

JOINT FISCAL COMMITTEE - SPECIAL AGENDA

Legislative Office Building, Rooms 210-211

Concord, NH

Tuesday, November 3, 2015

MEMBERS PRESENT:

Rep. Neal Kurk, Chair
Rep. Ken Weyler
Rep. Lynne Ober
Rep. Daniel Eaton
Rep. Cindy Rosenwald (Alt.)
Rep. Richard Barry (Alt.)
Rep. Karen Umberger (Alt.)
Sen. Jeanie Forrester
Sen. President Chuck Morse
Sen. Jerry Little
Sen. Andy Sanborn
Sen. Lou D'Allesandro

(Meeting convened at 10:56 a.m.)

(1) Old Business:

CHAIRMAN KURK: Good morning, everyone. I apologize for the delay. You are seeing the process by which legislation's made. We often don't act until the last minute and even extend the last minute, and it involves a lot of people with a lot of different ideas coming together and compromising or not compromising. Then you have to go back and try to work together to get another group, a majority, that will favor a particular proposal. So I apologize, the process takes long, and for those of us involved, as well as those of you in the audience who will feel the effect of whatever policy is decided, it is a difficult and not pleasant process.

That being said, I'd like to open the Fiscal Committee meeting of November 3rd, 2015. The only item of business before us today is Old Business, Fiscal 15-201, a request by the Department of Administrative Services for authorization for the

approval of the remaining plan design changes to the retiree health benefit plan.

** REP. WEYLER: Like to remove it from the table.

REP. OBER: Second.

CHAIRMAN KURK: It's been moved and seconded that the item be removed from the table. All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is on the table.

*** {**MOTION ADOPTED to take FIS 15-201 off the table.**}

CHAIRMAN KURK: The Chair recognizes Senator Little for a motion.

** SEN. LITTLE: Thank you, Mr. Chair. Referring to FIS 15-201, which is before us, I would like to propose one change only to the retiree health care plan and that is found on Table 2 at the bottom relative to premium contribution.

FIS 15-201 proposes to increase the monthly health premium contribution from 12½% to 15%. I would like to propose that we increase the monthly health premium contribution from 12½% to 17½%.

CHAIRMAN KURK: Is there a second?

REP. WEYLER: Second.

CHAIRMAN KURK: Seconded by Representative Weyler. The motion is before us for discussion. I'd like to make it clear to folks that the option before us is one of two choices. One choice is to raise the premium as Senator Little has moved from 12½% to 17½% and make no changes, no other changes in the plan; none that would affect the folks who are over 75, none that would -- over 65, none that would affect the folks under 65. There would be no changes to in-network or out-of-network co-pays, deductibles, maximums, and so forth. All of those would

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remain as they currently are. The choice is between that and the Governor's plan. The Governor's plan increases all of those co-pays, maximums, and deductibles for in-network and out-of-network services. The Governor's plan also increases the amount that the over 65s will have to pay for their deductible, I guess, of \$500 for each event, medical event they have.

The benefit, as I see it, from Senator Little's proposal is that those folks who are covered, that is to say, all of the retirees under 65 will be paying about \$46 more per month and those people who become ill, that part of the population who becomes ill, will not pay anymore than they currently are. So the balance here is there are increased costs, how shall they be divided? The proposal is to have everyone, healthy and unhealthy, share in those, as opposed to the Governor's proposal which largely, not completely, but largely shifts the burden to those who are unhealthy. So from a public policy point of view, and a risk sharing point of view, this proposal has in my view a great deal of merit. Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. I have a question. As you're talking about the increases in cost which you know all of us are so concerned about, you're basing -- my question is you're basing the \$46 increase on a jump from 15 to 17½.

CHAIRMAN KURK: No, from 12½ to 17½.

SEN. SANBORN: My understanding, Mr. Chair, I guess I need clarification, if I may? I was under the understanding that going from 12 to 17½ was actually \$162 a month, not \$46 a month. Can you explain, a clarification?

