

**JOINT FISCAL COMMITTEE**

Legislative Office Building, Rooms 210 – 211  
Concord, New Hampshire  
Friday, September 16, 2016

**Members Present:**

Rep. Neal Kurk (Chair)  
Rep. Ken Weyler  
Rep. Lynne Ober  
Rep. Mary Jane Wallner  
Rep. Dan Eaton  
Rep. Richard Barry (Alternate)  
Sen. President Chuck Morse  
Sen. Gary Daniels  
Sen. John Reagan  
Sen. Nancy Stiles  
Sen. Lou D'Allesandro

(The meeting is called to order at 10:06 a.m.)

CHAIRMAN KURK: Good morning, everyone. I'd like to call the meeting of the Fiscal Committee to order. Today is September 16th, 2016. Before we begin, I'd like to remind everyone that next Friday, the 23rd, at one o'clock we're holding a public hearing on options that will be presented by the Department of Administrative Services with respect to changes in the state retiree healthcare plan.

That will be at one o'clock, I believe in

Representatives Hall. The presentation will be made at one o'clock by DAS followed by questions, comments from the public, and of course because there will not be a reasonable amount of time to fully digest those kinds of proposals, I would be more than willing to accept written comments which will circulate to the full Committee prior to the time when we make a decision.

With respect to that, the next Committee meeting -- the next Fiscal Committee meeting will be on Friday, October 14th, which I understand from DAS is the last day that we can make changes to the medical portion of the plan in order to get -- to give Express Scripts the time it needs to set up the changes and take care of their end of things. Senator.

SEN. D'ALLESANDRO: Mr. Chairman, where are we to hold the meeting on the 23rd?

CHAIRMAN KURK: My understanding is that it will be in Reps Hall.

SEN. D'ALLESANDRO: Thank you.

CHAIRMAN KURK: And if that's changed, it will be posted. Okay. Any questions on that?

1. **Acceptance of Minutes of the August 5, 2016 meeting**

CHAIRMAN KURK: Then let's start our agenda. Item number one on the agenda is the acceptance of the minutes of the August 5th, 2016 meeting.

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\*\* SEN. D'ALLESANDRO: Move the minutes.

CHAIRMAN KURK: Senator D'Allesandro moves.

REP. OBER: Second.

CHAIRMAN KURK: Seconded by Representative Ober that the minutes be approved as presented. 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 minutes are accepted.

\*\*\* {MOTION ADOPTED}

## 2. Old Business:

FIS 15-229

FIS 16-082

FIS 16-087

FIS 16-093

FIS 16-098

FIS 16-099

CHAIRMAN KURK: Item number two is old business. Is there anyone who wishes to remove anything from the table? Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. I believe it's FSI 16-099, the able to work program. Those are the replacements that I have in my book, so I hope that they're consistent with the original proposal. 16-098, I think, is part of it, and these are the substitutions that were presented by Education and Employment Security, 16-098 and 16-099.

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CHAIRMAN KURK: I think the one you're looking for is 16-087.

MR. KANE: All three.

CHAIRMAN KURK: All three.

MR. KANE: 16-087 is HSS, and then you have the corresponding --

CHAIRMAN KURK: So you're moving to remove from the table items 16-087, 16-098, and 16-099.

SEN. D'ALLESANDRO: Yes, that's correct.

CHAIRMAN KURK: Is there a second to the Senator's --

REP. WALLNER: Second.

CHAIRMAN KURK: Seconded by Representative Wallner. This is not a debatable motion.

REP. EATON: Roll call, please.

CHAIRMAN KURK: I'm sorry?

REP. EATON: Roll call.

CHAIRMAN KURK: The roll call has been requested. The motion before us is to take those three items off the table. If you're in favor of that motion, you'll answer yes when the clerk calls your name. If you're opposed, you'll answer no. The clerk will now call the roll on the motion. The

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motion is to take it off the table. If you vote yes, your vote is to take it off the table. If you vote no, you're voting to keep it on the table.

REP. WEYLER: Weyler votes yes. Representative Ober?

REP. OBER: No.

REP. WEYLER: Representative Wallner?

REP. WALLNER: Yes.

REP. WEYLER: Representative Eaton?

REP. EATON: Yes.

REP. WEYLER: Representative Barry? Excuse me. Representative -- Senator Daniels?

SEN. DANIELS: No.

REP. WEYLER: Senator Reagan?

SEN. REAGAN: No.

REP. WEYLER: President Morse?

SEN. PRESIDENT MORSE: No.

REP. WEYLER: Senator Stiles?

SEN. STILES: No.

REP. WEYLER: Senator D'Allesandro?

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SEN. D'ALLESANDRO: Yes.

REP. WEYLER: Representative Kurk?

CHAIRMAN KURK: No.

REP. WEYLER: Six to four. Four to six.

CHAIRMAN KURK: Four having voted in the affirmative, six in opposition, the motion fails.

**CONSENT CALENDAR**

**3. RSA 9:16—a Transfers Authorized:**

**FIS 16-138**

**FIS 16-146**

CHAIRMAN KURK: We now turn to item number three on the agenda, transfers authorized. This is part of the consent calendar. Is anyone -- is there anyone who wishes to remove an item? There being none, the motion before us is to approve the consent calendar items under agenda number three. That's Fiscal 16-138 and Fiscal 16-146.

**\*\*** REP. OBER: So moved.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Moved and -- moved by -- was it Representative Ober?

REP. OBER: Yes.

CHAIRMAN KURK: Representative Ober. Seconded by Senator D'Allesandro. Discussion? Questions?

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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 items are approved.

\*\*\* {MOTION ADOPTED}

4. RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from any Non-State Source:

FIS 16-133  
FIS 16-139  
FIS 16-140

CHAIRMAN KURK: We turn now to item number four on the agenda. These are requests for acceptance and expenditure of funds over \$100,000 from non-state sources. There are three items. Does anyone wish to remove an item? Would somebody care to move --

\*\* REP. EATON: Moved.

CHAIRMAN KURK: -- the three items?

\*\* REP. EATON: Moved.

CHAIRMAN KURK: Moved by Representative Eaton.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Seconded by Senator D'Allesandro. These are items 16-133, 16-139, and 16-140. Discussion? Questions? Are you ready for the question? All those in favor, please indicate

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by saying aye. Opposed? The ayes have it, and those three items are approved under number four.

\*\*\* {MOTION ADOPTED}

5. RSA 124:15 Positions Authorized:

**FIS 16-143**

CHAIRMAN KURK: Tab five. Authorized positions. This is 16-143, the request of the Department of Corrections for a temporary part-time Witness Specialist position. Is there a motion?

\*\* SEN. D'ALLESANDRO: Move approval.

REP. OBER: Second.

CHAIRMAN KURK: Senator D'Allesandro moves. Representative Ober seconds the motion. Discussion.

SEN. PRESIDENT MORSE: Can someone explain what this position does?

CHAIRMAN KURK: Is there someone from the Department of Corrections who can explain what the position does? Good morning.

ROBIN MADDAUS, Director of Administration, Department of Corrections: Good morning. My name is Robin Maddaus. I'm the Director of Administration at the Department of Corrections. I'd be happy to answer your question. This position is -- will train staff of DC and volunteers in a victim/offender dialogue. It will be a dialogue between the inmates and the victims, if they so

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choose, and so that victims can get closure.

CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Yes. To follow up on that, do we not have a position like that now?

MS. MADDAUS: There is no position, no.

CHAIRMAN KURK: Senator Stiles.

SEN. STILES: Thank you. Has there ever been one?

MS. MADDAUS: There was one, I believe, last year, but we couldn't fill it. I don't have that. I can find that out for you.

CHAIRMAN KURK: Further questions? Thank you very much, ma'am.

MS. MADDAUS: Thank you.

CHAIRMAN KURK: We have a motion before us to approve. Questions or discussion? There being none, are you ready for the motion? The question. All those in favor, please indicate by saying aye. Opposed? The ayes have it, and the item is approved.

REP. WEYLER: Do you wish to have a voting --

CHAIRMAN KURK: No.

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6. RSA 14:30-a, VI Fiscal Committee Approval  
for Acceptance and Expenditure of Funds Over  
\$100,000 from any Non-State Source and  
RSA 124:15 Positions Authorized:

FIS 16-141

FIS 16-142

FIS 16-148

FIS 16-151

CHAIRMAN KURK: We turn now to agenda item number six. These are number -- four requests for approval for acceptance and expenditure of funds over \$100,000 from non-state source and positions authorized. This includes Fiscal 16-141, 142, 148, and 151. Does anyone wish to remove any of these items?

\*\* REP. OBER: I move.

CHAIRMAN KURK: Representative, you do.  
Mr. Kane.

MR. KANE: Mr. Chairman, I just want to point out we do have a replacement for 16-148 on your table, and that's relative to the Safety item, so you probably want to remove that.

CHAIRMAN KURK: Let's remove 148. Then we have three items, 141 --

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Yes?

REP. OBER: I would like to remove 141.

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CHAIRMAN KURK: Okay. That leaves us with two items. Does anyone wish to remove either 142 or 151?

\*\* REP. EATON: Move approval.

CHAIRMAN KURK: There is none. So the motion is to approve. The remaining two items, 141, the request from DES and --

REP. OBER: No, that's what I removed.

CHAIRMAN KURK: I'm sorry. 142, which is a request from the Department of Safety, and 151, another request from the Department of Safety. So those two items are on the -- covered by the motion, 142 and 151.

SEN. PRESIDENT MORSE: Second.

CHAIRMAN KURK: Questions? Discussion? I'm sorry?

SEN. PRESIDENT MORSE: Second.

SEN. REAGAN: I thought there was -- wasn't there a motion already?

REP. WEYLER: Not yet.

REP. EATON: I made the motion.

CHAIRMAN KURK: Thank you. Second --

REP. WEYLER: Who seconded?

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CHAIRMAN KURK: Senator Morse. Representative Eaton has moved, seconded by Senator Morse that we approve the two remaining items, 142 and 151. 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 those two items are approved.

\*\*\* {MOTION ADOPTED}

6. RSA 14-30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from any Non-State Source and RSA 124:15 Positions Authorized:

**FIS 16-141**

CHAIRMAN KURK: We turn now to Fiscal 16-141, a request from the Department of Environmental Services for authorization to accept and expend \$321,195 in federal funds through June 30th, 2017 and establish one full-time temporary Environmentalist III position through June 30th, 2017.

REP. OBER: I have a question about this, Mr. Chairman.

CHAIRMAN KURK: Is there someone from DES who is in a position to respond to questions? Good morning, gentlemen.

MR. FREISE: Good morning.

MR. DIERS: Good morning.

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CLARK FREISE, Assistant Commissioner,  
Department of Environmental Services: For the  
record, Clark Freise, Assistant Commissioner of DES.

THEODORE DIERS, Administrator of the Watershed  
Management Bureau Department of Environmental  
Services: For the record, my name is Ted Diers, and  
I'm the Administrator of the Watershed Management  
Bureau at the Department of Environmental Services.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you, Mr. Chairman.  
Gentlemen, on page two of your submission you have a  
table at the top of the page that begins with  
classification Environmentalist III. Do you see  
that?

MR. DIERS: Yes, ma'am.

