

New Hampshire Youth Development Center Claims Administration and Settlement Fund

John T. Broderick, Jr.
Administrator

126

Diane Nicolosi
Assistant Administrator

April 7, 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 \$5,000,000 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	5,000,000	\$88,235,637
	Total Revenue	\$83,235,637	5,000,000	\$88,235,637
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	5,000,000	\$82,392,365
233-500769	Litigation Expense	\$2,462,643	-	\$2,462,643
	Total Expenses	\$83,235,637	5,000,000	\$88,235,637

P.O. Box 1930, Concord, NH 03302-1930

Phone: 603-415-2136

Fax: 603-798-3420

email: claims@ydcclaims.nh.gov

www.ydcclaims.nh.gov

EXPLANATION

On March 13, 2025, Administrator Broderick submitted a request for action to the Joint Fiscal Committee for additional appropriations in the amount of \$15,000,000 for FY 2025, effective upon Fiscal Committee and Governor and Council approval. 100% General Funds. This request is intended to align the \$60M appropriations provided at the start of FY2025 with the \$75M per fiscal year figure identified in the Settlement Fund statute.

On March 21, 2025, the Joint Fiscal Committee approved the request with an amended amount of \$5,000,000. See attached. The attachment sets forth further explanation, to ground the current request for \$5M pending before this governing body. *It is this Joint Fiscal Committee approved request that is now pending before Governor and Council for approval.*

On April 2, 2025, Administrator Broderick submitted a second request for action to the Joint Fiscal Committee for additional appropriations in the amount of \$10,000,000 for FY 2025, effective upon Fiscal Committee and Governor and Council approval. 100% General Funds. We anticipate that this request will be on the Joint Fiscal Committee agenda for April 18, 2025.

Background

With respect to the biennium state budget of FY 2026/2027, on March 13, 2025, Administrator Broderick submitted a request for action to House Finance for additional appropriations for the YDC Settlement Fund in the amount of \$150,000,000, through June 30, 2027. 100% General Funds. Further information for this \$150M request was provided to government leadership on March 26, 2025.

As reported to House Finance, \$22,571,187.00 is the remainder available for appropriated funds (as of March 18, 2025). It is currently unknown whether further appropriations will be forthcoming for FY25, or for FY26/FY27.

YDC Claims Administration Summary Report	
Status of \$160M YDC Settlement Fund Total	
Payments Made through 3/14/25	
Claims Payments	\$ 122,262,039
AGO Costs	\$ 4,033,603
CA Costs (thru Q424)	\$ 2,678,284
Total	\$ 128,973,926
Resolved Claims Awaiting Payment & Final Decisions Issued (3.18.2025)	
	\$ 5,918,421
Remaining Estimated AGO & CA Costs	
AGO Costs	\$ 1,200,000
CA Costs (as budgeted)	\$ 1,336,466
Total	\$ 2,536,466
Committed Expenditures to date	\$ 137,428,813
Remainder Available (3:18.2025)	\$ 22,571,187
Current Appropriations	\$ 160,000,000

As of December 31, 2024, there were **\$15,159,356** in committed payouts for claims already resolved under the Fund for future fiscal years (FY26 and forward) generated by installment plans of claims resolved. *See Table from 2024 Q4 Report, below.*

As of 2024 Q4 Report of YDCCA

Fiscal Year Impact for Claims Resolved with Settlement from the Fund

- The numbers displayed in the following table represent actual settlement amounts for resolved claims (with interest).

FY Impact	Through FY24 (through 6/30/2024)	FY25 (as of 12/31/2024)	To be paid in Future FYs* (as of 12/31/2024)	Total
Lump Sum Payments	\$95,627,500.00	\$4,818,125.00	—	\$100,445,625.00
Periodic Payments	—	\$11,568,969.00	\$15,159,396.00	\$26,728,365.00
Total	\$95,627,500.00	\$16,387,094.00	\$15,159,396.00	\$127,173,990.00

*Represents periodic payments pursuant to installment plans due in future Fiscal Years (FY26 through FY34).

As an update, Attorney General Formella recently informed Administrator Broderick that it would be prudent to advocate for, at a minimum, the amount owed in installment payments in the next biennium plus costs sufficient to cover the administration of those payments. **\$26M** is the amount estimated to cover currently committed payouts (as of 3/28/2025), anticipated committed payouts for awards issued before the end of this fiscal year, and administrative costs to distribute these installments payable in the next biennium (FY26/FY27).

Efforts to Preserve

The following are examples of Administrator Broderick’s efforts to preserve the Fund.

First, the Claims administrator has been judicious with the Fund from the beginning, to preserve as much appropriations as possible for claimants with eligible and verified claims of abuse. These efforts include ensuring that his claims administration expenses remain conservative, and so far, the actual expenses of his operations have been under budget and are expected to continue that trend through the remainder of FY25. On March 28, the Claims administrator provided the attorney general with the next proposed budget for YDCCA operations for FY26/FY27 for his review and approval as Fund administrator.

Second, after the statute was amended in 2024 for installment payouts, the Claims administrator worked with counsel with pending claims in the system, in a spirit of conciliation, for law firms to volunteer to accept legal fees (when awards are issued) over a term of years. Some law firms took the lead early on to volunteer to accept fees over a period of years or fees capped at 25%. Currently, about 95% of our claims involve lawyers and law firms who are now accepting their legal fees over a period up to three years, or at a 25% fee cap up to two years. This will be of assistance in maintaining Fund balances in the remainder of FY25 and into the next biennium if the Legislature provides further appropriations to the Fund.

Third, the Claims administrator has worked with local law firms to take on various costs for resolution proceeding hearings, such as security, technology, and location. These costs, therefore, are not part of the YDCCA proposed budget. The Claims administrator also receives assistance, where appropriate, from the Judicial Branch business office for invoicing (not sharing any detailed activity for claims processing). This is also a savings to the Fund. In addition, aside from an initial expense in 2022 charged to the Fund to develop a website, the Judicial Branch provides ongoing website support with no charge to the Fund.

Transparency

Administrator Broderick provides public transparency of claims processing and the Fund through submission of a quarterly reports to government leaders, in consultation with the attorney general. All quarterly reports and related transmittal letters are available on the Claims administrator's website.

In response to recent questions, Administrator Broderick is providing further description of processing, evaluation, and resolution of claims under the YDC Settlement Fund. *See attached – Claims Administration Information Sheet on YDC Settlement Fund.*

In addition, public discussion has occurred regularly at Joint Fiscal Committee meetings throughout the past several years. For example, during the Joint Fiscal Committee meeting on August 16, 2024, open dialogue occurred with respect to Fund status and projections. *See attached - Joint Fiscal Committee meeting, August 16, 2024 transcript.*

Administrator's Observations

As government leaders consider and decide whether further appropriations will be made to the YDC Settlement Fund for the next biennium, we are providing the following observations for consideration.

- There appears to be some recent legislative activity of a small measure of appropriations for FY26/FY27 under deliberation. However, whether any additional appropriations will be provided for FY26/FY27 still remains uncertain. Accordingly, YDCCA will monitor the Fund, conduct claims processing and resolution activity, and expend costs, within boundaries of the **\$22.5M remainder**.
- In consultation with the attorney general, \$10M of the remainder is currently earmarked as a buffer, to continue claims activity/resolutions where possible before a hold may become necessary (pending additional appropriations).
- There are about **795 individual claimants** with pending claims in various life cycle stages for claims processing. Many more are expected to be filed prior to the June 30, 2025, claim filing deadline.
- As important background, when the statute was amended in 2024 counsel for virtually all of the YDC cases in litigation at the Superior Court promised, in writing, at the request of the state that they would recommend to the vast majority of their clients that they transfer

their claims from the Superior Court to the administrative claims process. *See attached – Letter and Written Statement as part of legislative record for SB591.*

Time of the Essence

Exigent circumstances give cause for government leaders to make decisions on continued appropriations for the Fund, as quickly as possible, in order to avoid a wind-down of YDCCA operations by June 30, 2025.