SEN. FORRESTER: An additional 46.

CHAIRMAN KURK: We can ask Mr. Kane, but my understanding is that currently folks are paying \$116 a month at 12½%. If you increase that to 17½%, they will be paying \$162 a month. The difference is an additional \$46 and change a month.

MR. KANE: That is correct.

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CHAIRMAN KURK: Mr. Kane indicates that's accurate. Senator Morse.

SEN. PRESIDENT MORSE: Under the Governor's plan they go to 15%. What does that go up?

MR. KANE: It would go to \$140. So that would be an increase of about \$23 a month.

SEN. PRESIDENT MORSE: I don't think you stated that, Mr. Chairman, when you stated all the changes.

CHAIRMAN KURK: You're correct. Governor's proposal would see an increase from \$116 to 140, and Senator Little's proposal would increase that 140 to 162.

SEN. SANBORN: Mr. Chair, for clarification, if I might? Under the Governor's plan it doesn't just increase the monthly from 116 to 140. It also increases out-of-pocket on co-pays, deductibles, max out-of-pocket as well.

CHAIRMAN KURK: Yes. For example, the deductible would go from the current \$500 for an individual in network to \$1,000. Senator Forrester.

SEN. FORRESTER: Just for further clarification. Under the Governor's proposal for the over 65, the Medicare Part A deductible would go from zero to 500; correct?

CHAIRMAN KURK: Yes.

REP. OBER: Yes.

CHAIRMAN KURK: Under Senator Little's proposal that does not happen.

SEN. FORRESTER: Stays at zero.

CHAIRMAN KURK: It stays at zero, the current level. Senator D'Allesandro.

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SEN. D'ALLESANDRO: Thank you, Mr. Chairman. Mr. Chairman, I think kudos to the Committee for working together to come up with a solution. Part of the solution that's difficult for me is the increase to 17½%. That takes the payment up \$552 a year and makes the payment for an individual 1900 -- approximately \$1944 a year. I thought the 12½ to 15 was agreeable at one time, and we worked diligently to make it happen and to make all of these numbers work out. So I applaud the Committee for that.

It's the 17½% that became available to me just this morning. So in a matter of an hour one had to digest that situation versus what we have spent hours and hours working on to get this thing to a point where we could have a bi-partisan support. And I could have and would have supported the bi-partisan support that Senator Forrester put together, and I want to compliment you on the work that you've put in along with our colleagues, Senator Little, Sanborn. I think everybody worked hard to come to that conclusion. That had the least negative impact on the population and took into consideration something that the population was fully aware of. We were going to go from 12½ to 15. It was in the budget process. It didn't come as a surprise to anybody at the last moment.

I think we had a good thing going. We found the money, which I thought was very important. We found the money. We had overbudgeted in the electrical line. We found 1.5 million which means we had another \$800,000 across the board. I mean, we could find 800,000 in \$11 billion budget. We knew we had to go to Class 23, Class 60, to make the transfers. I thought that was a reasonable solution. The fact of the matter that we would put the money aside for our consultant, the long range plan and the overtime money, that had to be done and the narrative about coming back to Fiscal. I think we worked hard to make that happen. I'm sorry, truly, that I can't support the 17½% because a lot of work went into building this. And I think trying to be a consensus builder, try to work with people, I thought we had it. There are times in this life when we think you have it, but all of a sudden you don't. You lose it. I think the 11th hour this kind of -- this kind of disappeared and that's the reason why I can't support the proposal.

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I think protecting the employees, the under 65 and the over 65, are vital. Medical is a life-line. We know that. And we've done everything we can to make this the best situation possible given the restraints. So I want to make that perfectly, perfectly clear. Whatever we do today is a short-term solution. The long-term solution will be faced by the next legislature and the next Governor, and there will be some dramatic differences. I don't think there's any question. We spent \$300 million over the course of the biennium on health care. That's a lot of money. That's a lot of money. People are living longer. They're sustaining themselves on pharmaceuticals, et cetera.