REP. OBER: Your salary range is \$44,480 up to  
\$60,099.

MR. DIERS: Yes, ma'am.

REP. OBER: Is that correct?

MR. DIERS: That's what it says there, yes,  
ma'am.

REP. OBER: Then on the first page in your  
table, and I'm looking at the temporary employees  
line, class 59 --

MR. DIERS: Yes, ma'am.

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REP. OBER: -- you have a current budget of zero, which would seem to imply that you are going to transfer in the amount of money to pay for this position, and yet the amount of money you're transferring in is \$78,552, which is nearly 20,000 higher than the maximum of the salary range on page two, so you might expect that there was some confusion.

MR. DIERS: I would expect that there would be some confusion, and I can take a whack at that unless you would like to.

MR. FREISE: I believe that 78,000 includes also the benefits. Salary and benefits.

CHAIRMAN KURK: Benefits are listed separately.

REP. OBER: Benefits are listed separately.

CHAIRMAN KURK: Yeah.

MR. FREISE: Okay. Sorry.

MR. DIERS: Okay. So I can answer that, and the answer is this is an 18-month grant. And so the budget that you see here covers the entire 18 months, but the authorization, because it ends at the end of this biennium, that only covers through the end of the biennium. So we will be coming back to you all at some point at the end -- near the end of this biennium in order to request the extension of this grant to the end, and that -- but the entire budget is covered within this accept and expend, and that's what lends the confusion here.

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REP. OBER: May I follow up, Mr. Chairman?

CHAIRMAN KURK: You certainly may.

REP. OBER: Thank you. But this document is for the budget for this fiscal year.

MR. DIERS: Yes, ma'am.

REP. OBER: You submit a budget to the Governor starting for the next fiscal year, so there would be no reason to have more than --

MR. DIERS: Right.

REP. OBER: -- this fiscal year's money transferred in here.

MR. DIERS: I understand that what I've -- I understand this is that we can only authorize this position through the end of this biennium. That's the way the rules work. And so what we've done is we've put the entire budget in. It will have to get authorized into the next budget. We didn't put it into the next budget creating a whole new account number and all of that stuff into the next budget because we know that this is going to end just, you know, halfway through the first year of that biennium.

So what will happen is that, as I understand it, we'll come in with a request. That request will come to you to extend this just to that end, and then it's gone. It's done. There's no more. We don't anticipate additional funding, and so that

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that would just go away. My understanding is that that's the way in which these normally are functioning.

REP. OBER: No, because under the state law Fiscal can only accept through the end of the fiscal year. We do not have the authority to accept 78,000 to go into the following year.

MR. DIERS: I understand that.

REP. OBER: That would be the next Fiscal Committee, not this one, and that's the state law, so they don't come like that. They come with funding for the current biennium.

MR. DIERS: I understand that.

REP. OBER: But you didn't do that.

MR. DIERS: My understanding is the way that we set this up is we're only going to be able to spend the dollars that we can spend within this biennium based on the positions that are in this --

REP. OBER: That wasn't my question.

MR. DIERS: Okay.

REP. OBER: You chose not to do that. You chose to put in money beyond the fiscal year. Yes? Have I understood what you said? This money is beyond the fiscal year, the 78,000?

MR. DIERS: I guess so. I guess so. Obviously we can't spend it. We wouldn't have the authority

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to spend it because the position wouldn't be authorized. We'd have to come back to you to ask for that permission.

REP. OBER: Probably under law we can't appropriate that. So are you asking us to do something illegal?

MR. DIERS: I don't believe I am.

CHAIRMAN KURK: Representative Eaton.

REP. EATON: Question of Mr. Kane. Mr. Kane, has this been done before? My recollection is we've seen this multiple times from multiple agencies. If we accept the federal grant, we have the understanding that it only goes to the end of the biennium, and they come back, and we regularly have grants that ask for extensions on almost a monthly basis.

MR. KANE: You -- Fiscal can only -- as they have stated, Fiscal can only authorize the budget amount as well as the position through the end of this biennium, which ends on June 30, 2017. Absent additional authority after that time, they wouldn't be able to spend any overage in that class 59. They'd have to come back to Fiscal and ask for an extension similar to what you'll see shortly with Safety.

Two different ways an agency can choose to do that. They could accept just the FY '17 amount, put that in, and then go through the budget process, but, as it was stated, since it's a partial year typically that doesn't happen. You're going to see

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in the next item of Safety similar situations, but Safety is for a full fiscal year, so they're actually going to come through the budget.

CHAIRMAN KURK: Follow-up?

REP. EATON: So the follow-up is this is not an unusual circumstance.

MR. KANE: It has been done before.

REP. EATON: Thank you.

CHAIRMAN KURK: Mr. Kane, if the agency wished to -- they're going to spend -- let's assume they hire the person for half a year. So they're going to spend roughly 30,000 of this account, leaving roughly 48,000. Could they transfer that \$48,000 to some other activity without Fiscal involvement?

MR. KANE: Potentially under that threshold, yes, but it would have to be used for the purposes of this grant.

CHAIRMAN KURK: Only for the purposes of this grant.

MR. KANE: Only for the purposes of this grant. You would just have to ask the Department if that's their intent.

CHAIRMAN KURK: Is that your intent?

MR. FREISE: Our intent is to fill the terms of the grant.

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CHAIRMAN KURK: And, therefore, you will not be transferring any money out of this position line for any other purpose because this is dedicated for salary for the rest of this biennium and then for as much of the next biennium as it was intended to cover.

MR. FREISE: That's correct.

CHAIRMAN KURK: Thank you. Further questions? Discussion?

REP. OBER: It still confuses me. Are you budgeting the remainder of this in your budget that's going in front of the Governor?

MR. DIERS: We are not creating a budget for this grant. We are not suggesting to do that. We would have to come back here and extend the grant rather than create a whole new accounting unit that we would have to then track for the next biennium when the purpose is really to just fulfill this grant and then be done with it.

SEN. D'ALLESANDRO: Second.

\*\* REP. EATON: Move approval.

CHAIRMAN KURK: There is no motion. Representative Eaton now moves approval, seconded by Senator D'Allesandro. Further discussion? Questions?

SEN. STILES: I have one.

CHAIRMAN KURK: Senator Stiles.

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SEN. STILES: So this activity is only going to take place from January through December; is that correct?

MR. FREISE: Till March 30th of 2018. That's when the grant expires.

CHAIRMAN KURK: Further questions? Further discussion? There being none, are you ready for the question? The motion is to approve the request. If you're in favor of that, please now indicate by saying aye. Opposed? Show of hands, please. All those in favor, please raise your hand. One, two, three, four. Opposed? One, two, three, four, five, six. The motion fails four to six.

REP. OBER: Mr. Chairman?

CHAIRMAN KURK: Representative Ober.

REP. OBER: Could I -- would I be allowed to table this at this point to allow them to correct it?

CHAIRMAN KURK: I have no -- I think a tabling motion would be in order, and as a result of that if you folks came back at the next meeting with revised numbers so that you're just covering the period through June 30th, 2017, I think that's the issue.

MR. FREISE: Okay. Just to make sure I've got clarity, we would still accept the full federal grant, but we would only show the budget for expenditure through the end of the biennium.

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MR. KANE: Accept only the portion of the grant that would take you through '17. You'd have to come back to accept the additional amount in '18.

MR. FREISE: And obviously our concern would be that NOAA does have many other people wanting -- this is a no-cost share grant. It's costing the State nothing. Our concern is if we don't accept the money and they come up on their fiscal year, will they expend it to somebody else.

CHAIRMAN KURK: Mr. Kane, is there a way to accept the entire amount but budget only the expenditure of that portion that covers fiscal '17?

MR. KANE: I don't know if there's ever been an instance where Fiscal has accepted the entire grant but only allowed the authorization of a certain portion. I'd have to look into that.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: I don't know what's not clear. By doing this right now you're basically allowing them to spend in this year 78,000, and I think that's what everybody is concerned about --

REP. OBER: Um-hum.

SEN. PRESIDENT MORSE: -- when they only really need some number. I don't know. You picked 30 out of the hat, but in this budget I -- accepting the grant -- I mean if what came before me is will you accept this grant, yes. So if that's the motion, I support it. But we certainly every June or, you know, right before that come in and

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say -- you know, because people need to get paid in July, we say we authorize this into the next session. I think the problem is, Mike, that the number here could be spent --

MR. KANE: You need the authorization to spend any of it, yes.

SEN. PRESIDENT MORSE: -- in this year.

MR. KANE: Correct.

SEN. PRESIDENT MORSE: And that's what I think she's asking. I'm not sure I've paid attention to this before, but --

CHAIRMAN KURK: Perhaps this is the answer. Why don't we move to table this. Let them work out how this has to be done, and we'll give them 30 days to do it. If in fact they can't come up with another way to deal with the problem, they can explain to us why, and we can make our decision at that time.

REP. OBER: I would move to table it.

REP. EATON: Second.

CHAIRMAN KURK: Representative Ober moves to table, seconded by Representative Eaton. Are you ready for the question? All those in favor, please indicate by saying aye. Opposed? The ayes have it, and the motion is tabled.

\*\*\* {MOTION ADOPTED}

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CHAIRMAN KURK: Thank you, gentlemen, and good luck in the next month.

6. RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from any Non-State Source and RSA 124:15 Positions Authorized:

**FIS 16-148**

CHAIRMAN KURK: We now turn to Fiscal 16-148, a request from the Department of Safety to authorize -- for authorization to accept and expend \$347,004 in other funds through June 30th, 2017 and establish one temporary full-time State Police Detective Trooper, one temporary part-time attorney, and a consultant position through June 30th, 2017.

We have a replacement item on this. It is dated September 16th, 2016, and each of you should have a copy of this on your desks. Is there someone from the Department of Safety who can talk to this item? Good morning.

STEVEN LAVOIE, Director of Administration, Department of Safety: Good morning. Steve Lavoie, Director of Administration for the Department of Safety. In this item the amendment that you have actually pertains to the situation that you just discussed.

We had originally prepared an item to accept and expend a full grant amount. However, due to timing issues, we are -- we realize we were unable to expend those amounts in the current fiscal year,

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and with the approaching biennium we adjusted the item to only request authorization to accept and expend the '17 portion. We plan to budget the '18/'19 portion through the budget process.

CHAIRMAN KURK: Thank you. Do you intend -- do -- do you run the risk that we just heard about, that the balance of the grant will be given to somebody else for '18 and '19, or that's not an issue?

MR. LAVOIE: In this particular case, that's not an issue.

CHAIRMAN KURK: Thank you.

\*\* REP. OBER: Move to approve the replacement.

CHAIRMAN KURK: Thank you.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Representative Ober moves to approve the replacement item dated September 16th, 2016 --

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: -- fiscal 16-148, seconded by Senator D'Allesandro. Questions? 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 item -- the replacement item is approved.

\*\*\* {MOTION ADOPTED}

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7. RSA 14:30-a, VI, Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from any Non-State Source, and RSA 228:69, I (b), Appropriation and Use of Special Railroad Fund:

FIS 16-131

CHAIRMAN KURK: We now turn to item number seven on the -- tab number seven on the agenda, a request from the Department of Transportation for authorization of the budget to expend \$580,745 in prior year carry-forward Railroad funds through June 30th, '17 and expend an amount not to exceed 580,745 from the Special Railroad fund for maintenance and repair of state-owned railroad lines and bridges through the end of the fiscal year.

