

**JOINT FISCAL COMMITTEE**

Legislative Office Building, Rooms 210-211

Concord, NH

Wednesday, July 29, 2015

**MEMBERS PRESENT:**

Rep. Neal Kurk, Chair

Rep. Ken Weyler

Rep. Lynne Ober

Rep. Mary Jane Wallner

Rep. Dan Eaton

Rep. Richard Barry (Alternate)

Sen. Jeanie Forrester

Sen. Chuck Morse

Sen. Jerry Little

Sen. Andy Sanborn

Sen. Lou D'Allesandro

(Convened at 10:06 a.m.)

**(1) Acceptance of Minutes of the June 26, 2015 meeting**

CHAIRMAN KURK: Good morning, everyone. I'd like to welcome you and open the Fiscal Committee meeting of July 29, 2015.

This being the first meeting after the Continuing Resolution went into effect, I -- we have a much larger agenda than we usually do. So I would like to postpone the audit of the Health and Human Services Food Protection section until next meeting.

Secondly, rather than have the usual Consent Calendar items where we vote on them as a block, I think it would be appropriate if all items came off Consent and every single item on the agenda be voted on individually, unless a member wishes to make a motion to adopt a number of them as a group. So as we go through the agenda today, even though it says Consent Calendar, all items have been withdrawn and will be voted on individually item by item.

I point out to Members that the Continuing Resolution deals with the budget but does not suspend the statutes giving the Fiscal Committee various authorities; for example, budget transfers and accepting Federal grants. And I assume that the Committee is going to use that authority to avoid exacerbating our budget situation.

A couple comments I think are in order about the agenda items for today. They seem to fall into a variety of different categories. The first category is an item that deals with an ongoing program. That is to say, a program that has neither been approved by the Fiscal Committee or was included in the 14-15 budget. Most of these items involving an ongoing program ask for new money and some of them are in the budget that was vetoed and some of them are not. I hope that the Committee will approve these items as consistent with the Continuing Resolution, although I recognize a good case can be made for denying them.

Secondly, there are programs which are new programs with new money and these are in the vetoed budget. I hope the Committee will table these so that they can be dealt with after the budget situation is resolved.

The third category is a request to increase appropriations beyond those in the Continuing Resolution. I hope the Committee will deny these, unless they involve an emergency. That's what the Continuing Resolution authorizes us to approve.

The fourth kind of item is something that is a new program, it's new money, it's not in the vetoed budget, and I hope the Committee will treat these as it usually does and decide each on its merits.

And the last category is a transfer request. No additional appropriation is involved, but an agency is requesting a transfer, and I hope the Committee will treat these as it usually does and decide each on its merits, because they don't affect the Continuing Resolution's basic thrust. So with those observations, let's turn to our agenda.

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The first item on our agenda is number (1), the Acceptance of Minutes of the June 26<sup>th</sup>, 2015, meeting.

\*\* REP. EATON: Move approval.

REP. OBER: Second.

CHAIRMAN KURK: Senator Sanborn, would you like to make a motion?

\*\* SEN. SANBORN: I'll move approval.

CHAIRMAN KURK: Is there a second? Representative Ober seconds. Is there discussion? There being none.

SEN. D'ALLESANDRO: Approve it.

CHAIRMAN KURK: Thank you, Senator. There being none, you ready for the question? All those in favor of approving the minutes of June 26<sup>th</sup>, please indicate by saying aye? Opposed? The ayes have it and the minutes are approved.

\*\*\* {MOTION ADOPTED}

(2) Old Business:

CHAIRMAN KURK: There being no Old Business under item number (2), we turn to item number (3).

CONSENT CALENDAR

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

CHAIRMAN KURK: RSA 9:16-a, Transfers.

\*\* REP. OBER: I would move acceptance.

CHAIRMAN KURK: Fiscal 15-136, a request from the Department of Resources and Economic Development, transfer \$375,000 in General Funds through December 31<sup>st</sup>, 2015. I would note that all

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of these requests are only for the period of the Continuing Resolution. And once that's resolved, I'm sure many of these folks would be back for further approvals. Representative Ober.

\*\* REP. OBER: I move to accept.

CHAIRMAN KURK: Representative Ober moves, Senator Forrester seconds the motion to approve Fiscal 15-136. Is there discussion?

REP. OBER: Mr. Chairman, this is just a simple transfer from one class line to another class line within their budget. They have come to us per the RSAs because of the amount. So this is business as normal.

CHAIRMAN KURK: Thank you. Further discussion? There being none, 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}

(4) **RSA 9:16-a, Transfers Authorized and RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from any Non-State Source:**

CHAIRMAN KURK: We turn now to item number (4) on the agenda, Fiscal 15-120, a request from the Department of Health and Human Services for authorization to transfer \$67,977,420 in General Funds, increase related Federal revenues and increase related other revenues through December 31<sup>st</sup>, 2015. Is there discussion?

SEN. SANBORN: I have questions. If we could ask the Commissioner to come up.

CHAIRMAN KURK: Of course. Commissioner. Good morning, Commissioner. Good to see you.

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NICHOLAS TOUMPAS, Commissioner, Department of Health and Human Services: Nice to see you, Mr. Chair. Good morning. For the record, Nick Toumpas, Commissioner of Department of Health and Human Services.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Commissioner, thanks so much for coming in today, I appreciate it.

My question isn't as much as the mechanics of what you're trying to do as, obviously, with the Continuing Resolution and the pre-Managed Care organization funding mechanisms to the new one. Mine kind of has to do with asking your thoughts and views that, as you know, the Fiscal Committee received a letter from Mr. Pattison in the last month as a result of some questions we asked showing that the spend under Medicaid was up \$77 million in 2014 and \$78 million in 2015 of what appeared to be, you know, outside of the appropriated budget amount, something we hadn't seen, and is obviously causing you some strain. So I'm going to kind of asking where's the \$156 million really coming from. And as we look forward towards the Continuing Resolution and 16-17, do we anticipate that Medicaid is going to be up 100 or \$200 million or where do you see it going and what's the funding mechanism for it for General Funds?

MR. TOUMPAS: I can't speak to the specific numbers that you're referring to, but clearly in State Fiscal Year 15 from the January 1<sup>st</sup>, 2014, through the end of roughly May, we saw a fairly significant increase in the number of Medicaid recipients as a result of the so-called MAGI calculation. It was around 12,000 individuals and that added, we believe, somewhere around 18 to \$19 million of a General Fund obligation because those were 50/50. The -- the other -- so that's -- that's the largest piece that I can -- that I can think of.

The traditional Medicaid population, what we have been seeing and you'll see it in our Dash Board, the next Dash Board, you will see the traditional Medicaid population the numbers are

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actually going down. They're trending down. Not hugely significant but they, nevertheless, they are trending down.

The area that there is some question on is the -- when we went to Managed Care, we had a three-month payment lag and that equated to around \$39 million. So what we needed to do was we did a three-month payment lag in order to allow us to pay the claims run-out for the period into the State Fiscal Year 15 -- excuse me -- 14. And then we would begin making payments, you know, for services three months before. I'm not sure if I'm being entirely clear on it, but there was a three-month payment lag that drove around a \$40 million, not an increase, just basically just moved that from a one period into another period.

SEN. SANBORN: Follow-up.

MR. TOUMPAS: But I can't speak -- I can certainly go back and take a look, but I'm not -- I'm not aware of anything that we are tracking in the magnitude of the \$170 million that you're talking about in terms of an increase in the Medicaid side.

CHAIRMAN KURK: Senator Sanborn, follow-up.

SEN. SANBORN: Thank you, Mr. Chair. So it's actually part of our ancillary information today another letter. So just to remind you Medicaid Expansion was passed. You came back to Fiscal Committee looking for \$7 million to stand up the program. Then you came back later for \$8 million for administration for the program. Then, you're right, we have the two MAGI for '14 and '15 for -- I said 20 million apiece.

MR. TOUMPAS: Hm-hum.

SEN. SANBORN: So that's about \$55 million; but yet, the documents we have today shows a spend of \$156 million which is asking the first part of that question. So would love to circle back with you if you don't have the answer readily available. But the second part that you bring up, if I may, Mr. Chair, to me is equally -- I guess I'm trying to understand it better. I guess in simple terms being a simple man, we're paying out our

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fee-for-service every single month. Just like I pay a mortgage. My mortgage is a thousand dollars a month. I pay every month. The bank calls me up and says you don't need to pay the next two months because we're going to net 90 versus net 30. So I would have an accumulation of about \$2,000 that I have to pay you before I start paying again. So if we went 60 days without paying for our cost under Medicaid, which you're suggesting was 39 million for each month or 39 million for both months combined?

MR. TOUMPAS: I believe I'm talking the 39 million in General Funds for the three months.

SEN. SANBORN: For the 60 days. So we are spending \$20 million a month in General Funds under Medicaid.

MR. TOUMPAS: You're providing me with a number of numbers, Senator. I don't have that -- all that information sitting here in front of me. So it's something I'd be happy to follow-up with the Committee for the August meeting to give you the exact numbers and so forth. We'll also have a better idea in terms of where everything stands within the next couple of weeks.

SEN. SANBORN: I appreciate it, sir, because, obviously, I'm concerned about we're talking tens, nearly hundreds of millions of dollars of transfers. Just concerned about where we're going.

MR. TOUMPAS: What this item specifically is seeking to do, however, is as you know, in the budget that was passed, in the '15 budget, we did not have when we -- the budget was passed back in 2013. We did not have Managed Care. We did not have the number appropriate for Managed Care. We didn't know what it was going to be in terms of the number of people who go in and so forth. So we set up an account. We had \$1, I believe it is, in that account. And so now what this is seeking to do is taking money out of Behavioral Health, out of Elderly Services, out of DD Services and so forth in order to pay. We have that money in the budget. We just didn't have this line item for Managed Care. So just shifting the dollars around and this will cover -- this will not cover us till the end of December. The period is for

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the end of December. We'll likely have to come back in the October time frame.

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

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you, Mr. Chair. Commissioner, when we did the 14-15 budget, do we have any inkling of the MAGI coming and did you put any money aside for that and, if so, how much?

MR. TOUMPAS: We did not. All the materials that we had -- all the materials that we had seen that the Federal Government had provided us was when they were going to be moving towards that Modified Adjusted Gross Income, which was just a different way in which to be able to calculate the eligibility. Not for the newly eligible, but for the existing -- for the existing population. And it was an attempt to streamline how it was going to play in anticipation of moving forward to try to streamline -- standardize it across the country.

All the materials that we had received from the Federal Government indicated that it was, quote, unquote, going to be budget neutral. So we saw a fairly significant run-up in the early part of 2014 -- Calendar Year 2014, roughly 12,000 people. The majority of those -- almost 80% of those were children so -- but we did not -- we did not anticipate that we would have that type of a -- that type of a number. We did cover it under -- within, again, that's one of the items that Senator Sanborn was talking about, a couple of other ones that we needed to use, basically said out of the funds that would otherwise lapsed, because we did not come back looking for an additional appropriation on that.

So we did not -- we expected there may have been some. It wasn't going to be completely saying that it was going to be budget neutral. We just didn't expect it would be to that level that it was and for the cost.

REP. WEYLER: Follow-up.

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CHAIRMAN KURK: Follow-up.

REP. WEYLER: Thank you, Mr. Chair. Do we have any other expansion possibilities coming ahead in this next two years?

MR. TOUMPAS: Expansion?

REP. WEYLER: Of the Affordable Care Act?

MR. TOUMPAS: No. The area -- not from an expanding the population, no.

REP. WEYLER: Thank you.

MR. TOUMPAS: We are adding services, adding capabilities, but we're not -- we're not changing the eligibility criteria that would increase or decrease the number of people in the program.

REP. WEYLER: What will be the cost of adding the services?

MR. TOUMPAS: Well, again, for the -- for services that we have something in the budget for regarding Substance Use Disorder benefit, for example, for the existing Medicaid population that would take effect in 2017 under the budget that was passed by the House and Senate and vetoed by the Governor. So that -- that is something that's an expansion of services. There are other services that are being provided right now; but, again, those are within the Medicaid Expansion. And so through the period of the end of 2016, they're 100% Federal funding for the services.

REP. WEYLER: Thank you. Thank you, Mr. Chair.

CHAIRMAN KURK: Further discussion? Is there a motion?

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

SEN. SANBORN: Second.

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CHAIRMAN KURK: Senator D'Allesandro moves, Senator Sanborn seconds the approval of Fiscal 15-120. Further discussion? There being none, 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, Commissioner. We turn now to --

SEN. D'ALLESANDRO: Mr. Chairman, just a note. Today is the Commissioner's birthday.

(Applause.)

CHAIRMAN KURK: Happy birthday, Commissioner. You just got a \$67 million present.

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

CHAIRMAN KURK: Turning now to Fiscal 15-113, a request from the Department of Justice for authorization to retroactively amend a prior Fiscal approval by extending the end date to December 31<sup>st</sup>, 2015, with no increase in funding.

\*\* REP. EATON: Move approval.

SEN. SANBORN: Second.

CHAIRMAN KURK: Representative Eaton moves, Senator Sanborn seconds the approval of this item. Is there discussion? There being none, are you ready for the question? All those --

REP. WEYLER: Is this 113?

CHAIRMAN KURK: This is 113.

REP. OBER: Yes, this is 113.

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

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

CHAIRMAN KURK: We turn now to 15-115, another request from the Department of Justice. Similarly, for retroactive authorization to amend a previously approved Fiscal item by extending the end date to December 31<sup>st</sup>, 2015, with no increase in funding.

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

REP. EATON: Move approval.

CHAIRMAN KURK: Senator D'Allesandro moves, Representative Eaton seconds the approval of this item. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? All those opposed? The ayes have it and the item is approved.

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

CHAIRMAN KURK: We turn now to Item 15-116, a third request from the Department of Justice. Again, for authorization to retroactively amend a previously approved Fiscal Committee item and extend the end date to December 31<sup>st</sup>, 2015, with no increase in funding.

CHAIRMAN KURK: Representative Weyler moves.

SEN. SANBORN: Second.

CHAIRMAN KURK: Seconded by Senator Sanborn. 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 is approved.

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

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CHAIRMAN KURK: We turn now to Fiscal 15-121, a request from the Department of Health and Human Services for authorization to retroactively amend a previously approved Fiscal item by reallocating \$105,963 in Federal funds and extending the end date to December 31<sup>st</sup>, 2015, with no increase in funding.

SEN. FORRESTER: Discussion.

SEN. SANBORN: Discussion from me.

CHAIRMAN KURK: Yes, Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. I think this is the first one we are going to be facing today, there's what I count to be 17 items on this agenda so I figure the first one is a good place to have a policy discussion.

Mr. Chair, what my concern is, is acknowledging that the Governor has vetoed the budget, which puts us in relatively unchartered waters, and we have signed a Continuing Resolution as you had mentioned earlier in your conversations and your opening remarks. For me, Mr. Chair, the Continuing Resolution has much less to do about a policy position as it does about money. And I read the Resolution, it really drives the fact our consideration as we operate on these six months and, hopefully, convince the Governor to step away from her veto and allow the budget to become law, really dictates and drives the conversation that the spending in this Continuing Resolution period shall be at the level where our spend is in 2015.

So although there are some policy considerations as to whether or not it's good policy and whether or not the policy exists in the 2015 budget and transcends to 2016, for me, Mr. Chair, I'm struggling with the fact that I guess I'm reading the Resolution in a different way that really talks about the fact this really needs to be driven on money. As a result of that, it's my position that any of these items that come up that is changing the funding source into what would have been in the 2016, predicated on the Governor's veto, would require that we

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would table these types of items. And before I move to table, I thought we might want to discuss it.

REP. OBER: I have a question.

CHAIRMAN KURK: I wouldn't have accepted your motion until we had the discussion. Representative Ober.

REP. OBER: I understand what the Senator is saying. Some of these items were in the budget because we, Fiscal, accepted the grant previously. We only accept a grant for the biennium. So if you get a five-year grant, and it's the first month of the biennium, we accept it for two years, you have to come back then in the first month of the next. And yes, you get new money, and by then one would expect that that money would be in the budget, which would be appropriate. So I looked at some of these as slightly different and I understand where you're coming from, Senator. And my thought was if Fiscal had already accepted something that was an ongoing program, even though it was in the budget, this is an ongoing program that we only authorized for one biennium so they had to come back.

So I took a little different view of some of these, I guess, than you did. I'm not saying your idea is wrong or my idea is right. I just had a different view when I looked at those. And I don't know which one is right, but that's where I was coming from when I looked at some of these.

SEN. SANBORN: Mr. Chair, if I could?

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: And Senator Little would like to speak as well. And, Representative, I hear what you're saying. For all of us right now is kind of a unique time, because this is not an ordinary circumstance that we operate under. I guess, for me, the part that really kind of strikes home is your acknowledgment that the Fiscal Committee approved the two-year grant. Even though it may have been a five-year grant, we approved two years.

