

JOINT FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Monday, July 23, 2012

MEMBERS PRESENT:

Rep. Ken Weyler (Chairman)
Rep. Beverly Rodeschin
Rep. Dan McGuire
Rep. Stephen Stepanek
Rep. Randy Foose
Sen. Chuck Morse
Sen. Bob Odell
Sen. President Peter Bragdon
Sen. Sylvia Larsen
Sen. John Gallus

(Convened at 10:10 a.m.)

(1) Acceptance of Minutes of the June 18, 2012 meeting

CHAIRMAN WEYLER: Good morning. We'll call the Joint Fiscal Committee to order for July 23rd, 2012. First item is acceptance of minutes of June 18th, 2012. Do I have a motion?

****** SEN. BRAGDON: So move.

CHAIRMAN WEYLER: Senator Bragdon moves, Senator Foose seconds that the minutes be adopted. Any additions or corrections? Seeing none; all in favor say aye? The motion is -- opposed no? The motion is adopted.

******* {MOTION ADOPTED}

(2) Old Business:

CHAIRMAN WEYLER: Moving on to Tab 2. I will bring your attention to a -- under the old items, FIS 11-274 is a

request to withdraw an item that has been on hold for quite sometime. So without objection -- has everyone had a chance to look at the letter? It should be the first one under the tab. We will remove from the Old Business the item that dealt with MMIS.

(3) RSA 14:30-a, III Audit Topic Recommendation by Legislative Performance Audit and Oversight Committee:

CHAIRMAN WEYLER: Moving on to Tab 3.

(Senator Larsen enters the committee room.)

CHAIRMAN WEYLER: There's a letter from Senator Bragdon about the Legislative Performance Audit and Oversight Committee and a request to approve two topics. One, the Department of Health and Human Services Juvenile Justice System; and two, the State of New Hampshire Human Resources Practices, Employees versus Contractors.

** REP. MCGUIRE: Move approval.

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: Move approval by Representative McGuire, second by Senator Bragdon. Any further discussion? I think everything is fairly obvious what it's about. Seeing none; are you ready for the question? All in favor say aye? All opposed no? Unanimously adopted that the Performance Audit Oversight move ahead with those topics.

*** {MOTION ADOPTED}

CONSENT CALENDAR

(4) RSA 9:16-a, Transfers Authorized:

CHAIRMAN WEYLER: Moving on to Tab 4, Consent. Only one item there, Department of Transportation.

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** SEN. BRAGDON: So move.

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Motion to adopt by Senator Bragdon, second by Representative McGuire, for item number 12-235. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? That motion is adopted.

*** {MOTION ADOPTED}

- (5) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$50,000 from any Non-State Source:

CHAIRMAN WEYLER: Moving on to Tab 5. And this is a Consent Calendar. There are several items on there with questions.

REP. MCGUIRE: Yes, No. 246 and 250.

CHAIRMAN WEYLER: 246 and 250. Okay. We will remove 246 and 250. Is there a motion on the rest of the Consent?

** SEN. BRAGDON: So move.

REP. STEPANEK: So move.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Representative Stepanek to adopt the remaining items. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The other items are adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: We will now turn to Item 12-238 and request somebody from the Department of Transportation.

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REP. MCGUIRE: 246.

CHAIRMAN WEYLER: I'm sorry, 246, Department of Safety. We have the Governor's Budget Assistant. Good morning, Mr. Beardmore.

JOHN BEARDMORE, Director of Administration, Department of Safety: Good morning. For the record, I am also -- or not also -- I am now the Director of Administration at the Department of Safety. I have been appointed and approved for the job Wes Colby used to hold, so.

CHAIRMAN WEYLER: Congratulations.

MR. BEARDMORE: I am not here as a representative of the Governor's Office but rather the Commissioner of Safety.

CHAIRMAN WEYLER: Congratulations, Mr. Beardmore.

MR. BEARDMORE: Thank you.

REP. RODESCHIN: Did you get a raise?

CHAIRMAN WEYLER: That's not what we want to put on the record. Representative McGuire is recognized for a question on Item 12-246.

REP. MCGUIRE: Thank you, Mr. Chairman. Thank you, Mr. Beardmore. To me, reading this it seems very similar to what you could get out of Google Maps or Google Earth. Why would we need to sort of redesign those with our own hardware and all that stuff?

MR. BEARDMORE: Hum -- my understanding is this is much more than Google Earth and it's New Hampshire specific. So that Public Health will be buying -- basically buying into the infrastructure that is at the Bureau of Emergency Communications at Safety, which is my understanding is quite a bit more complex than Google Earth. And it will be

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tailored to their public health needs just as -- just as it is tailored to our, you know, reverse 911 and 911 needs. We've got some really high tech kind of stuff going on there. They're expert in this stuff and I think this is an example of two agencies sort of playing well together in the sandbox and rather than bidding out to a private vendor, working together and using existing resources.

REP. MCGUIRE: May I follow-up?

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: So this will -- I took a tour of the Emergency Communication Building.

MR. BEARDMORE: Yes.

REP. MCGUIRE: This is more equipment for that that ties into their existing terminal?

MR. BEARDMORE: Yes, it's over there, and they've got a setup so you've seen it. What I think this is is using the Federal funds to get the job done for HHS and to replace some equipment over there.

REP. MCGUIRE: All right. Thank you.

CHAIRMAN WEYLER: Further questions? While we're on the subject of this New Hampshire view, later on this morning we are going to have an audit of the Hampton Beach Parking Meters. If they were to request hourly pictures of their parking lots to see how many meters were filled, would that be a request that could be done through this system?

MR. BEARDMORE: I don't know the answer to that question. I think -- I'm not a GIS expert, but for the most part, that's sort of a static picture of the state of a location and it's then mapped over.

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CHAIRMAN WEYLER: It's not real-time?

MR. BEARDMORE: I don't believe so. I don't believe Homeland Security has cameras on the state at all times.

CHAIRMAN WEYLER: Seems like Google Earth could do that for us.

MR. BEARDMORE: Well, Google Earth is static, also. I can find my house and a picture taken a year or two ago. I can tell by what's out there.

CHAIRMAN WEYLER: I found my house and looked at a truck in the driveway. And I said the truck doesn't look familiar. My son said, yeah, I got that truck five years ago.

MR. BEARDMORE: So like you said, it's not -- it's not a real-time ongoing type of thing.

REP. STEPANEK: We have to talk to CIA about that.

MR. BEARDMORE: I don't think we're at that level yet.

CHAIRMAN WEYLER: Further discussion? Entertain a motion to adopt Item 12-246.

** SEN. BRAGDON: So move.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Moved by Senator Bragdon, second by Representative Stepanek. Further discussion? Seeing none; all in favor say aye? Opposed no? That item is adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: The next item we have two -- Item 12-250. Is that the one?

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REP. MCGUIRE: Yes. I actually just had discussion. I don't really have a question.

CHAIRMAN WEYLER: All right. You don't need to have somebody from Department of Resources and Economic Development?

REP. MCGUIRE: I don't think so.

CHAIRMAN WEYLER: Well, in case we do, is there someone here from DRED? Yes. All right.

BRAD SIMPKINS, Interim Director, Division of Forest and Lands, Department of Resources and Economic Development: Good morning, Mr. Chairman, Members of the Committee. For the record, my name is Brad Simpkins. I'm the Interim Director of the Division of Forests and Lands.

CHAIRMAN WEYLER: Mr. Simpkins, thank you. Welcome to the Fiscal Committee. Discussion.

REP. MCGUIRE: Yes, thank you. I'm going to vote against this item and I just think that this is a waste of taxpayer money. This -- what this is is to acquire a conservation easement on 1260 acres of forest land. And it seems to me that it doesn't -- there's no real benefit here. The land is forest land now. It's going to be forest land in the future. And so we're not getting anything for this \$2.7 million. And if in the future someone actually wanted to use that land, well, then it would provide a use for someone. So I don't see any reason why the Federal Government should go further into debt for this particular item, and I'm going to vote against it.

CHAIRMAN WEYLER: It also appears that the owners would be able to log it to some degree and the money would be theirs to keep. But it's just not going to be developed. So we're buying the development rights rather than the -- than the property and it allows recreational facilities, cabins, docks, so on, equestrian access, primitive camp sites,

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lean-to shelters. There's quite a number of things that are still allowed within the development rights. Senator Odell.

SEN. ODELL: Mr. Chairman. I'm just assuming, Mr. Chairman, that the Department has thoroughly vetted this. But this land and easement would have very good use as a natural place in New Hampshire. It's contiguous, I'm sure, to other protected lands. The fact that it can be used for forestry will improve the health of the forest, the fact that it will be used for recreation, the fact that it will be used for habitat, wildlife habitat. The State of New Hampshire has a long history of using resources to protect important significant places that are important to the citizens of the State of New Hampshire, as well as visitors to the State of New Hampshire. This is part of our offering to those that come here for recreation and for sports and other activities and I think it's rash to all of a sudden after years of planning and thinking to not support the Department in the position of this easement, remembering that this is a part of a long pattern of history of the State of New Hampshire. And those who would stop this at this process, I think, would be very unfortunate.

