 2025 (6 weeks)</u>		\$2,144,200		
Remaining Q1 2025 Estimated Increase (6 weeks)		\$12,865,202	<i>(Weekly Average * 6 weeks)</i>	
Projected Q1 2025 FY25 Cumulative Total		\$42,117,498	<i>Total FY25 Impact thru 2/18/25 + Remainder of Q1 FY25 Est Increase</i>	
Projected Q2 2025 FY25 Cumulative Total		\$67,847,902	<i>Projected Q1 2025 Cume Total + 12 weeks at Weekly Average</i>	
Estimated AGO & CA Costs		\$4,000,000	<i>(\$1.965M incurred through Q4 2024)</i>	
Total FY25 Estimated Expenditures - with Projected Exp		\$71,847,902		

New Hampshire Youth Development Center Claims Administration and Settlement Fund

Total Resolved Claims as of December 31st, 2024

The following information is from the most recent YDCCA Quarterly Report:

- Total Claims Resolved through Settlement from the Fund: **242**
148 of these Claims were settled by Mutual Agreement between the AGO and the Claimants.
94 of these Claims were settled following Resolution Proceedings at YDCCA.

- Total Settlement Amount for Resolved Claims (without interest): **\$125,438,125**
\$65,652,375 of the Total Amount is from Claims settled by Mutual Agreement with the AGO.
\$59,785,750 of the Total Amount is from Claims resolved at YDCCA.