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REP. OBER: Right.

SEN. SANBORN: I accept the rule and the procedures and the rules of the road of how we deal with the Fiscal Committee. We can only approve up to our two-year constitution positions. So as such, for me, and what I see as an interpretation of the Continuing Resolution would, therefore, support my argument that although we might like the position and might like the grant, and many of these I do appreciate, I do like, and I do support intellectually; mechanically, if we are going to be consistent, we need to recognize that we approved it for two years. And now, again, the result of the Governor's veto specifically is forcing us to make what all of us will make are some difficult decisions predicated by what's been given to our lapse, and it's that two year approval. And now that we are asking for more money, to me, clearly indicates that these items need to be tabled until we either override the Governor's veto or she steps back from it and that's the challenge I'm asking.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. Let me state at the outset that this is excellent public policy. I support the idea of this item and this funding, to the point that I also supported it when it went through in the budget. It's a reasonable spend. It's a good program. It's a good project. It's in the budget. Representative Ober did a great job explaining how these sorts of mechanisms work. There is a hard stop at the end of every biennium. That hard stop is there so we will take a pause. We will look at these programs. We'll decide if they're appropriate, if they're correct, and if they should move it forward. And when we took that hard stop, when we went through the budget cycle this time we looked at this issue and said this is an excellent program. Let's continue it.

The Governor decided to veto that budget. We said repeatedly there's a lot of good in the budget that she vetoed. This is a perfect example of the good in the budget this Legislature approved that she chose to veto.

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Mr. Chairman, at the outset you identified for us a number of different categories of items that would come before us today and one of them was emergency spend. You did not put this in the emergency spending bucket. And, therefore, I have to look at this, unfortunately, as an effort to side step the Governor's veto and to create a side door of things to come through. If we agreed upon creating that side door, this is the appropriate type of thing to come through it, but I can't agree to that side door. The Governor has decided to veto the budget. This is one of consequences of the Governor's veto. Thank you.

CHAIRMAN KURK: Commissioner, we have a question of you. Senator Forrester.

SEN. FORRESTER: Happy birthday.

MR. TOUMPAS: Did I turn as red as my tie?

SEN. FORRESTER: Only when we sing happy birthday will you turn red.

SEN. SANBORN: Which we're not doing.

SEN. FORRESTER: Which we're not doing. Can you briefly, Commissioner, explain what this program is and then after that I have a question.

MR. TOUMPAS: This program is the -- it's called the F.A.S.T -- F.A.S.T. Program. And it really is dealing with children with severe mental illness issues. And, again, what we're doing here is moving dollars around in order to do it with dollars that are here. By having to move these dollars and some of these dollars are going into personnel, it would mean that the people who are being funded by that would probably have to be laid off as a result of this if we reject this or table this for any significant period of time.

But it really is we have a significant challenge in terms of dealing with children with mental illness. There's a number of different initiatives. This is one of many that we're doing.

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There's a couple of other ones that are related to this regarding something we call the system of care in order to basically create a whole continuing of service for children with mental illness. And so the impacts on something like this would be very, very significant.

I do understand and appreciate the varying perspectives on it; but I'm sitting here before you to basically say there's a number of people that are impacted by something like this. And so I -- but it is a program that is really designed to basically provide support services for kids with severe mental illness.

SEN. FORRESTER: I have a question.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: Thank you, Commissioner. So no new money. It's existing in the budget now. And if I heard you correctly, if we table this item you will need to lay people off and as a consequence, services would not be provided to children with mental health issues.

MR. TOUMPAS: That is correct.

SEN. FORRESTER: Thank you.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Commissioner, thank you very much. I appreciate Senator Forrester's position. Every single one of us up here are concerned about providing services that we believe are important that we put into a budget. You heard Senator Little specifically talk about. Every single one of us sitting in this -- every single one of us right here support this program, but there's a little thing called law that we have to respect. And the fact that with the Governor's veto of the budget, I'm not sure we have time today to go over every single program for alcohol treatment, for opioid treatment, go from tip to tail what's in the budget of all of the programs that have been suspended as a result of this veto.

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So whether or not it's this specific program or every other one which, again, is why so many of us are imploring the Governor to stop this and accept the budget, this is that ramification of actually following the law.

My question for you is we table things in this Legislature pretty often because we need more information, we don't understand the law, we don't understand the impact, and it has traditionally always put things into a suspension for 30 days or whenever we come back. I think there's 40 some-odd tabled items that were on the Senate table when we got done with that.

I also, I guess, the other half of that question would be is we're now in the end of July, so we've been operating without approval so far since most of this is retroactive. So to hear the suggestion that it's going to cause lay-offs or big changes, I'm having a difficult time knowing that no one's been laid off from June 30<sup>th</sup> and a 30-day extension to try and figure out what we are going to do would be appropriate since it's our ability to comply. So how are you operating in your Department today since you technically don't have a budget and should be laying off dozens, if not hundreds, of people?

MR. TOUMPAS: We have -- look, Senator, the -- first off, let me go back to the issues that you raised earlier. I appreciate what everybody is saying on this. But, again, my role is looking at the people who are out there and, again, there's other items that are on here that are dealing with substance abuse, mental illness, and so forth, it is a -- it is a huge, huge issue in the state. And one of those issues is clearly related to children. And so I don't have all the detailed mechanics on it in terms of every one of these things. We will make do in terms of moving things around. But if it gets extended, if I don't look at I have funding moving forward, I have to take the steps in order to basically notify people potentially you're going to get laid off which, in fact, will cost the State and the Department more money because now I have got payouts in order to do -- in order to pay that individual out who's trying to do their job and is caught up in this.

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So I do understand and appreciate the issues that you're raising; but from my standpoint, I'm really talking about the needs that need to be fulfilled, that need to be met on the part of these -- that don't have the capability to stand here and tell you what these type of services really mean for them and the people who are providing those services.

SEN. SANBORN: Follow-up, real quick. So I assume you agree with me if we had a budget operating we could be solving a lot of our problems today.

MR. TOUMPAS: Clearly. You know, but from my standpoint, the -- all this is going on. I've been in this role for eight years, and there's a number of things that go on. We just have to, you know, you're the policy makers. I have to try to execute and administer the policies that are coming up. This is, clearly, has some challenges to it; but we have to try to stay focused on what we need to do in order to deal with the people in the state.

\*\* SEN. SANBORN: Mr. Chair, I move to table unless there's other conversation.

CHAIRMAN KURK: I wish to make a statement and then we are going to take a recess. This is an ongoing program.

MR. TOUMPAS: Yes, it is.

CHAIRMAN KURK: This program started not in 2013, but in 2014. Had it started in 2013, it would have been in the budget and we wouldn't be having this discussion. It started in 2014 with the Fiscal approval. This represents additional money, second phase or third phase of the grant. It's in the new budget that was vetoed. But because it was started in '14, it wasn't in the 14-15 budget. The logic that I've heard from Senator Little and Sanborn is solid. The logic I've heard from Representative Ober is solid. You can make a good case either way. From my point of view, if you can do that, then I think we should do the least possible harm. And the least possible harm involves approving this. This is consistent with the statement I made at

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the beginning that we need to make sure that while our budget situation is unresolved, we act in ways which do the least possible harm. So I would like to see us adopt this. That being said, Senator, did you wish to speak now because --

SEN. PRESIDENT MORSE: Yeah, I think so.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: The -- hum -- I can tell you, quite honestly, since we got this Fiscal agenda, this isn't cut and dry. We tried to create buckets like you said in the beginning of this, and I'm not sure that works to be honest with you. After meeting with you yesterday, you looked at it a different way than I looked at it. But when it comes down to it, the State of New Hampshire on these items, these 40 items, that's not where the pain is. Quite honestly, Nick, you must in six months be shorted \$25 million in General Funds from my best guess of how this budget is playing itself out. That's hurting the disabled community, it's hurting the mental health community. All this stuff that we wanted to do with heroin and everything, that's the stuff that's all getting hurt. That's a significant pain enough in the budget phase, in my opinion, that I chose to look at each one of these separately. That's why today's going to be a long day, because I agree with what Senator Sanborn and Senator Little said. There is some kind of logic here that we passed a Continuing Resolution which we didn't spend a day on that Resolution. We looked at many things; but when it came down to it, the Resolution was a document that basically let us run. It's not very detailed, not very detailed at all.

But right now when I'm looking at Health and Human Services, I'm answering the phone about that kid on the waiting list or an adult now, that there is no waiting list. You only have enough money to fund what we have, and that concerns me. So as when we were debating the Governor and the veto, look, what she did, in my opinion, is totally wrong. This is a good budget and we should move forward. And all these people sitting in the front rows, we talked about them. Quite honestly, we tried to have a solution. It wasn't accepted. But right now I think as we

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are discussing in this Committee, each one of these has to be debated individually. I've made it clear to the Senate we are going to vote individually. I don't know how the House is going to do it; but reality is, I think we are all looking at each one of these individually; and there's going to be some we are going to say no to, quite honestly, because it doesn't rise to the level of importance. I don't know that we can put any detail to it.

My biggest concern today is when we get to Section 8 of this agenda. Does something arise to an emergency? I'm going to tell you right now none of those items to me are emergencies. Those are the things that I would tell Commissioners I'd be very careful about because it's creating spending above the six-month period and we need to be very careful. Because if '15 didn't work, the only way '16 is going to work is to start it a little later. So I, quite honestly, will support this today, but I can't fit it into buckets that this Committee is trying to do. I'm looking at each one individually. My mind's changed several times, and I would be very cautious as we bring these items forward on August 26<sup>th</sup> and in September, because I think we need to communicate between us much more. I mean, we spent three days of talking to people.

I've seen serious frustration come out of Senator D'Allesandro and I've cautioned him. It isn't frustration by party. It's frustration of trying to take care of people and make sure the budget works but doesn't make the 2016 budget worse. I won't do that. I have no intention of putting the 2016 budget in place until it's voted on and approved. So, with that being said, I'll support this item, but I'd like to debate every other item, Neal.

CHAIRMAN KURK: Of course.

SEN. PRESIDENT MORSE: And I think we are going to have to make some tough decisions.

CHAIRMAN KURK: Senator D'Allesandro.

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SEN. D'ALLESANDRO: Thank you, Mr. Chairman. Mr. Chairman, there aren't very many times when I can concur with you're right, but I concur at this point.

CHAIRMAN KURK: Every time I agree with you, you appreciate it.

SEN. D'ALLESANDRO: Well, every time you agree with me, I worry about it. I just want to say your comment let's reduce it to the lowest common denominator. We looked at every one of these items, and we tried our best to create the least possible harm. And, indeed, by voting positively for this item, we take care of children. We know the item came forth in 2014. We know it couldn't be part of the budget because how it came through Fiscal. I know that over the years we have accepted millions and millions of dollars through the Fiscal Committee. Millions and millions of dollars. This, to me, falls into that category so I appreciate your comments and will vote positively for this item.

In concurring with the Senate President, sure, we should debate every one of them. I agree with that. That's the nature of the business here. But, indeed, you vote your conscious on each one of these items. And if we go back with your basic premise the idea is let's do the most good. That's my intention of being here and being part of this process. I want to do the most good for people. Thank you, Mr. Chair.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: Thank you. Mr. Chairman, I'm wondering what sort of precedent we are setting here today. If I were a department head, would I not observe this and at next month's meeting come in and make a similar argument that the monies that I asked for, that were in the 2016 budget, are equally as important, because of the argument that I could make that I'm doing the most good for the people of the State of New Hampshire. Are we opening a door for a very, very long agenda next month for others to come through; and if they do, how are we going to say no to them? How are we going to require the

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Governor to live within the intent and the effect of the veto that she put on the budget?

CHAIRMAN KURK: Senator, I hope Senator D'Allesandro understood what I said and is not trying to expand it beyond its very limited statement. We had two very different logics presented to us and both of them are valid. In that situation, I suggested let's do the least harm. In a situation, such as the next item, for example, 122, we have a situation where this was a program that wasn't previously approved, it wasn't in the budget; and, therefore, I believe that one should be tabled.

So the precedent that we're setting is saying, from my point of view, if a program is not in the budget but it had been previously approved by Fiscal, and was not therefore able to be in the 14-15 budget, that we should consider that as an ongoing program and accept the additional money and continue it. So in the case of 121, people don't need to be laid off and services that are currently being provided can be continued. Okay. So that's a particular narrow set of instructions and precedence for agency heads. But just because you get -- just because you fund something that was in the '16 budget, but it wasn't previously approved, and you have some money to do it, doesn't mean that we should approve that. That the message is we're not overriding the 2015 continuing budget in the Continuing Resolution. So I see them as different.

SEN. LITTLE: Follow-up.

CHAIRMAN KURK: Sure.

SEN. LITTLE: Thank you. So the road map is that if the program was created through Fiscal Committee during the last biennium, and was included in the now vetoed budget, then those agency heads operating those programs should come forward to us next month and ask for their 2016 funding.

CHAIRMAN KURK: No. I think -- either I didn't make myself clear or you misunderstood.

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SEN. LITTLE: What I understood was that this program was created through Fiscal Committee approval in 2014. It was not in the last budget. It was reconsidered and re-approved by the Legislature and put in the new budget that was vetoed. Those are the defining characteristics of this item. And so that anything else that fits that template then should receive the same response from this Committee next month.

REP. OBER: Mr. Chair.

CHAIRMAN KURK: Senator Forrester and then Representative Ober.

SEN. FORRESTER: Thank you, Mr. Chair. I think maybe in an effort to be helpful kind of categorize some things and now it seems to want to have maybe, Senator Little, you are thinking in a certain way. I think Senator Morse said it earlier. We need to be taking these on a case-by-case basis and weighing them on their merits and get away from the bucket issue of how these are categorized and move forward that way. And I think the precedent, Senator Little, that we are setting today is that this Committee is going to go through every one of these items very thoroughly, vet them, make sure they make sense if they need to be approved; and if they don't make sense, they get tabled or they get denied.

SEN. PRESIDENT MORSE: Neal, can I comment further?

CHAIRMAN KURK: Sure.

SEN. PRESIDENT MORSE: I think one thing. Number one, almost every one of the things in here says retroactively. So, obviously, we are looking at the Commissioners have been instructed to come in and bring these items. The people are in these positions since July 1<sup>st</sup> and moving forward they're finding their way to pay for them. I think the danger of the budget is in Section 8. I really do. I -- you know, we are going to have issues bigger than this coming forward. CAT Aid to the communities. We can't get a budget, we go into December, CAT Aid to the communities is fully funded in one payment. One

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payment. We funded one-half of the year. What are we going to do as a body? There's not going to be any more money. December we could write half the check to our communities; January we could write the other half of the check to our communities. That's where Fiscal is going to have to make a decision. How we going to handle that? We are going to have to explain to our towns why they're borrowing money for a month. That, in my opinion, is a decision that goes to exactly what you're trying to protect the State from. We don't have a budget and that's the consequence of not having a budget. So if you want to go home and talk to the selectmen and the School Board and tell them one of the things that could happen, that's one. That's only one.

Section 8 of this bill, I know it makes sense to talk about buying all the vehicles at once; but reality is, we don't have the money. We didn't appropriate any extra money in gas tax collection because there's no budget. Those are the things that I think we have to seriously say no and not expand from '15. But what we're talking about here when I read retroactively all the time people are in the positions. We're doing a service. I think we have to look at them. You know, if it's something about letting a new contract go or something, obviously, I'll vote to either table or not accept it at all. But I think there's a lot to learn from this process. I don't think there's another thousand of these coming forward out of the budget. Because in every commissioner's case it makes sense to bring it forward right now to make sure they're not bumping into something that they don't have to lay somebody off or figure out another way to fund the position which they'll be in next month saying I have to move money from a different line to make it happen.

So I think it's a unique situation for the State. There's no benefit of not operating under a budget. I can see that already. But reality is we are -- and we are going to have to keep doing what we're doing now and it's going to be a long day.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Mr. Chairman, sounded like you got new information and you had suggested a recess and perhaps rather

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than me speaking we should recess so new information could be shared or you could share it with the full Committee.

CHAIRMAN KURK: I'm going to try to validate that information by asking the Commissioner a couple of questions.

REP. OBER: Okay, please, and I will wait.

CHAIRMAN KURK: Thank you. Commissioner, was this program in the 14-15 budget?

MR. TOUMPAS: This item was approved in 2014, approved by the Governor and Council also in 2014. So it was in -- it would have been in the '15 budget but not in the original '15 budget. It would have been adjusted authorized.

CHAIRMAN KURK: Right.

MR. TOUMPAS: Which was the instruction that we had that the baseline for what we had to work with was only the original '15 budget, not the adjusted authorized. So anything that was adjusted authorized were funds that had not been encumbered or spent, that were remaining, those are the pieces of it that we were -- that we were required to bring back to Fiscal Committee and to Governor and Council. Governor and Council has to approve these as well, I understand.

