

Allocations from the Contingency & Emergency Account

Consultation with the Joint Legislative Commission
On Governmental Operations

Office of State Budget and Management

April 18-19, 2006

Requested Allocations from the Contingency & Emergency Account

1) Legal Services for State of North Carolina v. Tennessee Valley Authority ---- \$326,078.81

As provided under G.S. 147-17 and on the advice of the Department of Justice, the firms of the Ayres Group and the Resolution Law Group, P.C., two firms with specialized expertise, have been engaged to assist the Attorney General's Office.

The Attorney General's Office has concluded that pollution released into the air by power plants controlled by the Tennessee Valley Authority (TVA) is causing significant negative impacts on air quality in North Carolina. Litigation against TVA will likely be necessary to force a reduction of these emissions and protect the citizens of this State from the effects of this pollution. Because of the specialized nature of air quality litigation, TVA's resources, and the likelihood that multiple out-of-state lawsuits will be required, the Attorney General's Office has concluded that it is impracticable for their office to effectively represent the State in this litigation without the assistance of private legal counsel.

This request for \$326,078.81 is to pay for legal services provided as follows.

Ayres Law Group (10/1/05 through 1/31/06)	\$ 67,613.46
Resolution Law Group, P.C. (9/1 through 12/31/05)	<u>\$258,465.35</u>
Total Requested	\$326,078.81

The Joint Legislative Commission on Governmental Operations has previously been consulted on allotments totaling \$158,258.94 for legal fees pertaining to this case.

2) Legal Services for James Alan Gell v. Town of Aulander, et al. ---- \$1,430.30

As provided under G.S. 147-17 and on the advice of the Department of Justice, the firm of Maxwell, Freeman and Bowman, P.A. has been retained to represent Debra Graves; the firm of Cranfill, Sumner and Hartzog, L.L.P. has been retained to represent William Farrell; the firm of Chesnutt, Clemmons, Thomas and Peacock, P.A. has been retained to represent Dwight Ransome; and the firm of Smith Moore, L.L.P. has been retained to represent David Hoke.

James Alan Gell, a former death row inmate, has initiated civil action in Federal Court seeking monetary damages against numerous defendants allegedly wrongfully involved in his incarceration, including current State Bureau of Investigation agent Dwight Ransome, former Assistant Attorney General David Hoke, former Assistant Attorney General Debra Graves, and former Senior Deputy Attorney General William Farrell. The Attorney General's Office has concluded that the allegations against each of these employees involve actions within the scope of their official duties, but recommended that private counsel be engaged to defend them because of conflicts of interest.

This request for \$1,430.30 is to pay for legal services provided as follows.

Cranfill, Sumner & Hartzog, L.L.P. (William N. Farrell, December 2005)	\$ 1,430.30
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The Joint Legislative Commission on Governmental Operations has previously been consulted on allotments totaling \$155,716.64 for legal fees pertaining to this case.

The Office of State Budget and Management reviewed these items and recommends they be paid from the Contingency and Emergency Fund pursuant to the General Statutes.

Reporting an allotment from the Contingency and Emergency Account to the Department of Administration to provide sufficient fund availability for its *Scholarships for Children of War Veterans* program ---- \$576,000

These scholarships pay for room and board, and tuition of eligible dependents of war veterans. The Escheats Fund provides up to \$4.3 million (76.4%) of the programs requirements. The Department of Administration projects a shortfall of \$576,000 for FY 2005-06. This shortfall is the result of the cap in fund availability from the Escheats Fund, increased enrollments, and increased costs due to higher tuition and fees.

The Council of State approved the use of \$930,000 from the Contingency and Emergency Fund to support shortfalls in this program for FY 2004-05. An additional \$500,000 was budgeted for FY 2005-06 to cover anticipated shortfalls. The shortfall is in addition to the \$500,000 anticipated and projected in the continuation budget.

G.S. 165-22.1 states: "In the event the said appropriation for any year is insufficient to pay the full amounts allocable under the provisions of this Article, such supplemental sums as may be necessary shall be allocated from the Contingency and Emergency Fund."

The General Assembly has specifically indicated that shortfalls in the scholarship program shall be allocated from the C&E Fund. This item is presented for the Commission's information.