\*\* REP. OBER: Move to approve.

CHAIRMAN KURK: Representative Ober moved to approve.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: 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. The item is approved.

\*\*\* {MOTION ADOPTED}

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**8. RSA 21-I:56, II, Reclassification of Positions or Increases:**

**FIS 16-150**

CHAIRMAN KURK: We now turn to tab eight on the agenda, a request from the Department of -- fiscal 16-150, a request from the Department of Environmental Services for authorization to reclassify Position 12078 from Environmentalist III, labor grade 23, to Environmental Program Administrator, labor grade 35. There are many questions about this, and I would appreciate it if someone from the Department would come forward.

REP. OBER: Do we have answers to yesterday's questions?

CHAIRMAN KURK: I don't believe. Good morning, gentleman.

CLARK FREISE, Assistant Commissioner, Department of Environmental Services: Good morning. For the record, Clark Freise, Assistant Commissioner of DES.

RENE PELLETIER, Assistant Director of Water, Department of Environmental Services: Rene Pelletier, Assistant Director of Water, DES.

CHAIRMAN KURK: Would you care to --

MR. PELLETIER: Yes.

CHAIRMAN KURK: Yes. The -- the -- the question basically -- my question is it's not clear

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from the request to change this one position -- to change this one position -- um -- that this isn't -- um -- a small change that will be followed by any larger changes. So what we really need to see is the entire picture that will occur for this to be approved.

MR. FREISE: Okay. So we have a more detailed version, also, but I wanted to get this out, so it gives you a better picture.

(Mr. Freise disseminates a document.)

CHAIRMAN KURK: Is this the same PowerPoint that we were emailed?

MR. FREISE: Most of it are. The last sheet is not.

CHAIRMAN KURK: Thank you. So there's no request for a new printer?

MR. FREISE: Not today. So at least one of the requests had asked that we position by position show where all of the current positions go in the end, and that's actually extremely hard to do because you go to the last page it's a lot of positions. And trying to do one for one and mapping them all is hard.

What I hope to do is show you in the current organizational structure Land Resources Management is actually made up of four siloed bureaus. The second sheet, those bureaus have very different structures. Because of the way they were brought in and the way they operate, they're not common in

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their structure.

What we are trying to do is go through reorganization of this one position that you need to approve because of the salary level is to really change the entire model of how we operate all of Land Resource Management permitting. And that is to go to a regional model where all of the permitting, instead of being siloed by type where an individual project may have three different permits that it has to go get from three different organizations with three different structures, they would go to a regional program manager who would be able to get all of their permits worked out for them in sequence.

That structure is obviously very different. The regions are shown on the next page as to how we're separating them. The goal with this is that for the businesses who work in a given area, they know everybody. They know who's going to help with the permitting, who's going to object, which towns they have to work with, but we're getting a lot of projects where people are coming in from out of state or out of region, and they don't know those people. Our staff will be highly embedded in the region. They'll know everyone, and they'll be able to understand the issues and work them more efficiently.

And the last is the structure, and, as I said, it's sort of hard between the four operating structures to this one trying to map those over one by one. We couldn't figure out how to do that graphically in a way that made sense. This has been reviewed with a huge number of stakeholders. We've

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had five statewide listening sessions. We've been to the BIA, the installers. We set the stakeholders group who helped in this design. We've been meeting for the last six months in a row. The next meeting is next week if you wish to attend. So this has been highly reviewed with the community to get as much input as possible, and I realize -- like I said, I don't know how to graphically show one for one where every position maps out.

CHAIRMAN KURK: Let me try to accomplish our concern -- or address our concern in a different way. As a result of this reorganization when everything is completed, will there be anyone who loses a position, loses his job, or will there be any new hires?

MR. FREISE: We are competing some of the positions, and so some of the current staff who would compete for those positions may be beaten out by someone from another department or from outside.

CHAIRMAN KURK: But the total number of positions --

MR. FREISE: The total number of positions is not changing.

CHAIRMAN KURK: Thank you.

MR. FREISE: Twelve are being reclassified, and so there is an increase in the total budget, approximately \$153,000, against the salary and benefits base of over five million, so it's about a 2.9 percent increase if all of the changes occur.

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CHAIRMAN KURK: And then many people who are now at the top of their steps would be in positions where they would be at the bottom of their steps; is that correct?

MR. FREISE: The 12 reclassified --

CHAIRMAN KURK: Or somewhere else.

MR. FREISE: -- positions -- they would be -- I'm not sure that they would end up being at the bottom of whatever the new position is. They may have already been topped out, so they may be close to the top. Some of the reclassifications are more from the type of work and the SAD than it is from the dollars.

CHAIRMAN KURK: Okay. And while this position, the one that you're requesting, is a significant dollar increase --

MR. FREISE: Yes.

CHAIRMAN KURK: -- could you give us some idea about the dollar increase in the other positions?

MR. FREISE: As I said, across all 12, the total increase in salary and benefits is 153,000 against the salary and benefits base of 5.3 million, I think it is. So it's about a three percent increase across the entire organization.

CHAIRMAN KURK: But that could be a one-dollar increase for 50 positions and a major increase for five or 10 positions. I just want to know if there are some significant increases and, if so, in how

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many positions.

MR. FREISE: This is the most significant.

CHAIRMAN KURK: Yes. But beyond this.

MR. FREISE: Gene, do you know position by position what the reclass is?

EUGENE FORBES, Director, Water Pollution Division, Department of Environmental Services: I do know some of them. I don't have them all. We have Senior Scientists that you'll see are heading each region. That Senior Scientist position is a labor grade 29. Those three positions, for example, one is from a labor grade 23 to a 29. I apologize. I don't have a full listing. Another -- well, two of them are from that same Environmentalist III to a Senior Scientist, and one is from a Water Official and Sanitarian, which is, I believe, a labor grade 21. I'm not sure. Actually 19. That, also, is a significant increase to 29.

Some of them are actually downgrades, and some are very lateral. We have two, for example, that are changing classification from a Water Pollution Control Sanitarian to an Environmentalist series because we feel it is more descriptive of what those positions will do.

It also provides for a sequence of growth in their careers along the Environmentalist series, so those positions that are changing series need to be approved through the Governor and Council. This is the only position that because of the extent of it will come to a fiscal year.

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CHAIRMAN KURK: Thank you. And one other question. Oh.

MR. PELLETIER: If I could, I think Senator -- Senator -- Representative Ober asked me a couple days ago about if these were in the budget. All of what you see in this organizational chart are in the '18/'19 budget. They are not in at the current proposed upgrades because we haven't got formal approval from the Department of Personnel.

So the only one that has been approved is the one you see at the top of the chart, the one that is before us today, but everything that you see on this org chart has been budgeted in the '18/'19 budget cycle. And if the other positions, if all 11 were approved or only five got approved, then we'd have to adjust the budget, but the plan is they will all be budgeted in '18 and '19.

CHAIRMAN KURK: The source of funding for this division is fees --

MR. PELLETIER: Correct.

CHAIRMAN KURK: -- as I understand it.

MR. PELLETIER: Correct.

CHAIRMAN KURK: And I believe you told me that while this has been in the works for five years, the Department is only comfortable with going forward now because the fees seem to have increased as a result of, let's say, a final turn coming out of the recession. What are you going to do if in fact

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things don't go in the same upward direction but go down, and fees are significantly lower? What's the plan?

MR. PELLETIER: Yeah, I think that's a very good question. I think over the five years -- the reason it took five years is because -- not so much that we were really dramatically hit because realistically I suspect all of these positions may or may not be filled. We have some huge demands on us now because of Northern Pass and the Rockingham Park, and our staff just can't handle our statutory time frames, but to get directly to your question if time -- hopefully will not go back to the '08 drop, then I think because they're fee funded, if we don't have the fees to support the positions, then you know what happens. People are let go.

But I must tell you that over the last five or six years we have been very cautious about filling positions, and we have backed ourselves to the wall for the permitting times because we were so apprehensive about hiring someone for three months and having to let them go. So we have historically been very, very cautious about filling existing positions. So, to address your question directly, I would expect that that protocol would not change anything. And I don't sit here today and say that all of these positions you see will be filled in 12 months. It all is based on demand. It's based on need, and it's based on income.

CHAIRMAN KURK: And does the Department have the power to put general funds into this or transfer other fee funds or other sources of money that are available to the Department into this reorganized

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portion of the Department should the fees drop?

MR. PELLETIER: I think you probably would know that better than I, but I don't think so. I think if we did, if we had to go out of these programs, we'd have to come back to you.

MR. FREISE: Yeah. I believe we can't transfer general funds into a fee account. I believe we can transfer fee funds into a general fund account.

CHAIRMAN KURK: Thank you. Representative Ober.

REP. OBER: I do have a couple of questions. Yesterday I asked Mike Kane -- Rene has called me twice about this, so we had some conversations. We were working on it. I asked Mr. Kane to ask you yesterday not for a graphical depiction but for a simple spreadsheet maybe because I have a simple mind. I have position X, Environmentalist III. After the -- at this salary. After the reorg what is the disposition of that position?

Because there is paper work that you have to actually abolish a position, otherwise it remains in your stable of positions that you can come back and say well, I need to refill this. This is an empty position. So is that position being abolished? We just heard Mr. Forbes say that two people were going from a labor grade 23 to a labor grade 29. Were their positions being abolished?

With the labor grade 29, what is the new salary? And what is the difference in the money position by position? Rene had told me on the phone

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that eight positions were going to be involved plus this one for nine. You just said that there are 12 positions involved. So I was looking for a simple, little spreadsheet that shows the salaries now, the salaries after, the expected income from the revenues because, quite honestly, Division I in the budget cycle this year did see four of your positions that had to be quote, unquote "moved to general funds" because people were going to be laid off because there weren't enough fee funds or grant funds to support them.

So I wanted to make sure we had the money going forward, which I think is prudent, and I wanted to really see the plan in front of me. I've got, I guess, now 12 people, which is okay, however many people you've got here. When I get done I'm going to have 12 people that look like this. The difference in the money is that. And Gene's got three positions with him. Where are the other nine? And how long will it take to put together a spreadsheet showing your plan?

MR. PELLETIER: Yeah, I think that's easy to do. And I think the 29s that you're talking about, they are vacant, but I think, if I understand what you're asking, we looked at -- and the reason you and I had talked about nine is I didn't count on the downgrades. I guess I probably should have.

REP. OBER: Well, see, I paid attention. I listened to you when you called me.

MR. PELLETIER: So I think we can certainly take the 12 positions we're talking about, and I don't see it -- and, Clark, jump in if I'm wrong,

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but I don't see it as an issue that we look at 23 to 29, what's the difference in cost.

I guess what I glean from the conversations you and I had is I think your real concern was look at the overall budget process, where we are today. If everything stays status quo, and if this whole reorg gets approved by Personnel, which we've only had this first one done, then the change in the overall cost was that 152,000 that Clark had talked about.

So I guess that was my misunderstanding, and I didn't understand that you wanted to go position by position. I thought the big issue was what's the bottom line dollar today, what's the bottom line dollar change if this goes.