CHAIRMAN KURK: So what is the spending level? What was the spending level in 2015 as a result of the Fiscal approvals in 2014?

MR. TOUMPAS: I don't know the answer to that.

CHAIRMAN KURK: Was it about the same as the million?

MR. TOUMPAS: There is not -- this is the third year the spending is the same, would be the same from the --

CHAIRMAN KURK: In '15 you were spending roughly a million seven thousand dollars and you're proposing that the -- that the

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grant be continued for 2016 at that same level even though it is not in the Continuing Resolution but is in the 2016 vetoed budget.

MR. TOUMPAS: Correct.

CHAIRMAN KURK: Thank you. At this point we will take a recess until 11 o'clock.

(Recessed at 10:55 a.m.)

(Reconvened at 11:14 a.m.)

CHAIRMAN KURK: Committee will come out of recess and resume its work. Mr. Pattison, I wonder if you could explain this information which you presented to me to the full Committee.

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: So the item we are discussing right now is 15-121, which is Department of Health and Human Services. With this item they are seeking to transfer or to re-allocate monies retroactive to July 1. So there is no new money involved in the item.

We have determined that this grant originally appeared in the 14-15 operating budget, which was adopted in the 2013 session. Inside the item that you have in front of you, if you turn in three whole pages, front and back three pages, you will see there is a copy of a Fiscal Committee item in there. That Fiscal Committee item is from January of 2014 which was, again, within the 14-15 budget time frame. So the original budget was adopted. That original budget can be seen basically on the current authorized column on that copy of that old item.

If you turn to the next page of that item, you will be looking at Fiscal Year 15 at the top of that page. You will see the current authorized budget of \$1,838,000, to which the Department was requesting approval of Fiscal Committee at that time to accept an additional \$490,000, leaving you with

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1.49 million for Fiscal Year 15. So that confirms that, in fact, it was part of the 14-15 budget. It is also included in the Fiscal Year 16-17 budget at amounts of 1.5 million and 1.3 million.

What the Department is seeking to do is with the monies that are coming forward from Fiscal 15 to re-allocate those monies. And I say that it's from the monies that are coming forward, it was from the monies that were accepted under RSA 14:30 for Fiscal Year 15.

To add to the confusion of that is that when you make a transfer, when an agency makes a transfer of a budgeted, and when I say budgeted I mean dollars that are in the operating budget, they use RSA 9:16. This has just been a standard practice of both Fiscal Committee, at the LBA Office and Administrative Services. If, however, monies have been accepted under RSA 14:30, which this additional monies were, the re-allocation must be done under RSA 14:30, not under RSA 9:16. So, in fact, all the Department is doing at this point in time is seeking to re-allocate the dollars that they have previously accepted.

CHAIRMAN KURK: So, in effect, this is a request for a transfer.

MR. PATTISON: Yes, it is.

CHAIRMAN KURK: I am sorry that I misstated the situation, folks, and I thank the LBA for bringing us up-to-date with the correct information. Senator Sanborn.

SEN. SANBORN: Mr. Chair, we all recognize this is a complicated time and you're completely expected in walking the path for clarification every minute. But if I could ask from either LBA or whoever presents this, as we continue to talk about this, I think one of these litmus tests we are struggling with is we have a Continuing Resolution that says we spend X amount of money based upon '15, and is this request either new and additional money or equal to or less than what the spend was

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in '15? And if the presenters could provide that information when they come up and discuss about it, I think it would help us understand this.

CHAIRMAN KURK: If they don't, I am sure you'll get recognized to ask the question.

SEN. SANBORN: Thank you.

SEN. FORRESTER: Senator Morse.

CHAIRMAN KURK: Senator Morse.

\*\* SEN. PRESIDENT MORSE: I move to approve.

REP. EATON: Second.

CHAIRMAN KURK: Senator Morse moves to approve, seconded by Representative Eaton. 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 is approved.

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

CHAIRMAN KURK: We turn now to 15-122, another request from the Department of Health and Human Services for authorization to accept and expend \$219,342 in Federal funds retroactive to July 1st through December 31<sup>st</sup>, 2015. Discussion?

REP. OBER: I have a question.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Does this fall into the category of brand new money that was in HB 1 that, unfortunately, the Governor vetoed as opposed to continuing?

CHAIRMAN KURK: Commissioner.

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MR. TOUMPAS: I'm sorry, Representative Ober, if you could repeat the question, please.

REP. OBER: Yes, thank you, Commissioner. Is this a brand new grant that was in HB 1 which the Governor vetoed as opposed to a program that was continuing with a grant that started two years ago, three years ago or something, because I notice this one has no approval with a previous date as you had been supplying it.

MR. TOUMPAS: I believe these were monies budgeted in the 16-17. I don't believe they're -- it does say on the second page that the request represents the third year of a multi-year award from beginning in 2013.

REP. OBER: Follow-up, Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: So this money is in your '15 budget if it came from '13?

MR. TOUMPAS: Yes.

REP. OBER: Follow-up, Mr. Chairman.

CHAIRMAN KURK: Representative Ober, I'd like to read the last sentence of the first paragraph under explanation. Therefore, the funds were not available to be included in the 14-15 budget as signed into law.

REP. OBER: So we have a yes and a no to that question. That's pretty clear.

MR. TOUMPAS: My error.

CHAIRMAN KURK: Mr. Pattison, are you in a position to help us out here?

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MR. PATTISON: The only thing I can confirm right now is that it was not part of the 14-15 budget. What I cannot confirm is if this is the third piece of the money, was it done through Fiscal Committee. Usually there's a copy of that Fiscal item attached as was in the previous item. So at this point in time, I can't confirm if that was done through the Fiscal Committee or not.

CHAIRMAN KURK: Commissioner, were this to be tabled and taken up in August --

MR. TOUMPAS: I was just going to suggest if you could on this one I would propose, 'cause you have some questions that I cannot answer, I would propose we table.

CHAIRMAN KURK: Are there consequences to a one month delay?

MR. TOUMPAS: There are, obviously, consequences, but I -- we used to contract with an agency. The way that reads is we have not contracted with that agency. So, consequently, a delay of 30 days I don't think will be significant.

\*\* SEN. SANBORN: Mr. Chairman, table.

CHAIRMAN KURK: Senator Sanborn -- thank you, Commissioner. Senator Sanborn moves to table, seconded by Senator Morse. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is tabled.

\*\*\* {MOTION TO TABLE ADOPTED}

CHAIRMAN KURK: Thank you, Commissioner. We turn now to --

REP. OBER: Why doesn't -- maybe he should just stay at the table.

CHAIRMAN KURK: Yeah. We turn now to Fiscal 15-123, another request from the Department of Health and Human Services for

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authorization to accept and expend \$1,636,364 in Federal funds through December 31<sup>st</sup>, 2015. Discussion.

SEN. SANBORN: Yes, Mr. Chair.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Commissioner, when I read the fourth paragraph down, the explanation, obviously, late in the day, we have a lot going on, I don't even understand what this item is asking for. Could you help me understand it?

MR. TOUMPAS: This item was approved by the Fiscal Committee not too long ago and Governor and Council.

SEN. SANBORN: What's it do?

MR. TOUMPAS: These dollars are planning dollars in order for us to take a look at the delivery systems for all of the services, not just Medicaid. So it looks at all different payers and so forth to really look at the delivery system, delivery meaning hospitals, nursing homes, others in terms of how services are delivered within our communities. It's -- it's a planning grant that is something that we have a short timeline on. We have to go through the requirements of this grant. So we accepted the grant. There was a contract that was awarded following Fiscal Committee action for by the Governor and Executive Council just within the last month in terms of moving forward. But it basically is convening a number of people in order to basically look at how are services delivered within our respective communities.

CHAIRMAN KURK: Further.

SEN. SANBORN: And what do we hope to get from it and is it about saving money, better communication, different MMIS systems?

MR. TOUMPAS: There's a number of different things that it really does. Think about it as a re-engineering of the delivery

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system in terms of how services are fundamentally delivered out in the community. It sets the stage for looking at where we might make investments, additional investments in technology. It doesn't do -- it's not asking us to spend any additional money. It really is -- it's a planning and then there is yet another potential grant coming from the Federal Government that would fund some of the type of things that we would look at. But what this really does is acts as a way for us to be able to convene a number of different people beyond just Medicaid. So it looks much beyond Medicaid.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: Commissioner, this item is not being brought in because of Continuing Resolution. It's really business as usual. You come to Fiscal Committee for this; is that correct?

MR. TOUMPAS: And we came to the Fiscal Committee --

SEN. FORRESTER: All right.

MR. TOUMPAS: -- on this just within the last two months, both to accept and expend these dollars and then we had a follow-up, we had a contract that based on the dollars that were awarded, accepted, and approved by the Fiscal Committee, we then went to Governor and Executive Council to have a contract approved in order to basically execute this. So we have a contract and a group of people ready to work on this and what we needed to do was bring this thing back to the Fiscal Committee in order to approve that.

CHAIRMAN KURK: Senator Forrester moves to approve, seconded by Senator Morse. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

SEN. SANBORN: Opposed.

CHAIRMAN KURK: The ayes have it and the motion is adopted.

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\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: We turn now to 15-124, another request from the Department for authorization to accept and expend \$127,089 in Federal funds retroactive to July 1<sup>st</sup> through December 31<sup>st</sup>, 2015. Discussion?

REP. OBER: Mr. Chairman, I believe these were in House Bill 1, but it's not a continuation. So this is just an attempt to put in a piece of budget that was vetoed as I read this explanation; is that correct?

CHAIRMAN KURK: Are you asking the Commissioner?

REP. OBER: I'm asking somebody.

SEN. FORRESTER: It is new money and it is in the '16 budget or was in the '16 budget.

\*\* SEN. SANBORN: Mr. Chair, I'd like to move we table that.

MR. TOUMPAS: Under the explanation, these funds were awarded in September 2014, were not included in the '15 budget as of July 1. An accept and expend request to the Fiscal Committee was approved on January 28, 2015, and so the grant funds awarded after '15 were requested in the 16-17 budget. So I believe your characterization of this is -- is correct.

CHAIRMAN KURK: Is there anyone else who -- Representative Wallner.

REP. WALLNER: Yes. Commissioner, this is a program that is running presently?

MR. TOUMPAS: Yes.

REP. WALLNER: So we have employees in this program and services provided?

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MR. TOUMPAS: I don't know how the --

REP. OBER: I have a question.

MR. TOUMPAS: I don't have the details in terms of whether this is through a contract or I don't see that there's staff, specific staff involved in this paying for that. Again, given some of the discussion I would, on something like this, I would -- for 30 days, I would table this.

\*\* SEN. SANBORN: Move to table.

MR. TOUMPAS: If you need additional information, I'm not prepared to address that.

CHAIRMAN KURK: Senator Sanborn moves, Representative Ober seconds that this item be tabled. All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is tabled.

\*\*\* {MOTION TO TABLE ADOPTED}

CHAIRMAN KURK: Fiscal 15-125, another request from the Department for authorization to accept and expend \$158,196 in Federal funds, again, through December 31<sup>st</sup>, 2015. Discussion?

SEN. SANBORN: Mr. Chair.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: A look at the information, the grant funds awarded were after 2015 and are requested for '16 and '17 budget. So I'd make the assumption that seeing it's an after '15 request for the '16 budget to be consistent with the conversations we are having that we probably should be discussing a table question motion.

CHAIRMAN KURK: Commissioner, are there people involved were this to be tabled? Will they be impacted? By people, I mean employees. It says no new positions are being requested as these

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positions will be filled from the Department's current vacant position list so I assume that means there are no --

MR. TOUMPAS: I would read that as the individual's not been brought on board. So, again, if that were tabled in order for me to be able to provide the additional information, I will do so.

CHAIRMAN KURK: Senator Sanborn, is there further discussion?

REP. OBER: No.

CHAIRMAN KURK: Senator Sanborn moves to table, seconded by Representative Ober. I'm sorry, Representative Weyler. 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. Sorry, is tabled.

**\*\*\* {MOTION TO TABLE ADOPTED}**

CHAIRMAN KURK: Fiscal 15-129, a request from the Department - thank you, Commissioner - request from Department of Justice for authorization to retroactively amend a prior Fiscal approval by extending the end date from June 30<sup>th</sup> to December 31<sup>st</sup>, 2015, with no increase in funding.

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

CHAIRMAN KURK: Representative Ober moves to accept. Senator Sanborn seconds. Is there discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is approved.

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

CHAIRMAN KURK: We turn now to -- the item is approved. We turn now to Fiscal 15-131, a request from the Department of Safety for authorization to retroactively amend a prior Fiscal

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approval by extending the date to December 31<sup>st</sup>, with no increase in funding. Discussion?

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

SEN. SANBORN: Second.

CHAIRMAN KURK: Senator D'Allesandro moves to approve, Senator Sanborn seconds. 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 is approved.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: I guess I should ask for the nos. Moving on. 15-139, a request from the Department of Health and Human Services for authorization to accept and expend \$2.5 million in Federal funds through September 30<sup>th</sup>, 2015. Commissioner.

REP. OBER: Aren't you glad we are meeting on your birthday?

MR. TOUMPAS: I'll look back when I'm 80 years old and say remember this.

CHAIRMAN KURK: One hopes you have other better memories.

MR. TOUMPAS: I didn't say whether it was a good moment or bad moment.

CHAIRMAN KURK: We had a brief discussion before, Commissioner. Would you care to comment on this?

MR. TOUMPAS: Yes, I received a phone call from Senator Forrester and she asked me to be prepared to say these are dollars that were in -- they're in the 16-17 budget. So we are asking the ability to basically extend these. They have a time limit of, in order to expend these dollars, they're SAMHSA, Substance Abuse and Mental Health Authority under the Federal Government and they have to be expended by September 30<sup>th</sup> of this

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year. Senator Forrester had asked me to be prepared to talk about the type of things we were going to be doing with these particular dollars. And so I can tell you the type of things that we are doing. What I cannot do is tell you the specific contracts that would be the names of the various contractors that would be involved because those have not gone before the Governor and Executive Council. So the -- these are all related to the issue of -- issues related to opioid and substance abuse issue. So there are a number of things that we are looking to do on this.

One of the first things is really one of the areas that is critical for us the ability for treatment. So this is really extending the capabilities of the people who are actually providing the services, building up the -- up infrastructure for those folks. As you know, under the Health Protection Program, many of these vendors will be able to provide services and be reimbursed under the -- when we move into the Premium Assistance Program. So one of the things here is just enhancing their infrastructure in order to basically be able to build this -- some of those other providers. And, again, it -- so it does -- it deals with making some changes within existing contracts so it's extending or amending existing contracts with people that we have.

A second piece, which is really around prevention, is really working with our -- in this one I can say it's the Regional Public Health Network contracts that we have. And this is adding additional scope in order to help them really look at the needs within their particular community and it really is targeting children in terms of the children and young adults in terms of their uses of -- in order for us to more target what we want to do in terms of prevention services for those kids that we believe are at risk.

A third component is the screening brief intervention and referral or expert capacity, and we would be working with people in primary care settings in order for them to do that type of screening. It's critically important to do that type of screening because an early-on assessment of that individual

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could prevent much costlier type of services later on in terms of treatment.

The fourth area is really around a public awareness campaign to really work with local communities across the state to, again, better -- again, to do better assessment of, again, this is really targeted again towards children and young adults. And, again, working with our public health regions so that they have a unified approach in terms of dealing with -- dealing with the issues there.

And then the last component is the, again, with respect to the opioid issue and heroin, this is really securing the -- try to pronounce it correctly -- Naloxic -- I'll get it -- Naloxone Narcan. It really -- to make available to secure the material to be able to store it and then to basically get that out to the first responders, especially the EMS folks, as well as hospitals and others. It's -- it really, it allows us to use our Emergency Services Unit for some of the -- some of the ability to basically store and deploy that type of material out to people and so that's the last component.

Again, so there's an array of things that we have that are here that really are really in response to the issues that we are dealing with in terms of the opioid and heroin crisis across the state.

CHAIRMAN KURK: Commissioner, I'd like to ask a question about some numbers. On the second page of the item you show a current authorized budget. Could you tell me whether that is the Continuing Resolution budget or whether that is the 2016 budget in House Bill 1?

MR. TOUMPAS: It says State Fiscal Year 16. I'm assuming that is what is in the authorized, was going to be authorized in the '16 budget.

SEN. SANBORN: Mr. Chair.

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MR. TOUMPAS: I'm looking at the chart on Page 2. It says State Fiscal Year 16 on the top there.

