

JOINT LEGISLATIVE FISCAL COMMITTEE
Legislative Office Building, Rooms 210-211
Concord, NH
Friday, May 12, 2017

MEMBERS PRESENT:

Rep. Neal Kurk, Chair
Rep. Ken Weyler, Clerk
Rep. Cindy Rosenwald
Rep. Dan Eaton
Rep. Karen Umberger (Alt.)
Rep. Frank Byron (Alt.)
Sen. Gary Daniels
Sen. President Chuck Morse
Sen. Lou D'Allesandro
Sen. Andy Sanborn
Sen. John Reagan

(The meeting convened at 10:00 a.m.)

(1) Acceptance of Minutes of the April 14, 2017 meeting.

NEAL KURK, State Representative, Hillsborough County,
District #02: Good morning, everyone. I'd like to open the May
12, 2017, meeting of the Fiscal Committee. Good morning to all
of you.

First item on our agenda is the acceptance of the minutes
of the April 14th meeting. Is there a motion?

**** LOU D'ALLESANDRO, State Senator, Senate District #20:** So
move.

JOHN REAGAN, State Senator, Senate District #17: Second.

CHAIRMAN KURK: Senator D'Allesandro moves, Senator Reagan
seconds, that the motion -- that the minutes be accepted.
Discussion? Questions? There being none, are you ready for the
question? All those in favor, please indicate by saying aye?
Opposed? The ayes have it and the minutes are approved.

*** {MOTION ADOPTED}

(2) Old Business:

CONSENT CALENDAR

(3) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from Any Non-State Source:

CHAIRMAN KURK: There being no Old Business, we go to item number (3) on the agenda, Consent Calendar item, which consists of two items, Fiscal 17-075, a request from the State Treasury for authorization to accept and expend up to \$700,000 of LCHIP funds through June 30th of this year, and Fiscal 17-083, a request from the Department of Health and Human Services for authorization to accept and expend \$1,131,048 in Other Funds through the end of the Fiscal Year.

Does anyone wish to remove either of those items? There being none, then no one wishing to remove, then the motion -- is there a motion to accept?

** SEN. D'ALLESANDRO: Move the item.

CHAIRMAN KURK: Senator D'Allesandro moves to accept --

CINDY ROSENWALD, State Representative, Hillsborough County, District #30: Second.

CHAIRMAN KURK: -- the Consent Calendar under Tab (3), seconded by Representative Rosenwald. Ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and those two items under Tab (3) are approved.

*** {MOTION ADOPTED}

(4) RSA 215-A:23, IX and RSA 215-C:39, X Registration Fees, and RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds

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Over \$100,000 from any Non-State Source:

CHAIRMAN KURK: We turn now to agenda item number (4), Fiscal 17-085, a request from the New Hampshire Fish and Game Department for authorization to transfer 500,000 in unexpended funds from excess registration fees to Fish and Game OHRV Fiscal Year 2017 Operating Budget, and accept and expend \$24,649 in Other Funds through the end of the Fiscal Year. Is there a motion?

****** KAREN UMBERGER, State Representative, Carroll County, District #02: So move.

CHAIRMAN KURK: Representative Umberger moves to approve the item, seconded by --

SEN. REAGAN: Second.

CHAIRMAN KURK: -- Senator Reagan. Discussion? Questions? There being none, are you ready for the question?

KEN WEYLER, State Representative, Rockingham County, District #13: Questions.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: I'd like to ask the DWI, whether that's on the highway or on trails, how it's done?

CHAIRMAN KURK: Good morning, Mr. Normandeau. Thank you for responding to Representative Weyler's questions.

GLENN NORMANDEAU, Executive Director, Department of Fish and Game: Good morning. The grant is for DWI, OHRV DWI enforcement on the roads. For OHR vehicles, not cars and trucks. But because so many of the roads are open now, their use up north, it's a grant from Safety to do enforcement of those vehicles.

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CHAIRMAN KURK: So if an OHRV vehicle is driving on a public road, and there's evidence of drunken driving or violation of whatever traffic regulations apply.

MR. NORMANDEAU: Right.

CHAIRMAN KURK: This money is to allow local police --

MR. NORMANDEAU: No, this is for our officers.

CHAIRMAN KURK: Conservation officers --

MR. NORMANDEAU: That's correct.

CHAIRMAN KURK: -- to enforce that.

MR. NORMANDEAU: To enforce drunk driving of OHRVs on -- well, I mean, they would be patrolling, you know, where trails come on to the roads and checking out the roads for them, also, in those areas where there's extensive road -- public road use of these vehicles.

CHAIRMAN KURK: And the decision to open a road to OHRVs is made by whom?

MR. NORMANDEAU: Depends on the road. Most of the towns up north now have opened their town roads or a lot of them have, and obviously State highways, rules, you know, DOT has those issues where connectors are opened up.

CHAIRMAN KURK: And so if that's the case, why isn't, or is it the case that there's reimbursement from those communities and the State for these costs?

MR. NORMANDEAU: I would say this grant from State Police constitutes that part, you know, part of the reimbursement. This is -- the grant that this is coming from is from the Department of Safety.

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DAN EATON, State Representative, Cheshire County, District #03: Highway Safety.

MR. NORMANDEAU: I'm sorry, Highway Safety.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: How do we get Berlin to kick in 5,000?

MR. NORMANDEAU: That is reimbursement for an event that happened last fall where something like 6,000 ATVs showed up for a long weekend and they wanted us to, again, do ATV enforcement. So we had a pile of officers up there for that event. They agreed to reimburse our costs. We are just getting the money now.

REP. WEYLER: Congratulations.

CHAIRMAN KURK: Senator Sanborn.

ANDY SANBORN, State Senator, Senate District #09: Thank you, Mr. Chair. Thank you, sir. Yeah, it's a great event. I recommend any legislator go up and check it out, the great things that DRED and Fish and Game is doing to bring some money to the North Country that we talk about every day.

My question for you, Director, which has irony to yesterday in it. Is this a grant for DWI or is this a grant for substance abuse and how the heck is Fish and Game or anyone going to make a determination if someone is either too inebriated to drive or too stone to drive?

MR. NORMANDEAU: Well, our officers are trained in, you know, we have breathalyzers that we use for both snowmobiles and OHRV, you know, enforcement. I'm not sure that beyond whatever the State Police training we have the same sort. So if someone is -- I would assume, you know, I'm not a law enforcement expert, but I'm assuming if someone is erratic or doing whatever, and they're brought in they will be, you know, if it's something a breathalyzer doesn't detect, I would say we are

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going to be in the same boat as State Police are in any of those situations. It's more about evidence on the ground.

SEN. SANBORN: Thank you, sir.

REP. WEYLER: Thank you.

CHAIRMAN KURK: Could you explain to me, because I don't think I understood it, I thought this was money was coming in -- coming not from the State Department of Safety, but from unanticipated OHRV registrations fees.

MR. NORMANDEAU: That's the 500,000. In other words, if you look at this total amount, okay.

CHAIRMAN KURK: Okay.

MR. NORMANDEAU: The 500,000 we're asking for, that is because we had such a good year in snowmobiles, we don't have enough appropriation to give DRED the money we owe them. So we're -- we are on the verge this year of having an all-time record of -- of snowmobile and OHRV registrations. We are at this point \$2 million ahead of last year. And the -- so when we did the budget, which we based on sort of a historical average, our appropriation for what we send to DRED wasn't -- is not big enough to take the amount that we actually owe them. So that's to increase that appropriation.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Would like to have seen in the report numbers we thought we were going to get and the numbers we did get. Normally, we see numbers in the report.

MR. NORMANDEAU: Right. And, of course, it's not over yet. The Fiscal Year's not over. Cathy, my business chief, sent some numbers over through the first three-quarters. But even then, because there's a one month lag, it's actually the numbers through February 28th, which is a total of somewhere around 81 or 82,000 registrations. The money is actually ahead of that

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number because we know the money we got in April, the registrations, that cash for April was registrations that happened through the end of February, because of the, you know, we're all a little behind. But our all-time best ever was around 5,250,000, and we're at 5,150,000 now. So we're pretty sure that with the big ATV registration months coming forward, May, June, that we are going to be way ahead. And, of course, there's a formula set in statute about how that money gets divvied up. And on average, 72% of it moves over to DRED, and we simply don't have the total appropriation we need to get that done.

CHAIRMAN KURK: Further questions or discussion? Senator Daniels.

GARY DANIELS, State Senator, Senate District #11: Thank you. On an OHRV Study Committee that I was on last term, we discussed who had jurisdiction over the trails and the roads in those communities that use the roads. Did I hear you correctly in saying that the \$500,000 would be to patrol the roads?

MR. NORMANDEAU: No, sir.

SEN. DANIELS: Or the trails?

MR. NORMANDEAU: That's not for anything. That's DRED's money. It goes to the Trails Bureau at DRED. The patrol money being asked for here is the 25,000 or whatever grant.

SEN. DANIELS: Okay.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Director, I'm asking this because you just know this is an important issue to me. If we are bringing in all this extra money with registrations, and we are sending it over to DRED, is there some commitment that money is going to be used for trail maintenance and development, and we are not going to find something else to spend it on?

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MR. NORMANDEAU: That is -- I mean, I can't speak for what DRED does with it, but that's the purpose of the Trails Bureau. My -- you know, that's where it goes in DRED. I'll have to let -- I think -- still behind me there somewhere.

SEN. SANBORN: He's shell shocked how much money you're sending him this year. Thank you, sir.

CHAIRMAN KURK: Further questions? There being none, are you ready for the question? All those in favor of approving this item, please now indicate by saying aye? Opposed? The ayes have it. The item is approved.

MR. NORMANDEAU: Thank you.

*** {MOTION ADOPTED}

(5) RSA 216-A:3-g, Fees for Park System:

CHAIRMAN KURK: We turn now to Tab (5). Sorry. Yes, (5) on the agenda, Fiscal 17-081, a request from the Department of Resources and Economic Development for approval of rate changes to the primary summer 2017 and winter 2017/2018 products at Franconia Notch State Park and Cannon Mountain Aerial Tramway and Ski Area, and further approval of the 2017-18 Cannon Mountain Winter Special Use Policy. Is there a motion?

** REP. UMBERGER: So move.

CHAIRMAN KURK: Moved by Representative Umberger, seconded by Senator D'Allesandro. Questions or discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

SEN. SANBORN: Opposed.

CHAIRMAN KURK: The ayes have it and the motion passes.

*** {MOTION ADOPTED}

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CHAIRMAN KURK: I'd like to thank the Department for the detail that they provided us with and the information that we've gotten on this request is significant and much more helpful than we have gotten in the past. So thank you for that.

(6) Chapter 276:4, Laws of 2015, Department of Administrative Services: Transfer Among Accounts and Classes:

CHAIRMAN KURK: Moving on to Tab (6), Fiscal 17-086, request from the Department of Administrative Services for authorization to transfer \$20,832 in Other Funds in and among accounting units through June 30th, 2017. Moved by Senator Reagan.

REP. WEYLER: Second.

CHAIRMAN KURK: Seconded by Representative Weyler. Discussion? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

*** {MOTION ADOPTED}

(7) Chapter 276:23, Laws of 2015, Judicial Branch; Transfers:

CHAIRMAN KURK: We turn now to agenda item number (7), Fiscal 17-087, a request from the Administrative Office of the Courts for authorization to transfer \$492,000 in General and Other Funds between expenditure classes through June 30th, 2017. Is there a motion?

** SEN. D'ALLESANDRO: Move.

CHAIRMAN KURK: Moved by Senator D'Allesandro, seconded by Representative Weyler. Questions?

SEN. SANBORN: I have a question.

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CHAIRMAN KURK: Senator Sanborn. Is there somebody from the Courts? Good morning.

CHRISTOPHER KEATING, Director, Administrative Office of the Courts, Judicial Branch: Good morning, Mr. Chairman.

CHAIRMAN KURK: Could you identify yourself for the record?

DONNA RAYMOND, Fiscal Manager, Administrative Office of the Court, Judicial Branch: My name is Donna Raymond. I'm the Fiscal Director of the Judicial Branch.

MR. KEATING: Chris Keating, Director of the Administrative Office of the Courts.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Donna, thank you for coming. Chris, maybe more a question for you. On Page 5 of your narrative, talks about the fact that you're in holdover on your lease, right?

MR. KEATING: Yes.

SEN. SANBORN: Under Class 22 in rent. I imply from it that because you're in holdover, are they charging you time and a half? They giving you the sharp end of the stick?

MR. KEATING: A little bit. We had to go to them to request their consideration in allowing us to stay where we are because, you know, we are fitting up this facility at 1 Granite Place. And, you know, we are a little bit over a barrel. But they have been entirely reasonable.

Our landlord's a good, strong, local Concord businessman, and they have been very accommodating. I can't say enough about what they have done for us to allow us to be in the building in holdover status.

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SEN. SANBORN: But they are charging you a holdover rate which is, obviously, why you're here today to ask for more money because they are giving you a higher holdover rate.

MR. KEATING: They are indeed.