REP. OBER: Well, two things, Rene. Are we abolishing those positions that you're doing up, in which case I'm very supportive of having a new position going in, but if this is a way to kind of inflate the head count and say well, this is a vacant position, so we budget it and fund it, but that's up to you. And then you may say that we want to leave this position vacant because we have this forthcoming. That's okay, too. I don't know what the answer is. I was just looking for kind of education.

MR. FREISE: I understand your question now.

REP. OBER: And I wanted to be sure in March that we weren't looking at hey, if we don't get general fund dollars for this, we're going to have to lay somebody off. That was my -- that's where I was going ultimately in case I came back to Finance.

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MR. PELLETIER: No, not going to happen.

MR. FREISE: And actually in this case these are 12 reclassifications, so the position itself -- we don't create a parallel position. It goes from position X to position Y, and position X is gone. So it is abolished when the new one is -- when the transfer is over.

So it is not a matter of taking and adding any positions. It's keeping exactly the same number of positions. A number of them are empty, so we would be going out to try and get those positions filled either by transferring internally or competing the jobs. The dollar figure total compared to those positions to the new ones is the \$153,441.

CHAIRMAN KURK: Transferring internally means only this fee money. Moving the fee money around, not taking general funds.

MR. PELLETIER: No.

CHAIRMAN KURK: Yeah. Okay. No.

MR. FREISE: It's the billet. I'm sorry. I'm used to the military version. The billet, the position, not the body, would be changed as far as its role, its title, and its pay grade. The bodies themselves have to stay in a billet.

MR. PELLETIER: Yeah. If I could?

CHAIRMAN KURK: Please.

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MR. PELLETIER: Representative Ober, I guess the -- the abolished thing that -- and I'm trying to clarify. The 12 positions we're talking about, I think if you talk about the class, like E III going to Senior Scientist, is -- and I guess it's how do we define abolished, but the position count stays the same.

So the classification, if you will, is removed or abolished, but the number -- the position -- I don't know how to explain it because I'm French, so bear with me, but the position stays. It's got a different number, but it has -- now it has a different classification. So I guess I don't understand this abolishing. You know, to me, that would be positions go away.

REP. OBER: No. As the Commissioner said, declassification, which in essence you're not adding on.

MR. PELLETIER: Correct.

REP. OBER: So it was perfectly clear when he said that. I mean it wasn't clear here, and then when we talked on the phone it wasn't clear, and I thought if I got the spreadsheet, it would become visibly clear because, as I said, I have a simple mind, and I would have thought.

Commissioner, you just said that you have a great deal of work because of Northern Pass or whatever. Are you making these 40-hour a week people or are you keeping them at the 37-and-a-half-hour week?

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MR. FREISE: Thirty-seven and a half.

REP. OBER: Have you considered making them a 40-hour a week people so that you have the additional manpower with the same position?

MR. FREISE: We had not.

REP. OBER: Because there is a salary schedule for both.

MR. FREISE: Right. We had not. As I said, we've gone through a lot of work with the regulated and other communities associated, all the stakeholders, and we really tried to meet a number of different goals. One of -- the biggest one is to make sure that we're supportive of the business needs, that we are able to make our statutory time limits.

One of the others, though, is we are looking to get the best and brightest that we are able to bring in and show them a career path, and having more positions as opposed to going with 40 hours and having a fewer number of positions does afford the ability to get good people in, train them, give them the opportunities out in the field, and one of the big advantages we see in the structure is that it will get people out in the field where they will be meeting with the customers directly at the site. They'll get to know all of the needs of that customer. They'll also be able to inspect and check up that that customer followed through and actually did what they committed to do.

So I think actually we can go back and take a

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look at the benefits of going to a 40-hour. The other is right now we always do have the opportunity that people can work overtime, can go above the 37.5 if the budget can afford it.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Yeah. Commissioner, what is this going to do for business, this one position that we're doing today?

MR. FREISE: Well, the one position is the lead of the group. The overall organizational structure that we're trying to put in place is very much focused on how do we support business, and in particular what we're looking at is the integrated needs of business. We are seeing more and more complicated applications where people don't just come in for one permit. They want to do a facility, and it has multiple needs, alteration of terrain, subsurface, and wetlands.

Right now it's very inefficient for that business because they have to get hold of three different bureaus, three different people, set up three different meetings to go through their different needs. And with this person starting and then overall the structure, what they would get is a regional person who knows the region, knows the area, and they would be able to solve all of their -- well, not solve. They would be able to address all of their issues and challenges.

And it does lead to we have opportunity to go to integrated permitting if we can get to there. This would be a step towards being able to actually

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do an integrated application and an integrated permit, which would save business a ton of effort and money.

CHAIRMAN KURK: Senator Reagan.

SEN. PRESIDENT MORSE: Just a follow-up.

CHAIRMAN KURK: Sorry. Senator Morse for a follow-up.

SEN. PRESIDENT MORSE: Follow-up. We're two months away from a new Governor, either party. Making this move today and anything else you're going to do with the Council, is that hamstringing the next Governor from looking at how they want this Department to run?

MR. FREISE: I don't see that it would. They always have the opportunity to direct us to focus in a different way or to operate differently. In fact, the Legislature to even look at integrated permitting was a decision made a couple years ago, and it takes time to go through those processes, and obviously there's always a potential change in direction.

The decision was a year from now with a new Governor that the regional approach isn't meeting some need, and, you know, not just the business needs but the municipality needs and others, we could obviously try and go through reorganization that would focus on forming even better. We take continuous improvement pretty seriously, and we are trying to find better ways to go. This is the outcome of a lot of lien events looking at how do we

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streamline the process for all participants.

CHAIRMAN KURK: Senator Reagan.

SEN. REAGAN: Well, my question, Mr. Chairman, is this circumventing the employee classification process that we have in place now?

CHAIRMAN KURK: Mr. Kane.

MR. KANE: I think you should ask that of the Department, to go through Personnel to make sure they aren't.

MR. FREISE: No. We still -- for all of the reclassifications, including this one, we will still have to go to G and C and get approval. All we have to do by statute is come to you because the one reclassification happens to go above pay grade 35. That one position has to come to you for approval because of the pay grade, but we will go through the full process through DOP, through G and C. We're not skipping any of the steps.

CHAIRMAN KURK: Are you premature in doing this? Shouldn't you wait and come to us after you got approvals from Personnel for the other position changes?

MR. FREISE: We've been told that the package -- you know, it's had, I guess, initial review, and we've been told that it looks okay. I'm not aware of any problem with that. If for some reason the package were to be pulled, I don't know exactly why, we would obviously resubmit it and correct what errors they found and try to resubmit

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it. We still would have to go to G and C. The only step that we have to take with you is because of the pay grade of this one position.

CHAIRMAN KURK: Further question. Could you tell me what the increase in salary is at the top of this position compared to the -- at 35 versus the current? I think it's a 23.

MR. PELLETIER: Twenty-two.

MR. FREISE: The delta for Fiscal Year '17 --

CHAIRMAN KURK: Not the remainder. The whole delta.

MR. FREISE: I unfortunately know the remainder for the year, which is 17,000 and some change, and since -- if I do the math, I'll get it wrong.

CHAIRMAN KURK: So around 20, 22,000 for the total year.

MR. FREISE: Around. That was what I was getting at.

CHAIRMAN KURK: And another question. Is the person who is going to be appointed to this new position currently employed at the same -- at the labor grade 23? In other words, this is not a 17,000-dollar increase to a particular individual.

MR. FREISE: No. The personnel who would be competitive for this position internally are senior members. It's just the position reclass. We tried to find a position that reclasses the --

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CHAIRMAN KURK: So they're getting -- this would not be a 17,000-dollar increase for any one of them.

MR. FREISE: No.

MR. PELLETIER: No, I think it's actually probably going to be more than that, but I can assure you that all of the positions, including 29s that Representative Ober was talking about, will go out to be looked at. None of what's happening here with the increases -- other than two people that are 17s going to a 19, all of the other positions are going to be out on the fair market.

We will -- as you know, the State requires we post in the state for the first five days, and I can assure you if we don't find someone that we believe can handle this load, then we will go to the outside market. None of what you see, other than those two -- I think there's a couple downgrades that Representative Ober and I have talked about and a couple of two labor grade upgrades because people are 17s now, and everybody else across the board is a 19. That is part of this org chart. Everything else is on the free market.

CHAIRMAN KURK: A slightly different subject. You mentioned lien. My understanding is the purpose of lien is not only to speed up the process but to reduce the number of personnel required to do the job. Mr. Pelletier told me that one of the benefits of this is that on a multipermit site, that is a site which takes two or three or four permits, there would be a decrease in time, which would benefit --

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that the permit would be issued, which would benefit the applicant.

So the example given was that the 75-day time period for one kind of permit would likely drop to 50 days. That's the goal. So my question is if in fact folks are turning out these permits faster, don't we need fewer folks to do the job?

MR. FREISE: It has always been one of the challenges of liens. Everybody looks at it as we're going to fire people, and it's hard to get people engaged then. The goal with lien is to take out value added or take out things that are not value added. So taking steps that don't produce any value for anyone out.

Some of the steps that we are not doing as much as we should is actually going out after the permit is issued and making sure that the construction follows the permit. Going out and taking complaints and dealing with complaints, our turnaround time when we get complaints is not as good as I would like it to be.

Part of this is getting our people out in the field where they can go do some of the other things that we're not doing as much as we should. Certainly from the standpoint as much as we can take the time out of the permitting process for all of the participants because the municipalities get involved, too. We don't want to burn up any of their time on nonvalue added activities.

CHAIRMAN KURK: Thank you. Further questions? There being none, we will -- oh, sorry. Senator

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Stiles.

SEN. STILES: Thank you. Is this a reaction to our request to try to have like one-stop shopping for business?

MR. FREISE: This is an outflow from that offer for us to go to integrated permitting. This will give us the experience to start taking a look at rulemaking for that and actually leaning into that. This is doing it on the personnel side, and then we can go to the rulemaking side.

CHAIRMAN KURK: Further questions of these gentlemen? We will stand in recess for five minutes. Senate President requested a recess.

(The meeting is recessed at 11:00 a.m.)

(The meeting reconvened at 11:10 a.m.)

CHAIRMAN KURK: The Committee will come out of recess. We are dealing with item fiscal 16-150. Is there a motion?

\*\* SEN. D'ALLESANDRO: I move approval.

CHAIRMAN KURK: Senator D'Allesandro moves approval. Seconded by?

REP. WEYLER: I'll second it.

CHAIRMAN KURK: Seconded by Representative -- sorry -- Representative Weyler. Discussion or questions? There being none, are you ready for the question? All those in favor --

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REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: The Commissioner said he'd get us that spreadsheet. Can we get a date from him when we're going to get that emailed if we're going to approve this so that we get it?

MR. FREISE: Could I have to the end of next week?

REP. OBER: Absolutely. Your choice of date, sir.

MR. FREISE: Next Friday.

REP. OBER: Perfect. Thank you.