CHAIRMAN KURK: I see that. But what's not clear to me whether that is in House Bill 1 or whether that is --

MR. TOUMPAS: I don't know.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, sir. So backup a quick second. When you started your narrative on this, Commissioner, you started saying it was in the 16-17 budget, where I thought you were trying to imply should be the 15-16 but -- or the 14-15 budget. So looking for clarification on that and Mr. Chair --

MR. TOUMPAS: It was in the -- it's really carrying these dollars -- carrying these dollars forward.

SEN. SANBORN: Mr. Chair, we had a long conversation yesterday about every time we see Fiscal 16 budget and that was explained by Mr. Pattison, because we are in a Continuing Resolution, a '15 spend number, it is still technically a Fiscal '16 operating premise. So it will show up as a '16 product, even though it's a '15 spend.

CHAIRMAN KURK: But if you look to the explanation as Representative Weyler pointed out to me, as such these funds were not included in the Continuing Resolution for State Fiscal Year 16.

SEN. SANBORN: If they are not included in the Resolution, Mr. Chair, then we should have a discussion about tabling it. So I guess we need clarification on it.

SEN. FORRESTER: It says it represents the CR number. This represents the Continuing Resolution, even though it says '16, because that's what '16 is, the first half of '16.

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CHAIRMAN KURK: Mr. Pattison, could you enlighten us? Is -- under the CR has the Department budgeted in this for the line items on Page 2 the amount of \$5,471,283. Is that the CR budget?

MR. PATTISON: Yes. What you see for the current authorized budget on all of these items is expected to be, and I believe is, 6/12<sup>th</sup> of the Fiscal Year 15 House Bill 1 Operating Budget appropriations. That is what it is supposed to reflect.

CHAIRMAN KURK: So, Commissioner, you want to take \$2.5 million out of the remaining \$3.67 million, and that's on Page 4, and spend that in the first six months of this first year. Indeed, you want to spend it before September 30<sup>th</sup> because we would lose it at that point.

MR. TOUMPAS: We would lose those dollars.

CHAIRMAN KURK: What about the balance, the difference between 2.5 million that you're requesting and the available funds of \$3.67 million, will we lose that or is that --

MR. TOUMPAS: No, the funds that are at risk are the 2.5 million.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you, Mr. Chair. Commissioner, when these contracts you're giving out, looks like most of this money goes out in contract. Do you have in those contracts language for accountability so that we see whether these programs are working? To date, it seems like none of these programs are working to any great extent.

MR. TOUMPAS: We do have in every one of the contracts that we do, when we are contracting out with things we have performance measures, outcomes. Again, we could talk about outcome measures. I know that's an issue that's been discussed in the past. But with a number of these things there are

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performance measures in each one of those that the contractors need to provide back to us.

REP. WEYLER: Follow-up.

CHAIRMAN KURK: Follow-up.

REP. WEYLER: So if you have ten different contractors and some are more successful than others, do the less successful ones continue to get contracts?

MR. TOUMPAS: Again, we monitor what is going on on those. And we have been working with some of the entities on this, like the public health regions, we have been working with them for a number of different years.

REP. WEYLER: Commissioner, you don't drop anybody out if they don't --

MR. TOUMPAS: If somebody is not performing, no, we will not continue to fund.

REP. WEYLER: That's what I'm asking. Thank you.

CHAIRMAN KURK: Commissioner, in your response to Representative Weyler, you indicated you have some performance outcome measures. Would you be able to tell us, for example, on education programs for opium and other substance abuse that we spent X dollars and Y number of individuals who statistically otherwise would have become addicted did not as a result of our efforts? Are you in a position to give us that kind of outcome information?

MR. TOUMPAS: I know you've asked some members in my staff, Mr. Chair, about that topic and I think in broader terms. We are working on some responses to that. I can't tell you out of the gate right now whether I have that. Being able to basically get that information requires us to also ask for that information and do the analysis on it. So I can't tell you categorically the

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way you have described it, but we are in the process of really identifying those type of -- those measures.

CHAIRMAN KURK: Let me take this opportunity to make another pitch for this. We have in this state many kind of problems, and we never have enough money and never will have enough money to do everything that everybody thinks we should do in order to deal with them. And, therefore, we need to prioritize what we do. And the only way that I think we can prioritize rationally is if we know, based on various kinds of studies, that spending so much money on this kind of program will achieve this number -- this particular result, and the result is the final outcome people who are addicted who will become abstainers and for how long, and then we need to prioritize those. And until we do that, it's the providers of services and people who feel very emotional that will direct the spending, rather than getting a very good benefit in terms of results for the dollars we spend. And the Legislature has not done a particularly good job in setting those kinds of parameters when we allocate funding, either in the budget or through separate programs.

MR. TOUMPAS: I will tell you in some of my conversations with people across the communities, law enforcement and other areas, that especially with this issue with substance abuse and heroin and so forth, they're crying out for two things, among a lot of other things; but number one is we need treatment services. And, number two, we need to go back upstream and figure out why people are doing it in the first place and dealing with the issue of prevention. Those are the two -- two areas. And in this item the actions that we have here really get at trying to get at both of those. Strengthening the infrastructure regarding the treatment, as well as really stepping up additional efforts regarding prevention that will allow us to basically see where some of the key problems in the communities that are really targeted towards the kids and young adults that will then allow us to basically be more focused and targeted with subsequent dollars and what we are going to do out in those communities.

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So I understand we have had these conversations before. It is a complex issue. And right now it is one that, again, I think is a critical one and that's why on this one is something I feel very, very strongly that we would like to move this one forward here.

SEN. FORRESTER: I have a question.

CHAIRMAN KURK: Senator Forrester, and then Senator Little.

SEN. FORRESTER: Thank you, Commissioner. Thank you for giving me that information. You identified five different, I guess, areas of spending, and I have a couple questions. Can you break out for me what those five areas, what percentage is prevention, what percentage is treatment? Do you have any idea in terms of the spend?

MR. TOUMPAS: I'm looking at the material here, Senator. That's a different cut at what I've got. I could certainly follow-up with the detail on this and be able to try to break it out what is prevention, what is treatment, and what is just some of the infrastructure, as well as some of the actual material, the Nalox --

SEN. SANBORN: Narcan.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: The public awareness campaign, can you tell me what the spend is on that?

MR. TOUMPAS: The -- there's roughly \$400,000 for the awareness, and then there are other components that follow on and that's roughly \$400,000 for the public awareness component, I believe.

CHAIRMAN KURK: Follow-up.

MR. TOUMPAS: Media buys and things of that nature.

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SEN. FORRESTER: Was there any thought -- it seems to me there's an awful lot of public awareness now about the problems we have in the State of New Hampshire dealing with the drug and alcohol problems. Is there any thought putting it towards the opioid issue where you talk about the Narcan?

MR. TOUMPAS: It's all related. Again, this is -- this is one that we have a contract prepared for the detail scope and so forth. I don't have that with me. But that -- that is one that we want to be able to move forward and try to fast-track, assuming this would be approved by the Fiscal Committee.

SEN. FORRESTER: Follow-up. You talked about the extending the existing contracts. We are going to spend \$2½ million, I'm guessing, because it has to go through Governor and Council. Are you going to have about two months or less to spend two and a half million; correct?

MR. TOUMPAS: Yeah. Some -- there -- again, there's a number of different areas that we're talking about a number of different contracts and those -- they all have to go to Governor and Council. That's correct.

SEN. FORRESTER: So my question is in that first item that you mentioned, existing contracts that you're going to extend, are those being prepaid or they going to be able to spend the funds that you're contracting with them before the end of September?

MR. TOUMPAS: It is our intent if we don't spend the funds before the end of September they will go back to the Federal Government.

CHAIRMAN KURK: When you said spend or do you mean commitment or actually spend?

MR. TOUMPAS: No, actually spend.

SEN. FORRESTER: And one more.

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CHAIRMAN KURK: Please.

SEN. FORRESTER: Final question. How did you come up with putting this plan together to spend this 2.5? It seems like, and I guess how long did you know you had the money and then how did you come up with a plan to come before Fiscal?

MR. TOUMPAS: Again, we had -- we had the plan in terms of having -- having the dollars. We had the plan in terms of what we were going to do. It's being worked by various components within the Department; our Public Health area, Emergency Services, as well as the Drug and Alcohol Bureau within the Department. So there's a number of different elements involved in this and something that's been in the works for awhile. And were we not in this situation, we would have been moving on this thing back in July, the early part of July.

CHAIRMAN KURK: Commissioner, would you be able to give us a list of the expected outcomes of the expenditure by program of this \$2.5 million? Not now but --

MR. TOUMPAS: I will follow-up with an informational item related to this.

CHAIRMAN KURK: Thank you. Senator Little.

SEN. LITTLE: Thank you, Mr. Chair. Thank you, Commissioner. Thank you for what you and your Department do on this important issue. It says in the explanation this is a critical part of the Department's efforts on prevention, early intervention treatment, recoveries, support services and so my question to you is what level of oversight, control, input, have you received from the Governor's Office, the Senior Behavioral Health Coordinator, in designing this particular plan that we're being asked to fund today?

MR. TOUMPAS: I can't speak to the -- to the -- any of the detailed conversations that may have happened between the Governor's person and our various people in our Bureau. There have been conversations with them; but to what extent, I don't

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have that level of detail. But I do know that they have -- they have spoken.

SEN. LITTLE: So --

CHAIRMAN KURK: Further question.

SEN. LITTLE: Yes, thank you very much. So which office is this through and is there somebody here that can tell us --

MR. TOUMPAS: With --

SEN. LITTLE: -- who put the plan together?

MR. TOUMPAS: Within my Department?

SEN. LITTLE: Yes.

MR. TOUMPAS: My Department it would be -- I had people from our Public Health Division; Marcella Bobinsky and others within that particular group. I had people within our drug and alcohol services here; Joe Harding, and others within his particular group. I had people from our Medicaid side; Katie Dunn and that area. We had our Emergency Services Unit; Rick Cricenti, in terms of his group, as well as reviewing with our executive team that cuts across the number of different areas.

SEN. LITTLE: Further.

CHAIRMAN KURK: Further question.

SEN. LITTLE: Is there anybody here that can answer the question today?

MR. TOUMPAS: They're not here today.

CHAIRMAN KURK: Senator Sanborn.

MR. TOUMPAS: I just want to be -- if I can, I want to be clear. In terms of what specifically the question that I need

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to address for you, I don't believe I'm addressing that right now.

SEN. LITTLE: I'm wondering who is overseeing this? Is it the Coordinator out of the Governor's Office or your office that's deciding --

MR. TOUMPAS: No, this is the Department.

SEN. LITTLE: -- deciding how the money will be spent?

MR. TOUMPAS: Yes, yes.

SEN. LITTLE: Thank you.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: I can actually back up to the original part of the conversation because I'm just trying to keep this all straight, Mr. Chair, or Commissioner. Do we need a clarification of the explanation section of this where it specifically says these funds are not included in the Continuing Resolution when, in fact, they were which I think --I see it says it wasn't, but I know in the narrative in the conversation we are having here this morning the conversation was it was.

CHAIRMAN KURK: What is it?

SEN. SANBORN: These being -- it being these funds.

CHAIRMAN KURK: The 2.5 million?

SEN. SANBORN: Correct.

REP. WEYLER: 2.4 was included.

SEN. SANBORN: 2.5 was not included.

CHAIRMAN KURK: Correct.

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SEN. SANBORN: Mr. Chair, are you looking at this as you indicated in your earlier buckets the beginning of the day as in for doing the course of business for the Fiscal Committee as a new product or is this a spend under the Continuing Resolution order? Is this an additional spend? Mechanically then where are we?

CHAIRMAN KURK: I would think this is an additional spend. The problem I have is that if we treat this as any other additional spend, then we lose 2.5 million Federal dollars.

SEN. SANBORN: Might consider an emergency request.

CHAIRMAN KURK: Losing money, I don't know whether I consider that an emergency but yes.

MR. TOUMPAS: Mr. Chair, if I may?

CHAIRMAN KURK: Yes.

MR. TOUMPAS: The emergency is the issue that these funds are designed to address. The emergency is the opioid crisis, the heroin crisis, the substance abuse crisis and the impact that's having.

CHAIRMAN KURK: This didn't happen a couple months ago?

MR. TOUMPAS: I'm not saying it didn't happen. Obviously, it's been continuing to grow. But -- and again, putting together a plan, a comprehensive plan on a number of different levels in order to address this is -- I do consider that an emergency.

SEN. SANBORN: So maybe address under Tab 8; but, nevertheless, we're here today.

CHAIRMAN KURK: Further discussion?

SEN. D'ALLESANDRO: I think we recognize the nature of the emergency. We had about 700 people that gathered in Manchester last night. The Chief of Police called together and said this

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is an emergency. We have people dying every day because of this problem. It's become not only pervasive in my city but throughout the state of -- the State of New Hampshire. Senator Sanborn was also there and he knows the urgency of the item and the people are crying for help. There was an outcry, mothers and families and so forth for assistance.

Now if this, indeed, is a way to assist them, then we ought to move forward. You know, it is a crying need. It is an emergency. Every time somebody dies because of an overdose it's an emergency. Again, we had 700 people in Manchester last evening called together to discuss this emergency brought together by the mayor, the police chief, the fire chief, the director of public health of the city and et cetera, et cetera, et cetera. And people who were there understand the emergency; but I think that particular -- that particular item is -- that's actually a matter -- emergency matter. It's here. If this is a way to address it, in addressing of emergency, you should be moving forward to do that. The emergency is here.

\*\* SEN. FORRESTER: I move to approve.

REP. EATON: Second.

CHAIRMAN KURK: Senator Forrester moves to approve, seconded by Senator Sanborn. Excuse me, Representative Eaton. Further discussion? There being none, 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: Moving on to 15-145. Thank you, Commissioner. Request from the Department of Transportation for authorization to budget and expend \$659,000 in Federal funds through December 31<sup>st</sup>, 2015. Discussion?

REP. OBER: Could we have an explanation from the Department?

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CHAIRMAN KURK: Someone here from the Department of Transportation? Mr. McKenna, good afternoon.

PATRICK MCKENNA, Deputy Commissioner, Department of Transportation: Good afternoon. Just hit afternoon. Mr. Chairman, Members of the Committee, for the record, my name is Patrick McKenna. I'm Deputy Commissioner at the Department of Transportation. Thank you.

CHAIRMAN KURK: Representative Ober has a question.

REP. OBER: I would like a brief explanation, but I also had LBA do some budget checking and you had zero dollars budgeted in Class 38; and yet, your document shows \$113,900 budgeted when it actually we budgeted all your money in '15 in Class 27.

MR. MCKENNA: Federal funds --

REP. OBER: This doesn't seem to be correct here.

MR. MCKENNA: This -- the current budget, the Fiscal 16 budget kind of relates to the question that occurred in the last item. The Fiscal Year 16 budget is half of the available original '15 budget.

REP. OBER: I didn't ask that question. Class 38 was not budgeted in your '15 budget. That's what I was addressing.

MR. MCKENNA: Yes.

REP. OBER: You were showing money here in it when it wasn't budgeted in '15.

MR. MCKENNA: Thank you. The second half of my statement was going to be that this also includes -- the budget authority includes funding from previous encumbrance. So we have the available funds brought forward by encumbrance existing -- existing resources that have been encumbered in the past so that we can liquidate those in the current period. So what we have in total is \$4.9 million showing here. About 2.8 of

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that is half of the '15 authorized amount and about 2.1 is encumbrance brought forward and that includes in this class line.

REP. OBER: You're not understanding me. In your '15 budget, you budgeted zero dollars in Class 38. Not your total amount, zero dollars. And now you're bringing forward that you had 113.9 there when you had budgeted zero. So I'm not sure how that got there because I don't recall seeing a transfer authority and that is beyond the \$75,000 amount you can do by yourself. And there's no real explanation of what you're getting for \$650,000.

MR. MCKENNA: Well, I can certainly check on the transfer authority because I believe we must have brought forward, 'cause we are dealing with the original unadjusted budget in '15. So that was the original part forward and then we have encumbrance brought forward from existing items. So we can get you that detail.

REP. OBER: LBA did check on Class 38 in your budget for me. I do have the detail from them. You had zero budgeted there.

You still have not addressed what is this for. You have \$650,000 in software, none of that is -- needs to be installed by a person.

MR. MCKENNA: We have two items that are included here. There are two pieces of software. One is a license for a Decision Lens, which is software that we use to do our ten-year planning process and work with regional planning commissions. That was originally we brought a three-year license back in -- back in October of 2012 at \$331,000. That was in Fiscal 13. It's why it wasn't in our class budget because we had a three-year license. That license is up for renewal, and we do go through a process in this funding category with Federal Highway. They approve a work plan for a statewide planning and research, and they have approved the Decision Lens as a good means for making objective decisions on priorities for the ten-year plan.