SEN. SANBORN: All right. Thank you.

CHAIRMAN KURK: Further discussion? Representative Eaton.

REP. EATON: Totally irrelevant to this but relevant to what you just said. The Chief and several others keep referencing 1 Granite Place. Where is 1 Granite Place?

MR. KEATING: Representative, it's -- so it goes the prison, the cemetery, and then 1 Granite Place.

REP. EATON: Got it.

CHAIRMAN KURK: Is that a former insurance building?

MR. KEATING: Yes, it's current insurance building. Used to be the Chubb Life building.

CHAIRMAN KURK: Yes.

MR. KEATING: Now it's Lincoln Financial Services.

CHAIRMAN KURK: You're going to take over that whole facility?

MR. KEATING: No, sir. We are taking two floors.

CHAIRMAN KURK: That's a gorgeous place to do business.

REP. EATON: Great neighbors, too.

CHAIRMAN KURK: Some of them are very quiet.

MR. KEATING: People are dying to get in there.

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SEN. SANBORN: Mr. Chair.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Just for sake of that fiscal argument, what are you guys paying for rent for that space because it is a beautiful space.

MR. KEATING: It's about, on average, about \$12.50.

SEN. SANBORN: 12.50, triple now.

MR. KEATING: Hm-hum.

SEN. SANBORN: That's reasonable.

MR. KEATING: That's was the impetus of the move.

SEN. SANBORN: Yeah, good rate.

CHAIRMAN KURK: Okay. Further discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is approved. Thank you.

MR. KEATING: Great. Thank you.

*** {MOTION ADOPTED}

- (8) Chapter 276:143, Laws of 2015 Department of Health and Human Services; Transfer Among Accounts and RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from Any Non-State Source:

CHAIRMAN KURK: Under Tab (8) we're dealing with request from the Department of Health and Human Services. And as members know, we received a late item, the Dashboard. I wonder if the Department could come forward at this time and briefly update us

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on the Dashboard before we entertain motions for the various transfer requests. Good morning, Miss Rockburn. Could you identify yourself for the record?

SHERI ROCKBURN, Chief Financial Officer, Department of Health and Human Services: Good morning. Sheri Rockburn, Chief Financial Officer for the Department of Health and Human Services.

CHAIRMAN KURK: Excuse me. Before you begin, does every member have a copy of this?

REP. WEYLER: Yes.

CHAIRMAN KURK: I don't.

CHUCK MORSE, State Senator and Senate President, Senate District #22: I have two.

SEN. SANBORN: Gary took yours. Senator Daniels, obviously, took yours.

CHAIRMAN KURK: Thank you. We're all set.

MS. ROCKBURN: So I'll start with the Dashboard. Is that what you would like to talk about first, the Dashboard?

CHAIRMAN KURK: Yes.

MS. ROCKBURN: If you look at the front page of the Dashboard, the table at the very bottom, there's a few Fiscal transfer items that I want to talk about because some of those are directly related to the ones in this Section 8 that you'll be voting on. Just to give an update of where we are, the shortfall right now if we had not done any transfers would have been 66 million.

CHAIRMAN KURK: Before you --

MS. ROCKBURN: Sure.

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CHAIRMAN KURK: -- go on, does that include or exclude your required lapses under the budget?

MS. ROCKBURN: Excludes.

CHAIRMAN KURK: So your shortfall is 65 million plus roughly \$20 million in lapses.

MS. ROCKBURN: Yes.

CHAIRMAN KURK: Thank you.

MS. ROCKBURN: So excluding any lapse requirements, 66 million, primarily all of that is related to the Medicaid Program. That includes anything that was related to rate increases, caseloads that didn't materialize. It also includes estimating a DSH Payment higher than what was budgeted so that is all factored into this number at this point in time.

At the April Fiscal meeting, we transferred \$25 million that was approved by both Fiscal and Governor and Council in their April meetings to offset some of the \$66 million shortfall. That 25 million was funds that would have otherwise lapsed. So we would have hit our lapse target if we had not had the Medicaid shortfalls. Of that 25 million, 18.7 were appropriation reductions and 6.4 was related to additional rebate revenue that had come in.

CHAIRMAN KURK: Drug rebates?

MS. ROCKBURN: Drug rebates, correct. In front of you today it is Fiscal item 17-077 under Section (8), there is a portion in that Fiscal item and a portion -- I'm trying to think of the other. No, I think it's just that one. Sorry. That Fiscal item would transfer in total 6.6 million into the Medicaid Program. 1.35 is related to appropriation changes, and an additional 5.2 of additional rebate revenue that has come in in the last quarter. We are estimating in bringing forward a June transfer of an additional 2.5 of rebate revenue. That will bring total

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transfers, including appropriations and revenue of 34.2 million to offset the 66 million.

The last piece of that, right now there's a House Bill 629 is pending. Currently, it just passed the Senate yesterday to appropriate a supplemental appropriation of 33.2 million to the Department. If that passes through all the Branches, that would end up having an excess of about 800,000 to the good that would ultimately lapse if nothing else changes between now and June 30th.

CHAIRMAN KURK: Questions.

REP. ROSENWALD: Yes.

CHAIRMAN KURK: Representative Rosenwald.

REP. ROSENWALD: Thank you. I have a series of questions.

CHAIRMAN KURK: Please.

REP. ROSENWALD: Thank you. First, Sheri --

MS. ROCKBURN: Yes.

REP. ROSENWALD: -- if we go to Page 3, starting out with the MCO rate increases.

MS. ROCKBURN: Sure.

REP. ROSENWALD: Your narrative talks about the impact of rates on Fiscal Year 18 only, but the shortfall is in Fiscal Year 17. So my question is what happened to the rates for this Fiscal Year that's not in your narrative but caused a shortfall?

MS. ROCKBURN: Sure. So we have been carrying that narrative for the last several months so we didn't want to repeat that in this one. We wanted to focus on where things were headed going forward. But the shortfall in '17 as detailed on Page 2 of the letter, the rates were 20 -- about 24, 25 million of our

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shortfall was directly related to rates that were higher as opposed to the rates of the budget assumptions that were passed in the 16-17 budget.

REP. ROSENWALD: So, if I may, Mr. Chairman?

CHAIRMAN KURK: You may. Please continue.

REP. ROSENWALD: Thank you. When -- what was the timing on when we learned what those rates would be versus the budget process? Did we not know what the Fiscal Year 17 rates were going to be at the time?

MS. ROCKBURN: We did not know what the '17 rates would be. The actuary only sets rates on an annual basis.

REP. ROSENWALD: So we knew '16.

MS. ROCKBURN: But we knew '16. In '16 we had a preliminary rate from the actuary the end of April, early May, which was sort of kind of in the middle of the Senate phase back then. We didn't have it at all in the House phase back in, I guess, spring of 2015. So we were just working through the '16 rates at that point in time; but the '17 wasn't set till a year later.

REP. ROSENWALD: But we did know what the '16 rate projections were at the time we finalized the budget?

MS. ROCKBURN: Correct.

REP. ROSENWALD: Thank you. So my next question is the Medicaid appropriation reduction.

MS. ROCKBURN: Yes.

REP. ROSENWALD: Was that appropriation reduction part of the current budget, is that a legislative decision or when was that reduction?

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MS. ROCKBURN: No. We tried to look into that at the very start of the 16-17 budget. We realized that the '17 budget was slightly lower than the '16 budget when it was passed. It wasn't something that we had recommended. We couldn't pinpoint if there was a specific saving that was assumed when the 16-17 budget was passed. The General Fund impact was 1.7 million. It was sort of -- like I said, we worked with the LBA. We tried to look back through our notes on that, but we never really kind of reconciled where that specifically came from. But if you looked at the total appropriation for Medicaid, it dropped slightly from '17 and '17 from '16.

REP. ROSENWALD: Thank you.

MS. ROCKBURN: We don't have that situation going into '18 and '19 at all.

REP. ROSENWALD: Okay. And on the DSH Payments --

MS. ROCKBURN: Sure.

REP. ROSENWALD: -- the --

MS. ROCKBURN: Hm-hum.

REP. ROSENWALD: I'm trying to think when I first saw this showing up on the Dashboard. Was it sometime around last June? Somewhere between May and June the Court decision was handed down.

MS. ROCKBURN: We were still in an injunction period last year. So there was a Federal injunction that was issued last spring. We make DSH Payments by law by May 31st of every year. So in '16 we were under an injunction period. And in that injunction period we were paying at the higher cap in relation to the settlement, which was also codified into statute. So we were paying at that level last year.

The Court decision -- the final rules happened both in New Hampshire and at the Federal level, I want to say maybe a month

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or so ago. And going forward for '18 and going forward the injunction, I would say, was turned in our favor, lack of a better way to say that. But it wasn't effective until after we would have to make this May payment for State Fiscal 17. So the law was not retro when it was finally upheld at both the Federal and the State level. So for Fiscal 17 we are going to be paying the DSH Payment once again at the cap of the settlement agreement, which contributed to a shortfall in '17.

REP. ROSENWALD: But we put this on the Dashboard starting last spring.

MS. ROCKBURN: Last spring and during the summer both in '16 and '17 we were anticipating of having an unknown for that. And so we knew that until the Court made a decision we weren't sure where things were going to fall. So it's been carried throughout the entire year and we just had a final decision, like I said, about a month ago on it.

REP. ROSENWALD: Thank you. In the Managed Care reconciliation, when did we figure out that our risk adjustment we were going to owe another 1.5 million. Is that something we just learned?

MS. ROCKBURN: It's been on the Dashboard for a few months.

REP. ROSENWALD: Hm-hum.

MS. ROCKBURN: I want to say maybe two or three months. It hasn't been all year though.

REP. ROSENWALD: Okay. And, finally, on the Developmental Disability Wait List, where do I find the waiting list and more complex case shortfalls on the table on Page 2?

MS. ROCKBURN: We aren't projecting any shortfalls in the program for '17. And the reason that we don't have any shortfalls is any funding that's not available for clients, that's why the clients end up on the Wait List.

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REP. ROSENWALD: Okay. Thank you.

MS. ROCKBURN: Sure.

REP. ROSENWALD: Thank you, Mr. Chairman.

CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Thank you. For the last few months it seems as though the HHS Dashboard has come to us as a late item.

MS. ROCKBURN: Hm-hum.

SEN. DANIELS: Is there any particular reason why that has to be late or reason why it could not be included with the rest of the material?

MS. ROCKBURN: Sure. The biggest reason for that is we -- it takes about a week after a month end to capture all our caseload information out of the MMIS system. So the April 30th data that's presented in here, we wouldn't have gathered all the information out of our system until the end of the first week in May, which is right about now. And so the timing of the Fiscal meetings is what drives whether or not this could be on time or not.

In the past years, we have always had a month lag on the data we presented. So, for example, last Fiscal Year in '16 in a May Dashboard it may have been data only through May 31st in order to meet the deadlines of Fiscal.

The current Commissioner has asked me to have the data as current as possible. So we waited to include the April data so that way it's the most current available for all of you to consider. We can talk about that going forward of whether or not it would be more beneficial to have it sooner, but have a lag of data or to, unfortunately, continue on sort of a late pattern but that's what drives it.

CHAIRMAN KURK: Or we could change Fiscal so it's a week later.

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MS. ROCKBURN: That would be great.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Sheri, thanks for coming. The DSH Payment increase in '16 and in '17, what were the total numbers for both years?

MS. ROCKBURN: For the payment that we're making or we plan to make at the end of this month will be approximately 216 million. And I want to say last year, I don't have it in front of me, I thought last year was about 212, you know, 214 million. So it's within a few million both last year and this year.

SEN. PRESIDENT MORSE: But the total increase in millions that we made in DSH Payments to the hospital in both years were what? This year would be about 31 or 32 million.

MS. ROCKBURN: From over -- compared to budget?

SEN. PRESIDENT MORSE: Compared to budget?

MS. ROCKBURN: So the budget in both years was about 190 million. Yeah.

SEN. PRESIDENT MORSE: Which is something worth pointing out because --

MS. ROCKBURN: Correct.

SEN. PRESIDENT MORSE: -- the budget split and put the number in the middle. It was arbitrary.

MS. ROCKBURN: Correct.

SEN. PRESIDENT MORSE: The Governor didn't go to the floor or to the ceiling.

MS. ROCKBURN: Correct.

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SEN. PRESIDENT MORSE: I just want this Committee to understand what's been going on for two years, because in my opinion it was totally wrong. And I certainly met with the hospitals back in November and December. You know, this won't happen again if I'm here that we are making a \$33 million payment 'cause I certainly won't support it. But the reality is DSH Payments in the budget this year are at the floor than you're proposing in '18 and '19.

MS. ROCKBURN: That's correct, Senator.

SEN. PRESIDENT MORSE: Because the Federal Law supports what should have been supported in '16 and '17.

MS. ROCKBURN: Correct.

SEN. PRESIDENT MORSE: When we had an agreement with the hospitals, they set a floor to ceiling, and I want to stress that, they set it.

MS. ROCKBURN: Hm-hum.