We understand that the state budget season will extend into June 2025. June is too long to wait for YDCCA to know with sufficient certainty that additional appropriations for the Fund will receive final approval.

During this time of uncertainty about whether and how much further appropriations government leaders will commit to the Fund, Administrator Broderick must plan to utilize the remainder of current appropriations for either of the following two, alternative scenarios: (1) continuity of claims processing into the next biennium so long as additional significant funding occurs, or (2) winding down of operations and ceasing claims processing due to insufficient funds.

In consultation with the Attorney General, Administrator Broderick is reserving a portion of the \$22.5M current remainder in the non-lapsing fund to be sure he is appropriately equipped to fulfill his statutory duties, including responsibly winding down operations if that is the pathway chosen by government leadership. **Responsible wind-down takes time and staff.**

We would anticipate wind-down efforts to involve:

- Transferring confidential claim files/information housed to appropriate custodian
- Claims processing close out
- Consultants discharged with appropriate handling of YDCCA information
- Staff discharge
- Infrastructure dismantlement
- Technology close out
- Final Accounting of the Fund

The administrator will make every reasonable effort to keep operations in place and stay the course. However, the window of opportunity for the Legislature is closing. Without sufficient assurances of state appropriations:

- YDCCA cannot responsibly approach consultants for next contracting cycle, and current contracts end on June 30, 2025.
- YDCCA cannot responsibly continue recruitment efforts for the open position for a claims processing specialist (despite several pending applicants)
- YDCCA staff will need at some point in the near term to disband in pursuit of other employment to support their families.

April 7, 2025

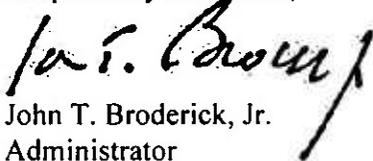
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- Additionally, counsel who made written assurances to the state in the legislative record to transfer cases pending in Superior Court to the administrative settlement process before the filing deadline (6/30/2025) may see lack of funding, or minimal funding, as a breach, and then cease filing claims and withdraw ones that are pending.

We remain optimistic that funding will continue in order to allow appropriate resolution of all claims now pending and to be filed through June 30, 2025, and fully processed thereafter.

Certainty and open communication are key to the stability and integrity of the Fund and the administrative claims process.

Respectfully submitted,



John T. Broderick, Jr.
Administrator
New Hampshire Youth Development Center
Claims Administration and Settlement Fund

Submitted on behalf of Administrator John T. Broderick, Jr.

Jennifer Foley
General Counsel
YDC Claims Administration
Direct line: 603-724-8782
jfoley@ydcclaims.nh.gov

CC (via email):

Ken Weyler, Chair, Joint Fiscal Committee and House Finance
Michael Kane, Legislative Budget Assistant
John Formella, Attorney General
Matt Broadhead, Associate Attorney General
Sam Garland, Senior Assistant Attorney General
Laura Raymond, AG Designee
Tom Kaempfer, Deputy Director of Administration

Enclosures

Attachment A

March 21, 2025 Joint Fiscal Committee Approved Request for
Action, as amended



FIS-25-075 Late Item

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

CHRISTINE L. YOUNG, CPA
Director, Audit Division
(603) 271-2785

March 21, 2025

John T. Broderick, Jr., Administrator
New Hampshire Youth Development Center
Claims Administration and Settlement Fund
P.O. Box 1930
Concord, New Hampshire 03302-1930

Dear Administrator Broderick, Jr.,

The Fiscal Committee, pursuant to the provisions of RSA 21-M:11-a, XII(a) and (c), on March 21, 2025, approved as amended the request of the New Hampshire Youth Development Center Claims Administration and Settlement Fund to receive an additional appropriation from general funds not otherwise appropriated in the amount of \$5,000,000 for FY 2025 through June 30, 2025, as specified in your request dated March 13, 2025.

The Committee requests the Claims Administrator prepare and present monthly status updates to the Committee.

Sincerely,

Michael W. Kane
Legislative Budget Assistant

MWK/pe
Attachment

Cc: Jennifer Foley, General Counsel
NH YDC Claims Administration and Settlement Fund

JS

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

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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

March 13, 2025

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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.

March 13, 2025

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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.

March 13, 2025

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Presentation and Projections

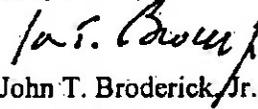
Administrator Broderick very much looks forward to the opportunity, if granted, to present on this requested action item for discussion and questions in a public forum (30 minutes requested).

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

March 13, 2025

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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), XII. 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.

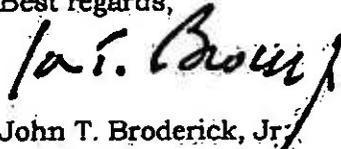
Page 2
February 24, 2025

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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email: claims@ydcclaims.nh.gov

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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		
Average per week Q1 2025 (6 weeks)		\$1,678,637		
Remaining Q1 2025 Estimated Increase (6 weeks)		\$10,071,820	(Weekly Average * 6 weeks)	
Projected Q1 2025 FY25 Cumulative Total		\$38,330,734	Total FY25 Impact thru 2/18/25 - Remainder of Q1 FY25 Est Increase	
Projected Q2 2025 FY25 Cumulative Total		\$56,674,274	Projected Q1 2025 Cum Total - 12 weeks at Weekly Average	
Estimated AGO & CA Costs		\$4,000,000	(\$1,965M incurred through Q4 2024)	
Total FY25 Estimated Expenditures		\$80,674,374		

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	\$151,540,187
FY25 Trend Analysis:				
Change from Q4 2024 Cumulative Total		\$12,865,202		
Average per week Q1 2025 (6 weeks)		\$2,144,200		
Remaining Q1 2025 Estimated Increase (6 weeks)		\$12,865,202	(Weekly Average * 6 weeks)	
Projected Q1 2025 FY25 Cumulative Total		\$42,117,498	Total FY25 Impact thru 2/18/25 - Remainder of Q1 FY25 Est Increase	
Projected Q2 2025 FY25 Cumulative Total		\$67,847,902	Projected Q1 2025 Cum Total - 12 weeks at Weekly Average	
Estimated AGO & CA Costs		\$4,000,000	(\$1,965M incurred through Q4 2024)	
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.

Attachment B

Claims Administration Information Sheet on YDC Settlement Fund

New Hampshire Youth Development Center Claims Administration and Settlement Fund

John T. Broderick, Jr.
Administrator

Diane Nicolosi
Assistant Administrator

April 2, 2025

INFORMATION SHEET ON YDC SETTLEMENT FUND HISTORY AND OPERATION

GENERAL BACKGROUND

The legislature created the YDC Claims Administration and Settlement Fund (Settlement Fund) in 2022 with the goal of attracting and resolving over 1,000 claims then filed in the Superior Court, as well as any future claims that might be filed with it before the statutory deadline of December 31, 2024 (under the original statute). The idea was grounded on the belief that a more expeditious, trauma-informed and victim-centered process would be less costly, more compassionate, and more predictable than jury trials in public courtrooms. The administrative settlement process became operational on January 1, 2023.

The legislature established a dedicated, non-lapsing fund of \$100 million, with money set aside to pay settlements and awards to those who established sexual and/or physical abuse while detained in identified YDC facilities.

The statute and its valuation Guidelines are very specific on the types of abuse that could be claimed as eligible for payment from the Fund and how much may be awarded for each type of abuse. The Guidelines identify aggravating factors (such as more than one perpetrator performing abuse) and mitigating factors (such as problems of proof) to take into account when calculating valuation amount. According to the statute as amended in 2024, the Settlement Fund is anticipated to receive appropriations of up to \$75 million per fiscal year through fiscal year 2032. If awards and settlements in any fiscal year were expected to exceed \$75 million, the Claims administrator, in consultation with the attorney general, could request additional funding. In June 2024, the legislature added another \$60M in appropriations to the Fund.