Anyway, that's a long way of giving my rationale for what I'm going to do at this meeting, and I recognize the hard work that everybody put in. I want to make that perfectly clear. Representative Ober was at the forefront of this putting all these things together, bringing things forward, and I think this one little tweak, this one little tweak at the 11th hour caused me to go in a different direction. Thank you, Mr. Chairman.

CHAIRMAN KURK: Thank you, Senator. Senator Forrester.

SEN. FORRESTER: Thank you, Mr. Chairman. And I'd like to thank Senator D'Allesandro for all his work. We truly, I think, were working in a bi-partisan way on an effort to come up with a plan that had the least impact on the retirees because at the end of the day it's about the people.

My frustration through this whole process is that we find ourselves here again trying to fix a problem that was the Governor's responsibility and here we are trying to fix that problem. So that's fine. We are used to doing that. And I want to applaud Commissioner Quiram and Cassie for all their hard work, the nights, the long nights. I know you guys have put a lot of work into this. And we -- I thought we were there, Senator. Even with your plan, I think we were there. Where it stopped was in the last day or so, and I communicated this to you, it became very clear to me we were working -- we were trying to work towards a bi-partisan solution. And part of that had to do with legislation going forward. And it became very

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clear to me in the last day in talking with the Governor's Office that there would be no compromise. That it was going to be her, you know, this way or it was going -- and that was going to be it.

In terms of legislation, anything that we were going to put forward, the ideas that we had suggested to solve this for the long-term, it was not going to happen. And, for me, that's when I say, well, if there's no compromise from the Governor on this, then why -- what are we doing here? And all the time that we wasted. We were almost there and now today this is where we're at because there is no compromise. And I find that very unfortunate because as a body what we're here today to vote on is the Governor's proposal which is more harmful than the one that we are bringing forward. And so for that reason, I will support the proposal that Senator Little has put forward. Thank you.

CHAIRMAN KURK: Senator -- excuse me, Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. From the beginning we began to hear a lot from the people that were over 65, had been retired for quite awhile and have very low payments as a result. I was most concerned that we didn't increase that for the over 65 population, because there was very little you can do at that age to try to adjust your expenses. So everyone, hopefully, that's retiring now will make it to over 65. And, in the meantime, the payments that are going out to the people that are recently retirees are quite a bit higher than those that have been retired 10, 15, 20 years. So that they're all heading toward over 65, as we all are. Some of us have made it already. And, you know, those are the times we have to be more careful. So by doing this 17½%, we didn't affect that group which is the largest group, the over 65. And I'm pleased that we could find a way that we could make the expenses without affecting those people that had been retired for so long. Thank you very much.

CHAIRMAN KURK: Thank you, Representative. Senator Sanborn.

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SEN. SANBORN: Yes, thank you, Mr. Chair. As Senator D'Allesandro had said, I again would like to compliment all the members of the Committee of trying to work so hard to find a proposal, to try and solve a problem which, again, is showing up to us at the last second, which we all find frustrating.

I'd also like to applaud all those that have worked on this solution because as Senator Forrester said, this is a more affordable plan than what the Governor's Office has proposed. Like Senator Forrester I, too, am frustrated that we're not where we want to be. And I have a level of frustration when the Governor comes in and tries to establish policy by threatening to not supporting something that creates a fix that puts us in a more difficult position. And, look, this Committee, frankly, is already in a difficult position because it's essentially trying to craft policy and find answers outside of the Legislature's purview as this is the responsibility to do in this regard. However, all that being said, Mr. Chair, I am still concerned for one of those paradoxical challenges we have of a problem we can't seem to fix today, which is how do we protect those who are most in need in a position that we're in where today it's going to be an equally distributed pain.

I'm concerned about our inability to means test. I'm concerned about our inability to look at these types of changes when we think about a 1900, \$1,944 cost to people that could only be making \$10,000 a year just for the basic level of health insurance, that's a threshold that I find very difficult to climb over without our ability to soften that blow with other options that I'm hopeful that this Committee will consider in the next few months.