SEN. PRESIDENT MORSE: Then they decided because Uncompensated Care was no longer going to be up here at 400 something million dollars - 429, right, Senator Sanborn?

SEN. SANBORN: Yes, sir.

SEN. PRESIDENT MORSE: It was going to be down at 285. Let's go back to court and let's eliminate rules number 34 and 35 'cause Texas was doing it. Might have been rule number 33. That's what they did to us for two years. So under two years New Hampshire Court cost us somewhere upwards of \$70 million.

MS. ROCKBURN: That's correct.

SEN. PRESIDENT MORSE: Of which half of it was General Fund. I just want to point that out because we just got stuck with paying the bill again because, you're right, it didn't go

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backwards to '17. I've met with critical access hospitals, for-profit hospitals, last week I spoke with the Board of Elliot, I have yet to tell me a hospital in all those groups that their Uncompensated Care didn't go down significantly because of what we did with Medicaid in the State of New Hampshire. So you can't go prove to the people of the State of New Hampshire that it's working and then double dip, which is what they did.

On another subject matter, the rates which going forward the Chair held a meeting some months ago over in the House. Are we doing anything to get us involved with -- it seems so subjective how the rate increases were done with the MCO.

CHAIRMAN KURK: You talking about Milliman?

SEN. PRESIDENT MORSE: Yes. Because I -- I noticed the same thing you noticed and I just, you know, this increase that we are paying for rate increases, we had no say in it and now we're just writing a check.

CHAIRMAN KURK: The answer I think, Senator, is that if we are to regain control of the cost of Medicaid in this state, we need to eliminate Managed Care. Because every time we go to Managed Care, whether it's Step 2 -- Step 1, Step 2 or Step 3, we substitute our judgment about what's affordable and appropriate and replace it with an actuary. And we have no control over what that actuary recommends.

The Department always takes the lowest end of the range that's recommended, but that range is beyond our control. So the only way to regain control is to go back to fee-for-service or some variation of that where we are no longer stuck with actuaries setting, what, a third of New Hampshire's General Fund spending.

SEN. PRESIDENT MORSE: Can I ask one more question?

CHAIRMAN KURK: Yes.

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SEN. PRESIDENT MORSE: Sheri, if we appropriate an amount in the budget for '18 and '19 for MCO payments, can we put something in the budget that caps that?

MS. ROCKBURN: The short answer is no. And the unfortunate part, as Representative Kurk had mentioned, is that the actuaries have to sign off that that amount that's appropriated is actuarially sound to run a Managed Care program. And CMS will not approve the rates without an actuarial certification. So if the budget is within something that the actuary could certify, you know, then that side of it the budget would be in align. But if we lower the budget or somehow had it outside of that actuarial reasonableness, we would still have to pay that higher amount that the actuary recommends.

SEN. PRESIDENT MORSE: But one of the questions we brought up in that meeting that Representative Kurk held is there was certainly different numbers administratively for two different companies, significant differences.

MS. ROCKBURN: Yeah.

SEN. PRESIDENT MORSE: So we're saying they're sound, but how do -- I'm not sure the Legislature agrees they're sound.

MS. ROCKBURN: Yeah. I recognize that the actuarial soundness may be very different than others, both legislator and management-wise in terms of the program. What I will say is though regardless of what a MCO actually is experiencing, for example, for admin or for profit, is not ultimately what we pay them. So the actuarial rates, and I don't have the specifics in front of me, for example, might assume a -- and I'll just use an example, I don't know this is exact -- a 7% admin rate. So they allow for 7% worth on admin. If the actual MCO is experiencing 20% of admin costs, we are still only paying up to a 7% built into the rate. So we do have very extreme differences between our MCOs both on profit margins and admin; but the number that we set on the rate is what the actuaries have looked at nationwide and said this is a reasonable assumption to have in the rate. And we always work with them to try to have the

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lowest assumption across the nation in looking at New Hampshire and New England states to say what is reasonable that we feel that the actuary would be -- would say it was certifiable. So we have brought that down.

So I just want to emphasize that even though they may experience -- the MCO experience very different outcomes, the PM-PM that we pay does have that cap to it. I think the unfortunate is if we set it at seven and let's say a MCO was really only experiencing a 5% for that MCO that would be a windfall for them. Because we do pay up to that amount that's set in the range.

The only other thing I'll add though is the actuarial rates we just had -- we had some preliminary rates, we changed our cycle with them so we would have information sooner. So we started working with the actuary back in January of this budget cycle so we wouldn't be in a situation of getting rates for the first time in a May-June time period. We received rates this week and they're at about \$356 per month, which is in line with where the Governor's recommended, and also in line where the House had ended up, also. So we don't anticipate much change happening in the next month, although they might have some data that they're still looking at.

CHAIRMAN KURK: What's the current rate?

MS. ROCKBURN: Current rate is, I believe, 349.

CHAIRMAN KURK: So they went from 349 to 356?

MS. ROCKBURN: Sorry, 355. Yeah.

CHAIRMAN KURK: Representative Rosenwald.

REP. ROSENWALD: Thank you. So if I'm reading this that does not include what was just added to House Bill 400. So it's 355 plus, basically \$6?

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MS. ROCKBURN: That's correct. There's significant changes in funding that would be required if House Bill 400 continued down a full approval path.

REP. ROSENWALD: Hm-hum.

MS. ROCKBURN: There are pieces of House Bill 400 that will have Medicaid reimbursable services that's part of House Bill 400. So if it's a Medicaid increase in service, as a result that will flow into our -- a higher PM-PM. There's also parts of House Bill 400 that would have a just straight General Fund component, and I don't have that, once again, in front of me. But if that should pass with the General Fund component that would also have to be considered either being appropriated in House Bill 400 or somehow moved into the operating budget.

CHAIRMAN KURK: Further question?

SEN. PRESIDENT MORSE: In House Bill 400 the numbers that were delivered to the Senate through LBA, those increases are not in those numbers or they are in them?

MS. ROCKBURN: I'm going to look back and see if the original, I'll say Fiscal estimates in House Bill 400, included the Medicaid service side of it or not. I just had a discussion with our legislative liaison John Williams this morning and I've been to task with reconciling that to see if the -- those preliminary numbers are still staying or not. So I'm going to have that on my plate today.

REP. KURK: Senator Sanborn.

SEN. SANBORN: Thanks for a couple questions, if I may? Thanks, Sheri. Great seeing you. Wish Commissioner was here, for the record, to answer some of these questions, I appreciate you doing --

MS. ROCKBURN: He did say that he may be in a little later. He's at the Health and Human Services Oversight that's happening this morning.

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SEN. SANBORN: So just so I can be clear, because I think I lost track of this thing, we are going from 349 to 356; but within HB 400 the other allegation there is a potential might go up six or slightly more per person-per month?

MS. ROCKBURN: Correct. It would go up about -- it would go up about \$5, \$6 per member-per month would go up, correct.

SEN. SANBORN: All right. So I guess I'm honestly at some level happily surprised if we are suggesting going from 349 to 356 because from what I'm seeing in the general insurance market of which Medicaid Expansion is part of, right, because it's private insurance today, the increases we could be looking at this year are staggering to me. So, I guess, part of the concern is that, with respectfully to the Chair, I think part of our problem has always when we think of Managed Care Organizations that are per member-per month that we sign a contract at X amount of money per month and if they save money they get to keep it, and if they lose money, they lose money. But it seems like all we're doing is cutting more checks every single week for these guys because now we're up 30 million bucks. I think that might be more of a contract issue, rather than a philosophy of managed care, right? So I'm just concerned that if we're only looking, A, if I'm seeing all these add-ons already, right?

MS. ROCKBURN: Hm-hum.

SEN. SANBORN: B, I'm looking in the commercial market space of which 35%-ish or 30% of the people under Medicaid, i.e., Medicaid Expansion, that universe might see some truly foundational increases this year. I'm very concerned. I'm concerned we're going to be back here a year from now with another 30 or \$50 million flip that we'll be short.

MS. ROCKBURN: So I think --

SEN. SANBORN: How are we -- how are we defending against that?

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MS. ROCKBURN: So let me take it a few pieces. On the non-expansion side, so traditional Medicaid, we set rates annually. So at least we know that if the Fiscal 18 rates are set and they're in line with where the budget is, we wouldn't have any shortfalls to experience for that year, because that rate would be fixed. We wouldn't have the ability really to change that during the year in '18. The only thing that would create a deficit or shortfall situation in '18 is if dramatically the utilization or the caseloads skyrocketed. You know, if they increase substantially --

SEN. SANBORN: Of which I can tell you the rates I'm looking at are from utilization. So there's been a dramatic shift in utilization.

MS ROCKBURN: So let me rephrase --

CHAIRMAN KURK: Utilization does not cost us anymore money.

MS. ROCKBURN: Correct. So let me rephrase that. When I used the term utilization what I meant was clients, caseloads. So whether Sheri has one visit or ten visits, we are just paying on Sheri. So the only way we would have a situation where we would be over paying is that we had more clients that came forward that were never on the program. So, you know, we haven't seen any increases right now in the Medicaid population and we've looked at -- I forget what's actually in Page 4 -- our standard Medicaid, we are covering around 133,000. Each month it's been relatively flat to that. Compared to a year ago, we are about 3% below. So that wouldn't, you know, assuming that that trend stays the same and we have a fixed PM-PM, we wouldn't have any reason to come to you with any major changes in '18.

On the flip side is the expansion population. We are seeing a very different trend analysis --

SEN. SANBORN: You are?

MS. ROCKBURN: -- than what the commercial market has been experiencing or talking about. And I don't have -- I'm really

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not the expert on that. And our Medicaid Director has been working directly with the Insurance Department. Because what we're seeing is that the clients in the Medicaid Expansion that are out on the marketplace appear to be healthier and have less utilization. So our expansion rates are actually coming down from an actuarial perspective, which is completely contradictory to what the carriers in the marketplace are seeing.

SEN. SANBORN: Yeah, that's not the numbers I'm seeing.

MS. ROCKBURN: Correct. We have talked to our actuary and said how is it possible that our experience is looking so different from theirs? I don't have an answer for that, but that is something that I know that our Medicaid Director has been actively working with the insurance, because we are not seeing that with the clients that have come forward.

SEN. SANBORN: I fear about that because I'm -- the work I'm doing is saying the exact opposite.

MS. ROCKBURN: Right. So that is something that we've been actually working on this week. I'll make sure that I have Deb back out and go to the Commissioner of where that process of reconciling that is at right now.

SEN. SANBORN: Great. So my final question.

CHAIRMAN KURK: Further question.

SEN. SANBORN: Mr. Chair. So it's your position, because the Commissioner is not here to give me his position, that you feel very comfortable that your 356 plus six is going to be our rate for '18, and we're not going see any other new ancillary expense. And when the actuaries actually come in for '19 --

CHAIRMAN KURK: Who knows.

SEN. SANBORN: Right. That's my fear, right? Who knows at this point.

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CHAIRMAN KURK: That is a fact. That is the way the system works. We don't know what's going to happen in '19. Not only do we have the risk of caseloads, but we have the risk of actuarial per member-per month determination.

SEN. SANBORN: Could happen in '18. Thank you, ma'am.

MS. ROCKBURN: The other piece that I'll say in terms of the expansion population, just as a reminder to both, is that currently the Feds pay 95% of the bill for the expansion population.

SEN. SANBORN: The what?

MS. ROCKBURN: Expansion population, the Feds -- CMS pays 95% of the expansion population. Traditional Medicaid is a 50/50.

SEN. SANBORN: Today.

MS. ROCKBURN: Today. That's what I'm saying today. 95, 5% being covered from non-State General Funds to cover the 5% through voluntary contributions. And so if immediately for the next six months when the 95% rate is still intact, any changes that would occur in that marketplace would be bear by the Federal Government in that voluntary contribution that should come in. Now that could all change has the Medicaid Program may change at the Federal level. So we'll have to manage that, too, because that really could shift the whole landscape of our Medicaid Program, both expansion and traditional.

CHAIRMAN KURK: Am I correct in remembering that for the Expansion population if the Federal reimbursement rate drops below 90% that program ends. The Commissioner sends out notices.

SEN. SANBORN: In six months.

REP. ROSENWALD: Six months.

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CHAIRMAN KURK: We set it up so he sends out notices quite early.

MS. ROCKBURN: Correct.

CHAIRMAN KURK: Thank you I have another -- before I recognize your question --

REP. ROSENWALD: Thank you.

CHAIRMAN KURK: -- I just have another question on this subject. Is it possible to look at other actuaries who perhaps take different views of the world than Milliman and would have a lower per member-per month rate?

MS. ROCKBURN: I know that we currently have a contract with Milliman as our actuary. I think the first thing we would probably have to do we might want to rebid, do an RFP to maybe select another actuary if we wanted to go that route. We do ask our current actuary though what are you seeing trends nationwide that are not necessarily what their firm but with other actuaries. So we do ask for that as part of the review process. But it's usually done in connection with working with our actuary. We haven't traditionally, at least, gone outside of them to ask those questions. You know, in terms of --

CHAIRMAN KURK: Is it possible for the Department to determine without rebidding things that certain actuarial firms come in at lower per member-per month rates than their peers, because they take a different view of the world. This is -- all of this is estimates and guesses and making assumptions. So different legitimate companies, actuarial companies, could come up legitimately with different rates. I'd hate to think that we have a contract with the most conservative company as opposed to the most aggressive company.