CHAIRMAN WEYLER: I'm sorry, Representative McGuire, you had further question?

REP. MCGUIRE: Well, let --

CHAIRMAN WEYLER: Representative Stepanek.

REP. STEPANEK: Thank you, Mr. Chairman. Mr. Chairman, I'm going to have to agree with Representative McGuire on this. At some point this country has got to understand we don't have anymore money and that borrowing money for these type of projects has got to stop. And I think this is a good place to start here in the state. We have got to start getting back to basics. And borrowing money for something like this that isn't a necessary need, I think is something that we should no longer afford to do as a country. And so I will be supporting Representative McGuire in opposing

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this.

CHAIRMAN WEYLER: Further from Committee Members?
Representative Morse -- Senator Morse.

SEN. MORSE: Will this go to Council from here?

MR. SIMPKINS: It does.

SEN. ODELL: Mr. Simpkins respond to some of these
comments?

CHAIRMAN WEYLER: Is it Timpkins or Simpkins?

MR. SIMPKINS: Simpkins. Yes. I guess just a few
comments.

One, this has been in the works for a number of years. There's been a tremendous amount of effort that has gone into this starting back with 2008. So we are very far along the process. I can appreciate the philosophical issues. However, this particular project, there's a lot of work and investment that's already been put into this.

The other thing I would mention is, you know, when we look at these projects, one of the things we're trying to do is ensure that these areas are not developed in the future because of many different values, and it's all throughout this packet the different values. We do require that they remain as working forest so, you know, they continue to be part of the economy, a very important part of the economy. We also with this easement, we guarantee public access. So, you know, this property is currently privately owned. It could be sold into a bunch of different houses or condos. It could be posted. And so we believe the Forest Legacy Project in purchasing these easements, and New Hampshire has a very long history and tradition of this, we have quite a bit of conservation land in the state that guarantees public access, snowmobiling, hunting, fishing, hiking, all those types of traditional

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uses you would expect, and also guarantees it from not being developed. So we do believe it is a very important part of what we do.

CHAIRMAN WEYLER: Does this property surround the Crotchet Mountain rehab facility?

MR. SIMPKINS: It does.

CHAIRMAN WEYLER: Is that part of the project? Is it part of their organization, the Crochet Mountain Foundation?

MR. SIMPKINS: Yes. Yes, I believe, and I don't know the exact specifics. I can ask Susan Francher who actually oversees our legacy program to come up and answer those specific questions. I believe there is a slight difference between the actual organization that runs the hospital versus that owns the property.

CHAIRMAN WEYLER: Good morning.

SUSAN FRANCHER, Forester V, Division of Forests and Lands, Department of Resources and Economic Development: Indeed, they are separate entities, the Foundation and the Crochet Mountain Center. They share many members though on the Board of Directors.

Currently, the 1226 acres that surrounds the hospital are contiguous in ownership. But as part of this easement that 1200 acres that surround the Center will be owned solely in fee by the foundation, not by the Center.

CHAIRMAN WEYLER: How many acres on the Center property?

MS. FRANCHER: You know, I don't know that.

CHAIRMAN WEYLER: They would have room to expand if they needed?

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MS. FRANCHER: Indeed. They have made sure that the hospital grounds themselves continue to be expandable within that envelope.

CHAIRMAN WEYLER: And one would think it would be their desire, as well as the Foundation, to keep this land as forest land any way.

MS. FRANCHER: Absolutely. Yes.

MR. SIMPKINS: They do have a wood boiler that they use to heat that. So it's very important to them to have this as working forest so they can continue to get forest products off of it to provide the heat source for the hospital.

CHAIRMAN WEYLER: Senator Morse. Representative McGuire.

REP. MCGUIRE: How will this affect property taxes being paid on this particular land?

MS. FRANCHER: It won't, because the forest land currently is in current use. So having conservation easement really won't impact the amount that they pay right now. It's the same.

REP. MCGUIRE: All right.

CHAIRMAN WEYLER: Senator Morse.

****** SEN. MORSE: Mr. Chairman, on this section (6) and section (7), I think the Senate's going to have to caucus. So I would move to table this at this point in time and we'll caucus.

CHAIRMAN WEYLER: Motion to table. Is there a second?

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: Motion by Senator Morse, second by

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Senator Bragdon to table the item. This is non-debatable.
All in favor say aye? Opposed no.

SEN. LARSEN: No.

CHAIRMAN WEYLER: One in opposition. The item is tabled for now.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: And you're intent is to bring it up later in this meeting.

SEN. MORSE: Yes.

CHAIRMAN WEYLER: Thank you. So be ready. All right. Those were the items that were removed and they have been disposed of, at least to some degree.

(6) RSA 124:15 Positions Restricted:

CHAIRMAN WEYLER: Moving on to Tab 6, which is another -- another Consent Calendar. However, it's adding people. And I wish to take the items up one at a time. We'll start with Item 12-239, which adds a person to train in inter-lock devices. Is there a motion?

** SEN. BRAGDON: Move approval.

CHAIRMAN WEYLER: Senator Bragdon moves approval.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Second by Representative Foose. I have a question for somebody from Department of Safety, as does Senator Morse. So Mr. Beardmore will come forward.

These inter-lock devices have been around for sometime. Why is it that we suddenly need a person to train others?

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MR. BEARDMORE: Hum -- I think this person, as I read the item, is really going to be sort of an inter-lock specialist for all levels, both government to government working with the County Attorney's Office, working with the State Police, working with the Courts and working with individuals, working with the public. I think the idea is to increase utilization of the inter-lock devices.

CHAIRMAN WEYLER: Senator Morse.

SEN. MORSE: I'm assuming -- my question on all these items that are coming up are the same question that you have. Have we dealt with this in the budget? If not, why not? And we got five months left in the year and we are adding all these positions. So I have concern over every one that's coming. So I guess the concern is are we making these positions permanent and where's the funding coming from?

MR. BEARDMORE: I can address both this one and there's another one for Safety coming up in DMV. Half a million dollars item on security cameras. I can hit them both at the same time, if you'd like.

CHAIRMAN WEYLER: Good idea.

MR. BEARDMORE: The -- the reason why you've not seen them before is because the money was not available. And we were, you know, now made aware that we have money available from the Highway Safety Agency, which was Federal dollars in the first instance in this program, and the approved program scope is to have an inter-lock specialist. As you can see, it's not a lot of money. I think the anticipation is it would take some time to hire somebody and that that person would be budgeted for within the budget that the Agencies are going to start developing within the next couple weeks, and that the position would be eliminated when the program ends.

CHAIRMAN WEYLER: But it's anticipated it would go

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forward in the next budget.

MR. BEARDMORE: Yes.

CHAIRMAN WEYLER: Without the grant.

MR. BEARDMORE: No, with the grant. That the grant dollars would then be requested in the next Agency Budget for the 14-15 Fiscal Year. This gets the project moving in the '13 Fiscal Year.

CHAIRMAN WEYLER: Further discussion? I agree with the Senator that, you know, we are looking at new positions late in the budget process that, of course, are going to add to the next budget when we have already had lay-offs in the present. Representative Stepanek.

REP. STEPANEK: Thank you, Mr. Chairman. I -- I, again, am going to voice the same concerns that Senator Morse has, that these type of positions and these type of discussions, I understand that my role here in Fiscal is to deal with situations that are of an unusual circumstance where we need the position or we need something specifically that we didn't anticipate in the development of our budget. I don't see the pressing need for this position that it can't -- if the grant is going to be available in the 14-15 Budget, then why do we need to rush and get it in position now? Why can't we discuss it in the budgetary process where it should be discussed, especially if the funds are going to be available in 14-15.

SEN. LARSEN: Question.

CHAIRMAN WEYLER: Senator Larsen.

SEN. LARSEN: May I ask a question of Mr. Beardmore? If the State were to not make use of this grant but then so to reject it and then in the following budget year apply for it, what kind of chance do we have of getting this grant again? I assume it's a competitive grant.

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MR. BEARDMORE: Hum -- I'd rather not handicap it. I mean, the money has been approved through the Highway Safety Agency in this instance. And in the instance of the DMV antifraud effort, it's money that we have had awhile. It's been repurposed recently because we had an issue where the Federal Government wanted us to use a vendor for services and basically through sole sourcing, and we knew that wasn't going to fly in New Hampshire. So we had it repurposed and now we are going to be able to use the money ourselves, hopefully, with the position approved by this Committee directing that effort. You know, if we don't use it now, typically it's harder to get in the future; but I can't specifically handicap these programs.

SEN. LARSEN: Further question.

CHAIRMAN WEYLER: Further question.

SEN. LARSEN: I would assume that the more we can use the inter-lock program, the more we can reduce our prison populations or county jails because we would have options for DWI alternatives. Wouldn't this have an effect on our Corrections budget if we were to encourage more inter-lock use?