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The second piece is to upgrade an existing Traffic Management System that we are required by Federal Code to report to Federal Highway on Traffic Management. That's why the Federal Highway pays for both of these because they require this type of work and this type of planning effort. So that's -- those are the two systems that we are talking about. We do coordinate with DoIT. And when we -- we've just gone through the RFP for the Traffic Management System. We've selected a vendor and that contract would, to the extent that we had funding available, come forward to G & C subsequent to this if we receive permission. If not, we'll be delayed then.

REP. OBER: When did the requirement for this come out?

MR. MCKENNA: It's in Title 23. I believe the requirement has been in place for many years, and we have been providing this data. What we have is an in-house system that was developed on a database by one of our engineers. It's no longer technically supported by DoIT with the access database and we are trying to remove all access databases to the extent that we can from our arsenal, if you will. This is part of the effort.

REP. OBER: You did that in HB 1 then, the removal of your access databases.

MR. MCKENNA: I don't believe it's an HB 1 requirement.

REP. OBER: No, no, it was budgeted in HB 1.

MR. MCKENNA: Yes. We -- what we do is we go through the Federal planning process. We get a work plan approved and then we backfill the class lines through the budget.

REP. OBER: So this was budgeted in the budget that was vetoed.

MR. MCKENNA: That's correct.

CHAIRMAN KURK: Mr. Pattison, did we misunderstand this?

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MR. PATTISON: I'm not sure, because there was a series of e-mails that went back and forth last night between our office and the Department, and I was not part of that conversation. I haven't had a chance to review that material.

CHAIRMAN KURK: I'm understanding that this was not in the 2015 budget. It is in the 2016 budget which was vetoed, and it's not in the Continuing Resolution appropriation and you're attempting through this to obtain greater funding than the Continuing Resolution.

MR. MCKENNA: These are both ongoing programs that we have. The State Planning and Research is an ongoing Federal program. We isolated this out of consolidated Federal several years ago in the budget, because we go through a work plan developed with the Federal Highway. The Decision Lens license that we have in place and enforced through the end of September right now was procured in Fiscal Year 2013 which is why we did not have it in the '14 and '15 budget. We were able to get -- secure a better price by purchasing three-year -- a three-year license. We are trying to do the same thing again to renew that license.

So it's an ongoing program. We did have it in the '16 budget and that is the reason that it did not show up in the '14 and '15 budget itself is because we secured the license in 2013 in the Fiscal Year. We had it in the budget at that time, and we secured that license.

CHAIRMAN KURK: That applies to one or two items or applied to both?

MR. MCKENNA: That applies to the Decision Lens and the Department in the -- what we have right now is we just -- we have just completed the RFP process for a federally required system upgrade of our traffic management data. We believe that we're in some degree of jeopardy in terms of system support for that collecting and transmitting that data to Federal Highways as required by Federal statute. Federal Highways agreed to fund this, and we are trying to time the activity to be putting this upgrade to existing software in place as soon as possible.

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CHAIRMAN KURK: Senator Little.

SEN. LITTLE: I guess I'm still struggling trying to understand. If this is something that is in the 2016 budget, which was vetoed, and we are essentially being asked your line item veto override for this particular program.

MR. MCKENNA: It is Federal funds. These funds are going to come in. We are effectively just trying to continue with the program as had been planned. We have -

SEN. LITTLE: Is that a yes?

MR. MCKENNA: Well, we would have potentially been able to transfer funds within this area to not -- to not exceed the Continuing Resolution basis. But most of the funding in here are contracts that we have with the Regional Planning Commissions. So we have to pay those contracts out. So we don't have budget authority to cover that component here, the traffic management system, so we are trying to make sure we can secure that.

CHAIRMAN KURK: Mr. Pattison is checking up on some information for us. Why don't we go on to the next item and come back to this one, unless you have a specific question.

SEN. LITTLE: No, I'm still just trying to --

CHAIRMAN KURK: Mr. Pattison may be able to answer the questions we all have.

**(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:**

CHAIRMAN KURK: Moving on to agenda item (6), we turn to Fiscal 15-114, a request from the Department of Justice for authorization to accept and expend \$106,177 in Federal funds through December 31<sup>st</sup>, and further authorization to establish a

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Class 46 consultant position through December 31<sup>st</sup>, 2015. Is someone here from the Department of Justice? Senator Forrester.

SEN. FORRESTER: Mr. Chairman, would this be considered a regular Fiscal Committee item?

REP. OBER: Because it's new money?

CHAIRMAN KURK: Why don't we ask Miss Rice.

ANN RICE, ESQ., Deputy Attorney General, Department of Justice: Good afternoon. For the record, I'm Ann Rice, Deputy Attorney General. With me is Kathleen Carr, who is our Director of Administration. This is a business as usual. This is new grant money so it would not -- it was not in the budget.

CHAIRMAN KURK: Thank you.

\*\* REP. OBER: I would move to approve, Mr. Chairman.

SEN. SANBORN: Seconded.

CHAIRMAN KURK: Representative Ober moves to approve, Senator Forrester seconds. 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 is approved.

MS. RICE: Thank you.

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

CHAIRMAN KURK: We turn now to Fiscal 117, a request from the Department of Environmental Services for authorization to retroactively amend a previously approved Fiscal item from 2013 by extending the date to December 31<sup>st</sup>, 2015, with no increase in funding for the purpose of implementing the MTBE settlement agreements and retroactively extend the date for five full-time administrative temporary -- excuse me -- full-time temporary

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positions consisting -- positions through December 31<sup>st</sup>, 2015.  
Chair recognizes Representative Ober.

\*\* REP. OBER: Thank you, Mr. Chairman. I would move to approve it.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Seconded by Senator D'Allesandro.

REP. OBER: Mr. Chairman, if I might?

CHAIRMAN KURK: Representative Ober is recognized to speak, and I will then recognize Senator Sanborn.

\*\* REP. OBER: Thank you, Mr. Chairman. The MTBE grant has been in effect for quite awhile, and this is the continuation that we normally would have seen. It benefits many of our residents, provides to make sure we have clean drinking water in areas where we had water that was contaminated by MTBE several years ago so I move to approve this because it is a continuation of a program that has been in effect. Thank you, Mr. Chairman.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. I was essentially asking the same question. This is one of those non-typical things that we discussed that we have a settlement of which the money was residing in the AG's Office and now been allocated to HHS to operate and continue to operate a program. So, therefore, would be outside of our Continuing Resolution process that we have.

CHAIRMAN KURK: Yes.

SEN. SANBORN: Thank you, sir.

CHAIRMAN KURK: Further discussion? There being a motion, are you ready -- the motion is to approve the item. Are you ready for the question? All those in favor, please indicate by

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saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: We turn now to Fiscal 15-126, a request from the Department of Health and Human Services for authorization to accept and expend \$590,182 in Federal funds and contingent upon approval of, one, authorization to establish certain positions. Is Commissioner -- Senator Sanborn has a question.

SEN. SANBORN: Commissioner.

MR. TOUMPAS: Good afternoon.

SEN. SANBORN: Good afternoon. Happy birthday. If I'm understanding the narrative reading here is the fact that this is -- we're talking about what kind of buckets we are relying and saying that this is an issue actually in the 16-17 budget so, therefore, predicated on the Continuing Resolution that we would have spending '15 but not appropriate at this time to spend it and we table it until we should resolve our budget issue.

MR. TOUMPAS: This was something that was approved by the Fiscal Committee back in January to accept these dollars and, again, because it was so -- it is -- it is -- these are dollars that are included in the 16-17 budget and we're -- and it's a program that we have in place right now we are looking to continue to work that program.

SEN. SANBORN: Thank you, sir.

CHAIRMAN KURK: Are there currently employed positions, currently filled positions?

MR. TOUMPAS: I was looking at that. It's not clear on this explanation as to whether or not these positions are in recruitment or whether there is somebody in those positions. Given the fact this was done back in January, I would have to

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say that there are probably some of these positions that are occupied by people. I can't tell you whether all of them are filled at this point.

CHAIRMAN KURK: If this is tabled and the program doesn't go forward, will the grant money be lost to the State of New Hampshire?

MR. TOUMPAS: Bear with me, I'm just looking. I don't believe there is a -- unlike the other one that we had earlier, I don't believe there is a deadline like that.

CHAIRMAN KURK: Senator Forrester moves to table. Is there a second?

SEN. SANBORN: Second.

CHAIRMAN KURK: Second by Senator Sanborn. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is tabled.

**\*\*\* {MOTION TO TABLE ADOPTED}**

CHAIRMAN KURK: We move now to 15-132 from the Department -- thank you, Commissioner -- from the Department of Safety for request authorization to accept and expend \$870,841 in Federal funds and establish consultant positions, both through December 31<sup>st</sup>, 2015. Is there someone from the Department of Transportation?

REP. EATON: Department of Safety, John Stevens. John Stevens.

CHAIRMAN KURK: I'm sorry. Safety. Yes.

ELIZBETH BIELECKI, Director, Division of Administration, Department of Safety: Good afternoon, Mr. Chairman, Members of the Committee.

CHAIRMAN KURK: Good afternoon.

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MS. BIELECKI: For the record, Elizabeth Bielecki, the Department of Safety. I have with me John Stevens. He's the Statewide Interoperability Coordinator and he's working really closely with this grant so he can answer grant specific questions, and I can answer some other financial questions that you might have.

CHAIRMAN KURK: Senator Forrester has a question.

SEN. FORRESTER: Thank you. Was this in the budget, in the 16-17 budget?

MS. BIELECKI: This is included in the 16-17 budget, yes.

SEN. FORRESTER: My understanding is that is new money.

MS. BIELECKI: This is new money.

CHAIRMAN KURK: Further questions? What's your motion?

\*\* SEN. FORRESTER: I move to table.

SEN. SANBORN: Second.

CHAIRMAN KURK: Senator Forrester moves to table, second by Senator Sanborn. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is tabled.

\*\*\* **{MOTION TO TABLE ADOPTED}**

CHAIRMAN KURK: We have several other requests from the Department of Safety so, folks, I wouldn't go too far.

Fiscal 15-133, request from the Department of Safety to retroactively amend a previously approved Fiscal item by extending the ending date with no increase in funding and extending the ending date for consultant position; again, with no increase in funding. Discussion? Senator Forrester.

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SEN. FORRESTER: My understanding is this is not in the budget and this is no new money.

MS. BIELECKI: That's correct, Senator. This is not in the budget. These are -- this is just an extension to allow us to continue with the program through September of 2015 when the grant ends.

\*\* SEN. FORRESTER: Move to approve.

CHAIRMAN KURK: Senator Forrester moves to approve, seconded by Representative Eaton. 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 is approved.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Fiscal 15-134, another request from Safety for authorization to retroactively amend a previously approved Fiscal item by extending the end date with no increase in funding and doing the same for consultant positions; again, with no increase in funding.

\*\* SEN. FORRESTER: Move to approve.

REP. EATON: Second.

CHAIRMAN KURK: Senator Forrester moves to approve, Senator -- or Representative Eaton seconds. 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 is approved.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Thank you. Fiscal 15-137, a request from the Board of Pharmacy to retroactively amend a previously approved Fiscal item and several items by extending the end date with no

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increase in funding and retroactively extending the end date for a full-time temporary position through December 31<sup>st</sup> of this year and doing the same thing for a part-time administrator. Discussion? Does anyone wish to have the Board of Pharmacy answer questions?

**\*\*** SEN. FORRESTER: No, Mr. Chair. My understanding there's no new money and this was not in the budget so I would move to approve.

SEN. SANBORN: Second.

CHAIRMAN KURK: Senator Forrester moves to approve, seconded by Senator Sanborn. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? All those opposed? Ayes have it and the item is approved.

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

CHAIRMAN KURK: Mr. Pattison, do you have the information that you were seeking on Item 15-145?

MR. PATTISON: I have additional information and decide how you want to handle it once I provide it to you.

CHAIRMAN KURK: Thank you. We'll return now to 15-145, receive the additional information from Mr. Pattison. This is the request from the Department of Transportation for 659,000.

MR. PATTISON: First, Representative Ober had a question about the amount reflected on Line 38, Class 38, Fiscal Year 16, the \$113,900. I did go back and in the 14-15 operating budget Class 38, technology software, there was a class line for \$227,800. So what is reflected here is one-half, 6/12ths, of that amount of money.

REP. OBER: This morning Mr. Kane told me they didn't budget this. Is that --

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MR. PATTISON: I can only share with you what I just found when I went out and did the research.

REP. OBER: Okay. Thank you.

MR. PATTISON: So that validates the \$113,900. The question as to whether this is new money or is it -- I think the phrase that was being discussed was business as usual treatment of new money being brought in. The 16-17 budget that was vetoed by the Governor included the Class 38 approximately \$1.4 million in 2016 and a million dollars in 2017. My conversations while I was out of the room with Patrick McKenna is that the \$650,000 would have been part of that amount of money. So it would have been included in the vetoed budget.

CHAIRMAN KURK: Senator Little, did you wish to make a motion?

\*\* SEN. LITTLE: Move to table.

SEN. SANBORN: Second.

CHAIRMAN KURK: Senator Little moves to table, seconded by Senator Sanborn. 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 TO TABLE ADOPTED}

CHAIRMAN KURK: Returning now to Tab 6, Item 15-138, request from the Department of Cultural Resources for authorization to accept and expend \$594,691 in Federal funds through December 31<sup>st</sup>, and retroactively amend a previously approved Fiscal item by extending the end date to December 31<sup>st</sup>, 2015, for one-time temporary grants program coordinator and two part-time temporary program specialists.

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

SEN. D'ALLESANDRO: Second.

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SEN. SANBORN: I have a question, Mr. Chairman.

CHAIRMAN KURK: Motion is by Representative Ober to accept, and seconded by Senator D'Allesandro. Senator Sanborn is recognized for a question or statement. Did you have a question of the Department?

SEN. SANBORN: Yeah. We'll start there.

CHAIRMAN KURK: Good afternoon.

KATHLEEN STANICK, Administrator, Department of Cultural Resources: Good afternoon. I'm Kathleen Stanick, the Administrator for the Department of Cultural Resources.

SEN. SANBORN: Kathleen, good afternoon. Thank you for coming in, I appreciate it. You know, one of these litmus tests that we continue to have on this thing is whether or not this would qualify under the Continuing Resolution of 2015, and it would appear to me that it would not qualify as part of the spending under the Resolution. Can you help clarify that position?

MS. STANICK: Well, the grant was accepted by the Fiscal Committee in Fiscal Year 14 for two years through '15. It was budgeted in our '16 budget.

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

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: So can you talk to me a little bit about what the spend was in Fiscal 15 compared to the request in '16?

MS. STANICK: We had planned to spend money for part-time personnel, some operating expenses, and we have a large amount that we expected to give grants. This is what we call our Hurricane Sandy Recovery Grant. Because we didn't get the grants program coordinator hired right away, we are in that

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grants rounds right now. Those funds were not awarded in Fiscal Year 15. So we have a large amount of appropriation coming in that was -- those grants were -- grant line was originally budgeted in '15. We did not spend it. So we would be looking to spend that within the next six months.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: I apologize. I was unclear on how I asked the question. What was the appropriation for '15 and I might have to look towards the Finance Chair and Senate President and the other Finance Chair to help me understand this. If -- you spent no money in '15, there was an appropriation for '15 compared to '16, and how does that reconcile with the Continuing Resolution on the spend basis?

MS. STANICK: The appropriation for '15 was, off the top of my head, I would say approximately 650,000.

CHAIRMAN KURK: That was not in the '15 budget. That was as a result of the Fiscal Committee approval.

MS. STANICK: That is correct.

SEN. SANBORN: So if it was not in the '15 budget then there would have been no spend in the '15 Budget. So, therefore, the Continuing Resolution which we are operating under would indicate that there would be no spend authorized.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I believe -- Kathleen, correct me, because it's been a while since you guys came to defend your budget before Division I -- but you had authorized adjusted '15 budget after Fiscal approved this for the money.

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MS. STANICK: Yes.

REP. OBER: Which did not get spent.

MS. STANICK: (Nodding head).

\*\* REP. OBER: So this is a continuation of that grant, but the Resolution did not move forward the authorized adjusted but just what had originally been budgeted, which is why I move to accept this. Because this is a continuation of something we had approved, was in authorized adjusted, didn't get spent, helps the residents of the state. So I move it forward because it's continuation.

SEN. SANBORN: So, Mr. Chair, we are in the discussion phase and this is kind of where that rub is and I can appreciate where Representative Ober is. But if it is not in the Resolution based upon the spend, therefore, to be consistent with the Governor's veto, we would move to table this item.

CHAIRMAN KURK: That certainly is the logic that you and Senator Little have consistently put forward.

\*\* SEN. SANBORN: Consistency is the most important part, Mr. Chair, so therefore I would move to table if we are done discussing.

SEN. FORRESTER: There's another motion.

CHAIRMAN KURK: We are not done discussing and there is a motion on the table and I'm not accepting -- I'm not accepting your tabling motion until we completed the discussion.