MS. ROCKBURN: So I think that the short answer is that we have not made calls independent of our actuary to other states or other actuarial firms. But we do always ask our current actuary what are you seeing in the actuary industry. So we do

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always ask that question, which is why this year we actually made some changes in our assumptions. We dropped some of our assumptions by anywhere from one to a half a percent. We really pushed them to say what are we seeing in trends elsewhere? So we do ask that question.

CHAIRMAN KURK: You just said something about assumptions.

MS. ROCKBURN: Hm-hum.

CHAIRMAN KURK: That you could change.

MS. ROCKBURN: Well, that we ask the actuary -- I wouldn't say that we could change. What we asked them was that exact question. What are other states doing, for example, at an admin rate or profit margin? So we made sure we asked all the right questions as we learn more about the process and the program. We said what are other states seeing, and are we truly at the low end. So we did make sure we had a really good due diligent process this year to force that to be at the lowest possible area.

CHAIRMAN KURK: Could you give us a list of all the assumptions or any other variables that the Department can urge, require --

MS. ROCKBURN: Sure.

CHAIRMAN KURK: -- the actuaries to take into account when they calculate their rates?

MS. ROCKBURN: Sure.

CHAIRMAN KURK: When we had our meeting with the actuary to which Senator Morse referred, we were told initially that there were at least four inflection points where legislative decisions could have an impact on the actuarial determination of the per member-per month rate. Several months later we were told, whoops, sorry, we made a mistake. There are no such inflection points. You're making some statements now which suggests there

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may not be inflection points, but there are some elements where the Department could influence the outcome of what the per member-per month rate is. I'd like to get a list of those.

MS. ROCKBURN: Sure. I think what I would say is we don't have the influence. We are able to ask the questions of what are other states doing. You know, so I wouldn't say we were able to say if other states are at X percent, we want to be somewhere else. What we were trying to say is let's get a list to see if this rate that you're proposing to us is reasonable. We are trying to do, as I said, do our own due diligence to make sure that that appears reasonable. We can't ask the actuary to lower it if it's outside of a range that they are comfortable with. I know of two areas that I can think of both on the administrative side and the profit margin. Other than those, let me see what else, if there is anything else. Those are the only ones I've been involved with.

CHAIRMAN KURK: Let's take those as an example. Are you telling the actuary to use not the average, not the median, but the lowest rate used by any other state anywhere in the United States for New Hampshire?

MS. ROCKBURN: Once again, I'm not always the one involved in that discussion. Our Medicaid Director and the Commissioner as well. I will say in discussions that I've been we have said what is the lowest rate that New Hampshire could support? So we definitely had asked that. Whether that's the lowest in the nation, I don't know, but I can look at that.

CHAIRMAN KURK: Thank you. Representative Rosenwald has a question about DSH.

REP. ROSENWALD: Thank you. Sheri, would you be able to share that rule from CMS that you said was --

MS. ROCKBURN: Yes, I can do that.

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CHAIRMAN KURK: Thank you for your discussion of the Dashboard. That was very helpful and timely, especially since we are in the midst of the budget.

MS. ROCKBURN: The one thing I just want to just circle back with the three transfers that you have in front of you that for consideration, 17-077 is a direct relation to funding, some of the Managed Care Medicaid shortfalls. The other two items are independent of Medicaid. They are traditional items that we bring forward in terms of salary benefit shortfalls of moving money from within accounts, maybe from a benefit account into a salary account or other smaller program areas. So I just want to point that out that two are independent of the Medicaid and one is primarily in the Medicaid arena.

CHAIRMAN KURK: Thank you. Further questions with respect to the Dashboard? There being none, thank you very much Miss Rockburn.

We now turn to Fiscal 17-076, a request from the Department of Health and Human Services for authorization to transfer \$242,040 in General Funds and increase Federal revenues in the amount of \$59,375 and increase other revenues in the amount of \$255,536 through the end of the Fiscal Year. Is there a motion?

** SEN. D'ALLESANDRO: Move the item.

CHAIRMAN KURK: Senator D'Allesandro moves.

REP. ROSENWALD: Second.

CHAIRMAN KURK: Representative Rosenwald seconds the item. Discussion or questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

*** {MOTION ADOPTED}

CHAIRMAN KURK: We turn now to 17-077, another request from the Department of Health and Human Services for authorization to
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transfer \$3 million in General Funds through the end of the Fiscal Year and accept and expend \$5,244,464 in additional drug revenue -- drug rebate revenue and \$5,249,708 in additional matching Federal funds through the end of the Fiscal Year. Is there a motion?

** REP. UMBERGER: So move.

CHAIRMAN KURK: Moved by Representative UMBERGER, seconded by Senator D'Allesandro. Discussion or questions?

SEN. SANBORN: Yes.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Hey, Sheri, last quarter I thought the drug rebate brought in about 5 million, and I think on the front page of the Dashboard you're looking to try and capture -- maybe looking to try and capture and transfer two and a half million next month.

MS. ROCKBURN: Correct.

SEN. SANBORN: Why is it so far down?

MS. ROCKBURN: So we budgeted this is actually -- let's see. We had about 6 million last month, 5 million and 2 million. This is actually 13 million above what was budgeted. So even though it's dropping, what that is representing is that we between the April and May transfer requests, we were able to project where we thought we were going to be in terms of over budget by June 30th. The budget was set around 9 million, just under \$10 million for '17, and we are seeing that we are going to be closer to about 23 when everything is said and done at the end of the year. It's not that cash is dropping. This is just our estimates of where we think we are going to be.

SEN. SANBORN: Of what's remaining?

MS. ROCKBURN: Correct.

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SEN. SANBORN: Follow-up, if I may?

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: I apologize. I thought we did a transfer like 25 million early on. So I guess I'm trying to understand, I thought we were receiving money monthly as a rebate. So did you accumulate up to 25 million and not spend it and then we made that transfer or what do you anticipate a month? Is it a monthly? Is it quarterly? How does it roll?

MS. ROCKBURN: Rebates come in quarterly. Let me just go back. Of the 25 million of the transfer, 6 million was related to rebates. The other 18 were appropriation transfers. So not spending in one area and transferring that excess appropriation. So we budgeted rebate revenue quarterly. That's how it physically comes in. And when we budgeted for the 16-17 budget, we budgeted approximately 10 million, just under 10 million each year. The reason we had done that is we had shifted the PDL, Preferred Drug List, to the MCOs to manage.

SEN. SANBORN: Hm-hum.

MS. ROCKBURN: And our expectation is when they manage that, they would be receiving and negotiating with the drug manufacturer's rebates. And so we expected that we may lose 50% of our rebates by that occurring.

The rebate program has two components. There's a Federal component that we, the State, still get to keep, and then there's a manufacturing side of the rebate program. We expected we would lose substantially when it went to the MCOs.

In the 16-17 budget, we ended up seeing very little change in our rebate revenue compared to when it was not under the MCO PDL. So in prior years we always got around 25 million. And what we saw in '16 and '17 is closer to that, in this case 23 million. So we underbudgeted by about 50% in both '16 and '17. So once the 9 million came in and we satisfied it, these

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transfers, these accept and expend in transfers are to bring in all the excess.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: So we look toward '18 and '19.

MS. ROCKBURN: Yeah.

SEN. SANBORN: Are we keeping the money or the MCOs keeping the money and how does that jive with the program with the contract?

MS. ROCKBURN: Sure, that's a great question. When -- the MCOs still control the PDL, at least for the '18 contract, because we are working with that. The '18 contract still allows for that. We projected in our 18-19 budget rebate revenue of 15 million per year versus 10 million. So we bumped it up knowing that we think the 10 million is still low as we go into '18 and '19. We are looking to see is the 15 still a low number. And we are going to get probably in the next week the latest March 31st quarter of information from rebates. We have been seeing a little decline each quarter of this year. We were expecting to see that impact sooner. So we are trying to see is 15 still the right number as we go into '18 and '19 or is it possible that that might increase a little?

In the House phase, the House had increased from 15 to 18 million as a rebate going forward for '18 and '19. And we haven't made that determination with our Senate Finance discussions yet.

SEN. SANBORN: Okay. Thank you.

CHAIRMAN KURK: Question on that.

MS. ROCKBURN: Hm-hum.

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CHAIRMAN KURK: What happened to fee-for-service? Do we still have any of that or we eliminated the 60-day choice provision?

MS. ROCKBURN: No, we still have that.

CHAIRMAN KURK: Would we save money if we eliminated that, forced people into Managed Care immediately and eliminated the fee-for-service?

MS. ROCKBURN: I'm not sure. I can ask folks back at the office to look into that. I'm not sure how much they looked or analyzed that. I know that we had proposed early on to try to shorten that window to do an auto enrollment on day one versus sort of extending it out. I'm not sure the Fiscal Impact of the analysis that was done. So I have to look to see what that looks like.

CHAIRMAN KURK: Further question. Would you be able to give us what it's costing us per member-per month on fee-for-service? I understand that's the wrong terminology. The concept is we would then have a number to compare with the actuaries per member-per month for Managed Care, and I don't know if those two are going to be comparable.

MS. ROCKBURN: Yeah.

CHAIRMAN KURK: But if they are, would be interested to know whether we are spending more or less on fee-for-service than we are for Managed Care. Senator.

SEN. PRESIDENT MORSE: I just want to point out, I equate this to gyms, you know, just 'cause my daughter signed up for gym and costing me a fortune. But under the MCO system, we are paying for everybody all the time. That's the biggest difference. And so if people don't use services, which I think is a report we want to get into this summer the, you know, which I know we originally drafted this to encourage the MCOs that they had to reach out to people. But if they don't use services, I'm sure the MCOs, I don't want to speak for them, but

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they've -- they make money. So it's a different -- you know, fee-for-service, we knew who was showing up, you know, 'cause we were paying the bill. The ones that weren't showing up, I mean, we didn't have anything to do with them.

CHAIRMAN KURK: If our fee-for-service costs are lower than our per member-per month charge for Managed Care --

SEN. PRESIDENT MORSE: Then something's really wrong.

CHAIRMAN KURK: We might consider whether Managed Care is all it's cracked up to be.

MS. ROCKBURN: So one of the things I just want to make sure I understand is that if we looked at fee-for-service what we are looking for, and I'm going to use the gym analysis, because I think it's a really good one, we are only paying for Sheri's services in the fee-for-service for maybe let's say 60 days. When you think about signing up for your annual gym membership, you probably utilize the gym a lot in that first month or two, and then it sort of falls off. So you may have a situation that the fee-for-service artificially might look high for the first month or two that someone enrolled, you know, in Medicaid. They came forward because maybe there was a health concern and they wanted to work with their doctor and then it kind of trails off. So I don't know, you know, I guess if I think about the gym, you're going for it, you're there every day for two months and then you don't show up again. So it may not be an apples to apples comparing those first 60 days to that rest of the year.

CHAIRMAN KURK: I'm sure Senator Morse is tracking his daughter's attendance and when it subsides substantially he'll cancel the membership.

SEN. PRESIDENT MORSE: I took Senator Morse's credit card off the account.

CHAIRMAN KURK: Representative Rosenwald.

REP. ROSENWALD: Thank you. Sheri, on Page 1 of Appendix B, almost half -- halfway down. The case management costs for elderly and adult you said that -- that caseloads are down, but the case management costs are up 15%. I thought case management was a fixed fee per client per day or per month or per something? What am I misunderstanding here?

MS. ROCKBURN: To be honest, Representative, I don't know how that case management fee works, if it's a per diem or versus per client. So I have to look back on that.

REP. ROSENWALD: Can you --

MS. ROCKBURN: I don't believe it's a per client which may be why we're seeing that; but I have to look at that. I'm not sure.

REP. ROSENWALD: Thank you.

MS. ROCKBURN: Okay.

CHAIRMAN KURK: Follow-up on that area. There are some extraordinarily high increases in costs per client for mid-level care 16%, and case management 15%, and then an extraordinary drop for home health services of 22.7%. What's happening? Why are our projections so far off?

MS. ROCKBURN: I think that's a great question. I don't have a great answer for you. I think I'd really have to talk a little bit more to the program. But what we are seeing in the CFI area is an increase in more utilization. But it's not -- it's very different from where we were in prior years. What I mean by that is our home health, which is the medical side of the CFI house, we are seeing some savings in, in this case about a million dollars of savings. But, instead, we are doing much more non-medical or home support services. So the overall CFI bucket hasn't changed a lot, but the mix of what the clients' either needs are or the requests that are coming in are much more non-medical care that's happening at the client's home versus a medical side of the care.

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CHAIRMAN KURK: And who makes the decision that these non-medical services in the home are necessary; the case managers?