MR. FREISE: If I could, one -- I was given a small correction. I want to make sure there's no confusion. Not all reclassifications will go to G and C. The reclassifications that go out of series will go to G and C. Some of these do. Some of these don't. But we will have a package of these that will have to go through the whole process. We will follow all of the steps, and they will go to G and C for review.

CHAIRMAN KURK: And if the new Governor determines that this is not appropriate, it can be reversed and undone in the next budget; is that correct?

MR. FREISE: Yes, sir.

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CHAIRMAN KURK: I know that's not what you wanted to hear, Mr. Pelletier, but is that the case?

MR. PELLETIER: I would suspect that the Governor would have that much control when we -- you know, simply by cutting the budget. I mean I'm hoping that this has been so well-vetted that that won't be the case, but if it does, I'm sure there's a way that that could be addressed.

CHAIRMAN KURK: Thank you. Are you ready for the question? All those in favor of the motion, which is to approve, please now indicate by saying aye. Opposed? The ayes have it, and the item is approved.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Thank you, gentlemen.

MR. FREISE: Thank you.

MR. PELLETIER: Thank you.

CHAIRMAN KURK: And congratulations to both of you. I appreciate your five years of effort on this.

MR. PELLETIER: I used to have an afro, you know.

REP. OBER: You can tell me after 10 years.

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9. Chapter 276:219, Laws of 2015, Department of Corrections; Transfers:

**FIS 16-149**

CHAIRMAN KURK: We now turn to item number six [sic] on the agenda, fiscal 16-149, the request from the Department of Corrections for authorization to transfer \$2,400 -- \$2,407 in other funds and establish new class lines through the end of the fiscal year. Is there a motion?

REP. WEYLER: Moved.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Moved by Representative Weyler. Seconded by Senator D'Allesandro. Discussions? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye. Oppsed? The ayes have it. The item is approved.

\*\*\* {MOTION ADOPTED}

10. Chapter 303:5, Laws of 2016, Department of Health and Human Services; Reduction in Appropriation to the Sununu Youth Services Center; Reporting Requirement:

**FIS 16-137**

CHAIRMAN KURK: We turn now to tab 10 on the agenda, fiscal 16-137, request from the Department of Health and Human Services for approval of the plan to reduce general fund appropriations to the

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Sununu Youth Services Center by \$1,700,000 for this fiscal year ending June 30th, 2017.

REP. OBER: If there's somebody present, I would like to ask you a question.

CHAIRMAN KURK: Is there someone from the Department who might be willing to answer a question? Good morning, Commissioner.

JEFFREY MEYERS, Commissioner, Department of Health and Human Services: Good morning. For the record, Jeff Meyers, Commissioner of Health and Human Services, and with me is our Chief Financial Officer, Sheri Rockburn. Good morning.

CHAIRMAN KURK: Good morning to you again. Representative Barry is recognized for the question.

REP. BARRY: Thank you, Mr. Chairman. Since I was on the Study Committee along with Senator Reagan, the question I have is what we've talked about a bit earlier. Your head count looks like you're going to lay out some -- or not fill positions for the balance of the year and the other two which are still open.

COMMISSIONER MEYERS: There's a total of seven positions we're not filling, and why don't I have Sheri explain how that's going to work, if I might. Thank you for your question, Representative.

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

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Officer for the record. So the salary benefit, the entire reduction is 1.7 million. Of that, about a million is for salary and benefits. It's actually a total of 11 positions. They are all currently vacant, and we will hold them vacant for the entire year.

The reduction plan was required by the law to have a two-tiered approach, meaning we have to achieve 850,000 of reduction for the first six months and 850 in the second period. And the way that the math worked out, we show seven positions in the first tier of reductions and four in the second, but all 11 will be held vacant for the entire year.

COMMISSIONER MEYERS: Right.

CHAIRMAN KURK: Follow-up?

REP. BARRY: Yes, which indicates that you will probably exceed the reduction.

MS. ROCKBURN: No. We've had it so that the entire reduction will still equal the exact 1.7. Of that, one million is just in salary and benefits. The other 700 is in some other activity areas.

REP. BARRY: A separate question, if I may?

CHAIRMAN KURK: Further question.

REP. BARRY: And in there you indicate that you may be doing something with outside sourcing of services. I'm assuming you're putting together a plan to follow that through.

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COMMISSIONER MEYERS: We're -- yeah, we're looking at whether or not there are services that could be contracted out for further reductions, yes.

REP. BARRY: Thank you.

COMMISSIONER MEYERS: Yes.

CHAIRMAN KURK: A very basic question. How -- how will you prove that you have met the requirement by January 31st?

COMMISSIONER MEYERS: Sure.

MS. ROCKBURN: It would be our expectation that we would provide the accounts that are listed in here to add new services, and they would actually do an accounting entry in the system to reduce the appropriation. So you would be able to see that right on the statement of appropriation, for example, as a reduction to those accounts, and so it would prevent us from actually spending once the plan is approved, so it would be a formal reduction in the system.

COMMISSIONER MEYERS: I assume there would be a budget note on those lines so we could not exceed that expenditure.

CHAIRMAN KURK: Mr. Kane, will that suffice?

MR. KANE: It would. What our office will do is we'll share it with the Committee. We'll look at the statement of appropriation and provide that to the Committee to show you that they are actually going to decrease their appropriation authority by

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these amounts, and so it won't give the Department any flexibility. They'll have no more authority to spend those funds. It will be proved on the statement of appropriation, and we can share that with the Committee.

CHAIRMAN KURK: And because there's also a limit on their expenditures of 11.8 --

COMMISSIONER MEYERS: 11.8 for state fiscal year.

CHAIRMAN KURK: -- they will not be able to transfer in.

MR. KANE: Could you transfer in?

COMMISSIONER MEYERS: The way -- I'll let Mr. Kane address it from his perspective. The way I read the law now, which is Senate Bill 466, is that we would be legally -- unless it were changed, it would be legally prohibited from exceeding 11.8 for the fiscal year.

CHAIRMAN KURK: Thank you. Representative Weyler.

REP. WEYLER: You had a projected lapse of this budget. Are you going to meet that?

COMMISSIONER MEYERS: Are we talking about '16 or '17?

REP. WEYLER: For the year '17.

COMMISSIONER MEYERS: For '17? You know, our

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obligation is to meet the lapse. We're working to meet the lapse. We're just at the very beginning of the fiscal year, but we're going to do everything we can to manage it.

CHAIRMAN KURK: And, Commissioner, we had a brief discussion in the hall.

COMMISSIONER MEYERS: Yes.

CHAIRMAN KURK: Future dashboards will show the status of your lapse as we get further into the fiscal year; is that correct?

COMMISSIONER MEYERS: Absolutely. Because we're in the first month or so of the fiscal year, we're not showing it yet, but yes, we will of course. Yes.

CHAIRMAN KURK: Thank you.

SEN. PRESIDENT MORSE: Can we get the answer for the '16 lapse?

COMMISSIONER MEYERS: Yeah. So -- and I apologize. When I was last here August 5th, I indicated that I thought we would lapse approximately 13 million from the lapse obligation of 21 million. I believe the number is close to 17 million that we lapsed in '16, but we're still trying to confirm the exact number. We'll confirm that within the next few days -- couple of days. If not today, then the beginning of the week and inform the Committee.

CHAIRMAN KURK: Thank you. Is there a motion?

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Further questions? Excuse me.

SEN. REAGAN: Is there a motion?

REP. WEYLER: Not yet.

\*\* REP. BARRY: Move to approve.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Representative Barry moves to approve, seconded by Senator D'Allesandro. Is there discussion? Other 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.

COMMISSIONER MEYERS: Thank you very much.

## 11. Miscellaneous:

CHAIRMAN KURK: We turn now under Miscellaneous, number 11, and recognize Mr. Kane.

MR. KANE: Good morning, Mr. Chair, Members of the Committee. We would like to request the authority to fill a performance audit position that was created by the promotion of Jay Henry to Director.

\*\* REP. EATON: Move approval.

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SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Approval by -- approval of the request is moved by Representative Eaton, seconded by Senator D'Allesandro. Questions? 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 request is approved.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Thank you.

MR. KANE: Thank you.

12. Informational Materials:

LBAO Report on Additional Revenues for the  
Biennium Ending June 30, 2017 - Fiscal  
Committee Approvals through August 5, 2016  
(RSA 14:30-a, VI)

Letter from Michael W. Kane, Legislative Budget  
Assistant relative to a hiring, promotion or  
step increases granted to LBAO employees

Joint Legislative Facilities Committee  
Legislative Branch  
Detail of Balance of Funds Available  
Fiscal Year 2017  
As of 7/31/16

Joint Legislative Facilities Committee  
Legislative Branch  
Detail of Balance of Funds Available

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**Fiscal Year 2017  
As of 8/31/16**

**FIS 16-132  
FIS 16-134  
FIS 16-135  
FIS 16-136  
FIS 16-144  
FIS 16-145  
FIS 16-147  
FIS 16-152  
FIS 16-153**

**Audits:**

CHAIRMAN KURK: We have some informational items. Are there any questions on those? There being none, then let's proceed to the audit. This is an audit of the Bridge Maintenance Department of the Department of Transportation. And I must say that -- good morning, Mr. Smith. Good to see you.

STEPHEN SMITH, Director of Audits, Division of Legislative Budget Assistant: Good morning, Mr. Chairman. For the record, Steve Smith, Director of Audits for the LBA Division. With me this morning is Steve Grady, the Senior Audit Manager from our office here to present the report. And joining us from the Department of Transportation is Commissioner Sheehan and Deputy Commissioner Waszczuk. So with that, with your permission, I'll turn it over to Steve.

STEVEN GRADY, Senior Audit Manager, Division of Legislative Budget Assistant: Good morning. For the record, I am Steve Grady. I was the interim

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auditor for the D.O.T. Bridge Maintenance Performance Audit. The audit's objective was to determine how efficient and effective were Department of Transportation bridge maintenance and preservation practices during State Fiscal Years 2014 and 2015.

In the interest of time and due to the breadth of the report, I will be summarizing most of the report in my presentation and focus on only a few key observations. Of the 20 observations and recommendations, the Department concurred with three, concurred in part with 15, and did not concur with two. However, as we point out in eight of our 17 rejoinders to the Department's responses, it appears to concur with more than just three of our recommendations.

Four observations may require legislative action, and there is another issue and concern which may be of interest to the Legislature. The executive summary is on page one, the recommendation summary follows starting on page three, and the section on bridge maintenance and preservation starts on page nine.

The D.O.T. report of bridges constituted approximately two-thirds of the replacement value of the state's transportation system, and 2,160 were on the calendar year 2014 inventory. Effective bridge management includes maintenance and preservation strategies.

As depicted in table two on page 10, recently the State has not controlled bridge deterioration well when measured by individual structure condition

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but has been more successful when measured by bridge deck area condition as depicted in table three on page 11.

Table four on page 13 depicts an asset management material model. Transportation Asset Management contains elements of the management control system and is intended to help managers optimize resources and improve infrastructure using structure databased decision making.

The D.O.T. began work on asset management in 2010 and began implementation in 2014. By early 2016, the Department had partially implemented asset management, but several major deliverables were incomplete due to a number of internal and external factors. Overall, the Department's asset management maturity was at the initial stage.