MR. BEARDMORE: I think that's the idea.

CHAIRMAN WEYLER: Further discussion? Seeing none; the motion before us is to approve the item. Seeing no further discussion, Senator Morse.

** SEN. MORSE: Well, Mr. Chairman, like I said before, we actually have four items in a row here that I'd like to caucus on. So depending on how you want to run this meeting, I move to table.

CHAIRMAN WEYLER: Okay.

REP. STEPANEK: Second.

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CHAIRMAN WEYLER: Senator Morse moves to table, Representative Stepanek seconds. No discussion required. All in favor say aye? Opposed no? The item is tabled.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Do you want to do just a blanket tabling?

SEN. MORSE: Let's see where we're going.

CHAIRMAN WEYLER: All right. Let's move on to Item 249. 12-249 deals with the Department of Justice authorization to hire a contract attorney to serve as a hearings officer for the Banking Department. If we have someone from the Department of Justice to answer any questions. Good morning.

ANNE EDWARDS, ESQ., Associate Attorney General, Office of the Attorney General, Department of Justice: Good morning. Anne Edwards for the Attorney General's Office.

CHAIRMAN WEYLER: Good morning, Attorney General Edwards. Question, Senator Morse.

SEN. MORSE: It's the same question that we're going to ask everyone that comes up here. Is this something that just came up? I mean, you obviously got -- that Department got cut pretty hard in positions for attorneys. As a matter of fact, the Senate restored quite a few. What is the intent here?

MS. EDWARDS: Senator Morse, this is a position that is actually more in the Banking Department than in our office. We don't usually provide hearing officers. The position is through our office because it is a legal position and at this time the Department of Banking doesn't have authority to hold this position. So until the Legislature gives it that position, the attorney is under our jurisdiction. This is a position that has been filled

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since the very end of Fiscal Year '11, and it was also in Fiscal Year '12. And the need became apparent after the FRM investigation and the backlog of hearings and matters that were at the Banking Department. So there was a need to hire an outside law firm. In this case, Steve Judge is the specific attorney who we've hired to handle that backlog of Banking hearings.

SEN. MORSE: And the funding source, will it continue in the next budget?

MS. EDWARDS: The funding source is from the banking fees that they receive. And at this time, I'm not quite sure. That's why we have said in here that it will be included if there continues to be a need, but I'm not sure if there is going to continue to be a need. It will be a decision that we make late summer, early fall.

CHAIRMAN WEYLER: Further? Representative Stepanek.

REP. STEPANEK: Thank you, Mr. Chairman. Just so that I can clarify what you just said. This position is currently in existence?

MS. EDWARDS: Well, it's not a position. There's a contract currently.

REP. STEPANEK: So you currently have a contract with an outside law firm and you want to continue that contract. Is that what you're saying?

MS. EDWARDS: Yes.

REP. STEPANEK: And this contract was entered into in the course of our last budget cycle?

MS. EDWARDS: It was -- not during the budget cycle. It was entered into in the very end of Fiscal Year '11. So it was -- it was after the -- it was at the very end of the budget cycle. I'm not exactly sure when it went into place.

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Either late May or early June.

REP. STEPANEK: And so what you're doing is extending this contract for how long?

MS. EDWARDS: One more year. Till the end of this Fiscal Year.

REP. STEPANEK: Was this ever brought up in the course of the budget?

MS. EDWARDS: I don't believe that it was, but I'm not sure of that answer. It's my understanding that it became apparent near the end of Fiscal Year '11 which was during the time period of the FRM investigation. It was near the very end of it that it became apparent that there was this backlog of hearings.

REP. STEPANEK: Thank you.

CHAIRMAN WEYLER: Thank you. I sat through the FRM hearings. And I remember there was a hearings officer from banking named Ingrid White. She still the hearings officer at the Banking?

MS. EDWARDS: I believe Ingrid was the in-house legal counsel and she is no longer there at Banking.

CHAIRMAN WEYLER: So has she been replaced?

MS. EDWARDS: I don't know the answer to that.

CHAIRMAN WEYLER: Okay. Anything further? Senator Morse.

** SEN. MORSE: Move to table.

CHAIRMAN WEYLER: Motion to table by Senator Morse.

REP. STEPANEK: Second.

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CHAIRMAN WEYLER: Second by Representative Stepanek. All in favor say aye? Opposed no? That item is tabled.

*** {MOTION ADOPTED}

(7) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$50,000 from any Non-State Source and RSA 124:15 Positions Restricted:

CHAIRMAN WEYLER: Moving on to Tab 7, number 12-240. This also is cameras and equipment to prevent fraudulent driver licensing transactions. This also involves three -- how many people? I guess this is also one new employee. One temporary full-time business -- a full-time position of Business Systems Analyst. Any questions on this or another move to table?

REP. MCGUIRE: I'd like to ask a question.

CHAIRMAN WEYLER: Again, we'll have Mr. Beardmore come forward. Representative McGuire is recognized.

REP. MCGUIRE: Thank you. Thank you, Mr. Beardmore. So if I understand this correctly, this is to put cameras in DMV offices so that managers in Concord can watch the operations?

MR. BEARDMORE: Correct.

REP. MCGUIRE: What is the position to do? Is that to put someone in Concord to be on the other side watching these cameras?

MR. BEARDMORE: It's to implement the technology hardware side of the business to coordinate the project. It's a project manager basically.

REP. MCGUIRE: So then it would be temporary?

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MR. BEARDMORE: Yes.

REP. MCGUIRE: Once the cameras are in and working that position wouldn't really be needed anymore?

MR. BEARDMORE: Correct.

REP. MCGUIRE: Thank you.

CHAIRMAN WEYLER: Who will be monitoring the video feed?

MR. BEARDMORE: I believe the supervisors in Concord, existing State employees.

REP. RODESCHIN: Stepanek.

CHAIRMAN WEYLER: Representative Stepanek for a question.

REP. STEPANEK: Thank you, Mr. Chairman. Thank you for taking my question. Is this in response to the situation we had with fraudulent driver's licenses being issued?

MR. BEARDMORE: That's certainly part of the problem. I spoke with Director Bailey about this, Director of DMV. He said we are aware that fraudulent activity sometimes is attempted. Whether it is a different person attempting to take a driver's test or fraudulent documents pass, and they have -- have experience in receiving such things and the idea is to monitor, you know, the counters -- the video systems to try to detect fraud.

CHAIRMAN WEYLER: Anything further? Senator Morse.

** SEN. MORSE: Move to table.

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: Motion to table by Senator Morse,

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second by Senator Bragdon. All in favor say aye? Opposed no? The item is tabled.

***** {MOTION ADOPTED}**

CHAIRMAN WEYLER: Moving on to 12-247, Department of Transportation, a new employee Civil Engineer being funded from the oversize/overweight fees. Is there someone here from Department of Transportation? Chief Financial Officer. Good morning.

PATRICK MCKENNA, Director of Finance, Department of Transportation: Good morning. Good morning, Mr. Chairman, Committee Members. My name is Patrick McKenna, Director of Finance of Department of Transportation.

CHAIRMAN WEYLER: Questions from the Committee? I guess, again, what's happening currently to -- with these fees and is someone -- we already have civil engineers on the staff. What is going to be done differently by adding another person?

MR. MCKENNA: Yes, Mr. Chairman. This position -- we went to the Division of Personnel back in March in Fiscal Year '12 to get a temporary CE, Civil Engineer IV position authorized. We have -- in the 2012 and '13 budget, there was funding for this function approved out of bridge maintenance and it's been typically between 105 and \$115,000 per year. We have paid a consultant, an outside consultant to perform this bridge inspection program to the extent that an oversize/overweight truck route is established so that there are no safety issues. We had an individual in the Department retire and was willing to come back on a temporary basis to perform those inspections. He's qualified to perform those inspections. We did that at the end of last year. On an annual basis it saves approximately thirty to \$50,000 a year, so it's a reduction in spending in bridge maintenance. And then this is a position that we essentially broke it up by Fiscal Year as for the desire of both Administrative Services and LBA. So

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we had this -- we brought this forward as an item in March of this year, and it was approved by this Committee. And this is the Fiscal Year '13 same position essentially.

CHAIRMAN WEYLER: You say it was in the budget?

MR. MCKENNA:: The position itself was not, but funding for a consultant was in the budget in bridge maintenance. What we're trying to do is -- is align the expenditures within oversize/overweight where that is where they collect the revenue. And then to pay for this temporary position out of that budget itself. So it enables us to establish the class line for the spending and to use the funding that is collected by the Bureau to cover that cost and it's a cost that's about forty to \$50,000 less than it had been with this external consultant.

CHAIRMAN WEYLER: Thank you, Mr. McKenna. Senator Morse.

** SEN. MORSE: Move approval.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Move to approve. Senator Morse moves to approve, seconded by Representative Stepanek. Further discussion? Seeing none; all in favor -- are you ready for the question? All in favor say aye? Opposed no?