MS. ROCKBURN: Primarily, the case managers.

CHAIRMAN KURK: How can they be kept under control?

MS. ROCKBURN: I think that's a great question. I think we are trying to work with that. We have a new -- maybe a year or so ago, two years ago we formed our Client Services Division within our Department so we are trying to look at ways to work with them, work with our program side of the house, and then see what additional oversight could we do with our case managers.

CHAIRMAN KURK: Same thing applies to Developmental Disability Services where the average costs went up from 44,000 to \$50,000. Extraordinary increase in a very short period of time.

SEN. SANBORN: Mr. Chair, that was from Lakeview.

CHAIRMAN KURK: You think that was strictly a result of Lakeview and now we are taking care of very high cost individuals and an even more high-cost setting?

SEN. SANBORN: That's what been explained to me.

MS. ROCKBURN: Yeah, I would agree with that. I think that's where a lot of it stems from.

SEN. SANBORN: Now we should probably understand that better because transferring full-time care is very, very expensive. You know, a high issue people to another -- the same group of people managed in care for somewhere else, why has it jumped so much? That might be a question someone needs to ask. But, in general, it's Lakeview.

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CHAIRMAN KURK: Okay. We have any more questions on 077? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

*** {MOTION ADOPTED}

CHAIRMAN KURK: We turn now to Fiscal 17-088, another request from the Department for authorization to transfer \$7,289,935 in General Funds and increase the Federal revenues in the amount of \$1,276,107, and increase other revenues in the amount of \$212,982 through the end of the Fiscal Year. Is there a motion?

** SEN. D'ALLESANDRO: Move the item.

REP. ROSENWALD: So move.

CHAIRMAN KURK: Senator D'Allesandro moves, seconded by Representative Rosenwald that the item be approved. Are there questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

*** {MOTION ADOPTED}

CHAIRMAN KURK: Thank you very much.

MS. ROCKBURN: Thank you.

(9) **Chapter 276:198, Laws of 2015, Department of Safety, Transfer Among Accounts:**

CHAIRMAN KURK: We turn now to agenda item number (9), Fiscal 17-078, a request from the Department of Safety for authorization to transfer among accounts \$86,000 in general/highway/turnpike funds through the end of the year.

** REP. EATON: Move approval.

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CHAIRMAN KURK: Representative Eaton moves the item be approved, seconded by Senator Sanborn.

SEN. SANBORN: But I have a question.

CHAIRMAN KURK: Who is recognized for a question. Is there somebody from the Department of Safety who can answer a question?

REP. EATON: Steve Lavoie.

STEVE LAVOIE, Director of Administration, Department of Safety: Good morning. Steve Lavoie, Director of Administration for Department of Safety.

CHAIRMAN KURK: Senator Sanborn has a question.

SEN. SANBORN: Steve, good morning, great to see you.

MR. LAVOIE: Good morning.

SEN. SANBORN: There's an irony in this request for me. We are asking for \$86,000 to buy active shooter kits. So I'm not sure how many people you're planning on shooting, which is my irony, but you're buying tourniquets and how much money is a tourniquet? I guess -- I guess, honestly, all kidding aside, I guess I'm not understanding where \$86,000 for shooter kits is coming in. Help me understand it.

MR. LAVOIE: Sure. So these are not just tourniquets but also sights, two different types of sights for the rifles that would be used in response to an active shooter situation. So this is equipping our State Police -- all of our State Police from the Troopers up to command staff.

SEN. SANBORN: Everyone getting new sights on their long guns?

MR. LAVOIE: Correct, correct. And there's multiple elements to this kit. This active shooter response kit has been

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something that we have been -- we have been purchasing over time over the last several biennium to ensure -- not several biennium, sorry, for the last two Fiscal Years to ensure that all of our Troopers are available to respond. So we have already purchased the vests that they need with the additional body armor protection, ballistic helmets. The sights are included here. There were lights that were purchased and then, also, the medical kit, holders for the tourniquets, and then the quick clot product with which acts in that same capacity. Really, with an active shooter response, the State Police first priority is to, obviously, find the target and deal with that as a first step. But since they'll be the first on the scene, they need to be able to address some of the health issues that might be -- that they might see while they're on-site as well.

SEN. SANBORN: Follow-up. And don't get me wrong, I want our boys and girls to be as prepared as they can be.

MR. LAVOIE: Hm-hum.

SEN. SANBORN: But why are we looking to buy the helmets one year, vests the second year, and sights the third year? Isn't there some package we'd be looking at that if we wanted to equip all of our people for active shooter situation that's dangerous to me that they're fully equipped?

MR. LAVOIE: The idea was that we equip -- we fully equip the force over time. So I probably didn't explain it correctly. It's not that we bought each component separately over the years, it's that we are equipping the entire force over the period several years.

SEN. SANBORN: Okay. Thank you. Thank you, Mr. Chair.

REP. WEYLER: Question.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: How many total kits?

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MR. LAVOIE: Total kits would be 345.

REP. WEYLER: Thank you.

CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Thank you. How is it we have got along so far without this and can you tell me instances where we have needed it but didn't have it?

MR. LAVOIE: We -- thankfully, we haven't needed this at this point in time. These kits are in response to the national trends that we've seen really into active shooter incidents. Last year, there were approximately 500 active shooter incidents, none in New Hampshire. New Hampshire was one of only a few states that didn't have an incident. And so the concern is not that what makes New Hampshire different or unique is and we're avoiding these but when will we have to respond to this particular situation.

REP. EATON: Not if but when.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Are we buying these also for municipal forces and sharing or is this just for our State Police?

MR. LAVOIE: No, this is just for our State Police.

SEN. SANBORN: I asked if we were buying to share with municipalities and --

CHAIRMAN KURK: I apologize. I was engaged in personal conversation. Further questions? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed?

REP. WEYLER: We need a motion.

CHAIRMAN KURK: I thought we had a motion.

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REP. WEYLER: Oh, I'm sorry.

CHAIRMAN KURK: All those in favor say aye? Opposed? The ayes have it and the motion is passed.

*** {MOTION ADOPTED}

CHAIRMAN KURK: We turn now to Fiscal 17-079, another request from the Department of Safety for authorization to transfer among accounts \$118,150 in Other Funds through the end of the Fiscal Year.

** REP. EATON: Move approval.

CHAIRMAN KURK: Is there a motion? Moved by Representative Eaton, seconded by --

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: -- Senator D'Allesandro. Discussion or questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it the item is approved.

*** {MOTION ADOPTED}

CHAIRMAN KURK: We turn now to 17-080, another request from the Department of Safety for authorization to transfer among accounts \$49,000 in General and Highway Funds through the end of the Fiscal Year. Moved by Representative Eaton, seconded by Senator D'Allesandro. Discussion? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

*** {MOTION ADOPTED}

(10) Miscellaneous:

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(11) Informational Materials:

CHAIRMAN KURK: Thank you, sir. Are there any questions about any of the information materials that we have?

SEN. SANBORN: Mr. Chair, I'll highlight to you that the Quarterly Refund Statement that's on there shows a pretty big aberration of refunds this month. I don't know you noticed that or not. Just keep an eye on the report.

CHAIRMAN KURK: Did you want to make a comment?

SEN. SANBORN: No, make a comment to you.

CHAIRMAN KURK: Further questions or discussion? Okay.

AUDITS:

CHAIRMAN KURK: We now turn to our Audits. The first one is State of New Hampshire Single Audit of Federal Financial Assistance Programs for the Fiscal Year ending June 30, 2016. Good morning, Mr. Smith.

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good morning.

CHAIRMAN KURK: I think we need a bigger table.

REP. EATON: We do.

MR. SMITH: Good morning. For the record, Steve Smith, Director of Audits for Legislative Budget Assistant Office. Joining me this morning from KPMG is Jayme Silva, the Partner on this engagement and Karen Farrell, the Manager. And, also, from Administrative Services Joe Bouchard, Assistant Commissioner and Dana Call, Comptroller.

This is the Audit that we have under contract with KPMG for it's called the Single Audit of Federal Financial Assistance

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Programs for the Fiscal Year June 30, 2016. So, with that, I'll turn it over to KPMG.

JAYME SILVA, Partner, KPMG, LLP: Good morning.

CHAIRMAN KURK: Good morning.

MR. SILVA: So before I get started on the Single Audit, again, my name is Jayme Silva. I'm the lead partner for the Single Audit, and to my right I have Karen Farrell. She's the Senior Manager also on the Single Audit.

So as Steve said, this is for the year ended June 30th, 2016. So this is a 12-month audit. And so from the standpoint this was issued the end of March. So this actually has a due date with the Federal Government at the end of March. So this was timely filed. We issued an opinion. And, actually, this gets filed with the Federal Government through the Federal clearinghouse, electronically filed. So was a timely filed report. And so what I'll draw your attention to, I'm going to pull into the Table of Contents. It's pretty lengthy, obviously, report. So we are just going to cover the main highlights of this report today. But from the Table of Contents -

CHAIRMAN KURK: Before you do that, could you unlike a good detective story, give us the final chapter and tell us is there anything in here that we need to be concerned about?

MR. SILVA: Yes, that's an excellent point. So from the standpoint, and I'm going to let Karen cover what you should be concerned about, from the standpoint and she'll cover the qualified opinions. And we'll give you the highlights of we audited this many programs for this many dollars. And then I'll let Karen do what -- not to be concerned about, the main highlights of this report.

CHAIRMAN KURK: My question is not about the highlights. My question is, is there anything in here that we as legislators need to be concerned about because we need to take action or we

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need to tell others that there's a problem area that focus needs to be brought to.

MR. SILVA: Yes, and that answer is no.

CHAIRMAN KURK: Thank you.

MR. SILVA: Okay. Fair question. So from the standpoint of what's in the report, what's in this report, and if you go to the Table of Contents I'll quickly cover this, is in Appendix C is the actual main financial statements and our financial statement team, Marie Zimmerman and Beth Clegg, they previously in a previous meeting they had covered the CAFR. So I'm not going to cover Appendix C. Now, in Appendix C there's actually a financial statement opinion, that's the first opinion that sits in here and that was dated at the end of January.

Moving on to the next appendices, Appendix D actually has two financial statement opinions or opinions. One is the internal controls over the financial statement, and in the next session the Management Letter Beth and I will cover that report. There's actually four significant deficiencies that relate to the CAFR or the financial statement. We'll cover that in the next session. This is really the single audit, but that report actually gets filed with the Federal Government. It's a standard report that needs to get in there.

The next report that's in the Appendix D which is D-3, is actually the Single Audit Report. And then we'll cover that for a second because Karen is going to get into that in one minute, for qualified opinions and et cetera, from that standpoint. And then, finally, Appendix E, is the CEFA which is the scheduled expenditures of Federal award, about \$2.3 billion that are covered. And what that is those are Federal grants or awards that were awarded in Fiscal or spent in Fiscal 16. They could have been awarded in '16 or '14. But those are the dollars that New Hampshire spent in Fiscal 16 that would be under audit. Not all of the awards, but a portion of the awards are under audit.

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And then, finally, Appendix F and G. F is the Summary of Auditor's Results and that covers current year findings. And the Appendix G is prior year findings. So before I give it over to Karen to cover really D-3 and a bit in F, this used to be called the A-133. And so the Federal Government changed some of the rules and regulations how we audit. And so now they call it the Uniform Guidance which is just a name change. What I can tell you is part of the regulation though turned, you know, some additional auditing to certain programs. I'll give you just a for instance.

A sub recipient monitoring is when the State of New Hampshire passes money to another agency, et cetera. So there was more prescribed procedures that, let's say, the State of New Hampshire, other, you know, Federal agencies had to do and it turned on additional audit procedures for us. So there was a change that happened June 30th, '16, for this audit. That I'd say, you know, there was additional procedures we needed to do for certain programs that changed, just not the name, but how we audited in this area. Just as a backdrop. So questions?

CHAIRMAN KURK: I'm sort of smiling because I need to say this. I've spoken to Mr. Smith about this for a long time. We are sort of like the Board of Directors. We hire good people to manage different divisions. They report to us. We operate sort of on the principle of exception. If there's a problem, we need to know about. If there isn't, thank you very much. We don't need to hear all the detail. You guys have done your jobs. We are very pleased. We will give you your check and then we can go on to doing whatever else we have to do.

MR. SILVA: Okay.

CHAIRMAN KURK: I know that you're absolutely thrilled with what you've done. This is something that really turns you guys on.

MR. SILVA: Yeah, that's true. I'll give you that. Yes, yes.

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CHAIRMAN KURK: And you're very pleased with how well it's done; but from our point of view, okay --

KAREN FARRELL, KPMG: Yes.

MR. SILVA: That's fair.

MS. FARRELL: Okay.

CHAIRMAN KURK: I just need to say this because take a look at people who are voting with their feet.

MR. SILVA: Right.

CHAIRMAN KURK: And we are very polite on this side of the table, as is Senator Daniels, but that's the reason. Because as soon as you tell us, okay, we've done our job, there's no problem. Have a nice day.

MR. SILVA: Okay.