Bridge management systems are designed to optimize resources. Figure one on page 14 illustrates typical bridge management system elements. The D.O.T. managed state bridges primarily through the Bureaus of Bridge Maintenance and Bridge Design relying on a mix of in-house and contracted-out bridge maintenance preservation, rehabilitation, and replacement.

The effectiveness of D.O.T.'s bridge maintenance and preservation management controls required improvement in several areas. I will first summarize observations number one through eight which addressed topics such as the bridge program, asset management, integration planning, and performance management. They begin on page 15.

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The D.O.T.'s bridge management program is neither comprehensive nor formalized. It lacked a bridge centric mission and unified bridge centric goals and objectives. Management systems were ad hoc and unintegrated. The state bridge strategy was incomplete and evolving. No bridge specific maintenance schedule supplemented strategy.

The D.O.T. did not develop a formal change strategy or fully integrate asset management into bridge management practices. There is no lead bridge bureau. Some roles and responsibilities were unassigned, including asset management responsibilities which were not specifically assigned to bridge bureau managers.

The D.O.T. inconsistently published asset management related plans with several key plans remaining in draft only form a year or more after they were scheduled to be published. Maintenance planning processes were informal and inadequately documented. Gap analysis practices were not fully implemented. Related policy and procedures were lacking, and no bridge management specific gap analysis existed.

The D.O.T. lacked a formal comprehensive risk management process and strategy for bridge assets and its maintenance, preservation, rehabilitation, and replacement efforts. D.O.T.'s performance management efforts were minimally connected to bridge asset management and lacked reliable, repeatable processes and comprehensive uniform standards. Performance reporting lacked maintenance or preservation-related measures.

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Our recommendations include developing and executing a time-based plan for implementing a comprehensive bridge program with a unified bridge management system, expanding the bridge strategy, implementing a change strategy, formalizing numerous processes, practices, and procedures, conducting gap analyses, managing risk holistically, and establishing a performance management system that includes maintenance and preservation.

I will next summarize observations number nine through 13, which address topics such as life cycle management, disinvestment, resource allocation, and efficiency and begin on page 54. The D.O.T. did not regularly conduct bridge life cycle cost analyses, and cost-estimated procedures were limited. It lacked a set methodology for calculating the cost of preferred maintenance, preservation, rehabilitation, and replacement.

The D.O.T. formalized disinvestment concepts in the bridge strategy but did not implement them. Meanwhile, it engaged in other informal disinvestment practices that determined whether a bridge would be maintained and preserved or allowed to deteriorate. Bridge maintenance project management practices were informal, unstructured, and inconsistently subjected to relevant D.O.T. requirements imposed on other projects.

Observation number 11 begins on page 64. In observation number 11, we discuss how the D.O.T. used funds appropriated for bridge maintenance for nonbridge purposes. It undertook construction activities, specifically the responsibility of another department.

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Unaudited data indicate over \$429,000 were expended on nonbridge work during the audit period, 79 percent of which were reported to be bridge maintenance appropriations. This was 2.2 percent of the audit period's appropriations.

Concurrently, targets for preservation work were unmet. The D.O.T. reported bridge maintenance, preservation, rehabilitation, and replacement was underfunded, and the backlog of bridge work grew as did the number of Red-Listed bridges.

Observation number 13 begins on page 77. In observation number 13, we discussed how during the audit period more than 24 percent of bridge maintenance projects were overhead. Overhead projects accounted for more than 31 percent of the total amount expended, second only to bridge work which accounted for 53 percent of audit period bridge maintenance expenditures. The D.O.T. lacked the definition of and guidance on overhead and lacked controlling policies and procedures.

Our recommendations include standardizing cost-estimating practices, adopting life cycle cost analysis, formalizing disinvestment strategies, procedures, and practices, discontinuing nonbridge work and, instead, referring it to the appropriate agency, using bridge maintenance appropriations for bridge maintenance, developing formal project management policy, practices, and procedures, establishing goals and objectives for overhead efficiency and productivity and developing a time-phased plan to optimize maintenance and preservation activities.

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Lastly, I will summarize observations number 14 through 20, which address several elements of D.O.T.'s information management practices and beginning on page 86. Asset management is data intensive and relies upon integrated systems and accurate data.

We found unintegrated and ad hoc information management, a lack of integration planning, inefficiencies, data quality concerns, and ad hoc and unnecessarily complex condition categorization practices.

Observation number 15 begins on page 91. Observations number 15, 16, and 17 describe issues with the management of the Red List such as incomplete reports that were not timely delivered, inclusion on the 2015 list with as many as 16 structures that were either not structurally deficient or were not state definition bridges, and the exclusion of three bridges which met the federal definition of structurally deficient were excluded from the 2015 list.

Finally, the D.O.T. lacked a formal comprehensive records management program meeting statutory requirements. This affected our audit work limiting auditability in several areas.

Our recommendations include implementing a comprehensive information governing structure, improving data quality and controls, seeking clarification of some terms and requirements from the Legislature, including all structurally deficient bridges on and removing nonstructurally

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deficient bridges from the Red List, including only bridges on and removing nonbridge structures from the Red List, implementing and operating an effective records management program, and making and maintaining adequate records of transaction life cycles and significant events.

This concludes my remarks. I'd like to thank the Department and the staff for their assistance during the audit. Unless there are any questions of me, I'll be followed by Commissioner Sheehan.

CHAIRMAN KURK: Thank you. Commissioner, good morning and welcome. I think this is your first formal presentation.

COMMISSIONER SHEEHAN: It is.

CHAIRMAN KURK: Good luck.

REP. EATON: Before you begin, bring the mic over. Bring the microphone over.

COMMISSIONER SHEEHAN: We actually have a letter that we're submitting to Committee in response to the audit, and this morning I'm going to walk through that document.

CHAIRMAN KURK: Could you speak -- or bring the microphone closer to you? It's not really effective if it's more than three or four inches from your mouth.

COMMISSIONER SHEEHAN: Is that better?

CHAIRMAN KURK: Yes. Thank you.

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COMMISSIONER SHEEHAN: So I'll pause a moment until you all have a copy of the letter. So this morning I'm going to walk through the letter, and at certain times I'll pause so myself and Chris Waszczuk can provide some specific examples of what we speak to in this document.

Transportation Asset Management is a data driven approach to managing assets, and in 2012 the Moving Ahead for Progress in the 21st Century (MAP 21) legislation was signed into law at the federal level. And within that legislation were requirements that state D.O.T. prepare a Transportation Asset Management Plan.

CHAIRMAN KURK: Ma'am, we can read this letter.

COMMISSIONER SHEEHAN: Yeah. The specific rules associated with implementing asset management have been delayed multiple times, and it's still not been issued at this point. Throughout LBA's audit, they compared us to the industry best practice and the best practice level of proficiency. And we as D.O.T. have been struggling to implement all aspects of asset management in a timely fashion.

There is no D.O.T. at this point that has achieved that level of proficiency, and so it was inevitable, if we're being compared to that high standard, that there would be gaps identified as we went through this audit process, gaps that we as a department have already identified in many cases and have been working to address. That is why we did concur with so many of the recommendations from this particular audit.

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Fully deploying TAM is a multiyear effort, and the D.O.T.s that are further ahead of New Hampshire in this area have already dedicated significant resources, both financial and human capital, to implementing the technology and the processes to really address all the aspects of the best practice. And we certainly look to them for their experiences that we can ensure that as we embark on asset management we're being as efficient as we possibly can be, applying those lessons learned from our colleagues elsewhere in the country.

I will say Federal Highway has always mandated that D.O.T. inspect bridges and maintain an inventory of all of their structures. Specifically, those structures that are on the national highway system. And in MAP 21, the requirement is that we deploy asset management strategies in managing our national highway system, bridges and pavement specifically. This Department has been using this condition data to prioritize our work. We look at bridges by type, age, condition. We group them into different categories, and then we develop preservation strategies and replacement strategies to address those different categories of bridge.

What we have not been doing successfully, and part of this is because of the lack of assistance and technology to help us, is model the future conditions for every individual structure based on different investment scenarios or model outcomes of the individual bridge level.

That is because we have an inventory of over 2,100 bridges, and it would be extremely time-

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consuming to do that manually. That is why we've embarked on deploying new software that will allow us to implement these best practices in a more practical way.

For major bridge projects and when it comes to maintaining our priority structures in the state, we do perform life cycle cost analyses and develop preservation plans. The other thing that we have been working on is the bridge strategy document that is mentioned in this report.

The bridge strategy was finalized toward the end of the audit period, and so, again, there wasn't an opportunity to realize some of the opportunities and change our processes to align with that strategy during the 2014 and 2015 time frame, but that is a document that we continue to enhance, and further work was done in 2016 to develop preventative maintenance strategies for different types of structures, and that is being deployed at the Department now.

One of the other findings is that many of our documents are in draft format. This was actually a conscious decision by the Department. With the absence of final federal rules, we have advanced a number of documents, and they are substantially complete, but we're not finalizing those documents until we're certain that the content aligns with the final federal guidance. This really addresses many of the early observations in the report.

There are some other observations where we did not concur. Specifically, the audit states the Department did not comply with statute in a number

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of areas, including the Red List, preparation, delegation -- delegating authority, records management, and expending appropriate funds. With respect to the Red List, we do not concur primarily with LBA's definition of a bridge.

The Department considers any bridge that carries traffic to be a highway bridge, and there are 21 structures in our inventory that carry only bicycle and pedestrian or trail traffic, and for that reason LBA does not consider these to be bridge structures. We as a department feel it's extremely important that we report on the condition of those vital pieces of infrastructure.

One example is the General Sullivan Bridge which has been closed to motorized traffic but is still open to bicycle and pedestrian traffic. And any structure that may pose a threat in terms of compromising public safety, we want to be able to continue to report on that.

There's also some closed historic structures that we have committed to reporting on and monitoring, so we consider those to be bridges that should be included in our inventory.

In working with LBA, we recognize that there is perhaps an opportunity to enhance statutes and add some of this clarification, and we're actually proposing that we'll work with our policy committees, public works and highways and transportation, to address some of these matters that were identified in the audit and make sure that we're really providing the Legislature with the information that they want to see concerning

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infrastructure.

With respect to our organizational structure and delegation of authority, we do continually review that. As a new commissioner coming into the Department, and as we work to implement asset management, looking at our current organizational structure, how asset management responsibility should be assigned is something that we are extremely focused on.

It's recognized by the Department that we need to improve our documentation. Many of our processes are a little informal. We document, but we don't do it in a standardized, repeatable format, and there may be opportunity to improve efficiency by clarifying some of that, so we will be looking at job descriptions and continuing to review authority delegation to make sure that we are covering all those aspects of asset management that maybe weren't previously assigned to staff at Department.

The Department has also been cited for performing nonbridge work, specifically the building related work. The Department does not agree that we lack that statutory authority, and within the audit report in our response you can see why we felt that way. And the Department owns over 500 buildings, and at this time only three of those are managed by the Bureau of General Services within the Department of Administrative Services, which is why when we go through the budget process we have asked for funding in class 47, own forces, maintenance, buildings, and grounds, to purchase materials and do some building repair.