WHAT ARE THE ROLES OF THE ATTORNEY GENERAL AND THE CLAIMS ADMINISTRATOR UNDER THE YDC SETTLEMENT STATUTE?

The YDC Claims Administration and Settlement Fund has two administrators with distinct responsibilities, who collaborate in certain areas as the statute anticipates.

One is the attorney general, who shall be administer the Fund and use the funds for the purpose of administering claims of former YDC residents as defined by statute (Fund administrator). 21-M:11-a, II.

The other is an independent, neutral lawyer appointed by the NH Supreme Court to serve as claims administrator, whose primary charge in the settlement process is to process claims and may settle claims at such amounts as may be agreed upon between the attorney general designee and each claimant, or at amounts which are determined by the administrator through a resolution proceeding (Claims administrator). 21-M:11-a, III. In

2022, Administrator Broderick was selected by the N.H. Supreme Court to serve as Claims administrator, after considering recommendations from both counsel for claimants and the attorney general. In 2024, retired Superior Court Judge Diane Nicolosi joined the claims administration team as assistant claims administrator to assist with volume of claims coming into the Fund. 21-M:11-a, II.

The Fund administrator and the Claims administrator consult one another in their statutory functions, such as when preparing and issuing quarterly reports. 21-M:11-a, XVI.

The attorney general also has a designee who participates in the settlement process on behalf of the state to resolve claims. 21-M:11-a, I (and throughout).

The original Settlement statute was amended in June 2024 in significant ways. Some changes related to categories of eligible abuse and award caps. 21-M:11-a, I (and throughout), V. Other changes expanded the Claims administrator's discretion for award payouts to claimants for eligible, verified claims, as well as added responsibilities to monitor Fund balances. 21-M:11-a, XII.

HOW ARE SETTLEMENTS AND AWARDS FROM THE CLAIMS FUND TO BE PAID?

Under the Settlement statute, as originally enacted, any settlements with claimants made directly with the Attorney General's Office (AGO) or any awards issued as a result of resolution proceedings conducted by the Claims administrator, were ONLY paid in a lump sum at the option of claimants. Settlements awards must give due consideration to the Guidelines developed by stakeholders and adopted by the joint fiscal committee. 21-M:11-a, III, IV.

Legal fees were and are paid as a portion of the award itself and not as an addition to it under the original and current statute.

Legal fees can be up to one-third of an award and, under the original statute, were also paid by lump sum. This was the case for the first 18 months after the statute became effective for all the attorney general's direct settlements with claimants under the Fund and for all awards issued by the Claims administrator. By June 30, 2024, after 18 months, the initial \$100 million appropriation was exhausted and nearly 190 claims were successfully resolved.

After the statute was amended in 2024, some law firms took the lead to volunteer to accept fees over a period of years or capped at 25%. Currently, about a dozen law firms have volunteered to do so. This means that currently about 95% of our claims involve lawyers and law firms who are now accepting their legal fees over a period up to three years, or at a 25% fee cap up to two years. That will be of assistance in maintaining Fund balances in the remainder of FY25 and into the next biennium if the Legislature provides further appropriations to the Fund.

HOW ARE LEGAL FEES DETERMINED?

From January 1, 2023 (when the claims fund became operational) to June 14, 2024 (when the statute was amended), all awards to claimants and their counsel were made in lump sum payments pursuant to claimant's choice under the statute. Under the original and amended Settlement statute, the Claims administrator was given discretion to award up to one-third in legal fees and must follow the standard of "reasonableness" under the statute. In exercising his discretion, the Claims administrator is guided by a common standard under NH Rule of Professional Conduct, Rule 1.5, such as the time and labor involved. Counsel for a claimant is required to provide an affidavit identifying time spent for the claimant and must update that information near the time of the resolution proceeding hearing.

The attorney general has the same discretion on agreeing to amount of legal fees for counsel on any direct settlement under the Fund, and we have seen that a one-third portion of the award for legal counsel is standard in that settlement pathway.

With the administrative settlement process underway for more than two years, the Claims administrator's determination of legal fees (as a portion of the claim award) now ranges from about 20% to 33.33%.

WHAT ARE THE "DRAWS" ALLOWED AGAINST THE SETTLEMENT FUND?

There are four "draws" against the Settlement Fund: (1) settlements made with claimants directly by the AGO (approximately \$65,652,375 as of December 31, 2024); (2) awards issued to claimants by the Claims administrator after resolution proceedings (approximately \$59,785,750, as of December 31, 2024); (3) expenses of the AGO associated with its claim fund work outside of ordinary operational expenses of the department of justice (approximately \$3,731,180 as of December 31, 2024); and (4) operating expenses for YDC Claims Administration (approximately \$2,678,284 as of December 31, 2024).

As of December 31, 2024, 242 claims have been resolved with settlement from the Fund, totaling over \$125 million (without interest).

The next quarterly report is anticipated to be issued during the third week of April and will provide updated information on claims activity, resolution activity, costs, and fiscal year impact.

HOW ARE CLAIMS EVALUATED AND VERIFIED?

Individual claimants are required to submit information and documents to support their claim. For example, the claims process as revised in 2024 requires claimants to provide their resident file, which assists in evaluating eligibility. If a claimant does not provide a resident file or other documentation, then he or she must provide an explanation of efforts to obtain documentation for eligibility.

Claim submissions are reviewed for administrative completeness and shared with the AGO, who evaluates the packet. The AGO assists in reviewing whether a claimant is eligible and informs the Claims administrator of its view of the claim to assist with evaluation.

If a claim does not resolve through a direct negotiation with the AGO, then the claimant proceeds to a resolution proceeding hearing with the Claims administrator or assistant Claims administrator and a trauma informed expert for verification and evaluation.

Sexual Abuse has 5 categories, with definitions in the statute and Guidelines, and covers a range of abuse, such as: anal or genital rape, oral rape, intimate sexual touching, groping, conduct causing fear of sexual abuse, conduct constituting indecent exposure, lewdness, violation of privacy.

Other Abuse has 6 categories with definitions in the statute and valuation Guidelines, and covers a range of abuse, such as: physical abuse causing permanent, life threatening, or serious bodily injury, physical abuse causing bodily injury, conduct constituting intentional infliction of emotional distress, reckless conduct, unlawful restraints, and unlawful isolated confinement.

There is a list of aggravating factors identified in the Guidelines and claim worksheet approved by Joint Fiscal, with 11 different factors for sexual abuse categories and 5 factors for other abuse categories.

Examples of aggravating factors include: abuse resulting in a suicide attempt by the claimant while at the YDC facility, retaliation or punishment for refusing to submit to sexual advances, abuse with unjustified out of community confinement for 7 days or more, simultaneous physical participation by more than one actor during the abuse incident, additional actor as an observer or lookout, duration of abuse for more than 12 months, different abuser for different abuse incidents, photographs or video recording of the abuse, sexual abuse resulting in pregnancy or a sexually transmitted disease.

All of these kinds of abuse, severe and prolonged for many claimants, is what the Claims administrator has found credible after overseeing the claims process for more than two years so far. The Claims administrator regularly sees and hears from people who suffered abuse in hundreds of claims reviewed and claimants interviewed under oath in hearings since 2023. By statute, the privacy of each claimant's identity and experience is kept confidential.

A trauma-informed expert is part of the hearing team for every resolution proceeding interview. Representatives for the AGO and the claimant are able to provide questions and topics for the interview, and also witness the live interview to see what claimants say and how they respond.

HOW ARE SETTLEMENTS AND AWARDS FROM THE CLAIMS FUND CALCULATED?