I know we had a piece of legislation back in 2011 that considered changing this plan so it would be means tested and at that time it did not pass. I am hopeful and confident that there are things we can do to plan, construct, and share responsibility that will allow us to get there, Mr. Chair. But based upon the fact today that I don't have a level of comfort of the impact on those people who do not have significant

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resources, it makes it more difficult than I can support. Thank you, sir.

CHAIRMAN KURK: Thank you. Representative Ober.

REP. OBER: Thank you, Mr. Chairman. I chair Division I. In March, we first saw the Governor's plan for funding retiree health. And we knew in March that the Governor had budgeted \$140 million for retiree health and it was a million dollars short. That's a fact that in March somehow never got reported in the media, strangely enough.

This morning my colleague, Senator Lou D'Allesandro, saw one new plan that he spoke about. I saw two. One of those was a plan that he had developed that he had not shared and one of them was a plan that is on the table in front of us. So while he had a few minutes to incorporate one plan, I had the same few minutes to incorporate two new plans.

We talked about doing the least amount of harm to retirees. The Governor's proposal for out-of-pocket maximum for families that chose to use out-of-network rose by \$8,000 a year from \$4,000 a year until \$12,000 a year. I thought that was entirely too much to ask a retiree to take out of his or her paycheck. The Governor's plan that came to us in March and that her Budget Director at our last meeting supported and said that was her plan when I questioned her with a yes or no question had deductibles going from \$1,350 a year for a family to \$4,000 a year for a family. Again, a huge increase.

The best estimate, we are self-insured, retiree health could completely spend all of its money in March of 2017. From March of 2017 until the new biennium, July 1st, 2017, every retiree would pay 100% of all prescriptions, 100% of all medical, and 100% of all surgical. Nobody at this table wanted that to happen. Nobody. And we have spent hours working on alternatives and looking at numbers. And I'd like to thank Cassie Keane and Vicki Quiram for the time they put in with us. I know Cassie and Vicki have both spent long hours in the office answering questions, getting figures.

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I am going to support the 17½% increase because your deductibles do not go up. Your out-of-pocket maximums do not go up. So you're not going to be seeing an increase of \$8,000 for an out-of-pocket maximum. Nor are you going to run out of money for medical in March or prescriptions in March, and you will have coverage throughout the full biennium.

It's not where any of us wanted to be. It's not where I wanted to be in March of this year when we first looked at the budget. I do not understand why the Governor did not just put this plan if she wanted to go to that in the budget or fund it. She did not speak to me. I reached out with legislation I filed. Her office did not even respond to me directly.

I came here and the good Senator D'Allesandro told me that the Governor's Office would not support my original bill which has been modified and then the modification the Budget Director told me was not going to be supported.

So today I am going to support this premium increase. It's reluctantly, but it is better that you have medical care every month of this year and every month of next year. Thank you, Mr. Chairman.

CHAIRMAN KURK: Senator Little. Thank you, Representative Ober. Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman, very much. I think it's important to follow on Representative Ober's comments about what's not going to happen. Everything before us today, whether it is the Governor's/DAS proposal or if it's one of ours does not permanently fix this problem. Everything before us today simply puts a band-aid over the problem to get us through the biennium to solve the issue of the increase in pharmacy costs that we did not anticipate during the budget cycle. We will be back and talking about this further.

What we are trying to do is to find a way to address that pharmacy related cost in a manner that is as least painful as

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possible for the retirees under 65 and over 65 for the State of New Hampshire. What's not going to happen today if we approve the increase I made -- proposed to 17½% premium contribution is the alternative, which is the Governor's plan, which proposes to increase in-network deductibles from \$500 to a thousand dollars, a thousand for family and 2,000 for -- to \$2,000 for family. Out-of-pocket maximums will now increase from a thousand dollars to \$1500 for an individual and 2,000 for family to \$3,000 for a family. Out-of-network deductibles are proposed to go up even more. What's not going to happen today if we approve this increase is the member payment from nothing currently for Medicare Part A to \$500 per person for Medicare Part A.