MS. FARRELL: Okay. Maybe we can just point in the opinion on D-3. Just briefly. I know you want to go. But I would like to point out maybe some more severe findings that we did find. And those are called qualifications to your opinion, right, where we can't -- where we can't say that you materially complied with this specific compliance requirement. So if you look at it's actually on D-4 there's a table. And in this table the findings are referenced. So you can take a look at these at a later point.

CHAIRMAN KURK: Did you say D as in dog four?

MS. FARRELL: D as the dog four. And so these are in the table are the program names and the specific compliance requirement that you did not materially comply with. And starting on F-18 is where those findings would be referenced where they would reference the narrative. And then this compliance has to do with, you know, did they comply with things

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such as allowable costs, sub recipient monitoring as Jayme had said.

Another significant part of this opinion is what we identify as material weaknesses and those are control deficiencies such that if you have a control deficiency that's labeled a material weakness, it basically means that it's not operating effectively or was designed appropriately in order to stop a material non-compliance from happening. So those are also significant. And those are listed on D-6 at the top of the page.

The others are just other non-significant or other non-material compliance items or significant deficiencies which also merit your attention but aren't as significant as the material weakness and internal control. So if you -- you wanted to at some point later focus in on some of those that's where you should look.

CHAIRMAN KURK: When you're telling us about these things, are you also telling us that our folks are aware of this and are dealing with it so we can go about our business or you telling us it's not being dealt with and we need to get on Mr. Bouchard's case to make sure that this is being done?

MS. FARRELL: Right. So in the F section where the findings are, there's also corrective action plans that the agencies write. And they'll include implementation dates and who's responsible. So we don't audit those, but what we do do the following year when we come back is review those against the corrective action plan and make sure that they are implementing them.

There are some findings that are repeats. So it's not as if, you know, it's kind of the process for implementing it and correcting the issues is followed through the year. As Jayme had mentioned, there's also a prior year section so you would see the history of the 2015, 2014, and 2013 findings.

CHAIRMAN KURK: Is there some of these things that we need to be concerned about that are not being addressed in a timely manner or are being -- not being addressed to your satisfaction?

MS. FARRELL: I believe that they are being addressed. Sometimes I think it takes a little bit longer than, you know, the audit would like to see. But I think that they're definitely being addressed. There's also more, I believe, of a push for them to address the findings timely because of the changes in the Uniform Guidance that Jayme had mentioned. The Uniform Guidance now instead of just having any kind of finding you require an audit. You're deemed to be a high-risk program. Now if you have less than a material weakness or no qualifications, then you don't necessarily need to be audited the following year, just once every three years. I think the agencies are seeing that and, obviously, don't want to be audited every year. So they are trying to make sure they're correct in their deficiencies.

CHAIRMAN KURK: How successful are they so that they're only audited once every three years?

MS. FARRELL: This happened some. It's happening more and more. Last year we audited 27 major programs. This year we did 21.

CHAIRMAN KURK: Does your fee change with the numbers that you audit?

MS. FARRELL: It does.

CHAIRMAN KURK: Hm-hum. So eventually you're out of a job?

MS. FARRELL: Well, we still have to audit the programs once every three years so.

MR. SILVA: We are not totally out of a job.

MS. FARRELL: Not totally but some.

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CHAIRMAN KURK: Okay. We should be pleased with the fact the numbers have gone down.

MS. FARRELL: Yes.

CHAIRMAN KURK: From 27 to 21.

MS. FARRELL: Yes.

MR. SILVA: Representative Kurk, to answer your question, too, is Management knows about these comments because they read the comments, respond, so there's a large book, but they do know about the comments. They've responded and they, I think, 98 or within 100% they recognize the comment. They agree. And they're saying, you know, we are going to do this or we need more people or there's a reason, not an excuse, but a reason how they're going to improve it, whether it's next year or the year after, how they want to address it. That's what the Federal Government is after.

CHAIRMAN KURK: Do you have a report for us that says Mr. Bouchard needs so many people here and so many people there or we have to rely on Mr. Bouchard coming forward and telling us in order for me to meet the requirements I need one more person in this particular Department.

MR. SILVA: That would be the latter. Yes. Correct.

CHAIRMAN KURK: Mr. Bouchard will be doing that.

JOSEPH BOUCHARD, Assistant Commissioner, Department of Administrative Services: Yes, sir.

CHAIRMAN KURK: Thank you. Questions?

REP. EATON: Will we be doing our part?

CHAIRMAN KURK: That's, hopefully, part of the budget.

REP. EATON: Yeah.

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CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Thank you. Is there any way that on the charts you gave us on D-4 that you can put a notation in there that this is a repeat thing from the year before or two years before? It would be -- I think would be helpful for us if we could see it on one page. That way we could go back to previous years and maybe it hasn't been fully completed.

MS. FARRELL: Right.

SEN. DANIELS: Maybe there has been progress made. I think that would be good to know.

MS. FARRELL: That's a good point. If you do, if you want to see that for this year though, it's in the actual narrative of the finding. It's a required statement that the Feds --

SEN. DANIELS: I was looking for something I could quickly look at.

MS. FARRELL: That's easier.

MS. CALL: We could probably provide that, too.

CHAIRMAN KURK: Maybe you can even put some relative values on this by talk -- by a letter or grades which says which are more important and which -- which have been delayed for so long that you really have doubts about the credibility of the Agency's comments that they will do something about it, and putting it on a single page like this, because you could hear from my remarks that would be extremely helpful.

MS. FARRELL: Okay. We'll work with DAS.

CHAIRMAN KURK: You understand that while this isn't pressure to you, this is daunting to us.

MR. SILVA: We understand that.

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REP. EATON: He wants the Readers Digest version.

MR. SILVA: Executive summary.

CHAIRMAN KURK: A summary of the executive summary.

MR. SILVA: Understood, Representative Kurk.

MS. FARRELL: Okay. Thank you. Maybe Beth could up and make some comments.

MR. SILVA: Any other questions on the Single Audit?

CHAIRMAN KURK: No, because you told us we don't need to worry.

MS. FARRELL: Okay, thank you.

CHAIRMAN KURK: And this is exactly the way it should happen.

MR. SILVA: Sure.

CHAIRMAN KURK: Really. This is -- everybody gets what they need out of or she needs out of this.

MR. SILVA: Understood.

MS. FARRELL: Terrific. Thank you.

CHAIRMAN KURK: Mr. Bouchard, would you like to comment or did you want to discuss how many new people you need?

MR. BOUCHARD: Not at this juncture. No, thank you, Chairman Kurk. I would like to say that this is -- I'm the least accounting-driven individual that's sitting around this table right now, because we have great respect for the people that know how to do these things and very thankful for, obviously, the work with KPMG and Steve Smith and his group. I want to -- a

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wonderful job, I think, with our group Steve Giovinelli and Karen Hammond who work with agencies to continue to stress the importance of their Federal programs, and we have a clean method for spending those monies so. But those are the only comments I can make and I thank you for having us here today. Dana, anything to add?

DANA CALL, State Comptroller, Department of Administrative Services: No, we'll talk more about the next topic.

MR. BOUCHARD: Thank you.

CHAIRMAN KURK: Thank you very much. And our next audit is --

REP. WEYLER: Make a motion?

CHAIRMAN KURK: Oh, thank you. Representative Weyler is recognized for a motion.

** REP. WEYLER: I move we accept the report, place it on file, and release in the unusual manner.

CHAIRMAN KURK: Seconded by Representative Eaton. Discussion? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is accepted.

*** {**MOTION ADOPED**}

CHAIRMAN KURK: The next audit is the State of New Hampshire Management Letter for the Fiscal Year 2016.

MR. SMITH: Thank you, Mr. Chairman. The only player that's changed up here is Beth Clegg. She was the Manager on the CAFR audit. And so this Management Letter is a byproduct of that -- of that audit, so.

MR. SILVA: Thank you. So thank you once again. Good morning. So I have Beth Clegg to the right of me. She was or

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still is the Senior Manager on the CAFR, the financial statement audit. Marie Zimmerman couldn't be here today so I'm filling in with her; but I've been in long history with the State of New Hampshire.

So two things to talk about today, and one is actually sitting on -- in the -- still in this yellow book, is the actual report on internal controls over financial reporting that are referred to in D-1. And so my brief comment here is there's actually four -- four significant deficiencies that relate to the CAFR. And the significant deficiencies that sit in here relate -- two relate to system, systems, one relates to capital assets, and one relates to sort of financial reporting. And so the details for anyone, we are not going to go through the details today, but if you -- for your viewing pleasure or for your reading it's sitting in F-6 to F-16. I guess I quantify these -- these do not rise to the level of material weakness. So we have material weakness, significant deficiency, or control deficiency. Those are the levels that we can live with in accordance with professional standards. And for each of these four they stand on their own, but we deem them significant deficiencies. So they didn't arise to the level of material weakness, meaning they were so severe that they were at the highest point. But they were lower than -- but they weren't -- sorry, they weren't control deficiencies meaning they were just a normal deficiency that sort of met for bad work in the middle.

CHAIRMAN KURK: Are they being addressed?

MR. SILVA: They are being addressed.

CHAIRMAN KURK: To your satisfaction?

MR. SILVA: Beth.

BETH CLEGG, Senior Manager, KPMG,LLP: Yes.

MR. SILVA: And then I'll let Beth just -- and so from the Management Letter --

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CHAIRMAN KURK: One other thing. Is there something that we as legislators need to do to facilitate the, quote, addressing, unquote, process.

MS. KLEGG: I don't believe so. Management is aware of these issues. They have been working to address and remediate them. So we have no concerns at this point.

CHAIRMAN KURK: Thank you.

MR. SILVA: The other item is the Management Letter which is not part of this book so we can slide this book away. It's a ten or 12 page letter. So what this letter does is list -- this letter addresses control deficiencies. So now we are taking material weakness and significant deficiencies off the table because those are required to be reported in the opinion, so these are controlled deficiencies. And I call them Observations. So they don't rise to the level of severity. And so this is a required communication that we also do with Management and also to the Committee today that we are going to report to the Management Letter. So what I can sort of capsulize the deficiencies is they're related to accruals. I don't want to say just housekeeping, accruals related to health and benefits, succession planning and some other system related type items that just noteworthy just to say there, and I guess I'll stop there, unless there's questions, without going into further details on these.

CHAIRMAN KURK: I agree with you that we have a major problem with succession planning. We have a very lean government. We don't have multiple people performing the same task at different levels in their career. And so when a controller leaves, we have got a problem. Are you -- I read this succession planning document, and I can't tell from it whether it's a bunch of words or whether it's something that's real, and I can't tell -- and I don't know how it's being implemented. Do you have any comments on that?

MR. SILVA: So I'll handle our side and I'll hand it to DAS. So from the standpoint succession planning, we believe as we echo your comments that when someone leaves there's not always somebody that can come into play. I mean, that's like a comptroller leaves or the Commissioner leaves, it's not a step up like at my firm, if I left, Karen Farrell could easily step in. Just the way the structure my firm works. So from the standpoint we feel that there's been -- I've been here four or five years now as part of the State of New Hampshire and there's been -- there's been turnout that comptroller level, I think, almost every other year, pretty much is my observation. So I can see that --

CHAIRMAN KURK: That will not continue.

MR. SILVA: Actually, we would like that, even though it makes our job easier, Representative Kurk, from the Single Audit and from the CAFR. We would second that, even though I can't, I understand, for this meeting. But from the standpoint we believe that there's some action items in here. Maybe it's not spelled out specifically. There should be action items from DAS or the State of New Hampshire how they can sort of remediate that, whether it's grooming people to come step up or others in the organization that could step in from other agencies that could do the DAS, which has happened before when Gerard, you know, stepped in from budget. You know, they brought him in to be the Comptroller.

So from the standpoint, there is action items. This is an Observation that we see. This is -- you can tie also this in some of the late financial reporting that's in that significant deficiency that's buried sort of in here. That's a bad word, but that also ties into the delays on the CAFR, I think, result some of the succession planning, right? They sort of go hand in hand. I know I answered that in a roundabout way from KPMG standpoint. Does that help?

CHAIRMAN KURK: So next year will you be able to tell us whether our succession planning has worked? That is to say, we are making progress or there is no progress?

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MR. SILVA: Yes, we'll give an update on that. Correct.

CHAIRMAN KURK: And Mr. Bouchard knows this that next year there's going to be some sort of a judgment on how this effort is proceeding.

REP. EATON: We already ordered handcuffs for Dana's chair.

MS. CALL: Well, yeah. There's DAS as a whole and then there's our division.

MR. BOUCHARD: The short answer is I'm very aware of the importance of succession planning and every aspect of the financial community that we deal with every day starting with the Comptroller down through our partner agencies, and what they have to do to meet the deadlines for compliance with the timely CAFR and all the work that goes into their sub -- a clean close at year end.