MR. MCKENNA: Thank you.

CHAIRMAN WEYLER: The item is adopted. Thank you for saving money.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Okay. Next item is 12-251, Department of Justice for medical programs. Department of Administrative Services and Department of Justice are both involved. See Attorney Rice back and Commissioner Hodgdon.

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Okay. Again, we're looking at additional people when we didn't have them in the budget process. And I thought that you had your Attorney Ciolfi was an attorney that does this sort of work?

LINDA HODGDON, Commissioner, Department of Administrative Services: For the record, my name is Linda Hodgdon, Commissioner of Administrative Services. Monica Ciolfi heads up the unit, the Risk Management Unit. She does an awful lot of things. This is about HIPAA. This person would be hired to be working on HIPAA concerns which are the Health Insurance Portability Act that has to do with confidential information not being shared, not being divulged, without severe penalty per Federal law. And a number of things have happened in the Department where this was not built into the budget originally. And it would be funded out of Fund 60, the Health Insurance Fund. So that it would be distributed across all funding sources to match the funding mix of our employees.

When we implemented Phase II of NHFirst in 2013, that provided us with an on-line system for or will provide us with an on-line system for benefit enrollment and management, but that does require us to make changes to the internal procedures regarding the management of sensitive information. There's significant penalties if we don't do this correctly and appropriately.

We recently also took on the responsibility of enrolling employees and retirees and their dependents in-house rather than using a third party vendor. We saved significant dollars in doing that, far beyond what this position cost. So that's one way that this position certainly is -- the funding is offset. That increases efficiencies for the State. But it does mean that our management of personnel health information is increasing requiring additional safeguards in order to be in compliance with strict Federal and State laws about privacy.

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There are also increased Federal compliance activities that are needed to take place between now and the end of the calendar year, including additional notices to employees, retirees and their dependents before open enrollment this fall. There's an increasing need for training and refresher courses for State Employees who touch this information, so in the Agencies any of the HR staff, for example, that touches any of the HIPAA information. Increasingly complex health contracts for benefits and services that require rigorous review. Increased audit activity at the Federal level and other legal and compliance questions about a variety of things, such as COBRA coverage, qualified life events under Federal law, and Federal requirements for appeals processes to name a few. So this needs to be a specialized person in the HIPAA area that is going beyond what we have been able to do internally and is something that the State is certainly concerned about; and in the legislation that requires the Commissioner of Administrative Services to be responsible for running the benefit program, which we know is expensive and covers about 40,000 lives. This isn't something that someone can do on a part-time basis. So we reached out to the Department of Justice to work with us to help to do all of these things that I've just mentioned.

CHAIRMAN WEYLER: Questions from the Committee. We looked at -- Representative McGuire. We looked at a later item which shows where you've saved money in the self-insurance. We are delighted about that. We are worried that this is going to cut into the savings and wondered whether it's really justified. Have we been sued? Has there been a fine assessed or anything that would show us not in compliance?

MS. HODGDON: I am trying to be as rigorous as possible to make sure that we are on top of all the things that we are supposed to be on top of with HIPAA requirements so that we are not sued so that we don't have those kinds of situations that you're talking about. So, you know, this deals with HIPAA breach issues. You want to avoid those.

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You want to make sure that that doesn't happen. So you have to do your due diligence to make sure that you're following all of the protocols and providing all of the training.

Again, I want to say that the enrollment contract that we brought in-house more than saves enough money for what this position would cost. But it does require that there's some additional steps the State needs to be taking.

CHAIRMAN WEYLER: So by bringing the enrollment in-house it caused us some more additional work. But it's saving over what it would have cost to pay the contractor.

MS. HODGDON: Absolutely.

CHAIRMAN WEYLER: Thank you. Representative McGuire.

REP. MCGUIRE: Thank you. Thank you, Commissioner. So it says here that you didn't anticipate this need. Was that after the budget that this contract was brought -- was cancelled?

MS. HODGDON: Yes. Yes.

REP. MCGUIRE: Okay. And is this something that is just sort of a one-time sort of thing? You make your systems HIPAA compliant and now you are compliant so there would be no ongoing need for this person.

MS. HODGDON: No. There's ongoing due diligence and monitoring of that, ongoing training, ongoing contracts. Any of the contracts that we enter into, such as with a medical administrator procurement that we now have out on the street, you know, a two hundred, \$250 million contract, we have to make sure that all components of that contract are in compliance with HIPAA requirements.

REP. MCGUIRE: Thank you.

CHAIRMAN WEYLER: Representative Stepanek.

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REP. STEPANEK: Thank you, Mr. Chairman. In reading the material and looking at this, I'm still struggling with the fact that, you know, HIPAA has been around for a very long time. I've been listening to HIPAA requirements for a number of years. I think the original law was passed some 16 years ago in 1996. So I find that coming in at this late date with this request for a new permanent position just prior to us starting the new budgetary process is very concerning to me. And I think that this position is -- there's no emergency need for this. I don't see why this cannot go through the regular budgetary process where this is reviewed and we take a hard look at it, as we do everything in a budgetary process. I think coming in at the last minute like this, you know, as we're winding down is unacceptable.

MS. HODGDON: Representative Stepanek, if I could just say the HIPAA references that you talked about from a couple decades ago aren't anything like what HIPAA looks like today and that's a very dynamic environment. Those requirements continue to change.

The State of New Hampshire is rolling out a new human resource system in January of 2013. Because we are rolling out that new system, there are a number of components that have to do with HIPAA and HIPAA compliance and because it's going to be an employee self-service benefits enrollment system there are aspects of that with the employees now putting their own information in. We have to make sure that the right securities and protocols are in place. So there's an event happening in New Hampshire that makes that HIPAA issue very, very important and the fact that the laws continue to change and evolve means that it's not something you can do once you're done and you can leave. There's a due diligence that you're required to perform to be in compliance.

REP. STEPANEK: Follow-up.

CHAIRMAN WEYLER: Follow-up.

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REP. STEPANEK: How long have you been working on this new roll-out program?

MS. HODGDON: Probably a year, year and a half.

REP. STEPANEK: So that was part of the budgetary process last budget cycle?

MS. HODGDON: It was part of the budgetary process. A couple things have occurred. One, you can't anticipate everything. You can try but you can't anticipate everything. And then the second thing that happened was the fact we brought that enrollment piece in-house. That's a change from what had been anticipated.

REP. STEPANEK: Thank you.

CHAIRMAN WEYLER: Further discussion? Senator Morse.

** SEN. MORSE: Move to table.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Motion to table by Senator Morse, second by Representative Stepanek. All in favor say aye? Opposed no? Let me see a show of hands. All in favor of tabling? One, two, three, four, five, six, seven. Opposed? One, two, three. It is tabled for now. We expect to return to it before the end of the meeting.

*** {MOTION ADOPTED}

(8) RSA 14:30-a VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$50,000 from any Non-State Source and RSA 228:12 Transfers from Highway Surplus Account:

CHAIRMAN WEYLER: All right. Moving on to Tab 8, Item 12-241 dealing with FEMA grants for the 2012 storm. I'll entertain a motion.

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** SEN. BRAGDON: So move.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Senator Odell -- Senator Bragdon moves to adopt, Representative Stepanek seconds. Further discussion? Seeing none; are you ready for the question? All in favor say aye? The motion -- opposed no? The item is adopted.

*** {MOTION ADOPTED}

(9) RSA 228:12 Transfers from Highway Surplus Account:

CHAIRMAN WEYLER: Moving on to Item 12 -- let's see -- moving on to Tab 9, Item 12-242, Department of Transportation authorization to transfer money to employee training. I'll entertain a motion.

** SEN. LARSEN: Move approval.

CHAIRMAN WEYLER: Senator Larsen moves approval. Is there a second?

REP. FOOSE: Second.

CHAIRMAN WEYLER: Representative Foose seconds. Further discussion? Representative Stepanek has a question for Department of Transportation. Commissioner Clement is available to answer. Good morning.

CHRIS CLEMENT, Commissioner, Department of Transportation: Good morning, Mr. Chairman, Members of the Committee. For the record, my name is Chris Clement, Commissioner of Department of Transportation. And with me is Bill Janelle, Director of Operations for the Department of Transportation.

CHAIRMAN WEYLER: Representative Stepanek is recognized for a question.

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REP. STEPANEK: Thank you, Mr. Chairman thank you for taking my question. It's my understanding that this request came through the budget process and it was rejected, and now you're bringing it forward to Fiscal. What's changed between now and then, other than you found a little extra money and you want to spend it?

MR. CLEMENT: So Representative Stepanek, you're correct. The training was -- was eliminated in the last budget cycle. I would say to answer your question what's changed is that we have had a number of retirements and we continue to have retirements. Fifty-three percent of our workforce is eligible to retire in the next five years and more and more are going out. So I think that's one. So that the workforce is very fluid and we have to train these new people that are coming into these positions. That's one.