Other proposals for increases to individuals in the Governor's proposal are not going to happen today if we approve the difference from 12½ to 17½% of premium contribution. I see this as an acknowledgement and re-enforcement of the reason for insurance. The fundamental concept behind insurance to begin with is risk transfer. I understand that I have a risk of suffering a significant illness or injury and that the cost of bearing that individually would in itself be financially debilitating to me. Instead, I choose to join an insurance plan. And in that insurance plan we all pool our monies together, pooling of risk, pooling of our funds is how insurance works. It works best when we as a group, as an insurance pool, put our money together that makes the cost to each of us in the end much slighter.

What the 17½% option over the DAS/Governor's plan does is reinforce our belief in standing together as a risk pool together. It asks everybody to kick in an extra 50 bucks a month and in so doing avoid that \$500 increase in deductibles and those greater increases in out-of-network and family contributions. In the end, what we're saying is we understand that when we stand together as a risk pool we have to contribute together to the risk pool. It reinforces the whole concept of insurance.

Now, it's been proposed or suggested that maybe we can do nothing today. We don't have to approve either the Governor's

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plan or the 17½%, increase in premium contribution to 17½%. What we know is that if we do nothing today that we start to spend \$340,000 a month more than we are bringing in in revenues to operate this plan. We know that when we get to around January of 2016, just a few months from now, those numbers start to take effect. We also know that if we allow that to continue moving forward that sometime in early 2017 the available funds get to zero. We're out of money to pay for benefits for retirees and, therefore, no benefits will be paid for. I don't believe that doing nothing today is an option. I believe we have to make a choice. We have to choose a plan, and I believe that the least impact on the retirees of the State of New Hampshire mathematically and in support of a whole concept of pooling risk and risk transfer and standing together is this increase to 17½% premium contribution.

CHAIRMAN KURK: Thank you, Senator. Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. Senator Little said some important things, but I think the one thing he didn't say is we did have another option and that other option was 15%. It was not 17½%. And we did find a way to do that within the confines of the dollars that were available. We worked diligently to come up with a solution. We all want the employees taken care of. We all recognize that a berth of employees is something that's very difficult for them to sustain. Understand that. But we did come up with another proposal. And I don't think there's anyone sitting around this table who doesn't recognize that for the long-term this problem has to be solved. This does not solve it. We all understand that. For the long-term it's got to be solved. That's why the consultant is being solicited and that's why we're putting money aside to do that. But there was another way, and the other way was to raise it to 15%, to have the items that we had worked on together to make it less severe, to make it a better -- a better situation for our employees. The difference is this. That was a 15% increase versus a 17½% increase. There's the differential. Basically, we are doing the same -- we are doing the same thing. It's just that particular item is in one area, the 15 is in the other area, the methodology, the plan which we have come up

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with. It isn't something we didn't come up with and, you know, I didn't do this on my own. We were in constant conversations with yourself, Senator Forrester, and I didn't reach out to Representative Ober. I thought they were working on their own plan. And that's the difference and that's why I can't support the 17½%. That's why I can't do it. Thank you, Mr. Chair.

CHAIRMAN KURK: Thank you, Senator. Senator Morse.

SEN. PRESIDENT MORSE: Well, Mr. Chairman, first before I explain the financial situation of the State of New Hampshire, let me thank everyone, Republican and Democrat on this floor that participated for two months. And as I said to the Governor again last night, waiting a month to respond to us is irresponsible. So I don't think coming into that meeting when we all had a solution we were working towards. If it was a word change, Senator, I was willing to change a word or two to make a narrow network work. I was willing to put asset testing into a bill that would work. And I would suggest that that needs to happen anyways. Whether the Governor's willing to stand up and do that or not we're doing nothing to solve the future today. But let me make a few things clear in this government which is starting as a citizen legislature that concern me. We passed a budget, which I was called crazy or some form of crazy about. We still do not know what the Continuing Resolution has saved this government. We still have not seen the prelim on the CAFR. Yet, people are determining we have money to spend. And as we're talking about a Special Session, which I honestly believe is totally political, we are talking about spending more money with no direction. None. I was crazy when I predicted we'd have \$40 million left over in '15, but we had more than that. But we heard the disabled people. Has anybody questioned that? Has anybody questioned the \$40 million they didn't get in the last biennium? No.