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And, depending on the nature of that work, we then look to see who within the Department has the appropriate skill set, and often it's our bridge maintenance staff that end up doing that type of work because they have the skills. And so during the audit period there was \$338,926 of work associated with buildings which represented, as Mr. Grady indicated, 2.2 percent of the resources that were made available to us, but the Department feels that this was not an inefficient practice, but, again, we will be working to ensure that statutes are enhanced to provide us with the appropriate level of authority.

Another item that we really wanted to stress is that prior to the implementation of MAP 21 federal funds could not be used for many preservation and maintenance items, which is why many D.O.T.s ended up in the situation where we're focused on rehabilitating and replacing bridges because that is what the federal funds allowed us to do.

Recognizing that preventative maintenance and asset management are appropriate strategies to use in managing your bridge inventory, Federal Highway now allows us to use funds for those maintenance and preservation tasks, and we will continue to put forward projects for consideration by the Legislature in a Ten-Year Plan process, but there is that balance of preventative maintenance and rehabilitation and repair.

Also, it should be noted that addressing this backlog of Red List bridges that we have due to past practice while continuing to try and implement asset management and invest more in preventative

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maintenance will be a struggle at times. When funding is limited we're still going to have to make those tough decisions, but safety and mobility are paramount, so we can't always take the data that the asset management systems are telling us to use. We have to make other decisions with respect to the safety and mobility.

The data will certainly help us advocate for funding, and we will continue to estimate the cost-avoidance of certain funding strategies. Investing now and doing preventative maintenance can reduce overall costs by keeping good bridges in good condition.

These are all concepts that we presented as we worked on the last Ten-Year Plan as we met with House Public Works and Highways and with Senate Transportation. We prepared presentations and stressed the importance of preventative maintenance as well as rehab and repair.

The other thing that has changed is for the first time we have a financially constrained Ten-Year Plan. This allows the Department to model outcomes. Before when the Ten-Year Plan was full of programs, it wasn't certain which projects would actually have the funding to advance, and it made it challenging for us to communicate where the State was going to be in the future in terms of the conditions of the infrastructure.

Having a constrained plan is vital because now we're able to produce statistics and show you graphically where we expect to be in the future with different investment strategies, and that, I

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believe, is one of the other documents that Deputy Commissioner Waszczuk passed out. The two charts that he made available to you are examples of charts that we presented during the Ten-Year Plan process showing where we expect to be in the future and demonstrating that we were advocating for preventative maintenance as well as rehabilitation and repair.

Just in closing, the Department is committed to increasing accountability, efficiency, and transparency, and we are fully committed to Transportation Asset Management. It will be a huge undertaking for the Department to deploy TAM or Transportation Asset Management.

That is something that, as I said before, many D.O.T.s have been struggling to do. The lack of federal guidance and the lack of technology that's on the open market that is already configured to allow us to do this means that even when we purchase tools it takes a lot of staff, time, and resources to configure those tools so we can use them in the way that was intended. And so we are eager to work towards this goal of having fully integrated systems and making truly data driven decisions, but we want to explain how complex an issue it is and that it will take time.

As I said before, many of the recommendations in this audit finding we were not surprised by if you're being compared to that best practice. We do have a ways to go, but we're certainly demonstrating that we're moving in that direction.

CHAIRMAN KURK: Thank you very much. Are there

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questions from members? Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. Commissioner, I tend to agree with the auditors that make their statements. For instance, they look at how things are funded. If a bridge is funded from highway funds, that's what we're looking at. If it's funded from trails because it's not used for vehicles, we're curious as to where the funding is coming from, rightly pointing out that perhaps that shouldn't even be considered a bridge, but we're using highway funds for bridges.

I look at where their recommendations are for legislation. If I take those to heart, we're looking for some legislation, but the fact is you do not concur with some of them, and I'm curious as to whether you do not concur with legislation needed or you do not concur with what they say the legislation should say.

COMMISSIONER SHEEHAN: We looked at the statutory definition of traffic, and traffic includes more than just motor vehicles. It includes bicycles and pedestrians and other users of the highway system, and so we felt that any structure that carries those modes is a bridge and should be included in the inventory.

When it comes to the Red List, there is some clarification needed within that document. So there are observations concerning our inventory and what bridges should be in the inventory. We feel strongly that all of those structures, irrespective of what mode they carry, need to be in the inventory, and we need people to account for them

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and forecast what the capital needs would be for every single asset whether it's carrying motorized traffic or not, but we agree that working with the Legislature we need to explain what we have been putting in our Red List previously and understand exactly what the Legislature would like to see in future reports.

REP. WEYLER: Follow-up. I go down the highway, and I see signs that say a lane is -- right lane is moving over or something, and it's pretty routine. But yet if we go from three lanes to two lanes over a bridge, suddenly the bridge is Red-Listed. It's a perfectly good bridge. No reason we couldn't just show a lane drop sign before that rather than, you know, narrow bridge or something that causes the public to be distressed.

And we had a previous commissioner probably 20 years ago that said -- he was referring to the Red List bridge -- just drive fast, and don't look back. I mean this is alarmism. Yes, we're all aware bridges need to be in good shape, but some of the alarmism over the years has caused the public to not believe much in Red List bridges, nor the legislators.

So when we see things like a perfectly good bridge being on the Red List because we dropped a lane to go over it, then we should just say we're dropping a lane rather than say it's a deficient bridge because it isn't. The public doesn't believe it to be. So that kind of skews the whole thing when you come to us with Red List bridges, and it seems like it's a terrible emergency, and then when we look at some of the experience we say, you know,

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you're exaggerating.

COMMISSIONER SHEEHAN: Well, as a point of clarification, those bridges that are narrower than the approach roadway, we describe those as functionally obsolete and not structurally efficient, and, therefore, those assets are not typically included in the Red List. Commissioner Waszczuk can speak to the specific bridges that we would be potentially eliminating from the Red List in the future.

REP. WEYLER: Thank you.

CHRISTOPHER WASZCZUK, Deputy Commissioner, Department of Transportation: For the record, my name is Chris Waszczuk, Deputy Commissioner for the Department of Transportation. Representative, we do not carry, in our opinion, bridges that are narrow on the Red List. Our Red List comprises bridges that have a condition that is deficient.

For example, if one of the elements is a deck, the superstructure supporting the deck, or the substructure, the abundance of piers, if any one of those elements has a deficient rating of poor or below, which typically depicts a poor level of condition that needs attention.

Our Red List also includes downposted bridges, and those may be some of the bridges you're referring to where the condition of the bridge is in good condition, but it's been downposted. So, for example, it may be a timber-covered bridge that has a load grading of only six tons. That may be on the Red List. It really is -- the Department does not

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have a plan to necessarily address that because that historic covered bridge may need to be replaced in order to get it to carry legal loads, but we are concerned with the safety of that because those structures do have a high potential to be overloaded, so we want to keep our eye on them, and we have.

The Red List in fact allows the Department -- or requires the Department to inspect those bridges twice a year. So we'd like to keep those inspection criteria so that we can ensure public safety. The Red List also includes -- well, I think that's primarily the primary factors that are on the Red List.

The auditors have a difference of opinion that some of the bridges that are in good condition should not be on the Red List. They also included some what they determined as bridges that should be deemed as nonbridges because of a certain interpretation of the statute. The statute basically states that a bridge that carries -- on a public highway that carries traffic across.

So, for example, the General Sullivan Bridge, which you may be aware of on the Seacoast, it was the former truss that carried the Spaulding Turnpike and was closed to traffic in 1984. In the auditor's eyes, that is not considered a bridge in accordance with this audit because, technically speaking, that interpretation of the statute, that bridge no longer carries highway traffic. So I think those type of bridges, I think, belong on -- in our inventory, and if they're deficient belong on the Red List so they're inspected more frequently.

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The General Sullivan Bridge is in poor condition, and we have a plan to rehabilitate that bridge. It provides a connection for pedestrians and bicyclists across Little Bay. It's a 1,200-foot long structure. So those type of bridges, we feel that if the condition is in poor, they should be on the Red List because we should be monitoring them.

Now, whether the other conditions, such as the downposted structures, whether they should be on the Red List if they're in good condition, that is a perfectly valid question. I think we are looking to maybe clarify that and clean up the Red List to remove some of those structures that the public has no confidence in the need to -- you know, beyond that critical list.

COMMISSIONER SHEEHAN: Just to be clear, that's why I stated that we feel it's important to maintain the inventory to account for every one of these structures. Where we do think that we really need to revise statutes is in articulating exactly which structures should be on the Red List, and that's where we hope to work with the Legislature to make sure we're giving you a list of requests that you'd expect to see in that document.

CHAIRMAN KURK: We look forward to that. Mr. Grady, could you tell me how many bridges are currently listed on the Red List as the Department has done it and how many bridges should be listed on the Red List in accordance with the performance audit.

MR. GRADY: I certainly can do that. There are

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153 bridges on the Red List from 2015. Depending on the definition of structurally deficient used, either 147 bridges actually should have been on there or 137 bridges should have actually been on there. That, again, hinges upon definitions.

CHAIRMAN KURK: So what you're saying is if you took all the definitions, including some of the historic bridges, some of the downposted bridges, some of the lane drop bridges, using your definition, we would have 137 versus the Department's 153.

MR. GRADY: That's correct, and that definition actually does not rest on our definition. That is based on a federal definition of structurally deficient.

CHAIRMAN KURK: Thank you. Representative -- excuse me. Senator Morse.

SEN. PRESIDENT MORSE: Commissioner, thanks for coming over. And the -- you know, you mix accountants with engineers, it's a great thing. I think ultimately, in my opinion, and I certainly, when Senator Rausch was running the gas tax up the flagpole, went right to Red List bridges because I was concerned about an inflated number, and I had people print every news script that a commissioner commented in from -- I believe it was like 2012 or something like that all the way back to when I started in '98.

And Commissioner Kennison was quoted in one of them back in '98 or '99 saying the Federal Government changes the rules every year, and as I

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make progress more come on the list. I really think what we need to take as a State from this is a better solution to the problem, and I pointed it out by looking at my own community, asking why they took your money for a million dollars or 800,000, I forget, and didn't just fix the damn bridge because it was culverts at the time and do it at the 20 percent that they had in their own budget, and they said because federal money was available.

I think the bigger problem that comes out of this is the Federal Government continues to tell the State how to build the bridges, and I think it's driving the cost so high. I really do think you have -- we're not going to get you a ton more money in the next budget. So keep smiling, but it's only -- we can only do what we can do, and the reality of the whole thing is I think the communities can do more if they're not hamstrung with this process that's put on them by the Federal Government, and I don't think we're -- as a State, I don't think we're doing anything about it.

COMMISSIONER SHEEHAN: I spoke earlier about how the federal funds were restricted to replacements and rehabilitations previously. Federal dollars could not be used for preventative maintenance, and that's how we ended up in this situation in many cases. We have this backlog because we didn't keep bridges in good condition. We let them deteriorate, so then they were eligible for federal funding.

What was really refreshing was working through the Ten-Year Plan process. We were advocating that we take the dollars that are available to us today,

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and we have that balanced program that we start to keep structures in good condition, which is the most cost-effective way to manage them, and gradually address the backlog and do some of the Red List replacements, recognizing, again, if those bridges are really in poor condition and they're essential to mobility and we have to maintain public safety, when we touch them just to keep them open, we're essentially pouring money down the drain.