SEN. SANBORN: I appreciate it, sir.

CHAIRMAN KURK: This is another one of these programs which we started, approved by Fiscal, would have been in the 14-15 budget had the approval been earlier and, therefore, would have been part of the Continuing Resolution. So but for the fact of timing, this is really part of our current business.

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Now, it's true, that for reasons that were just explained to us, it wasn't implemented, but the Fiscal Committee approved this. There was an appropriation. So in the interest of moving government forward in the way that Fiscal Committee had approved, it seems to me this ought to be accepted.

SEN. PRESIDENT MORSE: I have a question. The -- in here there's -- it looks like there's three positions.

MS. STANICK: Three part-time positions, yes.

SEN. PRESIDENT MORSE: Are they filled?

MS. STANICK: Two of them are.

SEN. SANBORN: Mr. Chair, if I may respond to your --

CHAIRMAN KURK: Please.

SEN. SANBORN: Fully appreciate what you're saying that the intent was there. But would of, could of, should of happens in this building every single day. And I think it's one of the challenges we continue to operate. We have a Continuing Resolution which is now fact of law which didn't account for approvals or decisions that were made in Fiscal on and above or beyond the value of the appropriation of the F15 budget. And this is, obviously, something we continue to struggle with. So I can appreciate your position of saying, well, we talked about this in Fiscal and Fiscal made a decision even though the money wasn't spent, and I can appreciate that and I'm on Fiscal and probably voted for it back then; but I've got to live to the letter of the Resolution, and I think we need to for consistency and the Resolution would dictate that the spend didn't happen in Fiscal 15 budget and, therefore, should not be allowed at this point as much as we all do appreciate it.

CHAIRMAN KURK: At some time I hope I will be able to give you the quotation from either Mr. Jefferson or Mr. Franklin, there's a dispute as to who said it, about hobgoblins and consistency. Moving on. Is there further discussion?

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\*\* SEN. SANBORN: I would, if there's not, I would move to table which takes a higher precedent. Parliamentary order.

CHAIRMAN KURK: The motion is to table. Is there a second?

SEN. LITTLE: Second.

CHAIRMAN KURK: Moved by Senator Sanborn, seconded by Senator Little. The motion is to table. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The motion fails. May we have a show of hands, please? All those in favor of the motion to table, please raise a hand. Three. All those opposed? Seven. The motion fails.

\*\*\* {MOTION TO TABLE FAILED}

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

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Thank you, ma'am. We now turn to the Department of Education, Fiscal 15-141, a request for authorization to accept and expend \$1,084,997 in Federal funds and amend a previously approved Fiscal item by extending the end date for two full-time temporary positions consisting of a Specialist III and a Program Assistant II. Is there somebody here from the Department? Good afternoon to you both.

SHANTHI VENKATESAN, Executive Project Manager, Department of Education: Good afternoon. I am Shanthi Venkatesan for the Department of Education. With me, Mary Steady, Program Administrator.

CHAIRMAN KURK: Thank you. Could you briefly explain a couple of things. Was this in the -- in your 2015 budget, was it

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in your 2016 budget, and are the positions referred to filled and ongoing?

MS. VENKATESAN: The first question, was it in the 2015 budget. It was in the 2015 budget when we by the way of Fiscal and G & C approval in April 2015.

CHAIRMAN KURK: So it was not in the 2015 budget.

MS. VENKATESAN: It was not in the original 2015 budget, that's correct.

CHAIRMAN KURK: Thank you.

MS. VENKATESAN: And your second question about whether or not it is in the 2016-17 budget. It is part of 2016 and '17 budget.

Your third question is about whether or not these positions are filled. These positions are filled currently.

CHAIRMAN KURK: And this is an ongoing program?

MS. VENKATESAN: It is an ongoing program. The grant is for about five years.

CHAIRMAN KURK: And what will happen if this item is tabled and doesn't go into effect, let's assume, until January 1<sup>st</sup> when we have a normal budget?

MS. VENKATESAN: Obviously, there are filled positions involved. In terms of the projects and services, I'd have to refer to Mary to speak about it.

MS. STEADY: This grant is awarded, not only to the Department of Ed, but for School Districts. So School Districts will be impacted on their ability to implement programs regarding mental health and substance abuse prevention. Obviously, people will have to be let go.

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CHAIRMAN KURK: Will the grant be lost?

MS. STEADY: I would -- I can't -- I would have to go back to the funder. I would assume so, it's through SAMHSA. I know it would definitely jeopardize future funding opportunities. I'm sure they wouldn't be happy.

CHAIRMAN KURK: One can appreciate that. Thank you. Representative Eaton.

REP. EATON: Could Shanthi elaborate on SAMHSA? What is going on now and how is this developing? Don't we have people coming in this coming week?

MS. STEADY: We do have people, yes.

MS. VENKATESAN: We do, yes.

MS. STEADY: I can answer that. We have a mandatory technical assistance meeting that's required based on this grant and another grant that we have on these grant funding opportunities came about because of the tragedies in Sandy Hook. New Hampshire applied. We received them. Families from Sandy Hook are coming next week to talk about the tragedies and how that impacted it and impacted their lives and the work that they're doing now. We're aligning our work not only with the Federal initiatives going on, but we also have the Children's Payroll Health Collaborative in our state that's a bigger umbrella that's supporting these initiatives. So yes, we have Federal folks coming in and families coming in next week to provide a conference to the 50-member Committee that's really doing the work under this project.

CHAIRMAN KURK: Is this grant paying their expenses?

MS. STEADY: This grant -- no, they have to come in -- they're paying for part of the expenses. They're paying for the families to come in and talk about the work they're doing. But the technical assistance providers that are coming

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are paid out of SAMHSA's portion of the grant. That was the Federal money but not our portion of the Federal money.

CHAIRMAN KURK: So if this grant -- if this were tabled and didn't have the money to do it, the program would still continue. Excuse me. The visit would still continue. Or did I misunderstand you?

MS. STEADY: I don't -- it wouldn't continue. We wouldn't be able to have that visit next week. Yes.

CHAIRMAN KURK: Thank you. Further discussion?

\*\* REP. EATON: Move approval.

\*\* SEN. SANBORN: Move to table. Happy to discuss it before my official motion, if you like, Mr. Chair.

CHAIRMAN KURK: Please -- I'm not accepting your motion to table, but please discuss, if you wish.

SEN. SANBORN: Thank you, Mr. Chair. I appreciate it. While I can appreciate, again, yet another program, yet another victim of the Governor's veto, that leads us here to be struggling with this, we are operating under a Continuing Resolution specifically talks about fiscal spend, predicated on Fiscal 15 spend. And the fact that this wasn't in that Continuing Resolution and not part of it, therefore, this would be considered part of the 16-17 budget which because, unfortunately, the Governor vetoed, and our need to respect the Continuing Resolution we are operating under, would be appropriate for us to table that and at the appropriate time I'd make the motion to table.

CHAIRMAN KURK: Thank you. Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chair. Looking at the narrative it says it was in the budget for Fiscal Year 2015. The balance of the grant will be incorporated into the next two

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bienniums budgets. So if it was in '15, you're looking to balance carry forward.

MS. VENKATESAN: This particular grant is for five years.

SEN. D'ALLESANDRO: Okay. And what was the initial -- if I might, Mr. Chairman?

CHAIRMAN KURK: Please.

SEN. D'ALLESANDRO: What was the initial year of the grant?

MS. VENKATESAN: The grant was just accepted just this spring, April 2015, and we accepted about 1.2 -- \$1.9 million is what we accepted. Because it's a fairly new grant, we didn't have a lot of spending. So that's the reason that we still have like about \$8.6 million left over. Off that \$8.6 million, we are accepting a little over a million dollars for the six months through December 31<sup>st</sup>, 2015.

SEN. D'ALLESANDRO: What portion of the grant was used in Fiscal Year 15?

MS. VENKATESAN: A very small portion of it was used. Only about 16,000 that was used in 2015. Again, it's because it just got approved in April 2015.

SEN. D'ALLESANDRO: Through Fiscal.

MS. VENKATESAN: Yes.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you. So you spent 16,000 through June 30<sup>th</sup>, 2015?

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MS. VENKATESAN: That's correct.

REP. OBER: But I thought you testified you would have to lay-off two people if this wasn't approved? When were those people hired?

MS. VENKATESAN: The staff were hired -- Mary can speak to the specific dates. The Fiscal Year 2015 payroll ended June 11. If someone was working for the State on June 11<sup>th</sup>, that would be counted towards 2015. So these folks, my understanding, were offered and hired towards the end of June. So that's the reason that it is not part of the 2015 expenses. Anyone that's working for the State after June 11<sup>th</sup>, that pay period their expenses will move to State Fiscal Year 2016. That's why you're not seeing the payroll expenses here.

CHAIRMAN KURK: Follow-up.

REP. OBER: Thank you, Mr. Chairman. So you hired people at the end of June after you knew the budget was going to be vetoed by the Governor?

MS. VENKATESAN: No, I don't believe so.

MS. STEADY: No.

MS. VENKATESAN: I'm not the hiring authority. Mary could speak to that. She knows the exact dates.

REP. OBER: What was the dates you hired them to be clear?

MS. STEADY: I don't have the exact dates, but I was not under the impression that a budget was going to be vetoed. If we look back at when this grant was first awarded and the process through it, it was awarded at the end of September 2014. And then to be able to get it through the process of Fiscal to be able to get it, it was already tabled once because of the budget and then it got approved in April. And then it had to go to G and C. It got approved the end of March. Then it had to go to G & C. So by the time that happened and then we can advertise

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positions and then interview and fill it, it takes a little bit of time. And a lot of times when the positions have to start, they have to start on a certain pay period. So we may have offered the position sooner than that but based on when their start date would be.

CHAIRMAN KURK: Further follow-up.

REP. OBER: I have a question of the Commissioner of DAS.

VICKI QUIRAM, Commissioner, Department of Administrative Services: Yes.

REP. OBER: Commissioner Quiram, as you can see, the question is when did these people start? Is that a fairly fast phone call for you to make over to your payroll people to get a start date for these two people so we have a full picture?

MS. QUIRAM: We should be able to get that information. Hm-hum.

REP. OBER: Could we hold off on this pending that?

CHAIRMAN KURK: Of course. Before we do that, are there further questions of any of these folks?

SEN. D'ALLESANDRO: Just one more.

CHAIRMAN KURK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Of the monies that are being accepted, how much money goes back to the communities, the School Districts?

MS. STEADY: Yes. So we have funding 87% of the money -- there's two separate parts of this. 80% -- 75 of 80% of the money goes to the School Districts. So we have two components under this grant. One is to be able to set up systems in school. The other is a training on youth mental health to

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receive training. Of the 80% that go of the 9.75 million, 75% of that goes to the School District.

SEN. D'ALLESANDRO: Further.

CHAIRMAN KURK: Sure.

SEN. D'ALLESANDRO: And how do you ascertain how much the School Districts must spend this money? Do they hire people?

MS. STEADY: Yes, people have already been hired in those posts to oversee the roll-out of this. So it happens as we have an on-line grant system where the money is put in and any time that they do an activity and not only has to go through our approval, it has to match the budget that was approved by our funders. So there's an approval system for that.

SEN. D'ALLESANDRO: How many people did the School Districts hire as a result of this grant?

MS. STEADY: At the moment there are three School Districts involved in it and it's Franklin School District, SAU 7 which is Colebrook, Stewartstown and Pittsburg, and Berlin School District. Each of them at this time have hired a program manager. They're looking to move forward to hire school resource officers, contract with the mental health centers, so those contracts were being developed right after award with them. So they have each an employee hired under it and they would have to be laid off, also.

CHAIRMAN KURK: Follow-up.

MS. STEADY: Yes.

CHAIRMAN KURK: You mean you committed the money to these folks and on the basis of that commitment they have hired people?

MS. STEADY: Yes.

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CHAIRMAN KURK: And they are paying them out of cash, free cash in their Treasury or have you actually awarded and sent checks to these folks so they could pay the bills for these people?

MS. VENKATESAN: As far as it's my understanding, first of all, I just want to clarify that my tenure with the Department is about four months so my institutional knowledge is limited. Based on what I know that grants -- Department of Education has a grants management system. So we exclusively obligated these monies in the grants management system. That doesn't mean that the checks have actually gone out, but it is obligated in our grants management system for these School Districts for these programs.

CHAIRMAN KURK: And on the basis of that, the School Districts went out and hired people and are paying them salaries?

REP. WEYLER: School hasn't started yet.

MS. STEADY: This program is a year-round program. It doesn't follow school calendar year. So yes, people are working.

CHAIRMAN KURK: That doesn't sound like a very solid budgetary system. How -- I'm concerned that you're making commitment that you have no legal authority to make, because the budget didn't authorize you to make it at the time you made the commitment.

MS. VENKATESAN: Again, it's my understanding that these funds were coming to the School Districts once the funding were approved by Fiscal and G & C sometime end of April and beginning of May.

CHAIRMAN KURK: I see. That's the commitment and therefore --

MS. VENKATESAN: That's correct, yes.

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CHAIRMAN KURK: Thank you. Senator Little.

SEN. LITTLE: Does that change the statement, the statement that people have already been hired based upon this and are apparently already collecting salaries and benefits? This sounds to me the cart well before the horse.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I would question the statement that this is a quote, unquote, year-round program. Typically, school resource officers are hired for 185 days. Remember, School Districts work a certain part of the time. Superintendents, principals, assistant principals are what are called full-time. But even school counselors typically work about 200 to 210 days depending on the School District. School resource officers typically work the 185 days. That is the teacher contract because those are the days the students are in the School District. And I think that probably needs more research before we could say definitely what each individual School District has done. And yes, you can tell I spent time on the School Board doing contracts.

MS. STEADY: I feel like I could answer that, if that's a question.

REP. OBER: No, it was a statement that from these three School Districts we need to know what their contract limits are for those people. I mean, if I have contracts from those three -- from those three School Districts, then I would say you could do it. But I wasn't going to put you on that spot because I was pretty sure you weren't carrying around School District contracts in your pocket. And I thought that was unreasonable to ask at this point in time that that's why I said we needed more research.

CHAIRMAN KURK: The Fiscal approval that you got on or you applied for on January 12<sup>th</sup>, 2015, was for \$1,949,000; is that correct?

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MS. VENKATESAN: Yes.

CHAIRMAN KURK: And this is the one -- and that money is the money that you have already obligated, although you're going to be spending it in Fiscal 16.

MS. VENKATESAN: That's correct.

CHAIRMAN KURK: It was obligated and had the legal authority to do so --

MS. VENKATESAN: Hm-hum.

CHAIRMAN KURK: -- in Fiscal 15. You're now asking for an additional million eighty-four thousand in addition to the 1.949. And that's the money that you want to spend in Fiscal 16, in addition to the 1.9 million you already have authorization to expend. Do I understand that correctly?

MS. VENKATESAN: Yes. Actually, off that \$1.9 million, a little over a million dollars was obligated through this grants management system which are legally approved through the Fiscal and G & C process. What we have done is that we have done is called an Exhibit A process to -- as part of the year end closing you bring that money forward to cover these obligations. So that's -- so you're correct. Of the \$1.9 one of the obligations that we had, we have set aside money to cover those obligations. So this additional \$1.1 million is for the remaining six months from July through December 2015.

CHAIRMAN KURK: Would you actually spend the full \$2.9 million or almost two point -- almost \$3 million in Fiscal 16, the money you're carrying over and the new million one you're asking for?

MS. VENKATESAN: The money we are carrying over, as I mentioned, it has already been obligated in the grants management system. So the money that we are accepting, the million dollars, is my understanding, in addition to paying for

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the staff that the program area is planned to distribute that money to School Districts in contracts and services.

CHAIRMAN KURK: So you will be spending it during the six-month period?

MS. VENKATESAN: That's my understanding, yes.

CHAIRMAN KURK: Thank you.

REP. OBER: Mr. Chairman, do you see the details of what that will be spent on? I don't see it in this explanation.

CHAIRMAN KURK: The items that you see on Page 2 totaling a million eighty-four thousand dollars is not what you're looking for. You want the contracts.

REP. OBER: Well, we have been told, Mr. Chairman, there's money going to School Districts, and I don't see that detail here.

MS. VENKATESAN: It's in Class 72, Federal grants, 900 --

REP. OBER: There's no detail for that. That's what I asked for. Can we see the detail for that?

CHAIRMAN KURK: You want to know how many dollars are going to which School Districts for what purpose?

REP. OBER: Yes, and the expected time of expenditure. Representative Weyler is correct, school is not typically in session in the summer.

CHAIRMAN KURK: How long would it take you to get the information? Is that something you could get in the next few minutes or half an hour?