Reality is as a government today we sit here with two choices. There's an expense that needs to be paid for. The Governor's proposal was outright rejected by this Committee. I understand that. I was on that team. So the other choice is to come back and vote for that today or go ahead with Senator

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Little's proposal and pay for it and do less harm to the employees. You know, I was faced with that same choice in June and I should have been more public when we went into the Committee of Conference. We go into a Committee of Conference, we only have \$5 million left over. Go check. It was in the Rainy Day Fund. We suggested we put that to employee pay raises. Didn't happen. We had to fight it all out. We had to wait to see new numbers, and we held up a budget for three months. You know, we do what I believe is practical, because we are a citizen legislature. We come here, we work hard, and we go home. The reality is I don't see that in the administration right now. The responses are purely political.

We have to do something today. And I know you've all debated it and I know different options have come forward. I think you pretty much all understand where you are. The difference is between 15% and 17½%. That's the difference. And then all those other challenges we would have put on the employees -- the retirees. Those are your two options. That only solves the problem today. Whatever is going on in the future in this government is going to have to be dealt with. And I know Senators and House Members have legislation moving forward. Well, the retirees are going to have to come and work with them. You know, the one thing I said about the Senate process is whenever he came in he laid it all out with us and we appreciated that in the Senate and we talked to him. And we tried to solve a problem. We didn't know this was coming. The reality is we are solving it today. And I think this government needs to start working together, the House, the Senate, and the leg -- and the Governor's Office. It's not. So for everyone that believes we have a bi-partisan solution coming forward for anything, including Medicaid which is coming, I didn't see anybody else at the table last week working on filing legislation on that. There's big problems in this state. We need to address them. If I could I'd call the question right now, Mr. Chairman, but I'm sure someone after me will.

CHAIRMAN KURK: There being --

** REP. OBER: I call the question.

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CHAIRMAN KURK: There being no further discussion, we will proceed to a vote. This will be a roll call vote. The motion before us is by Senator Little to make one change to the retiree health plan and that is to raise the employee contribution for the under 65 folks from -- to 17½%. Ready for the question? Clerk will now call the roll.

REP. WEYLER: Representative Kurk.

CHAIRMAN KURK: Yes.

REP. WEYLER: Representative Eaton.

REP. EATON: No.

REP. WEYLER: Representative Ober.

REP. OBER: Yes.

REP. WEYLER: Representative Weyler votes yes.
Representative Rosenwald.

REP. ROSENWALD: No.

REP. WEYLER: Senator Forrester.

SEN. FORRESTER: Yes.

REP. WEYLER: Senator Little.

SEN. LITTLE: Yes.

REP. WEYLER: Senate President Morse.

SEN. PRESIDENT MORSE: Yes.

REP. WEYLER: Senator Sanborn.

SEN. SANBORN: No.

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REP. WEYLER: Senator D'Allesandro.

SEN. D'ALLESANDRO: No.

REP. WEYLER: Mr. Chairman, the vote is 6 to 4.

CHAIRMAN KURK: Six having voted in the affirmative, four in opposition, the motion carries.

***** {MOTION ADOPTED}**

CHAIRMAN KURK: And I believe we have concluded our business with respect to the retiree health care plan, Fiscal 15-201. Is there any other business to come before us?

The next meeting of the Fiscal Committee will be on December 18th at 10:00 a.m. in this room. We now stand adjourned.

(Adjourned at 11:32 a.m.)

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CERTIFICATION

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

Cecelia A. Trask
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