I think number two is in the last couple months we have had a couple of bad accidents. We have had one gentleman that was electrocuted and was killed in an accident. We had another one of our bridge workers that was struck and killed by a car. So when you're looking at these pieces of equipment, whether it be chain saws or other or forklift type of -- forklift type of operators that I think that any time when you can either bring in new people and train them from the beginning or if you have season people that have been in those positions to re-train them, it's a good thing. The gentleman that was struck and killed by a car in Hampton was a very seasoned person. He knew the safety rules, so on and so forth. So I think that's number two.

And then I think the third is we also think it's important to establish this class line 66 for employee training going forward in the next budget cycle so when we bring the training in in the next budget cycle it will be there. So did I answer your question, sir?

REP. STEPANEK: Again, follow-up.

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CHAIRMAN WEYLER: Follow-up.

REP. STEPANEK: You answered it, but you really didn't make me more comfortable with this. Because, again, this is something that I believe should be handled in the normal budgetary cycle. If you find there's reason, we are going to be starting that cycle in another few months, and I don't see the desperate need to add this new position. If there is truly need for this position, then you include it in your budget process next starting in January. And we will -- we will take it and review it. We already looked at it once. We said no. I think coming in at the last minute like this, again, is unacceptable. This is something that should be handled in the budgetary process. And so I will respectfully have to disagree and vote against this item.

MR. CLEMENT: Could I --

CHAIRMAN WEYLER: Representative McGuire.

REP. MCGUIRE: One thing I'm very concerned about is that the Highway Fund for next time has got -- currently has a lot of one-time sort of money in it. In particular, money left over from selling that portion of I-95 to the Turnpike. And so it's going to have a lot of trouble next time. So the more we spend out of the surplus now, the less -- you know, the worse the problem is going to be and we already know that a big problem is coming.

MR. CLEMENT: Follow-up, please.

CHAIRMAN WEYLER: Your reply.

MR. CLEMENT: So Representative Stepanek, this is not a position, just to be clear, we are not asking for a position. We are asking for funds to be taken out of Highway Surplus. And I'm like you. I don't like spending money when we have it, especially if we have it put aside; but, again, I think that in the State system we don't know when any one individual is going to retire. I think our

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workers can put in the paperwork. And if he or she decides to wake up on one given day and say I've had enough, I'm going to retire, they can do that. Okay. That leaves me with a situation where I'm bringing in new, green people where they have to be trained on this equipment. And as the steward of the taxpayers' dollars and as the Commissioner of this organization, if any one person gets hurt when it's on my watch, I live with that. Okay. And I have had two in the last two months. So I disagree with you in saying that, you know, we are using these funds kind of after the fact.

This is a very large organization. We deal with very dangerous pieces of equipment. And as things change, we have to change with it. That's why we are here in front of you in this public process to ask you for these funds to train these people.

REP. MCGUIRE: Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: So if you're replacing experienced people with new people, is it possible that the salaries of the new people are less since they're new, and therefore, money could be transferred from the salary account to training?

WILLIAM JANELLE, Director of Operations, Department of Transportation: Bill Janelle, Director of Operations, for the record. It's my understanding training funds have to come from Class 66. In the past, prior to this budget, these funds had been paid out of other class lines and Class 66 doesn't exist in the Bureau's -- in the organization's class line. That's why it needs to come out of the Highway Surplus Fund in order to fund the one Class 66 that we have in our human resources area. That's where this funding would be transferred to, and we would pay for the training from that area.

MR. CLEMENT: That's right.

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MR. JANELLE: Just to add. We have a training matrix that we rotate through. And much of these trainings are within that training matrix and they're required on a certain sequence in order to make sure that our people are trained to do their work. So that's what we are looking at. I mean, in the next budget process we will look at training definitely and for '14 and '15. These funds are for '13 to address our people and make sure they're trained within Fiscal Year '13. Thank you.

REP. MCGUIRE: Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: So is what I just described actually happening and we're getting more surplus than we might have expected otherwise because of these retirements? I mean, are we -- are we hiring people for less money than retiring people that are more experienced and therefore saving money?

MR. JANELLE: I would say yes. I mean, when we hire a new employee, they're -- they're certainly paid less than an experienced employee, assuming that experienced employee has worked their way up in that position and, you know, successfully achieved their job -- can do their job.

REP. MCGUIRE: Can you quantify how much that's happening in a sort of unexpected way? I mean --

MR. JANELLE: With a dollar amount?

REP. MCGUIRE: Can we in our minds sort of balance this out.

MR. CLEMENT: I see what you're trying to do.

REP. MCGUIRE: You see what I mean?

CHAIRMAN WEYLER: The point he's making is if we were

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saving in the salary line, you could have come in and asked to transfer money from the salary line to employee training instead of from surplus.

MR. JANELLE: I would expect we could lapse this amount of money in those salary lines to cover this training that we're looking for. Yes.

MR. CLEMENT: But I also think we need to ask ourselves what does it cost when somebody gets injured or loses an arm or a limb or even worse than that. What does it cost us? So, for me, training is very, very important and it's a situation either pay me now or pay me later and I think these are very good dollars spent in terms of what we are trying to do.

CHAIRMAN WEYLER: Further discussion? Senator Morse.

** SEN. MORSE: I'll move to table.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Senator Morse moves to table. Representative Stepanek seconds. All in favor say aye? Opposed no?

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Okay. Senator Morse, will you give us an idea how many minutes?

SEN. MORSE: Why don't we say 15.

CHAIRMAN WEYLER: Fifteen minutes. 212 is available. I think it's unlocked.

SEN. BRAGDON: Senate minutes or House minutes?

CHAIRMAN WEYLER: House minutes. And House Members, we'll go and caucus in my office. Hope to return in 15

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minutes.

(Recess taken at 11:01 a.m.)

(Reconvened at 11:30 a.m.)

CHAIRMAN WEYLER: All right. We are back from recess. I'll recognize Senator Morse. We have had discussions on the tabled items. Senator Morse.

****** SEN. MORSE: Okay. On section five, item number 12-250, the Senate would like to leave that on the table until our next meeting and we'd like to get some more details; and the individual Senators, I think, can probably make the request. But if we have all that information provided for everybody, I think it would be helpful.

In section six, item number 12 -- 12-239, I move to take it off the table.

CHAIRMAN WEYLER: Under Tab 6, Senator Morse moves to take Item 12-239 off the table. Is there a second?

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: Second by Senator Bragdon. All in favor say aye? Opposed no?

REP. STEPANEK: No.

CHAIRMAN WEYLER: One no. Item is removed from the table.

******* {**MOTION ADOPTED**}

****** SEN. BRAGDON: Move approval.

SEN. MORSE: Second.

CHAIRMAN WEYLER: Senator Bragdon moves approval of Item 12-239 and Senator Morse seconds. Further discussion?

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Seeing none; are you ready for the question? All in favor say aye? Opposed no?

REP. STEPANEK: No.

REP. RODESCHIN: No.

CHAIRMAN WEYLER: Two nos? Where's Representative McGuire?

REP. RODESCHIN: I don't know.

CHAIRMAN WEYLER: Okay. All right. The item is adopted.

***** {MOTION ADOPTED}**

CHAIRMAN WEYLER: Senator Morse is recognized.

SEN. MORSE: Under section six, item number 12-249, I move to take it off the table.

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: All right. Item 249, motion by Senator Morse, second by Senator Bragdon, to remove Item 249 from the table. All in favor say aye? Opposed no? The item is removed.

***** {MOTION ADOPTED}**

****** SEN. BRAGDON: Move approval.

SEN. MORSE: Second.

CHAIRMAN WEYLER: Senator Bragdon moves to approve item 12-249. Senator Morse seconds. Further discussion? Seeing none; you ready for the question? All in favor say aye? Opposed no? The item is adopted.

***** {MOTION ADOPTED}**

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CHAIRMAN WEYLER: Senator Morse is recognized.

** SEN. MORSE: On section number seven, we are going to leave item number 12-240 on the table. And item number 12-251, going to move to take it off the table.

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: Senator Morse moves to remove item 12-251 from the table, Senator Bragdon seconds. All in favor say aye? Opposed no?

REP. STEPANEK: No.

REP. MCGUIRE: No.

CHAIRMAN WEYLER: How many opposed? One, two, three opposed. How many in favor? One, two, three, four, five. All right. Majority. The item is removed.

*** {MOTION ADOPTED}

** SEN. BRAGDON: Move approval.

CHAIRMAN WEYLER: Senator Bragdon moves approval of Item 12-251.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Seconded by Representative Foose. Further discussion? Seeing none; all in favor say aye? Opposed no?

REP. MCGUIRE: No.

REP. STEPANEK: No.

REP. RODESCHIN: No.

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CHAIRMAN WEYLER: How many nos? Three nos. Okay. The item is adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Senator Morse is recognized.

SEN. MORSE: On section number nine, item number 12-242, we are going to leave that one on the table. We'd like to meet with the Commissioner and get more details on what the plan is. There is money in that account to lapse by next fiscal and I think there's 112,000. So at this point we want to leave it on the table.