MS. STEADY: I could look up on our on-line grant management system, but I just want to be able to address the school is not in summer but administrators are in the summer in

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this grant. That program manager is paid during the summer to be able to organize things. They will have activities during summertime and ask for family support. Part of this is to follow that continuum of behavioral health-public health model of not only prevention and treatment, but also promotion activities, which mental health promotion which would be engaging families and things like that. So no, school is not in session, but this program is greater than just a school system. It involves community work, also.

REP. OBER: That will show in the detail for this line item?

MS. STEADY: Yes.

REP. OBER: That's why I asked for the detail.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Somebody help me understand, maybe it's LBA. That number went to Governor and Council where they authorized that already in April.

REP. OBER: 1.9.

CHAIRMAN KURK: Right. So this is -- this is an ongoing program. And the request is to use another million dollars, a million eighty-four thousand dollars of this nine plus million dollars grant in the next six-month period. And because it was a program that was started after the 2015 budget was put to bed, it does appear in that budget and, hence, they're here. So, again, we are back to the same issue that we were discussing before.

SEN. SANBORN: Mr. Chair, I'd love to make a motion that we override the Continuing Resolution and approve the items included in Fiscal, but I don't believe we can do that today.

CHAIRMAN KURK: Senator Morse.

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SEN. PRESIDENT MORSE: I think we have to bring this back down to what actually happens in budget. Basically, we all vote on a budget and that particular budget we all agreed. We passed the budget. It doesn't stop there and neither does the Resolution, quite honestly. About 200 million plus, LBA already explained to us, happens during that process that comes here, and we debate it and we say yes, no, we tell them to go home for the day, and we'll talk to you next month. We've always done that. So that budget grew by a certain amount of dollars. We are here today because it's real easy for the Departments and the Commissioners to see what was in the budget in 14-15. What really isn't easy is all these things that were accepted through Fiscal and grants and all of that and they're coming and asking for how do we want to handle this moving forward. I don't think anything is out of the ordinary on something like this in the sense that everybody knew it was going to happen. It was moving forward with being done. The only thing I question, and I'm willing to wait for the answer to that, is why did we go ahead and hire employees; and if they were hired in July, I guess I'm going to have a problem, you know, if they knew this document was submitted to Fiscal. But beyond that, I think this is the normal process. We are debating those \$200 million in grants that happened after we did the budget in '13 and that's why we are here today.

CHAIRMAN KURK: Okay. Representative Ober, if you want to go ahead or do you still want the information you asked for?

REP. OBER: I'd like to know when these employees were hired. We are still waiting for that.

MS. QUIRAM: We need names in order to look that up. As soon as we can get a name.

CHAIRMAN KURK: Okay. We'll put -- this is --

REP. WEYLER: 141.

CHAIRMAN KURK: 141, we'll put that on hold and you folks will get the information dealing with when the employees were

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hired and to the extent you can the information as to the School Districts getting how much for what purposes. Okay. We are going to continue working through the lunch hour. So we have a little bit of time now.

REP. OBER: We have already done so, Mr. Chairman.

CHAIRMAN KURK: Some of us think the lunch hour goes between 12 and 2. We will continue working.

REP. OBER: Oh, he's a banker.

REP. WEYLER: You must be an academist.

CHAIRMAN KURK: So 15-141 is on hold. We'll now move to 15-143, a request from the Department of Education – please don't leave us – for authorization to accept and expend \$1,586,127 through December 31<sup>st</sup> and retroactively amend another fiscally formerly approved Fiscal item by extending the end date to June -- to December 31<sup>st</sup>, 2015, for three full-time temporary positions. I guess we have the same questions about this as we did for the prior grant. Again, this was not in the '15 budget.

MS. VENKATESAN: It was not in the '15 budget because it was accepted during March 2014 was when Fiscal and G & C approved this particular grant. And we have requested as part of 2016 and '17 budget and these are all three of them are filled positions.

CHAIRMAN KURK: Thank you.

SEN. LITTLE: Mr. Chairman, did you say was not in the '16 budget?

CHAIRMAN KURK: This was not in the '15 budget you say.

MS. VENKATESAN: Yeah, it was not as part of the '15 budget.

CHAIRMAN KURK: Is it part of the '16 budget?

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MS. VENKATESAN: It is part of '16 and '17 budget, and we also ask these three positions be converted to permanent positions as part of the '16 and '17 budget.

CHAIRMAN KURK: But as a result of the approval you hired people who are now working in these positions and getting paid.

MS. VENKATESAN: That's correct. Their approval was done like in March 2014, so.

CHAIRMAN KURK: I have a question about substance of this. On Page 3 of 6 you talk about measurable goals and in language which I find interesting, substantial and positive changes in the trajectories of all children and youth in these communities, but I see no measurable outcomes. If we are spending a million and a half dollars to help 2,500 children, youth and their families per year for a total of 10,000 over four years, I would hope that the Department would actually tell us what they demand that their contractors achieve. What's going to happen to these 2,000 people? In other words it's one thing to provide services, but we're not -- we may be paying for those but the purpose of the services is to get a result, an outcome, and that's not here. And I suspect it's not in any of your documents.

MS. STEADY: We have a document that I could produce fairly quickly that actually has very measurable goals and outcomes and how we are measuring those and what percentage we are increasing or decreasing things by. That has been approved by SAMHSA.

CHAIRMAN KURK: I appreciate that. Would you make sure I get a copy of that?

MS. STEADY: Sure.

CHAIRMAN KURK: Further discussion on this?

SEN. SANBORN: I don't need to repeat myself, Mr. Chair. In terms of time, I prefer to --

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CHAIRMAN KURK: Yes. Is there a motion?

\*\* SEN. SANBORN: Table.

CHAIRMAN KURK: I'm not accepting that. Is there a motion?

\*\* REP. EATON: Move approval.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Representative Eaton moves approval.  
Seconded by --

SEN. D'ALLESANDRO: Second.

SEN. SANBORN: Mr. Chair, respectfully, table motion takes precedence over motion ought to pass.

CHAIRMAN KURK: That is true. But first we have the motion. It was made by Eaton, seconded by Senator D'Allesandro. Your motion is now in order. The motion that Senator Sanborn makes is to table. Is there a second to the tabling motion?

REP. WEYLER: Second.

CHAIRMAN KURK: Representative Weyler seconds. The motion before us is to table. If you're in favor of that motion, please now indicate by raising a hand?

(Senators Sanborn and Little and Representative Weyler voted to table the item.)

CHAIRMAN KURK: Three. Those opposed? One, two, three -- seven. The motion fails.

\*\*\* {MOTION TO TABLE FAILED}

CHAIRMAN KURK: The motion before us now is to approve. Further discussion? There being none, are you ready for the

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question? Those in favor, please indicate by saying aye?  
Opposed?

SEN. SANBORN: Opposed.

CHAIRMAN KURK: The ayes have it and the item is approved.

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

CHAIRMAN KURK: Moving on to item 15-144, request from the Department of Safety for authorization to retroactively amend the previously approved Fiscal item by extending the ending date with no increase in funding and extending consultant position to December 31st, 2015; again, with no increase in funding.

**\*\*** REP. EATON: Move approval.

SEN. SANBORN: I'll, based upon my knowledge, this is an ordinary course of action item in the Fiscal Committee, I will second that motion.

CHAIRMAN KURK: Peace and tranquility reign. Representative Eaton moves, Senator Sanborn seconds the approval of 15-144. Further discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

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

CHAIRMAN KURK: Fiscal 15-152, request from the Office of The Governor for authorization to accept and expend \$112,500 in other funds retroactive to July 1<sup>st</sup> through December 31<sup>st</sup> of this year, and contingent upon approval of Number 1, further authorization to retroactively amend Fiscal 14-196 approved in 2014 by extending the end date to December 31<sup>st</sup>, 2015, to continue a non-classified Senior Behavioral Health Coordinator position.

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

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CHAIRMAN KURK: Discussion?

SEN. SANBORN: Yes.

SEN. D'ALLESANDRO: Move approval.

SEN. SANBORN: We have someone coming up from the Governor's Office.

CHAIRMAN KURK: Good afternoon folks.

MEREDITH TELUS, Budget Director, Office of The Governor: Good afternoon, Mr. Chair, and Members of the Committee. For the record, I am Meredith Telus, the Governor's Budget Director.

JOHN WOZMAK, Senior Director, Substance Misuse and Behavioral Health, Office of The Governor: I'm John Wozmak, the Senior Director for Substance Misuse and Behavioral Health.

CHAIRMAN KURK: Welcome both of you. Mr. Wozmak, nice to see you. We corresponded several ways.

MR. WOZMAK: We have, indeed.

MS. TELLUS: The Charitable Foundation is also here, our grantor, and be available to speak or answer questions if that would be helpful.

CHAIRMAN KURK: If there are questions, I'm sure we'll recognize them. Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair, I do appreciate it. Thank you so much for coming in. I'm sure at this point it comes no surprise to you of my frustration and concern relative to our response to the opioid problem and in conjunction, obviously, within this contract itself. And I'm going to try very hard not to have a political discussion best of my knowledge, best of my ability, but it's complex. We've seen several items discussed and voted on this Committee today of which there is complete disconnection, lack of coordination of a single source response

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into what our opioid problem is. I'm very, very grateful for the Senate President and the past Senate President that they have put me on every single policy and Fiscal Committee having to deal with health care and opioid and drug use and insurance this state has. So I believe that I'm in a position to talk pretty significantly about the problem and what I think we are doing good and what I think we are struggling with.

And this problem for me goes from tip to tail. And when I continue to see several Fiscal items today that there seems to be no coordinated person or entity at the top, and I talked to law enforcement which I have done across this state, when I talk to providers, which I've seen across the state, when I talk to treatment facilities across the state and, frankly, when I talk to legislators that have been truly fighting this battle everyday with legislation day in and day out.

Our frustration collectively and, unfortunately, happened to be the point guy for it today, is there's no coordination, and it hasn't happened and by every stretch the good Senator and I sat in Manchester last night with 700 people pulling their hair out at our State's – and not necessarily to you, Mr. Wozmak – but our State's lack of coordinated response to this.

I can tell you as a guy who's Chair of Health and Human Services that sits on this Committee, and I've asked the Commissioner, I've asked everyone until I'm blue in the face, I can't even tell you today how much money the State of New Hampshire is spending to fight the opioid problem. Not just Medicaid, not just Medicaid Expansion, not just Medicare, not just HHS, not just Federal grants, not just State grants, not just the \$45 million the Governor vetoed and I'm upset about.

If all this comes together we are looking at something in excess of \$100 million to try and combat this problem; but this Committee that deals with numbers and all of our policy committees we all sit on don't have any coordination of how to make it work. Yes, I hear snippets of it. I hear we need treatment and we need prevention, but I see bill, after bill come before our committees and few people advocating and they

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die and, frankly, I'm blaming both sides of the alley. This is not political to me. Republicans and Democrats continue to kill things we should be doing. We are doing so little around here to stop the faucet of creating new addicts.

CHAIRMAN KURK: Senator, is there a question here?

SEN. SANBORN: So I apologize. I'm frustrated and upset. My question comes into this with, A, we have two issues. One, we have had this discussion we have been having all day about what was the spend in 2015 compared to the spend in 2016. And if I understand this correctly, the spend in 2015 was under what the spend is for this. I approve of the position. But we have to be consistent in how we approach this request like we have every other request today. So my first question from the Chair – thank you, sir – is what was the total spend in '15 and what's the approval of the number for '16?

MS. TELUS: So I'd be happy to answer that. The grant was originally accepted and expended in November Fiscal Committee meeting and that was for \$91,000, but only 39,000 got expended in '15, and that was largely because of the timing of the hiring of the position and when first paychecks went out for the position. So this request is to carry forward the unspent funds and accept the majority of the remainder.

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

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: So the \$91,000 approval in Fiscal Committee, which I voted for, ended up outside of the budget; correct?

MS. TELUS: Correct.

SEN. SANBORN: Therefore, it doesn't reside today within the authorized appropriation of Fiscal 15 budget so, therefore, would not be in the Continuing Resolution.

MS. TELUS: Correct.

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SEN. SANBORN: As I said, Mr. Chair, my struggle is I believe in the position. We need someone to appoint to help coordinate all this. But just predicated on the fact it's not in the budget, to be consistent with the Resolution, it makes it hard to vote for. So how do we reconcile that?

CHAIRMAN KURK: You'll have a chance to do that in a few minutes.

SEN. SANBORN: Thank you, sir.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you, Mr. Chairman. I actually have two questions. One of them is of the Budget Director, and if Commissioner Toumpas is still here, I hate to say this, but I have a question for him concerning this item. If I start -- Meredith, I'll start with the one for you. I'm not against this position, but I'm against what we are doing to our employees. This position, as you know, came to Division I because the Executive Branch comes to Division I for budget deliberations. So did a number of agencies. Two of them were -- would be DES and Cultural Resources. Between the Executive Branch, this position, DES, which has four positions, including Rene Pelletier, a long-time State employee, and Cultural Resources, there were six positions that didn't get funding. This is one of those with the Governor's veto. If you were in one of those six positions and if your position was one of the five that nobody is asking to fund today in front of Fiscal, I wonder how you would feel. And I want to know, this is one position, but Division I had six of those positions with six employees at risk for not being continued. And when I look at the work Rene Pelletier has done, he has previously been fee-funded because of fees aren't going up. That money is drying up. He needed to be moved to General Funds to be paid, for example, as did the other three DES positions. And with Cultural Resources that person, Federal grant was ending and was going to be generally funded, as well as this position. How are we going to fairly treat every employee, not just the position here, but

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all six of those, Meredith? Are you guys coming back next month with money for them? What's the plan the Governor has for treating these employees fairly?

MS. TELUS: I can't speak to each of the positions. DES and I have been in conversations. I know there was a reorganization happening. I'm not sure it's complete at this time. I also have ongoing conversations with Cultural Resources.

I can speak to our position though. We were under the understanding that there was an intention even under the Continuing Resolution to try to continue business as usual. This meeting was the first opportunity that we have to seek guidance from the Fiscal Committee as to how that's going to take place. So we are coming with the request for funding to continue the position and continue the program.

REP. OBER: So there's no plan for the other five positions. Because I spoke to Susan Carlson from DES this morning and they're currently trying to take that money out of fees, even though knowing their fees weren't going to cover the salaries and the other expenses to keep those four employees still paid. And Rene must have been here three decades. You're looking at a really long-term employee with a lot of valuable work.

MS. TELUS: I don't think any of us want to see that discontinued, but I'm in ongoing conversations with DES. So I'm sorry, I can't answer the question exact how it's going to happen today.

REP. OBER: I have a question for Commissioner Toumpas, believe it or not. May I ask him?

CHAIRMAN KURK: Sure.

REP. OBER: Commissioner Toumpas, this morning you asked for, and I believe you got approval, to expend another \$2.5 million which would go towards this project. Why wasn't any consideration given when you were looking at that, once you knew

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the Governor vetoed the budget, to including this position so we wouldn't have a second proposal here?

MR. TOUMPAS: The position was going to go well beyond the work that the Department of Health and Human Services does. The position, as I understood it and understand it, is really for this role that Jack is playing is to coordinate the activities among the various agencies. We already have a Governor's Commission that has a number of Department heads that are on that. But the -- but using my -- using my belief in terms of how this would play out, we are in an emergency situation. And the idea of having somebody at the Governor's Office that would be able to coordinate directly with the various agency heads, as well as other levels of government to have a more of a unified force in terms of how about getting to the broad level plan that we have, I didn't see that as my responsibility or didn't consider that as part of that \$2.5 million we were talking about.

REP. OBER: You were not approached by the Governor's Office?

MR. TOUMPAS: Not to my knowledge.

REP. OBER: Thank you, Commissioner.

CHAIRMAN KURK: Mr. Wozmak, you wish to respond?

MR. WOZMAK: I want to come back to the Senator's question which I think was a question.

CHAIRMAN KURK: Before you do that, Representative Ober, are you finished with your questions?

REP. OBER: I am. I am concerned about all six of those employees, not just the one sitting here, but in a sense of fairness to the other five as well. Because I think we should have a plan that addresses all the employees caught in this bucket in this same way. And I'm sure Senate heard some conversations we did in Division I. I didn't hear Division II or

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Division III as closely. So I can't tell you if there are positions in those two divisions in the same situation as the people who came to the Division I. But I feel a sense of needing to do something for all of our positions, Mr. Chairman. Thank you for allowing me to say that.

MS. TELUS: May I? I just wanted to follow-up, Representative Ober. I'd be happy to continue the dialogue with you after today.

REP. OBER: Thank you, Meredith.

CHAIRMAN KURK: Mr. Wozmak.