All settlements and awards from the Settlement Fund are calculated using values for various categories of abuse set forth in the Settlement statute and Guidelines and by using the claim worksheet approved by the Joint Fiscal committee. For example, anal or genital rape as sexual abuse is assigned a base award of \$200,000.00, and unlawful strip search as other abuse is assigned a base award of \$1,000.00. Calculations for frequency of abuse episodes are accounted for in order to arrive at an adjusted base award.

The Settlement statute permits higher awards if certain identified *aggravators* are found in a particular claim and lower awards if certain identified *mitigators* are present. For example, one aggravating factor is “did different people sexually abuse you at different times” and is valued at 50% base award amount. One mitigating factor is “problems of proof” where a claim may be denied or the award amount discounted where reasonably expected proof or documentation is lacking.

So far, the Claims administrator has resolved two claims of egregious sexual abuse under the statute as amended in 2024.

WHY WAS THE CLAIMS STATUTE AMENDED EFFECTIVE JUNE 14, 2024?

By the spring of 2024, it became apparent that many of the YDC cases in Superior Court were not migrating to the administrative claims process as quickly or in the numbers that had been expected. At the time, the deadline for filing all claims in the administrative process was months away (December 31, 2024). To address this situation, and after extended discussions among the attorney general, and the lawyers representing almost all the Superior Court claimants, an “agreement” was reached. Specifically, (1) the Settlement statute would be amended to include some additional categories of compensable abuse; (2) the existing cap of \$1.5 million for sexual abuse would remain in place unless *egregious sexual abuse* was established, in which a claimant could be awarded up to \$2.5 million; (3) the cap for physical abuse—renamed *other abuse* (with expanded definition)—was increased from \$150,000 to \$250,000; and (4) settlements and awards could FOR THE FIRST TIME be paid out over a period of “up to 10 years” at the discretion of the Claims administrator (with 5% compound interest for future payouts). In return, counsel for virtually all of the YDC cases in the Superior Court promised, in writing, at the request of the state (and part of the legislative record for SB591) that they would recommend to the vast majority of their clients that they transfer their claims from the Superior Court to the administrative claims process.

To be certain enough time was available for counsel to complete the transfer of hundreds of cases from the Superior Court to the administrative process, the deadline for filing claims with the Settlement Fund was extended by the legislature for six months—from December 31, 2024 to June 30, 2025.

The amended statute allows individuals to file a notice of claim by the filing deadline of June 30, 2025, followed by a full claim packet within 60 days following.

IN BASIC TERMS HOW DOES THE CLAIMS FUND PROCESS WORK?

The vast majority of claimants are represented by counsel although there is a small percentage of self-represented claimants. Most claimants reside in New Hampshire. To date, the youngest claimant to appear at a resolution hearing was 19; the oldest was 78. All hearings are held in person in New Hampshire. Remote live hearings by video are only allowed in exceptional circumstances with approval from the Claims administrator.

All claim materials are filed with our claims administration. The claims are shared with the AG designee in a confidential manner for the purpose of YDC settlement claims processing, once assessed as administratively

complete. Staff review claim submissions for duplicate filings to make sure that an individual has one live claim in the settlement process for evaluation and a potential award offer.

Once a claim is administratively complete with all required documents and forms, a scheduling notice is issued for a resolution proceeding hearing before the Claims administrator or assistant administrator. The hearings are held under oath in an informal setting and are observed by counsel for the state and the claimant. Counsel can propose questions to ask a claimant through the interviewer, and both sides provide evaluation statements to the Claims administrator or assistant administrator when the interview is concluded. The hearings generally last for 90 minutes but sometimes, depending upon complexity and emotional condition of a claimant, last up to 3 hours.

Counsel for the state and/or the claimant may file brief post-hearing memos and then the claim file is closed. Decisions are generally issued within 45 to 60 days from the date of a hearing.

A claimant is free to accept or reject the Claims administrator's decision. At present, almost 100% of our decisions are accepted by claimants and the claim is then closed, and then proceeds to payment processing with the Attorney General's office.

Since the Settlement statute's amendment in June 2024, approximately 80% of the Claims administrator's awards are payable to claimants over time—some over a period as long as ten years.

Some claimants directly negotiate a resolution with the AGO to resolve a claim under the Fund. Sometimes, they agree to all essential terms and provide a stipulated agreement to the Claims administrator for review before the settlement can proceed to payment processing. This settlement activity with the AGO has significantly slowed during FY25 so far. Keeping appropriations at a limited balance in the Fund may impact the parties' opportunity to settle directly in this way under the Fund.

Since the fall of 2024, the Claims administrator has developed, with the AGO, a third avenue to assist in resolution of claims under the Fund. The parties sometimes reach an agreement on an award amount and then ask the Claims administrator to review and decide open items, such as the portion of legal fees or the number of years for installment payouts. He does so and issues a final decision for the claimant to either accept or reject. A claimant who opts for this third avenue may NOT then seek a resolution proceeding hearing for a second evaluation.

WHAT PRECAUTIONS ARE TAKEN TO DETECT FRAUDULENT CLAIMS?

Claims administration staff carefully review each claim upon receipt as does authorized personnel of the Attorney General's Office. Full verification of a claimant's identity is required by statute and all claim forms are signed under oath and notarized. We confirm a claimant's eligibility to file a claim typically through the AGO's assessment, and most claimants have a resident file that establishes dates of detention and daily logs.

Claims administration staff are attentive to duplicate claims and potentially fraudulent claims and perform fraud analysis on a regular basis. If claims are viewed as potentially fraudulent, claims administration may refer the

claim or information provided to the Attorney General's Office. As far as is known to the Claims administrator and his team, no claim that has received an award determined to be fraudulent. We are mindful to be watchful as is the AGO.

All resolution proceeding hearings are under oath so the Claims administrator or assistant administrator get to meet and interview the claimants, and the AGO has a representative at every hearing who sees and hears what the hearing team does and how the claimant responds. There is opportunity for the AGO to weigh in on credibility and eligibility throughout the resolution proceeding stage.

In the vast majority of claims, claimants have retained reputable counsel who have both legal and ethical obligations not to submit or assist in submitting untrue claims. This also serves as a valuable screen for potentially fraudulent claims. Also, with the AGO reviewing all completed claims, if they see something they believe to be suspicious, the AGO representatives can bring it to the Claims administrator's attention.

WHAT IS THE TRANSPARENCY OF THE YDC CLAIMS PROCESS?

The administrative process under the Settlement statute is confidential. Claimants' identities are confidential, as well as their claim forms and materials. Only a claimant is free to speak publicly about their abuse claim.

On a quarterly basis, after consultation with the AGO and in accordance with the Settlement statute, the Claims administrator develops a report in consultation with the AGO, and provides the Governor, the Speaker of the House, the Senate President, and the Joint Fiscal Committee a detailed report. Each quarterly report outlines settlement amounts, award amounts, the types of abuse involved in both, Fund balance information, expenses of the Claims administrator' operation, and expenses of the AGO related to the claim process outside of ordinary its operational expenses. We also publicly post the quarterly reports and other claims processing information on our web page to maintain transparency.

We have now issued quarterly reports eight times and in April 2025, we will issue our ninth. We have appeared before Joint Fiscal Committee several times to discuss our operation and our reports, and have been responsive to adjust our quarterly report when asked to do so.

We receive calls and emails from the media and are prompt to respond by phone and in writing.

We believe we have been as transparent as possible where the statute allows, and in our transmittal letters to the quarterly report. We always offer and invite the opportunity to meet or talk by phone with government leadership to address any questions or issues they may have. We will continue to do so.

ADVANTAGES OF THE ADMINISTRATIVE CLAIMS PROCESS vs. THE SUPERIOR COURT

The administrative process created by the legislature avoids ongoing years of public jury trials, extraordinary discovery and trial expenses, and numerous appeals. Jury verdicts are hard to predict and any verdict will come with years of pre-judgment interest. Jury trials will likely put those who may have been abused through further trauma. A jury award is payable in short order unless appealed.