(10) RSA 228:69, I(b), Appropriation and Use of Special Railroad Fund:

CHAIRMAN WEYLER: All right. Let's move on to next tab is 10, Special Railroad Fund, Item 12-248. Special Railroad Fund. I'll entertain a motion.

** SEN. LARSEN: Move approval.

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: Senator Larsen moves approval, Senator Bragdon seconds. Further discussion? Seeing none; all in favor say aye? Opposed no? The item is adopted.

*** {MOTION ADOPTED}

(11) Chapter 224:14, II, Laws of 2011, Department of Health and Human Services; Program Eligibility; Additional Revenues, Transfer Among Accounts:

CHAIRMAN WEYLER: Moving on to Tab 11. Item is 12-243, deals with ProShare.

REP. MCGUIRE: I'd like to ask a question.

CHAIRMAN WEYLER: All right. And we have Commissioner

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Toumpas is in the building, but he's down the hall trying to be in two places at once so he has his expert here to talk about Proshare. Welcome to Finance.

JONATHAN MCCOSH, Financial Manager, Bureau of Elderly and Adult Services, Department of Health and Human Services: Hello. For the record, my name is Jonathan McCosh. I'm the Financial Manager for the Bureau of Elderly and Adult Services.

CHAIRMAN WEYLER: Thank you for coming. Representative McGuire is recognized for a question.

REP. MCGUIRE: Thank you, Mr. Chairman. Thank you, Mr. McCosh, for coming. It's not that I want to disapprove of this, but I'd like to just understand this better. Can you explain how money flows between the State, the Counties, the County nursing homes and private nursing homes just in general?

MR. MCCOSH: Okay. Focusing --

REP. MCGUIRE: And the Federal Government, I guess. Do everybody.

MR. MCCOSH: Focusing your question specifically to Proshare, the way ProShare works, ProShare is an abbreviation for Proportionate Share Payment System. And essentially, what this is, is an end of year calculation calculating the -- for every single resident that had been in a county nursing facility during the year, if they had been paid through the Medicare program, rather than the Medicaid Program, what would the difference in rates have been. We are then able to file a claim with the Federal Government for, essentially, that amount of money, half of which is considered to be the County's match, and then they will essentially pay the other half of that. So essentially, what they do is we put in the claim. They pay the entire amount. We then forward that entire amount to the Counties who keep half of it and send the other half

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back as their match which we then return to the Federal Government. I know it sounds complicated.

Up until 2005, the State and the Counties actually shared in that. And then we went through an audit with CMS and they changed it so that the State doesn't keep any of it. The amount goes to the Counties entirely. They also at that point in time changed the methodology which made it a lot more complicated to calculate in that they used to allow us to use nine months of actuals and estimate the final quarter. And then they changed it to ten months of actuals. And where that gets complicated is that it allows a very short window in which to do the calculations. Because most nursing facilities don't do their April billings until May which means it's the beginning of June by the time that information is obtainable to do that calculation in June.

REP. MCGUIRE: So quick follow-up.

CHAIRMAN WEYLER: Further follow-up.

REP. MCGUIRE: So this only applies to residents of county nursing homes and not private nursing homes who happen to be on Medicaid?

MR. MCCOSH: That is correct.

REP. MCGUIRE: I see.

CHAIRMAN WEYLER: Further questions or discussion? Seeing none; we have a motion to adopt. Are you ready for the question? All in favor say aye? Opposed no? The item is adopted. Thank you, Mr. McCosh.

*** {MOTION ADOPTED}

(12) Chapter 224:14, Laws of 2011, Department of Health and Human Services; Program Eligibility; Additional Revenues, Transfer Among Accounts:

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CHAIRMAN WEYLER: Okay. Moving on to Tab 12, Item No. 12-244.

** SEN. ODELL: Move the item.

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Senator Odell moved the item, second by Representative McGuire. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The item is adopted.

*** {MOTION ADOPTED}

(13) Chapter 224:210, Laws of 2011, Department of Information Technology; Transfers Among Accounts:

CHAIRMAN WEYLER: Moving on to Tab 13.

** REP. MCGUIRE: Move approval.

CHAIRMAN WEYLER: Representative McGuire moves approval of Item 12-245.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Second by Representative Stepanek. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The item is adopted.

** {MOTION ADOPTED}

(14) Miscellaneous:

(15) Informational Materials:

CHAIRMAN WEYLER: All right. Any questions on information items while we sit here? And if not, we're

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going to recognize the Legislative Budget Assistant, Mr. Pattison.

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: Good morning. If you will indulge me. I'm seeking approval, your approval, to hire one performance audit auditor in our Performance Audit Unit. Our staff on that side is down. We are down approximately 13 positions in the Audit Division. We had one recent and that's the one I would like to fill.

CHAIRMAN WEYLER: Request from Legislative Budget Assistant to fill a position recently vacated. Is there a motion?

** REP. FOOSE: Move approval.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Representative Foose moves approval of the item, seconded by Representative Stepanek. Further discussion? Seeing none; are you ready for the question? All in favor? Senator Morse.

SEN. MORSE: This might be the perfect place. I support Jeff on this. The replacing employees that exist I have no problem with. I think between now and the end of this year it would be awful difficult to get anything approved through this Committee that's going to add a line in the budget. I think that's what we've seen in the past. We had someone testify to it again today that they put someone in place at the end of '11 that went all the way through the process of '12 before anyone realized it was there. And it's making it through '13. Or the person is making it through '13. Those are the kind of things that are going to put us in trouble when I don't believe the Federal Government's going to be able to fund all these things next time. So I don't -- I would be very cautious about bringing anything to this Committee that's not replacing an employee that exists. Because I don't -- we

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don't need to caucus like this every time we come here. If we just make a firm statement that we are not adding employees between now and the end of year, you know, there will be emergencies and we'll deal with them. But the reality is, it's -- we are going to end up with a budget we can't afford next time if we keep going like this.

CHAIRMAN WEYLER: Very good. Okay. The question before us is the adoption of the request to fill a vacancy in the Audit Division of the LBA. Seeing no further discussion, are you ready for the question? All in favor say aye? Opposed no? The motion is adopted.

*** {MOTION ADOPTED}

MR. PATTISON: Thank you.

Audits:

CHAIRMAN WEYLER: Okay. We do have an audit before us and Mr. Bill Mitchell is going to present the audit for the Audit Division. Hopefully, have somebody from Hampton Beach or from Resources and Economic Development.

WILLIAM MITCHELL, Financial Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman.

CHAIRMAN WEYLER: Good morning.

MR. MITCHELL: Good morning. For the record, my name is William Mitchell. I'm Financial Audit Supervisor with the Office of the Legislative Budget Assistant.

The audit on the agenda this morning is the Department of Resources and Economic Development, Hampton Beach Parking Meter Fund for the ten months ended April 30th of 2011. Presenting the report this morning will be Jim Lariviere. He is a Senior Audit Manager with our office, and he was responsible for the day-to-day management of

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that audit.

JIM LARIVIERE, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Chairman Weyler, and Members of the Committee. Again, for the record, my name is Jim Lariviere. And joining us from the Department of Resources and Economic Development are Director of Parks, Philip Bryce and Business Manager Tom Martin.

THOMAS MARTIN, Business Manager, Department of Resources and Economic Development: Good morning.

MR. LARIVIERE: We are here to present the Hampton Beach Parking Meter Fund Financial Audit Report for the ten months ended April 30th of 2012.

As noted on the Table of Contents, the report contains 18 internal control comments and two state compliance comments.

Observations 1 through 6 are material weaknesses, while Observations 7 through 18 are significant deficiencies. The Department concurred with 16 of our comments and concurred, in part, with four. One comment, Observation No. 19, suggests legislative action may be required.

The reporting entity and scope of our audit is the Hampton Beach Parking Meter Fund established by RSA 216:3. The fund reports certain financial activity of the Department's operation, maintenance, and management of the parking facilities at Hampton Beach, including the collection of parking fees and fines. The Department employs seasonal employees to administer the parking operations at Hampton Beach.

Looking at the table on Page 2. Provides information on the scope of the parking activities and location of parking facilities.

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Looking at the schedule on the top of Page 3 contains the summary of revenue and expenditures for the audit period. You can see that total revenues were approximately 1.2 million, while total expenditures were approximately 200,000. Our comments begin on Page 6.

Observations 1 through 4 are material weaknesses pertaining to revenues. Observation No. 1 points out that the Department's Hampton Beach parking meter cash and coin collection activity has a high inherent risk of loss. The lack of effective controls over that activity puts the Department at a significant risk for material error or fraud to occur and not being detected and corrected. The Department should improve controls over the collection, accumulation, and bagging of cash and coins, including performing regular reconciliations between the parking meter system, the amount deposited, and NHFirst, the State Accounting System.

Observation No. 2 starting on Page 7 notes that the Department has relied upon the automated parking system to ensure our transactions are processed accurately and completely without first having controls in place to support that reliance.