We work with -- we are working with time lines that start from a day-to-day perspective at Administrative Services for the close to hour by hour as we close the year out all the way to September. And we have already had meetings with our partner agencies around some of the deadlines that have to be pulled back so that we are able to meet our -- clean reports that are handed over September 30th. So, with that, I will say the succession planning world is a high importance of our former Commissioner. We started telling acquisition management with the other Commissioners and with project manager in our Department to work toward the end of trying to mitigate how we -- how we bring talent into the state and we start building a bench so that when people do retire we have the ability to not step backwards.

CHAIRMAN KURK: I hope that's on your checklist for the new Commissioner.

MR. BOUCHARD: It is very --

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CHAIRMAN KURK: So he continues that and accelerates it.

MR. BOUCHARD: Very high on the list.

CHAIRMAN KURK: Thank you. Did you -- is there anything else in here you'd like to bring to our attention, because this was a rather thick management letter this time.

MR. SILVA: Hm-hum.

CHAIRMAN KURK: Not just the quality of the paper, but I mean the length of the letter.

MR. SILVA: Understood. There was nothing else unless there was questions on any of the comments themselves.

REP. EATON: I have got one for Mr. Bouchard.

CHAIRMAN KURK: Sorry?

REP. EATON: I have one for Mr. Bouchard.

CHAIRMAN KURK: Representative Eaton.

REP. EATON: Do you know off the top of your head how long it's been since the State of New Hampshire has done a top to bottom update of comparison in salaries of State positions versus public sector and made an adjustment?

MR. BOUCHARD: Hum -- actually, I believe it was in the eighties that the collective -- that the full classified system had a full review. That's only that I'd done some research for the incoming Governor a while ago. It's been some time.

SEN. D'ALLESANDRO: Been a long time.

CHAIRMAN KURK: The salary is just one and probably not the most significant reason why we have a succession planning problem. We have an aging workforce.

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SEN. D'ALLESANDRO: Exactly.

CHAIRMAN KURK: Is it 60% or something like that can retire legitimately within ten years or five?

MR. BOUCHARD: Within five years. That's a solid number, I believe.

CHAIRMAN KURK: Within five years and the problem results because our State workforce is not expanding. It's been contracting or stable at best over the past 10, 15 years. And as a result, we haven't -- there aren't enough people moving up to deal with everything that the current crop of senior managers is dealing with. To some extent, we are the victims of our own success in terms of reducing the cost of government. We have done that reasonably successfully, but there's a price that may have to be paid. Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. You know, I've been sitting here for a long time, and the one thing that we say year, after year, after year, is always succession planning. That's been on our plate for a long, long period of time. But it seems to me, based on all the information that we have been gathering and listening to our colleagues here, someone must look at State Government and look at the composition of this workforce and designate how many are ready to move out of this workforce. We say 20%, we say 30%, but we have no idea of what that correlates to in terms of numbers. I mean, a legislator should have that -- that knowledge. How many are getting ready to leave, how are they going to be replaced, and what is our plan? That's, in effect, to do that. Because if -- if a significant segment retires, as happened to us when we changed the retirement policy, we had a mass exodus at that time, and we were presented with that here at these meetings. We knew they were going and yet we just talk about it. We don't do anything about it. And I'm talking about in a planning process.

We read all these documents and year, after year, after year there's a line that's fairly constant in all of these reports. And, to me, succession planning has been -- has been a

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real issue that we have just never really addressed in a complete, concise fashion. That -- I have been around here a long time, and my succession is coming. I'm moving, you know, in another direction. But, indeed, if we don't do that, we are going to have a situation like we had -- we lost our Comptroller. We lost our Commissioner of Admin Services yesterday. And the Comptroller situation, we have been looking for Comptrollers like Carter looks for liver pills, I'll tell you that. How many Comptrollers have we had? Sheri was a Comptroller at one time. So I think this is something, Mr. Chairman, that we really, we as legislators, should pay strict attention to. What is the plan? I mean, we manage it from the operations level, in terms of the funding, et cetera; but, indeed, if we don't have people to carry out these responsibilities, shame on us. We really got to work on this.

CHAIRMAN KURK: Does our succession planning involve identifying particular positions which are critical so that we, and for each position, the Commissioner has individuals in mind who will take the place of that person if he or she leaves, dies, retires, whatever? Do we do it at that level so that -- sorry to pick on the Comptroller. If this Comptroller should choose to leave, does Commissioner Quiram or former Commissioner Quiram have somebody in mind to fill her slot? Do we do that?

MR. BOUCHARD: I guess the short answer is no, we don't. It's -- the nature of -- and I can't speak for other agencies, but the nature of what occurred when we went into the Great Recession and 500 positions were eliminated from State Government. There was a bench there that people decided we'll just have to get along with it so we don't lay folks off. But our bench has been depleted to a point where we are trying to build it back, Representative. And so that -- that's -- we had a -- we had a talent acquisition group that was looking strongly at this problem of retirees, the silver tsunami that's spoken of across the nation in the workforce back in 2008 and 9 and Fiscal issues caused that to be a no starter, because we had to cut government. And we lived through that and I think now's the time for us to re-evaluate it again with another group -- good set of

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new eyes. But the answer is, until we build -- until we do just what you say, each Department that has a financial responsibility --

CHAIRMAN KURK: This is not just financial people. It's key people, key managers.

MR. BOUCHARD: It is key managers, but it's also we talked about the Comptroller and the importance of what's going on here today with CAFR reporting. Every agency has to have somebody to step up or see a career path that they will stay in a department and potentially move there when somebody does move on. And without that vision, they're not there. So we totally agree that we need to look hard at this. And I think the new Commissioner understands that as well.

CHAIRMAN KURK: Could the new Commissioner, if he were of the mind to do so, require his fellow Commissioners to develop this plan and have specific positions determined to be crucial and specific ways of cross training, finding other people who are subordinates who could move up so should that person no longer fill the position, the key position, that Commissioner knows what's going to be done to deal with the function of that position he performs.

MR. BOUCHARD: Definitely that's -- that's a possibility. And I think the initiative to create a central process management and innovation group in Administrative Services that Commissioner Quiram started, is -- which is part of the -- one of the statutory requirements of our Department is to look -- look for improvements and efficiencies in State Government, but also ways of doing things better. It sits with us to reach out to those agencies as the leadership role through our Division of Personnel, which is our personnel group, to work on a statewide project which does those things you're talking about.

CHAIRMAN KURK: Let's do it. Let's not just have Task Forces and meetings, but let's get it done by --

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MR. BOUCHARD: It's start with our one person we have right now. But we didn't have one person two weeks ago. So we have a --

CHAIRMAN KURK: We'll charge you to inform the new Commissioner of his responsibilities.

MR. BOUCHARD: Understood.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: I was recently asked by one of my colleagues why do we have such an increase in consultants. And I said this is by way of transition for many of our retirees. They leave and there's nobody there to take their place. They agree to come back as consultants which saves us money, even if we go up 20% in their pay, especially with 67% about to be occurring at benefits for any employee, so that that is a way that we do it. And while that person is in a consulting status, we either rearrange those jobs or they train a replacement. And I have to congratulate Mr. Kane and Mr. Smith for training so many of the financial managers that I see in the state everywhere, so.

CHAIRMAN KURK: The more he trains, the more he loses.

REP WEYLER: Well, at least he's working on it. He's the dean of the college and I guess you're the provost. So keep up the good work. We do get some good people that way, and at least that's going on continuously.

CHAIRMAN KURK: Representative Umberger.

REP. UMBERGER: Yeah. And this may be not for discussion here, but one of the things that may be just typical of New Hampshire, but the Governor appoints down pretty low in some organizations. And so I don't know if that is, you know, another issue, not that you can solve it; but, you know, that we -- we may be with our structure of how far down appointments go cause some of this -- this planning -- succession planning process. I don't know. I just bring it up as a thought.

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CHAIRMAN KURK: One last item. Page 10, item two. The GASB standard on OPEB. I'd like to remind the folks who try to calculate this amount that we do not have any legal obligation to provide post-employment benefits. They are subject to appropriations. And while we have a history of doing it, we also have a history of reducing the value of those benefits. So when you comply with this, the answer would be in my -- from my point of view, is the value of those benefits going forward is zero because there's no legal obligation to provide them. It's at legislative will. I understand that accountants seem to look at past history and extrapolate. Make sure when you extrapolate you recognize what our past history has been. As I say, I think the appropriate number is zero, but I'm not an accountant.

REP. EATON: Can I follow-up where I was in the follow-up because it was sort of sidelined with Mr. Bouchard. We haven't done this since 1980 of comparable salary benefit comparison, and we are told constantly that there's no workforce. So you're going to have to reach out to other areas. Would that -- I know NCSL says you should be doing that every three years. Would that assist in laying a foundation to attract workforce in to fill these slots? They're going to become readily vacant in five years.

REP. UMBERGER: Isn't that what we do the Hayes report?

REP. EATON: It's not the same.

MR. BOUCHARD: I think the evaluation that doing the study starts the State on the right foot. It's a -- I don't know what the number is, but there was a number that we were pulling together to do a full study. It's -- and I can't quote it off --

REP. EATON: Cost 17,000 to do the Legislature five years ago.

MR. BOUCHARD: But I would caution you. The classification system of the State is 35 layers of stratified payments. Each individual has a grouping, whether you're an Accountant I, II,

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III, IV, V or VI has a different supplemental job description. It is a full review from soup to nuts of every position in the state and it is not something that just to take lightly nor how long it would take to do it. The evaluations of the grid are tied on 1980's criteria, where there was a lot of weight put on how many people you supervised versus not the world we live in today which is the technical nature of the people we hire. So it's a different -- it is -- it is an orange and apples relook at it. So it's a bigger -- it's a bigger bite of the apple to take than you can imagine, so.

REP. EATON: But worthwhile.

MR. BOUCHARD: It needs to be done at some point.

CHAIRMAN KURK: But, remember, at least in this economy what happens when the State said we need to do something to make sure we attract and retain nurses. So all the nurses got a 15% increase. The next day Concord Hospital put an ad out in the paper. Hey, we are giving a 20% increase. So the net effect was to give nurses a lot more money but no nurse, necessarily, came to the State as a result of us spending this extra money. So that's number one.

Number two, and this is a personal view, there's a certain value set of a person who wants to work in public service and that value set does not value money as highly as, for example, the two of you value money when you work in the private sector. We could never pay our people enough to prevent you, if money was their objective, from coming to work for KPMG. Your salaries are so far superior, there's no way we could afford to pay it.

So the people that are working now for the State who are really working and are concerned about money, there's no salary scale that we could make it look attractive. They're going to work for you and you will pick them off one by one and smile as they come back here at three or four times their salary and do your job that they used to be doing for a quarter of the salary. So we offer something that isn't necessarily monetized, and we have to recognize that. And while the salary scale has to be

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reasonable, because people have to live, I don't think the salary scale is what is going to help us out of our succession planning issue.

REP. EATON: Well, I would respectfully disagree.

CHAIRMAN KURK: Okay. As I said, this is my -- and I understand others disagree. Anything else on the Management Letter? Representative Weyler is recognized for a motion.

** REP. WEYLER: I move we accept the report, place it on file, and release in the usual manner.

CHAIRMAN KURK: Seconded by?

REP. UMBERGER: Second.

CHAIRMAN KURK: Representative UMBERGER. All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved. Thank you very much. We appreciate this discussion.

*** {MOTION ADOPTED}

MR. SILVA: Thank you.

CHAIRMAN KURK: The next audit before us is the Highway Fund Management Letter for the Fiscal Year ended June 30th, 2016.

MR. SMITH: Thank you, Mr. Chairman. I'd like to introduce Pam Veeder. She was the Manager on the Highway Fund Audit. The financial statement themselves were presented in an early meeting. So this is the Management Letter related to that financial audit. So then I'll turn it over to Pam.

PAM VEEDER, Senior Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, Members of the Committee.

CHAIRMAN KURK: Good morning. Thank you for being here.

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MS. VEEDER: Thank you. For the record, my name is Pam Veeder, and we have the Highway Fund Management Letter, which holds six comments. And you turn to the Table of Contents, get a quick look at that, you'll see there's one material weakness and three significant deficiencies in internal control and two state compliance comments.

At the bottom of the page on the Table of Contents you'll see a notation that the two compliance comments suggest legislative action may be required. We are going to talk about those two comments in just a minute.

Because there were three departments involved in the financial audit, the Department of Administrative Services, Department of Transportation, and Department of Safety, you'll see in the responses to each comment that respondent identified so you'll know who's responsible for the response.

Page 1 and 2 is the report on internal control, and I just mention this because we have definitions of material weakness and significant deficiency bottom of Page 1 on to Page 2. And those -- those definitions provide the framing that we use to categorize our internal control comments.

Moving to Page 3 is the first comment, which is a material weakness over financial reporting. In that comment is noted during the course of the financial audit we identified the \$29 million over statement errors and \$22 million classification error that's described there at the bullet. And as noted, again, in the comment, we brought the errors to Management and they corrected the financial statements. So to decrease the risk of material misstatements in the financial statement, recommend that Management take a look at strengthen its financial reporting procedures with an emphasis on the identification and the recording of any adjustments to the financial statement.