Under the Settlement statute designed by the Legislature, the resolution process for YDC claims of abuse is trauma-informed and victim-centered, and there is confidentiality. It takes much less time than waiting in line for a jury trial. The process can only consider specific types of abuse as identified by the Legislature and the Claims administrator is bound by the settlement figures selected by the legislature for each category of abuse, as well as aggravating factors and overall caps.

The settlement process under the Fund is a far more predictable measure of state liability, though a considerable sum is still at stake.

Importantly, the process by statute is confidential, sensitive to trauma survivors, provides opportunity for both the state and the claimant to present information for evaluation, and also gives the parties the choice to directly settle on their own within parameters set out by the Fund statute.

WHAT HAPPENS TO CLAIMS ADMINISTRATION OPERATIONS IF MINIMAL AND/OR UNPREDICTABLE APPROPRIATIONS ARE FORTHCOMING

The YDC Claims Administration relies on several consultants with annual contracting. Current contracts conclude on June 30, 2025, unless renewed. It is up to the consultants whether they will view the state as providing stable funding in order to continue contracting to provide professional services for the statutory resolution process. Without our excellent consultants, our operations will end.

The YDC Claims Administration also relies on highly valued staff. It is also up to staff whether they see the state as providing stable funding in order to continue to commit to employment with this short-term project. Any diminishment of staff significantly compromises our continued operations.

Without sufficient assurances of state appropriations:

- YDCCA cannot responsibly approach consultants for next contracting cycle, and current contracts end on June 30, 2025.
- YDCCA cannot responsibly ask the Judicial Branch to renew the current lease for the YDCCA location, which has a current end date of May 31, 2025
- YDCCA cannot responsibly continue recruitment efforts for the open position for a claims processing specialist (despite several pending applicants)
- YDCCA staff will need at some point in the near term to disband in pursuit of other employment to support their families.

Additionally, counsel who made written assurances to the state to transfer cases pending in Superior Court to the administrative settlement process before the filing deadline (6/30/2025) may see lack of funding, or minimal funding, as a breach, and then cease filing claims and withdraw ones that are pending.

Lack of sufficient and predictable funding -- to allow processing to continue and finish processing for the final universe of claims -- is the equivalent of a forced wind-down of the entire operations built by the Claims administrator in cooperation with stakeholders.

The decision on committing to sufficient, predictable funding is critical.

Attachment C

Joint Fiscal Committee meeting, August 16, 2024 transcript

JOINT LEGISLATIVE FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, August 16, 2024

MEMBERS PRESENT:

Representative Kenneth Weyler, Chair

Representative Keith Erf

Representative Jess Edwards

Representative Mary Jane Wallner

Representative Peter Leishman

Representative Gerald Griffin

Senator James Gray

Senator Jeb Bradley

Senator Regina Birdsell

Senator Lou D'Allesandro

Senator Donna Soucy

**(1) Acceptance of Minutes of the June 20, 2024 and
July 10, 2024 meetings**

KENNETH WEYLER, State Representative, Rockingham County,
District #14, and Chairman: Good morning. I'll call the Fiscal
Committee meeting to order for the August 16th, 2024, meeting,
and the first item is the acceptance of minutes of June 20th.

****** JEB BRADLEY, State Senator, Senate District #04: So move.

JAMES GRAY, State Senator, Senate District #06: Second.

CHAIRMAN WEYLER: And July 10th, both of those. Take that
as both of them. Is there any --

KEITH ERF, State Representative, Hillsborough County,
District #28: Who was that moved and seconded?

CHAIRMAN WEYLER: It was Senator Bradley and Senator Gray.
Um -- any -- any omissions or corrections? Seeing none. All in

**Pages 2
through 26
omitted**

(10) RSA 21-M:11-a, IV, Youth Development Center Claims Administration and Settlement Fund:

CHAIRMAN WEYLER: Under Tab 9, I think. Yeah, Tab 10. All right. First item is Youth Development Center Claims Administration and Settlement Fund. And you can -- you can sit on those chairs over there if you've got other people that want to have input if there's not enough room for them at the table. Yeah. You can sit --

JOHN FORMELLA, Attorney General, Office of Attorney General, Department of Justice: Okay. Thank you, Mr. Chair.

CHAIRMAN WEYLER: -- sit on the end there, and -- and -- and if you speak, remember to push the button for the microphone. Attorney General Formella, welcome.

ATTORNEY GENERAL FORMELLA: Thank you, Mr. Chair, Members of the Committee. For the record, John Formella, Attorney General. And joining me today to my right is Attorney Laura Raymond in the Civil Bureau at the Attorney General's Office. She has replaced Jenn Ramsey as the AG designee for the YDC claims process. So she's been spear-heading our efforts there. We're also joined this morning by Jenn Foley. She is General Counsel with the Administrator's Office. Matt Broadhead, Associate Attorney General in our office, head of the Division of Legal Counsel; and Tom Kaempfer, who is the Director of Claims at Operations for -- for the YDC Claims Process in the office.

So we know this is an important item and we wanted to make sure everyone who potentially might need to speak to it is here. Um -- I'm going to, if it would be helpful, in a minute I'll turn it over to Attorney Raymond to give you an overview; but I'll just start by sort of setting the context here.

We're here today to get approval to the revisions to the guidelines and the other documents for the YDC Claims Process. These revisions are really just to implement the revisions that we just made within this past legislative session. So, as you'll

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August 16, 2024

recall, we had extensive negotiations with -- with claimants' counsel to come up with revisions to the YDC claims process that would result in the vast majority of the claimants coming through the process as opposed to going through litigation. So that bill passed in the last session.

After the bill was signed by the Governor in June, we've had a lot of discussions with claimants' counsel since then to come up with the revisions or these revisions to the guidelines. And you will have received a letter from Nixon-Peabody and -- and -- and Rilee & Associates that indicates that they are, I would say, supportive of these revisions. I don't want to -- I don't have the letter in front of me, but I think what they said is with these revisions while there was negotiation and they didn't get everything they wanted, we didn't get everything we wanted, this was a sufficient compromise for them to continue to feel that they could recommend this process to the vast majority of their clients. So that -- that is the product you see before you.

I certainly want to thank Nixon-Peabody and Rilee & Associates and all the attorneys involved there and all the other claimants' counsel for coming to the table and engaging in these negotiations. I want to thank everyone who's here today with me for the work on this, that the work that's been done so far and the work to come.

With that, I'm going to turn it over to Attorney Raymond just to give you an overview of the biggest pieces of these revisions, and then I'll certainly be here to answer questions as well. But Laura spearheaded the details of this. So I want to give her a chance to give you that overview.

CHAIRMAN WEYLER: For discussion purposes, the Committee, we're looking at both 261 and 262 which are very closely related. So if you have questions on either one, this is the moment; but go ahead and give us the explanation.

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August 16, 2024

LAURA RAYMOND, ESQ., Attorney IV, Civil Bureau, Office of Attorney General Department of Justice: Thank you, and good morning.

CHAIRMAN WEYLER: Good morning.

ATTORNEY RAYMOND: So I would be happy to walk through in the order of our item the sort of overview of what the proposed revisions to these documents are. We've also provided to the Committee today a handout, a one-page handout that summarizes those changes to both the guidelines governing the value of claims, as well as the process. I believe those were just handed out to, hopefully, guide this overview as well.

SEN. GRAY: Just backup from the mic about an inch or two.

ATTORNEY RAYMOND: Sorry about that. Thank you. So, first, with respect to the claims process. As Attorney General Formella mentioned, the main driver of the proposed revisions there was the changes to the statute that passed in this most recent legislative session. So the changes there are really focused on updating some timelines to bring the claims process as it previously existed in line with those new amendments.