We recommend the Department increase its controls over its kiosk space parking meter system to ensure that it's operating as intended.

Observation No. 3 on Page 9 addresses weaknesses in the operation of the traditional coin-operated parking meters. While these 246 meters are in less desirable locations than kiosk spaces, the lack of security controls over these meters is problematic, as these meters have no capacity to track and report the parking activity. We recommend the Department perform additional monitoring of revenues collected at its traditional coin meter parking spaces because of their inherent lack of controls.

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Observation No. 4 beginning on Page 10 notes that during the audit period there was a relatively unequal distribution of parking enforcement occurring during the day. The predictability of the ticketing activities may have had an unintended effect on customer compliance with paying parking fees. We recommend the Department consider varying the time of its collection and enforcement efforts to encourage customer parking fee compliance.

Observations No. 5 and 6 beginning on Page 12 are material weaknesses identified in the Park Patrol's payroll processes. Observation No. 5 notes employees were not required to review or certify their time reported as worked for accuracy. And in Observation No. 6, management did not adequately monitor Patrol schedules or manage hours worked exposing the Department to the potential for unintended expense and liability associated with providing leave and health and dental insurance benefits to its seasonal employees. Also, the Department lacks policies and procedures for addressing employee work schedules and the effects of inclement weather on those work schedules.

Observations No. 7 and 8 beginning on Page 16 address the need for the Department to perform reconciliations. The periodic reconciliation of similar information being posted to separate systems is a critical control to detect erroneous or incomplete posting of information.

In Observation No. 7, we note periodic reconciliations should be performed for the parking ticket accounting system. And in Observation No. 8, we recommend the same for the credit card clearing account.

Observation No. 9 found on Page 18 recommends the Department become more involved in monitoring the operation of the kiosk-based parking meter system and that the Department establish policies and procedures to address maintenance and operation of that system, including controls over software and other changes.

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Observation No. 10 on Page 19 calls for the Department to establish sufficient policies and procedures for executing, managing, and monitoring its parking space leases.

CHAIRMAN WEYLER: Could I stop you there and ask you what an occupancy permit refers to?

MR. LARIVIERE: An occupancy permit was -- a lot of the businesses were required to have occupancy permits to show that they were a business establishment for renting rooms to folks over at Hampton.

CHAIRMAN WEYLER: This is involved if you want to lease spaces. You have to have occupancy permit for a business to do that.

MR. LARIVIERE: Correct. But there was also a grandfather clause that if you were an establishment before a certain year that you could be grandfathered in as well and not be required to provide an occupancy permit.

CHAIRMAN WEYLER: Thank you.

MR. LARIVIERE: Some examples of weaknesses regarding the leasing consist of lease revenues not being effectively monitored, lease rates charged not being fully supported, and lease rates not being submitted to this Committee for approval.

Moving on to Page 21, Observations 11 through 14 relate to improving or establishing control procedures over parking ticket fines, including maintaining and monitoring parking fines accounts receivable, voiding of issued parking tickets, refunding of customer overpayments proactively and timely, and considering additional actions to collect outstanding fines.

Observations No. 15 and 16 beginning on Page 26 address the need for accountability over the cost of

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operations for the Hampton Beach Parking Meter Fund. The Department does not have a cost allocation plan to promote accurate recording and reporting of costs charged to the fund and during the audit period regularly charged expenditures unrelated to the Hampton Beach Park Patrol to the fund.

Observation No. 17 on Page 28 points out that the Park Patrol maintained petty cash on hand greater than needed, while Observation No. 18, beginning on the same page, recommends strengthening controls over information technology related to the parking operations. The Department should ensure its employees are aware of and comply with relevant information technology policies and procedures.

Our two State Compliance Comments begin on Page 30. Observation 19 points out that the Department changed its long-standing reporting practice by excluding the parking meter revenues collected at North Hampton and Jenness Beach parking facilities from inclusion in the Hampton Beach Parking Meter Fund. We recommend the Department seek legislative clarification as to the operation of the Hampton Beach Parking Meter Fund and the revenues that are to be deposited into that fund to be certain that the change is consistent with legislative intent for the fund.

Finally, Observation No. 20 recommends the Department monitor supervisor/employee relationships in light of the State's nepotism statute.

The remainder of our report contains our independent auditor's opinion, the Hampton Beach Parking Meter Fund financial statement, notes to the financial statement and budget to actual statement with notes. Also included behind the tab is the current status of prior audit findings related to the financial operations of the Hampton Beach Parking Meter Fund contained in the audit of the revenues of the State Park Fund issued in September of 2008. Those

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comments were both partially resolved.

This concludes my presentation. I'd like to thank the Department for their assistance and cooperation throughout the audit process and would like to thank you, the Committee, for your time and we'd be happy to answer any questions.

CHAIRMAN WEYLER: I'll have comments from the Department first.

PHILIP BRYCE, Director, Division of Parks and Recreation, Department of Resources and Economic Development: Yes, Mr. Chairman, Members of the Committee. My name is Phil Bryce, Director of the Division of Parks and Recreation.

First, I'd like to thank the auditors for the thoroughness of their report. Jim and his staff did a great job, and I think we are going to benefit from it greatly out there as the timing of it was very good with, of course, the redevelopment being completed last year. We switched over to Pay and Display this past year. You granted us a fee increase. And, of course, there's new leadership at the Division of Parks.

We fully -- I just want to say -- I just want to be clear, we fully understand the importance and the value of having a third party look at our operations to the extent that we actually asked that they extend the time period in which they were working in carrying on the audit so that they could begin to see the operations as they were gearing up for the season. So we look forward -- we have already start -- we have actually resolved several of the audit recommendations already. We met with staff extensively last week. We have appointments with City of Manchester to review their program to get ideas from them to save us from starting from scratch. And we will be having weekly sessions with staff to get this done and all these recommendations implemented as soon as possible. Thank you.

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CHAIRMAN WEYLER: Questions from the Committee? I'm glad you're pleased with this. It seems like it was a fairly loose operation, probably due to the fact these are part-time people and maybe there has to be training or learning on-the-job every year if things get a little loose. I would recommend that every new employee read this report every year that they can see what's happening and, of course, maybe you're going to write something more in the operational procedures. But it certainly looks like this is an area where this is a great opportunity for the State to bring in some revenue, especially for the Park System which, as you know, doesn't do all that well in revenue. So here's a golden opportunity. But it has to be watched a lot closer than it has been and I'm sure you, as a supervisor, you appreciate the fact you couldn't come and do this thorough work but the auditors could.

MR. BRYCE: Absolutely.

CHAIRMAN WEYLER: And to give us an example of how thorough they can do it, especially Mr. Lariviere in his usual style. He's very thorough and gets all the details and so gives us a good template of how to proceed.

I'm amazed that the contractor of the kiosk wasn't more responsive to the complaints. Maybe it needs a new contractor for kiosks, but it's surprising that -- you know, I note that because the kiosk you actually make more money than you would in a live meter. Somebody comes in for two hours and puts in two hours, and then decides after an hour and a half they're leaving, someone else drivers in to the space and gets the 30 minutes, before they start adding their own coins. But with the kiosk, when he drives away he takes the 30 minutes with him. So you actually can get excess money that people pay for that you get to rent that space again before his time is expired. So in a way it's advantageous. But the kiosks need to work to be accurate. So I don't know why there's a problem. Maybe Manchester can give you some advice in this area, make theirs work. I'm looking forward to seeing that revenue increase as a result

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of the audit which has probably tightened up some areas that otherwise wouldn't be. I thank all you gentlemen for your cooperation and fine work.

I recognize Representative Rodeschin for a moment.

SEN. BRAGDON: Representative McGuire.

CHAIRMAN WEYLER: I'm sorry, question. Representative McGuire.

REP. MCGUIRE: Thank you, Mr. Chairman. Thank you, gentlemen. Just a specific question on Page 9 on the way these coin boxes work. We -- when we were discussing this earlier Representative Reagan, who's not here at the moment, told about his experience in Baltimore where the coin boxes themselves were not openable by the person who was collecting. So they could remove the coin box from the meter, they couldn't get into it. But they could insert it in a can that they had in their vehicle. The coins would dump into that can. And, again, they were not -- they could not access the can. It was secure. So they had no access to the coins. Then at the end of the shift the can was weighed so the amount of money was known. And then an armored car service took the can and counted the money and so on. So is that not similar to what you're doing here? Is the coins just opened to the collector?

MR. BRYCE: Can you speak to that?

MR. MARTIN: Sure. The new pay stations, the boxes are controlled. So we get a receipt from the pay station as to how much was collected. It goes in the bank bag. It comes back to the counting room. It's count -- it's not counted. It's bagged with the receipt. We save the receipt and we ship it off and it comes back and we confirm it. So that is a tightly controlled process.

CHAIRMAN WEYLER: That's the kiosk. The coin meters.