One of the examples we talk about a lot in the Department is the Memorial Bridge and the Sarah Long Bridge, two structures that were both at the end of their service life and needed to be replaced. You know, ideally you would take both out of service. That's impossible. We have to maintain connectivity, especially between two states, and so we chose to take on, because of condition, the Memorial Bridge first, and we have been spending a lot of money just keeping the Sarah Long open until Memorial was finished, and construction of Sarah Long could begin.

So these are the tough decisions that we're going to have to continue to make because of how investment choices were made in the past, and as a Department our goal is to use asset management, use this data to present all these needs to the Legislature. If we do the Ten-Year Plan, you understand exactly what outcomes we can achieve with the portfolio project you put forward and trying to do more of that preventative maintenance so that we're saving money in the long term.

SEN. PRESIDENT MORSE: Commissioner, I just want to point out I used to love being on the Public

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Works in the House. The reality is the public doesn't understand, and we're mixing town bridges with state bridges, but the reality is it all comes out the same. They don't understand the process that's been connected to the Department of Transportation.

I'm only using bridges. You could go to highways. It's the same thing. There is such a process that is driving the cost of these projects to the moon. It needs to be addressed because there will never be enough money. We have historical things that are being involved, we have conservation commissions that are being involved to the point that, you know, we debated the salamander crossing on Route 111. I mean the most expensive road you can imagine for three and a half miles of road, and at 35 million dollars or something it got crazy. I mean the topics that were thrown into a road project.

And I think that's a bigger thing than -- you know, you have to do what you have to do as a commissioner with assets and all that. Great. My problem is when they said it's 150, and they're complaining they all need to be fixed and everybody wants money. I mean if you ever tear apart the other end of it is what the costs are doing, people would be shocked. They would be shocked.

CHAIRMAN KURK: If I may take off on this, I live in the Town of Weare, and we were faced with a municipal bridge that had some problems due to flooding. If the town fixed the bridge -- it was a relatively narrow bridge over the Piscataqua River serving two homes -- Piscataquog River -- excuse

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me -- serving two homes. We could have done it for -- I think it was \$200,000. No, \$300,000. But there was a state bridge aid program.

If we did that, the project had to meet federal specifications, and it would cost, I think, a million dollars, but our share was only \$200,000. So, being frugal New Hampshire people, we opted for the 200,000-dollar/million-dollar solution, and while my town taxes didn't go up, my federal taxes -- or the federal deficit went up. Is there something we can do to avoid that kind of, my word, silliness? It doesn't make sense.

COMMISSIONER SHEEHAN: So in many cases, towns are trying to repair a structure, but they may not be able to get the additional life out of the bridge that we'd be hoping for. Also, they may not be aware of the safety and the new federal standards in terms of --

CHAIRMAN KURK: Your answer is no. Thank you.

COMMISSIONER SHEEHAN: We have to take a balanced approach. Some of this is about educating communities and helping them understand how much they really should be investing but finding out what the right solution is. Is a repair better than a full replacement? It's a complicated -- you know, we as engineers are balancing a lot between the design standards, safety features but also looking at the environmental impacts, right of way impacts, utility work. When we embark on a project all of those different aspects end up increasing costs.

CHAIRMAN KURK: Under the new federal

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regulations, can we get that 20 percent without having to meet the federal standards or not?

COMMISSIONER SHEEHAN: We'll always have to comply with the current federal standards.

CHAIRMAN KURK: Then the situation that I suggest is going to continue, and we are going to be overspending. We now have a 24-foot wide bridge to serve 2,000.

COMMISSIONER SHEEHAN: I will say -- I'm sorry. Just in response to that, we as a Department try to participate as much as we can and serve on the AASHTO subcommittees that set many of the standards and guidelines. Our continued participation and having a seat at the table when those standards are being set is absolutely essential because we do voice some of these concerns, and we look at some of the standards that are overly conservative and advocate for alternatives. That's our opportunity to influence the federal process.

CHAIRMAN KURK: Senator D'Allesandro and then Representative Eaton.

SEN. D'ALLESANDRO: First, kudos to the Department for the consideration that you're giving us now. I think it's complete and comprehensive. If we compile the database of all of the bridges that we have in the State of New Hampshire, bridges have a life span -- have a projected life span, so there has to be a methodology in place whereby you're looking at these as their life span expires in terms of replacement, repair, and so forth.

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So it seems to me, in looking at the chart, you're telling people we're going to go from 153 to 185 in terms of Red-Listed bridges over the next 10 years. So if indeed we have a plan, a replacement or repair plan in place and integrate the Ten-Year Plan, can we reduce that number?

COMMISSIONER SHEEHAN: With the current Ten-Year Plan, this is the outcome that we would expect. Despite the additional 11 we provided in this last Ten-Year Plan, this is where we expect to be. Because we just can't play catch-up.

We were deferring preventative maintenance for so long that we have this large number of what we call the Pink List bridges, those that are nearing Red List, and it's those bridges that are reaching the end of their service life, and it takes significant investment to get them back to a good level of condition.

So the Department, we're trying to do the preventative maintenance on the structures that we've recently replaced and rehabilitated and don't let them decline as we once would have, but it's playing catch-up on the backlog that's a struggle.

SEN. D'ALLESANDRO: Further question.

CHAIRMAN KURK: Further question.

SEN. D'ALLESANDRO: So -- but indeed the items that may contribute to the deterioration of these bridges are the maintenance, how they're maintained, what we use in terms of -- for the winter, how we

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handle that, but also the weight of the traffic, the amount of traffic that's going over them and the weight of that traffic as it crosses, particularly the bridges. And I've noticed that the truck traffic on the roads has increased dramatically, not only on state roads but on the city roads and the bypasses that they're taking, and these weight loads destroy the shoulders. We don't have shoulders now on many of our roads. So what's our plan to deal with that? Or if indeed there is a plan to deal with that.

COMMISSIONER SHEEHAN: So one of the reasons that the costs of projects is going up is that as statutory loads increase, our designs have to be even more robust to handle those loads which is driving up costs. We do track our preventative maintenance activities. Bridge washing is one of the essential activities. We have to continue to keep painting and wash all of our structures. And salt is really the biggest concern for the Department. It really accelerates deterioration of bridges, so we do have a focus on certain preventative items and preventative maintenance items in particular that we think will add the most value.

CHAIRMAN KURK: If I may only half facetiously suggest that one of the ultimate solutions to this is a decrease in UPS and postal service trucks plus they're being replaced by drones. Representative Eaton.

REP. EATON: Commissioner, I was told, and I don't know if it's accurate or not, that when a bridge is being laid out that the engineering firm

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is paid a percentage of the final project. Is that correct?

COMMISSIONER SHEEHAN: No. We negotiate typically the hours, the level of effort, which then translates to a cost. When we are working with Federal Highway, up to a certain percentage is eligible for federal funds, but we don't look at the construction costs. We look at the scope of the project and negotiate the hours of effort for design purposes.

REP. EATON: Thank you.

CHAIRMAN KURK: Representative Barry.

REP. BARRY: Thank you. Thank you, Commissioner, for being here. You realize of course since this is your first time we're being easy on you. I do have a question about the audit, if I can get back to that. It looks like there's only two that you do not concur with, three you do concur, but the rest are concurred in part. And I'm hoping that there's a way that you and the auditors get together or your people and the auditors get together, and maybe it's a language clarification definition so that when you come back again we don't have to go through this part of it. Is that part of your plan?

COMMISSIONER SHEEHAN: The total recommendations -- as I said before, because LBA was comparing us to a best practice that we aspire to, we certainly did concur with the majority of the recommendations. There were, however, particular statements made in the observations or indications

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that we should do things in a certain way that the Department was not fully behind. So that's why within the document you'll see we modified the recommendation to show our interpretation of what we intend to do with the next step.

REP. BARRY: So that's a no.

COMMISSIONER SHEEHAN: We will continue the conversation with them.

REP. BARRY: Thank you.

COMMISSIONER SHEEHAN: But just so you can understand where there may have been a difference of opinion.

CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Thank you. Commissioner, if a bridge is closed to traffic according to your definition, does it stay on the Red List of bridges?

COMMISSIONER SHEEHAN: Some bridges will stay on the Red List because we need to continue to inspect them, and they do still pose a threat to public safety. If we let that bridge just completely deteriorate without monitoring it -- one of the structures, for example, that is on the Red List currently is the Vilas Bridge between Walpole and Rockingham, Vermont.

That particular structure has sparked a lot of conversation. It carries utilities, and even though the bridge is closed there's a sewer line on that

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particular structure that if we were to allow the bridge to deteriorate and didn't keep up inspection would impact that utility service.

And so there's structures such as that that are currently on the Red List, but because of some of this concern that there's structures on the list that the Legislature wouldn't expect to see, that's why we would like to work with our policy committee, explain what's been added to the Red List previously and get their feedback on what they would like to see going forward.

SEN. DANIELS: Follow-up?

CHAIRMAN KURK: Follow-up.

SEN. DANIELS: In your projection of the bridges that will eventually be Red Listed, have you taken into consideration the weight limits that the Federal Government has placed on trucks on the interstate that are now being forced onto state roads and municipal roads in order to be able to haul without being in violation?

COMMISSIONER SHEEHAN: We have not taken that into consideration. And you'll notice in the chart concerning municipal bridge condition, we struggle to project what that condition is going to be in the future because we're not certain how much municipalities will be able to spend of their own dollars on bridge structures, and so the rate of deterioration of those bridges and the underlying causes, those are things when we're talking with the regional planning commissions and municipalities how we can partner.

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While we're focused on the state-owned assets, we recognize it's a transportation network, and so we need to be looking at both the state bridge condition as well as the municipal bridge condition.

SEN. DANIELS: Thank you.

CHAIRMAN KURK: Further questions? There being none, Representative Weyler is recognized for a motion.

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

CHAIRMAN KURK: Is there a second?

REP. EATON: Yes.

CHAIRMAN KURK: Seconded by Representative Eaton. Any questions or 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 adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Thank you for this presentation. I appreciate what the LBA did, and congratulations, Commissioner. You stood up well to the barrage of questions. Please note that when you come back or in a year or so there will be a few dots in the back of the report. We hope they're all black and that none are white. Thank you so much. Thank you, Commissioner.

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13. Date of Next Meeting and Adjournment

CHAIRMAN KURK: Is there any other business to come before us? You'll note, again, that we will be meeting next on October 14th, Friday, and at that time we will be making decisions on retiree healthcare or at least those decisions that relate to the medical or drug -- excuse me -- prescription drug portion. There being nothing else to come before us, we stand adjourned.

(The meeting adjourns at 12:12 p.m.)

## C E R T I F I C A T E

I, Debra L. Mekula, a Licensed Court Reporter and Justice of the Peace in and for the State of New Hampshire, do hereby certify that the foregoing, to the best of my knowledge, skill and ability, is a true and accurate transcript of my stenographic notes of the Joint Fiscal Committee Meeting, taken at the place and under the circumstances present on the date hereinbefore set forth.

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Debra L. Mekula, LCR, RMR  
Licensed Court Reporter  
Registered Merit Reporter  
N.H. LCR No. 26 (RSA 310-A)

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