Another significant procedural change outlined on your handout is the fact that the Claims Administrator now has the discretion under the statute to determine whether to award payments from the fund in a lump sum or in installment payments over time. That is a change from the previous practice where the claimant had the discretion to make that election. So that is also reflected in the changes to the process. That will help, I think, ensure the stability and solvency of the fund over time for many more claimants to come.

We also, again, in looking at those time frames, we're looking to expedite certain parts of the claims process. To that end, the process also now allows for brief oral arguments by counsel at the end of a resolution proceeding. Again, a change to the previous process. One that I -- we've sort of been beta

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testing, for lack of a better word, in resolution proceedings, and I think is going well so far and will ultimately result in an expedited process of awards being issued after follow -- following a resolution proceeding.

And, finally, the new statute, as amended, provides that instead of submitting a complete claim by the deadline of June 30th, 2025, claimants can instead submit a notice of claim form that is included with the item for approval today. And when a claimant submits that form, they are essentially putting the fund on notice that they intend to submit a claim, but maybe don't have all of their complete materials right now. And they have 60 days following the submission of that form to submit a completed claim. So that's also a change from the current process. So in lieu of filing a full complete claim by June 30th, 2025, they can also file a notice of claim by that date and still be extended 60 days to file their complete claim.

Those are sort of a high-level overview of the changes to the process. I would be happy to answer any questions about that specifically or continue through to the guidelines themselves.

CHAIRMAN WEYLER: Senator D'Allesandro for a question.

SEN. D'ALLESANDRO: Thank you. Thank you, Mr. Chairman. Thank you very much. Stuff you said this was -- was fine. Thank you. I did get the letter from the lawyers and it seems to me that they're in concurrence with the changes that have been made.

I would like to know the number of people who have filed claims. This number has been bounced around. I -- I think in the letter they talk about 1200. Somebody said about 1500. How many claims have been filed? What is the number of claims that we're dealing with at this time?

ATTORNEY RAYMOND: Yes. So that number as of August 14th, I believe, is 642. Miss Foley or Tom may have an updated number.

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JENNIFER FOLEY, ESQ., General Counsel, YDC Administrator's Office: It's 632.

ATTORNEY RAYMOND: 632.

ATTORNEY GENERAL FORMELLA: And that's, just to clarify, that's claims in the claims process. Were you asking, Senator, about that and also about lawsuits filed or just claims in the claims process?

SEN. D'ALLESANDRO: The number of -- the number of individuals who are involved in the legal aspects of this. This is lawsuits and your administrative work.

ATTORNEY GENERAL FORMELLA: Yeah. I think lawsuits it's thirteen to fourteen hundred at this point. I don't have that exact number off the top of my head.

SEN. D'ALLESANDRO: So that's a -- that's a realistic number that's -- I've heard that a variety of numbers. I'd like to focus on what the real number is, as -- as I think the public should be aware of that. Obviously, when you look at that and when you look at what's happened in terms of the settlement, you got X number of dollars that are out the door. You're expecting, you know, an additional appropriation that's going to come. I think we should have at least an idea of how many cases we're dealing with.

ATTORNEY GENERAL FORMELLA: I think, Senator, when we get to June 30th, 2025, that will be the point where we get the final number of claims that will come through this process. You know, we -- we can -- we can make a projection of what we think it will be; but, you know, we -- we won't know the final number --

SEN. D'ALLESANDRO: Sure.

ATTORNEY GENERAL FORMELLA: -- until then.

SEN. D'ALLESANDRO: But I think the projection is extremely important because that projection's going to call for appropriation.

CHAIRMAN WEYLER: Yep.

SEN. D'ALLESANDRO: And some -- somebody around this table is going to have to make that appropriation.

ATTORNEY GENERAL FORMELLA: Yes. Well, and that -- that gets to, and this isn't necessarily a part of the guidelines and the process today, but that gets to, you know, the payment -- well, the payments over time are part of the process; but then the \$75 million cap per Fiscal Year.

So -- so, yes, we -- when we were going through the legislative process we discussed the fact that the sooner we have the deadline for the window to close, the sooner we will finally be able to say this is how many claims came into the process. This was the total amount claimed and, you know, based -- we've resolved about 200 claims now. The average award has been maintaining around \$500,000. So I think once we get the total number of claims in and we know that's -- that's it, we'll be able to make a projection sort of over how many years we're going to need to continue funding this given the cap of \$75 million per year.

SEN. D'ALLESANDRO: All right. Thank you. Thank you, Mr. Chair.

CHAIRMAN WEYLER: Representative Leishman for a question.

REP. LEISHMAN: Thank you, Mr. Chairman. I -- I had a few, but I'll certainly go through the Chair. On Page 12 there's a mention of a maximum of three hours for the discussion of a claim.

ATTORNEY RAYMOND: Hm-hum.

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REP. LEISHMAN: What happens if it has to go over three hours? This is just a suggested guideline or -- or is this, in fact, that three hours the gavel comes down and that's it?

ATTORNEY RAYMOND: In my experience with resolution proceedings and -- and -- and having attended them and having gotten information about each one that has occurred, actually none have come close to three hours. That's because it's, you know, it's -- it's a very difficult conversation for the claimant, the victim, to have and it's not the intent, I think, of anyone in this process, either from our office or from the Administrator's Office, to continue to sort of compound that by dragging it on for the full three hours. They often don't go that long. I imagine if it had to, no one would object to a continuation of additional time.

REP. LEISHMAN: Further question?

CHAIRMAN WEYLER: Further question.

REP. LEISHMAN: I think it was on Page 22 in my notes here -- uh -- the payment out over time I think is up to ten years. Is that something you tried to get already or people willing to go that far out or --

ATTORNEY RAYMOND: So I can speak to that. We are starting to implement the considerations for that. Uh -- the claimants that I have seen information on so far, none have affirmatively expressed a -- a willingness to go for a full ten years; but many have expressed a willingness to do some sort of payment plan. That being said, the discretion to award that payment plan is vested in the Administrator, considering the claimant's financial circumstances and the other items delineated in the statute, such as health and things like that. But it is -- remains vested in the Administrator regardless.

REP. LEISHMAN: There's one --

ATTORNEY GENERAL FORMELLA: I would just add that we're in very early days for the new -- sort of the new provision that allows the Administrator to award these or make these awards in installments. So I think we'll be -- we'll be in a better place to -- to give you feedback on that in the months ahead.

REP. LEISHMAN: One final question, if I could, Mr. Chairman? Thank you. I know we're all sickened by what happened, you know, here with the decades and I looked at like the guidelines for the payouts for particular types of assault. Where did those guidelines -- I know we've talked about this in the past, and I think some suggestion was made, other states were looked at. Are these new baseline award amounts, are these new numbers that you've come up with or are they based on numbers that we've seen in the past?

ATTORNEY RAYMOND: So I can speak with respect to the new award values that were assigned in the guidelines themselves, which is the next document up on the discussion.

So for those dollar amounts, we did do some research into things like what claims for similar type of conduct have settled for in other states, within this state, and tried to, you know, develop a -- a baseline award amount that seemed appropriate in light of the conduct being alleged versus the conduct in the remainder of the guidelines, the dollar values for which had already been approved by the Committee. So it was sort of trying to, you know, place it in that matrix which already existed, considering a wide range of factors, including, you know, how often it occurred, the severity, all of those factors were considerations. And, in fact, those dollar figures were part of what was open to negotiation with claimants' counsel. And we did have many conversations, both with the Nixon-Peabody law firm about those values and what would be appropriate, as well as counsel for other claimants, too. So that was achieved with a broad measure of consensus, I would say.

REP. LEISHMAN: Thank you. Thank you, Mr. Chairman.

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CHAIRMAN WEYLER: Other members? Senator Soucy.

SEN. SOUCY: Thank you, Mr. Chairman. Just one, if I may? I just wanted to clarify. The 632 number is all inclusive, so some of those may be withdrawn or deemed not worthy of following through the process. So 632 is everything presented to you?