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MR. MARTIN: The coin meters, what we are emphasizing now is greater security around the counting room. Require card access into the room so we know who's always entering, coming and going. And we talked about security cameras around the perimeter but security cameras inside the room itself, too. So, you know, the challenge is to make sure that we control the money into the counting room and so we're still working out that procedure. But we are trying to lock down that counting room as tight as we possibly can.

CHAIRMAN WEYLER: But if the person in this remote lot is opening up, taking out the coin box, and dumping it into a receptacle, he could dump a few coins in his hands from every one and put them in his pocket. That's what this armored car thing did. The little coin box that's in the meter had to go be inserted into the can for it to release its coins so nobody could get a handful on the way.

MR. BRYCE: My understanding is the Cale system, I believe, operates in a similar manner to that. They don't have the same access to the coins as they do with the other meters, with the coin-operated meters. So our greatest concern is in the area of the coin-operated meters. There's a couple of things in place, such as two people are supposed to be emptying out those at the same time. So you have to have two people involved in a conspiracy and risking a felony prosecution as opposed to one. And then, secondly, we are going -- secondly, we need to review the revenue from those coins box to determine if we should make the investment to go ahead and have a Cale system put in, the other meter system. And so if we have a lot of -- if we have sufficient revenue, we would put that in to limit that risk.

The third is, we've discussed, there's supposed to be some wands or other things out there that can actually measure the amount of coins in the -- in the meter so we can get a sense for probably more grave or extreme theft issues by going out and independently wandering an area of

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meters before it's collected and then come back and check the volume and see if it's within the error of the wandling process. So now that this has been brought to our attention as an issue, that's something we need to look at further. We are going to figure out a way -- one of those two ways, either replacing the coin-operated meters or finding an independent way of verification in order to -- in order that we can ensure that we are not getting coins stolen from us.

REP. MCGUIRE: Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: It seems to me that this might be sort of ripe for privatization simply leasing the parking lots, leasing the parking operation to a private vendor. Then they have all these headaches and you would get a fixed amount, a known amount into the Park System per year based on the, you know, the competitive value of that lease. Have you ever considered doing something like that?

MR. BRYCE: Well, we were getting through the audit for now and getting the operations run up for this year. It's an interesting thought. I think there are some things we may actually look to hire out to do. Tom's been suggesting that some of the follow-up hiring of firms to do some of the follow-up letters for ticketing, hiring independent. But keep in mind, the Parks Patrol are supposed to be doing more than -- more than just the meter patrol. They are our state representatives on the ground to visitors at the Park. So their -- my vision for them, as we move forward, is, and I believe they're already doing this, they're there to assist visitors as well to ensure to handle -- help them with problems, to point out other things that they see, you know, in the interest of the state and in the interest of the visitor experience. I'm not sure the degree to which a third party contractor would, hopefully, go to the extent that we pride our staff in parks in making -- in accommodating our visitors. But I think that -- I think you

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are correct in saying looking at areas of it that we could look to privatization and we are already reviewing those.

REP. MCGUIRE: Thank you.

SEN. BRAGDON: Mr. Chair.

CHAIRMAN WEYLER: Senator Bragdon.

SEN. BRAGDON: Thank you, Mr. Chair. And before I ask my question, I notice that people from Forests and Lands are still here and I have some questions afterwards about the Crotchet Mountain issue. But the question regarding this audit is there are a number of things in this audit that apply only to really a parking lot and other parts of this audit refer to some very loose controls over payroll and cash that I think would apply to numerous other operations within the whole Department. And I guess what steps are being taken to look at other areas within our State Park System where there is seasonal hires and a lot of payroll issues, a lot of cash being handled to make sure these things aren't happening elsewhere?

MR. BRYCE: Senator, very good question. One of the benefits of this audit as you point out is it does allow us to apply some of the recommendations across the entire Park System operations and that's not lost on us by any means. We have a -- we are going to be replacing temporarily and then permanently, we have an auditor, internal auditor on staff that does monitor that. And it is -- it is, indeed, a real challenge and after this -- well, starting during this season and after, we'll need to take a look -- another look at those processes in the context of this audit and some of the other ideas that we have that come out of it to ensure that. You're right, there is a lot of -- there is that opportunity. I think what it comes down to is ideally we hire good quality part-time people. We have many folks that are teachers and college kids and we try to hire people of good character so that we don't have to worry about that. Because we find that that's probably the most, you know,

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one of the biggest challenges when you're running a seasonal staff to our extent. If I may, I would ask Tom, would you like to speak to that as well?

MR. MARTIN: I'll just talk about the cash handling. And it is a risk when you have hundreds of thousands of transactions, small value, trying to control it at 40, 50 sites throughout the state. What we have done is we have focused on improving collections at each Park. I don't know if you've been to the parks. You may see cash registers at the gate at the larger parks. Traditionally, we do these ticket things. And the stores, we try to improve the controls at the stores, even though we don't have a point of service system at most of the stores. We try to get the reporting into our office fast. The parks have traditionally been behind in technology and so now they upload Excel files to our office. We have access to the bank accounts. We can confirm the deposit and get it recorded into the Lawson system as quickly as possible. So we focused a lot of effort in that area. And we have pretty good relationship. Our business office has a good relationship with the various parks folks so when there is a problem they pickup the phone and call us. And just recently there was a little bit of a discrepancy and was pleased the Park Manager immediately reached out to us. So we are building that dialogue with the Parks system.

With the payroll issues, I believe Commissioner Hodgdon spoke about the new HR payroll system going full implementation January 1 which will include the part-timers. Currently, those hours are not recorded in the system. Full-time hours are but part-timers are still submitting manually. And what we're doing better is accessing information off the Lawson system. At the Park level getting the information back from each Park and Phil's been excellent at trying to hold each manager accountable, not only for time but for budgetary reason how each Park is comparing to each different facility. And it's a working process trying to control those dollars, and we think we have had a pretty good successful year in the Park

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system from last year; and hopefully, we'll be showing some positive results here shortly.

SEN. BRAGDON: Thank you.

CHAIRMAN WEYLER: Representative Rodeschin is recognized for a motion.

** REP. RODESCHIN: I move to approve the report and put it on file.

CHAIRMAN WEYLER: And release in the usual manner.

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Further discussion? Seeing none; are you ready for the question? All in favor say aye? Thank you very much, gentlemen.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: All right. We wish to set a date maybe in September?

SEN. BRAGDON: Some of us will be busy prior to the 11th.

CHAIRMAN WEYLER: I agree.

MR. PATTISON: The 14th would be the following Friday. The Primary is the 11th, obviously.

CHAIRMAN WEYLER: Does anybody know of any problem on September 14th at this point? Sound good for everybody? Friday, the 14th, Fiscal '10 o'clock.

Anything further to come before us? You going to have discussions with the people about the things you've tabled offline? Senator Morse.

SEN. MORSE: I thought you were bringing them forward,

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but the -- if we're not going to do that, I don't know where we left managed care when it left here in March or something last year, but --

CHAIRMAN WEYLER: It's been delayed.

SEN. MORSE: -- the House Members that are concerned about how the Federal Government tells New Hampshire what to do, I'm wondering if we shouldn't have a report in September, just not -- legally, I don't know where we stand on how the Department is supposed to report to this Committee, but right now the Federal Government is doing everything they possibly can to not put managed care up in New Hampshire. The reality is the Department still has to come up with a \$16 million reduction somewhere. And I think we ought to make that clear in September and get a report where we're going. Because this last round, which Senator Odell and I are meeting with them today, you know, they came up with questions, some of them that have been answered before and they've given us 90 days to respond and I can tell you what's going to happen. In 90 days, they're going to ask us to respond again, and it's going to be another 90 days and this isn't going to happen.

CHAIRMAN WEYLER: It's time to get the Congress people involved.

SEN. MORSE: Well, I've asked the Governor to get involved and that didn't work. So it's time that someone takes control of this. If it's not Fiscal, we need to find another answer, so.

CHAIRMAN WEYLER: We may have to collectively write a letter to the Senators and Congressmen and say this is -- we see this as delaying tactics. It's unreasonable to take the 89th day the letter comes with questions, which we felt have been answered, and then those questions get answered, they take another 89 days or 90 days.

SEN. MORSE: I guess my point is, do we have legal

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standing in this Committee to bring them back in so that we can get these questions answered when it's going up, because 30 states, I believe, put this up without any interference. And now little old New Hampshire goes and puts it up and all we are getting is interference and there's a reason and I want to know what it is.

CHAIRMAN WEYLER: I think we can ask -- invite them in in September --

MR. PATTISON: Yes.

CHAIRMAN WEYLER: -- with that specific question. We shall do so. Anything further?

** REP. RODESCHIN: Move to adjourn.

CHAIRMAN WEYLER: Representative Rodeschin moves to adjourn.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Second by Representative Stepanek. All in favor say aye? We are adjourned.

*** {MOTION ADOPTED}

{Committee meeting adjourned at 12:11 p.m.}

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CERTIFICATION

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcript from my shorthand notes taken on said date to the best of my ability, skill, knowledge and judgment.

Cecelia A. Trask
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