The next comment is on Page 5, and it's about fund balance reporting. And here we found that Management did not fully document its fund balance analysis in the preparation of its

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2016 Highway Fund financial statements. Fund balance amounts are to be classified by the level of constraint imposed on how amounts in the fund balance can be used. And while much of the Highway Funds revenue is restricted for use by either the State Constitution or Federal funding, it warrants the reporting of the related net resources in a restricted fund balance. There's some Highway Fund revenues that don't meet the criteria for reporting in that restricted fund balance. So we recommend Management perform and fully document review of the classification of all Highway Fund revenues and the related expenditures to help ensure the accuracy of the classification of fund balance amount based, again, on the strength of the constraint, whether it's constitutional or budgetary so that it will be clear how specific amounts in the fund balance can be used.

On Page 6 is the next comment, and it speaks to the need for the Department of Transportation and Department of Safety to establish formal risk assessment processes and fraud risk management programs. While both departments employ risk assessment practices, as we described in the comment, we recommend formalizing the processes and supporting the processes by written policies and procedures. Due to the reason being the risk assessment process is a very critical process to designing controls, responsive to risk, and in managing operations.

On Page 8 is the last internal control comment, and we found during our payroll audit work at the Department of Transportation, we noted weak password protocols for access to the Department's payroll system. And we recommend that the Department establish strong password practices that include complex passwords and regular change.

On Page 10 is the first compliance comment, and it's on the Department of Transportation's allocation of Highway and Bridge Betterment Funds. And the source of Betterment funds is a portion of the Road Toll levy to be used for the purpose of highway and bridge work across the six Highway Districts of the state. The allocation of funds is set in statute and based on the number of miles that certain types of roads in those

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Districts and the number of certain kind of bridges in each District. While we found the calculated allocation to six Districts was in compliance with the statutory formula, the actual amounts expended did not align with the statute. And we depict that if you look at the percentages allocated, we would have expected for expended if they -- if the statute had been complied with, those percentages would approximate the allocated expenditures. You can see that there's -- there's a difference between allocated expenditure and expended percentages.

So we recommend the Department either comply with the statute, or if compliance isn't in the best interest of the Department and State, seek to amend the statute.

On Page 11 is the last comment and here we noted the Department of Safety had not adopted administrative rules for certain motor vehicle registrations as required by statute. And so we recommend the Department adopt the rules or if adoption is not in the best interest of the Department and State, seek to amend the statute.

And that finishes up the audit comments. And then we are in the back of the book at the Appendix, which is Management's Summary of the Current Status of the Audit Findings from the 2005 Audit of the Highway Fund and the 2009 Audit of the Road Toll Bureau. And as the status showed with all the black dots that there's a good deal of resolution of the prior findings; and that concludes my presentation.

I'd like to thank the Management and staff of the Department of Administrative Services, Transportation, and Safety for their assistance during the audit process. I'd like to thank you, the Committee, for your time. We'd certainly be happy to take any questions.

CHAIRMAN KURK: Thank you. Why don't we first hear from the Department, and then we can raise questions.

MS. CALL: Thank you. I think I just want to echo what we talked about when we presented the actual financial statements

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for the Highway Fund is that this was a joint effort by DAS, Safety and Transportation. My counterparts are here in the room for any specific questions. But we definitely worked together. This was a little bit of a unique type of audit where three agencies came together to prepare the financial statements.

Observations 1 and 2 are really under the DAS umbrella, because we are the point, I guess, the stopping point for the financial statements in terms of pulling everything together. And we did want to recognize that we are taking steps to correct these errors and correct the process so that we don't have these types of errors going forward. So we have already initiated.

A lot of this stems from what we produced as of 9/30. So as Commissioner Bouchard mentioned, we have got a timeline. It's very tight at the 9/30 time frame. This was sort of a result of some of that lack of internal review that we just -- if we don't get agency information quickly we, you know, we are putting it altogether at the end. So we are working to push all of our timelines back on our own, and we are meeting with every significant agency and enterprise fund right now to do that, not only for the Highway Fund but for the CAFR itself so that we give ourselves adequate time to do our own internal reviews and catch our own errors so that, obviously, LBA doesn't have to or KPMG doesn't need to catch those for us. So that's our initiative right now. We are moving forward on that track. And you all have been instrumental in pushing that theme of we need to get things sooner. So we appreciate your help in that.

CHAIRMAN KURK: Thank you. Do the -- does the Highway Department wish to add anything? They're in the audience but not at the table.

CHRISTOPHER WASZCZUK, Deputy Commissioner, Department of Transportation: For the record, my name is Chris Waszczuk, Deputy Commissioner, Department of Transportation. And thank you for the opportunity to comment. From the Department's perspective, we are in agreement with the Observations. I think this was a fair audit. I think if you look at what our -- the number of Observations that occurred back in 2005, the

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Department's come a long way in terms of addressing a lot of the financial issues that have occurred.

Relative to the compliance issue on the Betterment Program, we are seeking some changes in legislation to, you know, in essence, address what has become an inequitable condition on roads statewide as we look from District to District. You know, some of the -- if you strictly go by the Betterment formula, we'd be putting more money into District 5, which has the best road in the state, and it's just the way the Betterment formula is calculated. It doesn't account for the prices that come in during the bid process. It doesn't account for the actual work that's being done as opposed to being designed and estimated upfront. The work up in District 5 is much, much more expensive than it is -- excuse me -- the work up in District 1 in the North Country is much more expensive than the work that is being done in Districts 5 and 6. So those kind of disparities, I think, skew the amount of monies that are being spent in the different Districts.

We are trying to establish equity from a condition standpoint across all the tiers, whether you're in District 1 or District 5. So that's where we are trying to move the Betterment Program and change the legislation to account for that.

CHAIRMAN KURK: Thank you for that. Doesn't your solution not solve the problem? By that I mean this. As I understand the solution, the only thing that the auditors will look at next time is the allocated percentages. I'm on Page 10 of the report, the chart there. That's my understanding of the proposal. So the next time we have this audit, the expended columns will not be there, because the criteria only is what you budget.

MR. WASZCZUK: Correct.

CHAIRMAN KURK: So won't we have a situation where we have even greater disparities, based on the Department's consideration? So as a formality everybody gets -- every division gets what it's supposed to get. The reality is the Department itself can put the money where it wishes to. Is that

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a good approach for both budgeting, auditing, and as a practical matter the Divisions? If I misunderstood it, please let me know.

MR. WASZCZUK: The Department is open to clarifying the legislation, the amended legislation for the Betterment Program. But the way I understand it, what we're trying to do is dedicate 70% of the Betterment Funds that would be allocated according to the percentages that exist in statute, and the remaining 30% would allow some float to be done to account for the condition that -- that -- the disparity that exists elsewhere. So, for example, we could dedicate more of the funds to the poor roads in the other Districts. So we're still committing 70% of the funds to be in accordance with the allocation; but the remaining 30% would allow the Department to have discretion. And it's based on the budget right upfront, and it will not account for increase -- differences in bid prices. So, for example, if bids come in higher in one District than another, then that's something that would not be accounted for the way the amended statute is written.

CHAIRMAN KURK: Representative Eaton.

REP. EATON: So -- and I'm sure there are folks here will disagree with me -- I think the whole system is antiquated. I understand the District system, but in a lot of ways I think it's kind of silly. What you're attempting to do in what I believe is a very narrow track with the bill being proposed, it'll go outside these parameters, is to provide parity of quality statewide in the highway system.

MR. WASZCZUK: Yes.

REP. EATON: Is that the end-run goal?

MR. WASZCZUK: Right.

REP. EATON: And might there be a better way to accomplish that by even greater challenge or greater flexibility in percentages at a more rapid rate?

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MR. WASZCZUK: Yes.

REP. EATON: Thank you.

CHAIRMAN KURK: Is the bill not in Division III?

REP. UMBERGER: No.

CHAIRMAN KURK: Division II.

REP. EATON: It is. It's 70/30 and actually would be better if it went 60/40 or 50/50.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Well, I think --

REP. UMBERGER: We can change that if you want.

REP. WEYLER: -- we are losing sight here if we just go and see the distribution of money. When the actual thing that convinced of us of the bill when they came before us, because they do regular evaluation of the road surface areas and that's what triggered it. The road surface areas weren't as good in District 6 and District 8 as they were in 1 and 2 and 4, then they needed to do something. So if the Audit next year says, oh, you're spending more money in this district than that district, then Commissioner Waszczuk will show them the pavement evaluations and how he's moving forward. And probably this 30% that's free to be utilized it may take more, but it may take more years. But, eventually, their goal is to get this thing evenly done across the state and have a good performance measures on all our pavement. I have a follow-up question.

CHAIRMAN KURK: Please.

REP. WEYLER: I usually follow-up on these recommendations from the Audit Division of where legislation is needed. I congratulate the transportation agency, Department of

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Transportation, on getting ahead in this -- on Senate Bill 38 on finding number five.

On Observation No. 6 is the actions that the Agency has taken, will that preclude needing legislation? Because the way I read the legislation is if DOS determines adopting the rules is not in the interest of DOS, the DOS should request that the statute be appropriately amended. Are you going forward with that or are you --

REP. SMITH: That's specifically the Department of Safety. So Steve could comment on that.

REP. WEYLER: All right. Let's hear that. Are we going to need legislation there or is that -- is the method you have adopted here of bringing in a new person, a rules coordinator, going to take care of that finding?

MR. LAVOIE: We don't know yet. We -- we need to assess whether or not these rules are required or have already been addressed. What happens with a lot of the motor vehicle statutes there's repeals that occur within the statute level. However, there's still a requirement from a new statute over here, which is covered by an existing admin rule. So we need the time to unwind on these specific areas, and then based on that analysis we'll be able to determine what the correct course of action is. Do we submit a new administrative rule to address it or do we request a change in the statute?

CHAIRMAN KURK: When will that happen?

MR. LAVOIE: It will -- hope to have it happen by the end of -- sooner but by the end of next Fiscal Year.

CHAIRMAN KURK: By June 30th, 2018?

MR. LAVOIE: Well, that would be at the absolute latest point in time. We --

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CHAIRMAN KURK: Hopefully, you'll reach your decision before January 1st of '18 so we can put in legislation if that's the route you go.

MR. LAVOIE: That's a good point, because we would need to address it in the next session.

REP. WEYLER: We may not be ready in September to file legislation, but please get back to me if you want legislation filed.

MR. LAVOIE: Will do.

REP. UMBERGER: I mean, this has already been out there for almost a year.

REP. WEYLER: Yeah.

REP. UMBERGER: And so it's not unreasonable in my mind. I thought that it could be done within a year.

CHAIRMAN KURK: And, Representative Eaton, I hope you'll speak to Highways about your idea. If the objective is parity of surface or quality, why don't we have that in the statute. Probably this division dates from personality conflicts 50 years ago where divisions had felt the Commissioners were favoring one region of the state rather than another. Maybe we are beyond that at this point, and we can really focus on, as you said, the important issue.

MR. WASZCZUK: Yes.

CHAIRMAN KURK: Further questions about this audit? There being none, Chair recognizes Representative Weyler for a motion.

** REP. WEYLER: Thank you, Mr. Chairman. I move we accept the report, place it on file, and release in the usual manner.

REP. EATON: Second.

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CHAIRMAN KURK: It's been moved and seconded by Representative Eaton that the motion be adopted. If you're in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

*** {MOTION ADOPTED}

(12) Date of Next Meeting and Adjournment

CHAIRMAN KURK: Our next meeting is scheduled for June 16th, and we will not at this time set a July or August meeting. Hopefully, one or both can be avoided.

REP. UMBERGER: May I?

CHAIRMAN KURK: Representative Umberger.

REP. UMBERGER: Yes. We were discussing earlier about maybe changing the date of the meeting, because we were always getting late items from Health and Human Services on the Dashboard.

CHAIRMAN KURK: Would you like to go back to the third week?

REP. UMBERGER: I mean, I'm just -- I'm just -- I sit as an alternate so, but I do want us to set the date without the consideration of --

REP. EATON: My recollection is we had to go around two or three times on that with members of the Senate who aren't here which might be --

CHAIRMAN KURK: Would you check with your folks, Senator Daniels, to see if they'd be able to go to the third -- third Friday so that we could get timely reports from the Department of Human Services?

REP. EATON: Also, the consideration that we may be waste deep in a C of C. Hopefully not, maybe not. Make it difficult doing the third week.

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REP. UMBERGER: In June.

CHAIRMAN KURK: What is your estimate, Mr. Kane, as to when the Committee of Conference on the budget will be meeting?

MICHAEL KANE, Legislative Budget Assistant, Office of Legislative Budget Assistant: I have no estimate at this time.

CHAIRMAN KURK: Your crystal ball is clouded?

MR. KANE: It's very clouded.

REP. UMBERGER: Senator Daniels can answer that question.

SEN. DANIELS: I know about as much as Mr. Kane.

CHAIRMAN KURK: There being no further business to come before us, we stand adjourned. Thank you all.

(Adjourned at 12:07 p.m.)

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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