ATTORNEY FOLEY: That's true, and some -- some have been resolved by now as well.

SEN. SOUCY: Great. Thank you.

ATTORNEY RAYMOND: Without any additional questions on the process, I would be happy to turn more fully to the guidelines. We've just begun discussing them; but, again, just to give you an overview of the major proposed changes to those documents.

The first was to address the new categories of abuse added by the Legislature in the most recent Amendments, specifically those were unlawful restraint, both isolated confinement and placement in physical, mechanical, or pharmaceutical restraints, both of those are defined as unlawful restraint under the new statute.

Also, unlawful strip search, intentional infliction of emotional distress, reckless conduct, criminal threatening, and invasion of privacy. So we slotted all of those new categories of compensable abuse into the existing framework of the guidelines per the mandate in the new statute. There's also a mandate in that amended statute to provide compensation for egregious sexual abuse. So we included that definition in the guidelines as well and explained the standard for compensation there.

Finally, the other major change was just to update the aggravating factors that are found near the end of the guidelines that can increase an award if certain things take place. The statute added a couple new categories of aggravating factors, mainly a greater impact of the abuse on the claimant as

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compared to others similarly situated, subjection to multiple forms of sexual and other abuse simultaneously, and participation by more than one actor physically in an act of sexual or other abuse.

So those were the main changes to those guidelines there. Again, would be happy to take any additional questions from the Committee Members about those.

CHAIRMAN WEYLER: I think you really opened the door or at least the Legislature did by adding this other and including solitary confinement. This opens the door for the Secure Housing Unit and the Prison where all of the people there are in solitary confinement 23 hours a day. If we think that's compensable through a lawsuit, we're really in trouble. All those people could go and get these same lawyers and come back and sue us saying, oh, I -- I was really tortured by the four years I spent in solitary confinement. This -- this really opens the door.

And another thing that disturbs me, and it supposedly is left to the Attorney General, is why we don't more widely use lie detectors. My friends in law enforcement really put a lot of faith in them, and you might eliminate a whole bunch of these people if they couldn't pass a lie detector test and that would be a lot quicker than the three hours that you're going to -- might spend on all these questions on all the people involved. It seems like it ought to be an automatic review that everybody goes through this. And I -- and supposedly it's left to your authority to do this, and I wondered why you haven't asked for it.

ATTORNEY GENERAL FORMELLA: So I'll respond to both of those points, Mr. Chair. The first, just to sort of opening the door to solitary confinement or intentional infliction of emotional distress and other incarceration settings like the Prison, I just point out a couple things.

One, you know, this -- this is -- what we are talking about here, the cases we are talking about here are unique because when these things occurred these individuals were kids. So kids, yes, they were in a juvenile detention facility, but they were kids for whom, you know, the State was not -- we weren't just -- the intention was not just to lock them up, but to also to rehabilitate them, to get them services, get them treatment. So I would point out that first.

Second, the -- the compensable solitary confinement for purposes of this process, it's only compensable if there wasn't some legitimate basis or reason or it was -- or it's only compensable if it was excessive. So it's not to say that any time someone might have been placed in solitary confinement that would be compensable. It's -- if there wasn't -- I mean, I'm paraphrasing. So -- so I want to be a little careful, but basically it has to be that there wasn't a legitimate basis or some other -- some other good reason for the solitary confinement.

To your point on the lie detector test, I mean, it -- it really -- that is just part of the overall consideration of this process in balancing the -- the need to, you know, have some level of verification and investigation of these claims with -- with the need to recognize that we're talking about individuals who -- who were victims of physical and sexual abuse when they were children. We certainly would never, if someone came to law enforcement and said that they had been abused as a child, I mean, not even as an adult but as a child, we certainly would not put them through a lie detector test. It's just not how we -- how we treat victims of sexual abuse especially. But we -- we absolutely would not do that if we're talking about child victims. And -- and we have other ways, especially in the law enforcement context, to look to verify whether someone's telling the truth. We have -- there's other interview techniques.

There's been a lot of study in work put into those techniques over -- over many years and decades in -- in -- in

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the law enforcement community; but -- but we wouldn't use lie detector tests in that context. And I think, you know, in this context where we're trying to balance the need to -- to, you know, do some verification investigation with the need to respect the fact that these are -- these are victims of physical and sexual abuse and victims who suffered this abuse as kids, a lie detector test just isn't -- isn't something that I think would be appropriate, especially for a process like this.

It really wouldn't be appropriate in almost any context, but this is meant to be a process where it's not litigation. So we're not -- we're not doing the sort of in-depth type of discovery and investigation that would happen in litigation over a period of a couple years before you got to trial. It's -- it's -- it's a more streamline, simpler process, and the tradeoff is that while we may not do as much in-depth investigation and verification, there's a cap on the damages you can get. And, you know, I think the first YDC trial showed, and putting aside -- I won't get into the details -- putting aside all of the issues we're litigating this post-trial about what -- what the damages cap should be and how the law works on that, I mean, I think you saw where -- where a damages number can be, in a case like that, and I think that demonstrates the tradeoff we -- we're making in this process.

CHAIRMAN WEYLER: When you go to trial, I wish you'd emphasize to the jury where this money is coming from with some of these ridiculous claims. It's not coming from the actors who probably are still collecting pensions. Very few of them -- I think one has been up for trial so far and I think you got 11 people identified. They all should have been in trial by now and been charged with these abuses and should perhaps confront some of these people that they abused as youth.

And you should also make the point that a person who worked hard all their life and kept their nose clean and prepared themselves for a good career at the end of a career might have \$2 million that they earned in their lifetime. You're giving \$2 million to people who didn't obey the rules, probably didn't

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have a -- a good career, and yet they're being rewarded to some extent for suffering, which many people have suffered without being able to get compensated in family situations and so on. It just seems way out of line with what these juries are reward -- are rewarding, and I'm wondering if you're bringing any semblance of truth to them that this money is coming out of you folks, because it's coming out of the taxes that the government collects. It's not coming out of the actors, and we are giving these huge awards. What do they prove? The lawyers get rich and the person wastes the money. And I think that -- that point should be made a little more. Thank you.

ATTORNEY GENERAL FORMELLA: I can just assure you, Mr. Chair, for the cases that do go to trial, you know, we certainly are doing everything we can to defend them. And -- and I would -- I -- I feel pretty confident in saying that I don't think we've gotten -- to the extent the office has gotten criticism for the cases that we're litigating, it has not been that we haven't been pushing hard enough to defend them. If the cases go to trial, we are thinking long and hard about what the best way is to defend them and the most effective way is to defend them and what the best argument and presentation -- arguments and presentations we can make to -- to a jury are. So I -- I can assure you of that.

CHAIRMAN WEYLER: Thank you. Further from the Committee?

SEN. GRAY: Mr. Chair.

CHAIRMAN WEYLER: Senator Gray.

SEN. GRAY: I'm kind of uncomfortable in some of the things that we've said here. Okay. We've passed legislation and right now we're -- has that legislation been truthfully and, you know, fulfilled in -- in the documents and for us. Okay. So, again, you know, we may want to do some other changes in legislation, but right now is not the time to -- to do that. Right now we should be looking at the document, does it fulfill the

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requirements that we put in the legislation and then move forward.

CHAIRMAN WEYLER: Further questions from the Committee Members? Senator Bradley.

** SEN. BRADLEY: Uh -- yes. Thank you. First of all, I'd like to move both items and then speak to them, if I can.

SEN. GRAY: Second.

CHAIRMAN WEYLER: Motion and a second. Further discussion? Representative Bradley. Senator Bradley.

SEN. BRADLEY: Thank you. So I think kudos to John, all of the attorneys that are here, to the Governor, to our friend Karen Umberger who sponsored House Bill 1677. This is a very difficult, sad, and awful chapter in New Hampshire history. The trial, the Meehan trial showed how bad the abuse was. A jury, you know, found a settlement of a huge amount of money. Um -- the problems existed.

Both pieces of legislation, 591 and 1677, worked assiduously to protect victims because there are real victims here; victims of abuse in the State care. And as the Attorney General's Office and Attorney Broderick and his capable staff have worked through the 200 cases that have been settled, we've actually learned quite a bit, and the legislation that I believe we all voted for, certainly in the Senate we did, and I believe in the House it was passed on a voice vote, also has a responsibility to protect the long-term financial viability of the state.

So the point that Representative Leishman earlier made about structured settlements, I think it's important to remember that there's a 5% interest payment for any structured settlement is -- is left in the authority of admin -- Administrator Broderick. And I think the whole process has tried to balance those issues, protecting the victims and a victim centric

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approach, but at the same time the long-term viability for the State. This is likely to be a 7 to 10-year process at -- at \$75 million a budget year in every Fiscal Year. I think this is a long-term issue that we're trying to make the best out of a very bad situation for doing what's right for victims, but also protecting the State. And I think all of you deserve a lot of credit for that.

You know, the letter that, John, you didn't have in front of you that I have from, you know, Rus Rilee and Dave Vicinanza does talk about, you know, the collaboration, the consensus and not everybody got everything they wanted. It was the same thing in Senate Bill 591, but people came together because it just -- it has to be done, I guess, is the best way of saying it.

And so I think it's important that those of us that are, you know, that voted for the legislation recognize this. I went through, you know, the 50 or so pages of, you know, the new guidelines. It really means a lot to know that the Administrator, the Attorney General's Office and, you know, the lead counsels have all come together on it in the same way that 591 did. So that's why I think we should move forward, approve these guidelines, get back to, you know, dealing with the at least 432 other cases that are in front of you and probably, hopefully, the vast majority of the other ones and do your job, and we should trust the process. And this is why I know there's been questions about, you know, the extent of the cost of administering this.

And the point that you, Mr. Chairman, raised is a very appropriate one of verification. And that's why it's important, in my opinion, that Attorney Broderick have the necessary staff to do what needs to be done to, A, protect the victims, but also vet the testimony. And I think so far so good. It is a very difficult situation, one that obviously none of us wish would have ever happened, totally needs to be prevented in the future, and try to put this very sad chapter of New Hampshire history behind us. Thank you, Mr. Chair.

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CHAIRMAN WEYLER: Further discussion from Committee Members? We have a motion and a second to adopt the items 261 and 262. There being no further discussion, all in favor say aye? Opposed no? Those items are adopted.

*** (MOTION ADOPTED)

CHAIRMAN WEYLER: And we're moving on to --

ATTORNEY GENERAL FORMELLA: Thank you.

(11) RSA 362-F:10, I, Renewable Energy Fund:

CHAIRMAN WEYLER: Thank you. Item 11, Renewable Energy Fund, Department of Energy. Tab 11, Item 24-242. Are there any questions on this item?

(Inaudible).

CHAIRMAN WEYLER: Motion by Representative Leishman to approve, second by Senator D'Allesandro. Further discussion? Seeing none. All in favor say aye? Opposed no? The item is adopted.

*** (MOTION ADOPTED)

(12) Miscellaneous:

(13) Informational Materials:

CHAIRMAN WEYLER: Okay. Do we have anything else on the agenda that needs a vote? Mr. Kane.

MR. KANE: Yes, you have two late items --

CHAIRMAN WEYLER: Yes.

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**Pages 43
through 50
omitted**

Attachment D

Letter and Written Statement as part of legislative record for SB591



Nixon Peabody LLP
900 Elm Street
Manchester, NH 03101-2031

David A. Vicinanza
Partner

Attorneys at Law
nixonpeabody.com
@NixonPeabodyLLP

T / 603.628.4083
F / 866.947.0758
dvicinanza@nixonpeabody.com



CYRUS F. RILEE, II
Laurie B. Rilee*
*ALSO ADMITTED IN ME & CA

February 5, 2024

The Honorable Jeb Bradley
State House, Room 302
107 North Main Street
Concord, NH 03301

RE: YDC Settlement Fund Legislation

Dear Senator Bradley:

As you may be aware, the attorneys at Rilee & Associates and Nixon Peabody represent approaching 1400 survivors of child abuse at the Youth Development Center and related facilities, over 1100 of whom have filed complaints against the State of New Hampshire that are currently pending in Superior Court. After extensive negotiations, our firms reached an agreement with the Attorney General to improve the YDC Claims Administration and Settlement Fund. If SB591 is passed in its current form, the improved process will benefit many child abuse survivors who have avoided the current process because of its limited scope, low caps on recovery, and overly complex procedures. While the Attorney General did not agree to all of our proposed fixes, the bill represents enough of an improvement that we anticipate recommending the improved process to the vast majority of our clients, as appropriate, based on the facts and circumstances of each case.

Sincerely,

/s/ Cyrus F. Rilee

/s/ David A. Vicinanza

Cyrus F. Rilee, II, Esq.
RILEE & ASSOCIATES, P.L.L.C.

David A. Vicinanza, Esq.
NIXON PEABODY LLP

cc: Matthew T. Broadhead, Associate Attorney General



Nixon Peabody LLP
900 Elm Street
Manchester, NH 03101-2031

David A. Vicinanza
Partner

Attorneys at Law
in the State of New Hampshire
and the Commonwealth of Massachusetts

T / 603.628.4083
F / 866.947.0758
dvicinanza@nixonpeabody.com



CYRUS F. RILEE, II
LAURIE B. RILEE*
*ALSO ADMITTED IN ME. & CA

Written Testimony of Michal Cantor, Esq. of Nixon Peabody LLP

on Behalf of YDC Abuse Victims and in Support of SB 591

Wednesday, April 17, 2024

My name is Michal Cantor, and I am Counsel with the law firm Nixon Peabody. I, along with my colleagues Dave Vicinanza, Mark Knights, Dan Deane, and our co-counsel Rus Rilee of Rilee & Associates PLLC represent over 1,300 victims who suffered sexual, physical, and other abuse while they were detained as children at the Youth Development Center ("YDC") and other State facilities. I am testifying today in support of SB 591. My colleagues wish that they could be here to demonstrate their support for SB 591, as well, but they are unavailable to attend as they are currently representing our client, David Meehan, in the first civil trial against the State for childhood abuse at YDC.

I lead the team of legal professionals at Nixon Peabody and Rilee & Associates who submit claims on behalf of our clients to the YDC Settlement Fund (the "Fund") and represent those clients throughout all stages of the Fund process. To date, a small percentage of our clients have submitted claims to the Fund.

There are a variety of reasons for this, chief among them is the fact that the Fund provides compensation for only limited kinds of abuse, the caps on recovery are artificially low, and the process for resolving claims through the Fund is cumbersome, time-consuming, and, at times, not trauma-informed.

I would like to pause to thank the Attorney General and his staff for their willingness to consider ways to address these shortcomings. While the Attorney General did not agree with all of our proposed fixes, SB 591 represents significant improvement.

SB 591 addresses the problematic aspects of the existing statute in the following ways:

- Compensating victims for "other abuse," including criminal threatening, child endangerment, unlawful restraint, unlawful strip search, and intentional infliction of emotional distress.

- Raising the compensation cap to \$2,500,000, while capping awards for claims involving other abuse at \$250,000 and incidents of isolated confinement at \$100,000.
- Ensuring a process that is victim friendly and trauma informed, promoting trust in the process, and permitting the appointment of assistant administrators who can help expedite the resolution of claims.

These improvements to the existing statute will make the Fund much more appealing to victims.

Overall, we support the changes to the Fund provided by SB 591, and we encourage this Committee to pass it. If SB 591 is enacted, we anticipate recommending the improved process to the vast majority of our clients, as appropriate, based on the facts and circumstances of each case.