MR. WOZMAK: If I may take a couple of minutes to back up to the structure of my job, how I got to the 22 recommendations and what I've been doing. The creation of my job found its seeds within the Governor's Commission. We spent the year of 2012 developing a strategic plan for the State's response to the substance abuse problem in the state. That document was about 90 pages long and was endorsed by the Commission, which is made up of law enforcement, elected officials, Commissioners, members of the public, prevention providers, treatment and a host of input from dozens of people. So out of that came three fundamental interests; prevention, treatment and recovery, and that has been the thrust.

This position, because of its location in the Governor's Office, and pulling from language from HB2, 2015 HB2, was intended to be high enough up so it could coordinate State resources and increase cross-agency resourcing so that there could be the sort of collaboration that we need to improve the outcomes that we've been experiencing.

As you've seen earlier today, there are grant dollars within specific departments to undertake specific activities with respect to prevention, creating and structuring prevention modules for people to adopt. There has been grant funds within the Bureau of Drug and Alcohol Services to enhance the opportunity for people to access treatment and so on. That

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action has to continue because within those Departments is the knowledge base and the resources to flesh out the basic structure that we need to employ as we move forward responding to this epidemic. But it does require an elevation of a position to coordinate, to weave together the actions of those people. I'll give you an example.

BDAS is working on Medicaid changes to increase access to treatment and to find new Federal dollars and, perhaps, State dollars and alcohol fund to make treatment available, but we need to have more treatment. I have spent the first now about 127 days meeting and communicating with 142 people. Some of those are providers. Some of those are family members who have suffered as a result of addiction. I have been coordinating and bringing together people from the providers association, from providers and insurance companies and certifying agencies so we could coordinate the response. We have several things going on, all of which are happening independently.

We have approximately 300 licensed alcohol and drug abuse counselors in the state. We need probably double that amount. We need to double down and look at the --

CHAIRMAN KURK: Excuse me, sir. The purpose of this meeting is to approve this request. It really doesn't involve a justification for the program. The question is do we want to approve the grant to continue your position? I think you made it clear, as the Commissioner has, that some coordination is necessary between the various administrative agencies and that's one of your primary functions.

MR. WOZMAK: It's not only necessary, but it's essential. I'll give you one example, if I may. The issue of opioids is predominant. I have begun a conversation with insurance companies, with hospitals, and with educators to bring to New Hampshire a standard, uniform, well-respected opioid prescribing practice which I intend to roll out in every hospital and every physician's office. We have 12,000 professionals who are capable of prescribing opioids. Each and every one of them needs to be exposed to standardized, acceptable education on opioid

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practice and pain management. That would not be happening if my position did not exist.

CHAIRMAN KURK: Thank you.

MR. WOZMAK: That's just one example.

CHAIRMAN KURK: Further discussion or questions?

\*\* REP. EATON: Move approval.

SEN. LITTLE: I'm sorry, I do have a question, if I might?

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: Why would that not happen if your position didn't exist? Could we not expect the Governor's Office or somebody in Health and Human Services to communicate with the hospitals, provider networks, and say, folks, there's a best practice out there. We expect you to adopt it.

MR. WOZMAK: I suppose if you wanted to rely on hope that would happen. Let me tell you the history.

All of the elements of this have been in place for years. The educating group sought to fire up a discussion and a coalition in New Hampshire about this two years ago and they got no takers and nothing has happened since. That program has been available for two years. And through my efforts to start this conversation again, I even as I was sitting here this morning, we had another hospital sign on expressing an interest in a regional training which could take place as early as November and that simply hasn't happened before.

SEN. LITTLE: Follow-up.

CHAIRMAN KURK: Yes.

SEN. LITTLE: So I'm not relying on hope. What I said, could not the Governor call in the Hospital Association and say

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there's a best practice out there for the good of New Hampshire. I expect you to adopt it. Isn't she the highest authority in the state?

MR. WOZMAK: I suppose the answer to that is yes.

SEN. LITTLE: Thank you.

MR. WOZMAK: Although some might differ.

SEN. LITTLE: Another, if I might? As far as coordination, we have had at least two issues that came before us, items that came before us this morning, 15-139 with HHS and 15-143 from the Department of Education. Both of them focused on and presented to us as critical efforts on the part those departments to address the bad opioid and substance abuse problem generally that we have in the State of New Hampshire. And so my first question, I guess, is, is that type of coordination that you're charged to do to make sure that both of those efforts happen in a manner that leverages the funds that we have to the best interest of the State of New Hampshire? And, if so, where would we see your fingerprints on those two specific issues?

MR. WOZMAK: I think the answer, if I understand the question, is yes, and what you'll see is -- you'll see my fingerprints on enhanced efforts at prevention. You will see them on enhanced efforts at treatment because I have been discussing in a collaborative way with insurance companies to increase compliance and extensions of insurance benefits for people who need treatment. That is fundamental to me having a discussion with treatment providers about their willingness to expand treatment. They will not expand treatment unless there's reimbursement. All right. We cannot expand reimbursement unless a standardized acceptance of criteria to make coverage determinations that are reliable. We have to concurrently work on creating a workforce because one of the dilemmas of increasing access to treatment is we don't have enough workers to staff treatment centers because we have over the last 20 years destroyed the infrastructure for substance abuse

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disorders. Those have to happen concurrently and it takes coordination.

SEN. LITTLE: One more question, Mr. Chair.

CHAIRMAN KURK: Thank you.

SEN. LITTLE: We have two specific items on our agenda and so rephrase the question. What was your input and involvement in those two specific items?

MR. WOZMAK: I'm sorry, tell me the two items again?

SEN. LITTLE: 139 from Health and Human Services, and I don't know if you were here or not.

MR. WOZMAK: I was here, but the connection between the number and the topic, I'm sorry.

SEN. LITTLE: The Health and Human Services bill and we just did one from Department of Education to accept funding to educate students --

MR. WOZMAK: Yes, correct. I have had --

SEN. LITTLE: -- and substance abuse. Those two specific issues and what's your involvement with them?

MR. WOZMAK: Yes. I have had regular meetings with the Bureau of Drug and Alcohol Services, Joe Harding, on coordinating the launch of the work that they're doing to, you know, make prevention more visible in schools and to have that message received. I have meetings scheduled with all of the prevention leaders in the state who independently are working with the 13 public health regions to coordinate not only the prevention coordinators who undertake public campaigns, but the Department of Education prevention people who are seeking to strengthen a uniform, integrated prevention message system in all states across -- all schools across the State. You have to keep in mind there's over 100 school administrative units, and

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you've got limited staff creating prevention programs in the Department of Ed and we -- they certainly need help in launching those, encouraging people to develop them and set the stage about that expectation that you spoke of that all schools must embrace prevention. There's simply not the staff or resources to do that.

SEN. LITTLE: So as far as these specific issues, your involvement was to talk to the Office of Alcohol and Drug Abuse Prevention --

MR. WOZMAK: Yes.

SEN. LITTLE: -- to the Department of Health and Human Services and to see if there was no duplication of effort or not.

MR. WOZMAK: My understanding from Commissioner Barry who has endorsed the role to incorporate I've no doubt she's in favor.

SEN. LITTLE: That's okay.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, sir. So, for me, I want to try and move off what is any individual doing or not doing and get back to the premise of is this a grant the State of New Hampshire should accept. And as I hear from people on a regular basis, and I think you always ask prudent questions and even my good friend from Manchester could compliment you on when you talk about do we have good performance, what's our data, is it -- is it a worthwhile investment, and what proof do we have to back that up? So, with that, when I look at this grant and whether or not it's a good thing for the people of New Hampshire and, again, voted for it the first time, but are you aware of the general values of Senator Forrester or Senate President of anyplace in the State of New Hampshire that we have a consolidated ability to talk about how much money in the aggregate separated by policy, separated by Department, we are

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spending for opioid treatment? Have you seen anything that would lead us to believe we have seen an effective use of one person trying to create something and someone please show me data 'cause I haven't seen anything that's meaningful and our ability to determine the future of the State of New Hampshire and say we have a coordinated response. I've been hearing from my good friend to my right and that's part of what our frustration is of putting more money towards a position when we have people in positions and we are having a hard time getting things, getting information. So have you seen any information? What can you share with us?

CHAIRMAN KURK: I haven't seen any -- I have not seen any information, and I think your points are well-taken. And, in fact, you preempted some of the questions that I was going to ask Mr. Wozmak. But I think we need to distinguish between the position and the function and the individual who is performing that.

SEN. SANBORN: Right.

CHAIRMAN KURK: The question is whether or not this program -- our entire effort needs some coordination. I think the answer is an obvious yes.

SEN. SANBORN: Yes.

CHAIRMAN KURK: Whether this is the best way to do it is something we can debate. Should a bill be introduced? But, certainly, this is what we have to work with now, and I think we would be doing ourselves a disservice if we were to eliminate effectively the position by defunding it.

But let me take this opportunity to make a point through a question.

Mr. Wozmak, you came out with 23 recommendations. They're all going to cost money. I didn't see any money attached to it. I didn't see any results attached to it. We have been fighting the drug -- war on drugs for decades and we are losing. I could

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see us fighting the same battle in New Hampshire for decades and still not make any progress. So my question to you is if you come up knowing that you will never get enough money to do everything you'd like to do, if you come up with a list of recommendations, shouldn't there be dollar signs attached to it, outcomes in terms of the number of people who will no longer be addicts as a result of education or treatment or recovery or whatever it is you're proposing to do, so that the Legislature, as well as the administration, can make a reasonable decision about whether or not it makes sense to go forward at this level? It may be, despite a 50, or some people say a 75% increase, that the bucket is going to continue to be overflowing because the tap is not being turned off. And all of the money we spend for treatment and recovery may help the specific individuals but the bucket is going to continue to be overflowing because the tap is not being turned off.

Your recommendations don't give us information for us to make a judgment as to whether or not this is a prudent program and you're not in a position to plead for more revenue, more resources because you don't give us the information. We need to make an intelligent decision. I guess what I'm asking is are you planning to come up with another set of recommendations that are prioritized in order with dollars involved and specific outcomes, number of people who will no longer be addicts as a result of an education program, for example? And how many decades or years will it take for us to deal with this problem --

MR. WOZMAK: Right.

CHAIRMAN KURK: -- that I see is the responsibility of a coordinator, if that's the way you describe your position?

MR. WOZMAK: The short answer is yes. One of the things --

CHAIRMAN KURK: Within a week?

MR. WOZMAK: No, no. Probably not within 200 days. One of the issues that we have to determine in order to know what the

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metrics will be and our goals will be is determine the number of gaps in treatment. As you remember from an earlier item from the grant fund, within the regional public health entities Commissioner Toumpas talked about was this grant to fund an assessment of a continuum of care. That is fundamentally designed to identify the number of people who can access treatment, the number of people who ought to be able to, and where we should have those treatment centers located. From that we'll be able to predict and identify the number of people that we should be able to put through, all right. So that's just one grant. We need more research on that. That is one of the functions to identify with particularity the services that are available as against the demand for them.

Secondly, we have the prescription drug monitoring program which I believe is somewhere else on your list. Now that we have the statutory ability to actually use some of that data, the physician opioid prescribing education that I'm advancing as we sit here this moment will begin to corral in the flood of opiates out of pharmacies. We'll be able to get a sense, with a little more discussion and buy-in from all the health care facilities, an estimate from clinical points of view on the percentage of opioids that are being over prescribed. I don't have the initials after my name to quantify or estimate the number of opioids that are prescribed perhaps unwisely. I have seen one insurance company report that says 87% of physicians -- of prescription reimbursements are for chronic use of opioids, which as I understand it from the educators at BU School of Medicine is too high. What that number should be I haven't been able to find a physician that can really identify it yet. But we will get closer to those numbers and we will identify some goals and that comes right back to the issue of stopping the -- we have to stop creating addicts. And the way we do that is educate physicians, change prescribing practices and move forward with alternatives to opioids. We get some numbers around that. And that's why these are initial recommendations. And I suppose this body and others should have a discussion with the Governor of the method of reporting out of this work, what form that would take, and how often you want to see that. As near as I know, those are not discussions that have been held;

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but I'm certainly happy to respond to whatever forum is appropriate for you to keep apprised of this work.

CHAIRMAN KURK: Thank you. Further discussion?

\*\* REP. EATON: Move approval.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: Thank you. I think this probably can be directed to you, at Meredith. My question is the position was funded through the end of June 2015. We are now almost at the end of July. How is the position being funded now? How is it being paid?

MS. TELUS: He's still receiving pay from -- sorry. Jack received some pay for the end of June into July and then there are some days -- DAS maybe better answer this from a payroll perspective, but there are some days within July that were expended as well from the last pay period which I believe was last Friday. So if this position were not authorized we would have to cover that with General Funds.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: I just have a couple comments. I have concerns, first of all, three primary concerns. One, this grant as I read the grant from the New Hampshire Charitable Foundation, and I appreciate the grant, indicates that there's an expectation from the State of New Hampshire to fund this position. And I would have thought that if that was the expectation from the New Hampshire Charitable Foundation that the Legislature would have made an appropriation. That there would have been discussion with somebody in the Legislature about this position.

I don't recall ever having that conversation. I sit on the Governor's Commission. Mr. Wozmak, you said earlier that the seeds of your position grew out of the Governor's Commission. I think I've been on that Commission since the day I walked

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through, you know, the doors here in Concord. I didn't learn about it until after the fact. So I have a concern about communication with the Legislature. If you're going to ask us to fund something, we should be part of the discussion, I think.

The second concern I have as we heard here today is who's in charge? We know we have Joe Harding who is in charge of BDAS. We have Tim Rourke who is the Chair of the Governor's Commission on Drug and Alcohol. Joe Harding is also the Executive Director sitting on the Governor's Commission. And then we have the Commissioner of Health and Human Services. When this topic came in front of Senate Finance, the questions asked who's in charge? Because if there's supposed to be a coordinated effort, who's in charge? And we didn't get an answer. But who's in charge? So that concerns me. It concerns me.

I know with the Governor's Commission they came out with collective action, collective impact, the list of all these things and we worked on it and it came up with numbers to put to what these things were going to cost. When the Governor's Commission came in front of Senate Finance, one of the things it did not fund were drug courts. And your recommendations, 22, 23 recommendations, drug courts were funded. So, you know, are you talking to each other? Because according to the Governor's Commission recommendation they didn't believe that that was something that should be funded. That, actually, as I looked back through the documentation that they felt the effort, the cost for the effort wasn't worth it and then the support for the position, I didn't hear a lot.

Now today, yesterday, and this morning we got several letters from folks supporting the position. I think I've been surprised. I thought I would hear more. There are approximately 26, I think, people who sit on the Governor's Commission. I've been surprised at the lack of, I guess, support that I haven't heard. I have had, having said all that, and I have on the other side had people kind of scratching their heads saying why do we have that position? We have Joe Harding. We have the Governor's Commission, all the good work they've done. So I've heard it on

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both sides, the sum of letters, and then the other side people wondering why we're spending this money. Should we be spending money on prevention and treatment, not another position.

Now, I'm going to take a leap of faith on this whole issue, because recently I have had conversations. I've talked to Tim Rourke. I've talked to Deb Naro who works for CADY. I've talked -- I've had conversations with Commissioner Barthelmes and Chief Crate, the Enfield Police Chief. All these folks I highly respect, and I listened to what they had to say. So based on what they said to me, I'm taking a leap of faith on this position.

In addition to that, the fact that it is grant money, and it's not State money right now, it's not General Fund money now, I'm going to support this. But I -- I think that if the Governor's -- if the Governor had not vetoed the Budget, the money was there to support the position. Granted, it wasn't in the Governor's Office. It was in the Commission for them to make that decision. The money was there. I have concerns now with the vetoed budget and with all that's gone on with what's happening out there, and what seems to be a lack of coordination, that if we have to build a new budget, if in 49 days from now this budget is not overridden, what you're going to see in the new budget I have real concerns about the funding being there, so.

CHAIRMAN KURK: Further discussion? Senator Forrester, did you wish to make a motion?

\*\* SEN. FORRESTER: I make a motion to approve.

CHAIRMAN KURK: Is there a second?

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Senator Forrester moves, Senator D'Allesandro seconds the motion that the item be approved. Senator Sanborn.

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SEN. SANBORN: Thank you, Mr. Chair. Like Senator Forrester, completely appreciate her position. Obviously, she and I differ a little bit on. I believe we need the position. I think it's important. But both of us, I think, are coming from -- are trying to get to the same end place. That there needs to be a level of accountability. And there needs to be some proof in the pudding that it's money well spent for the people of New Hampshire. I think the expectation from both of us and all members here are very high based upon what we know of today and what we expect from the Governor's Office, from HHS, from the Commission, that there's such a void of information to justify these types of expenditures that our expectation, if this is the path we go, that we are going to want to see some real meaningful information data in a very short period of time.

CHAIRMAN KURK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chair. First of all, I think we ought to thank the Charitable Foundation for coming up with the money.

SEN. SANBORN: Absolutely.

SEN. D'ALLESANDRO: Recognizing the fact we have a problem. So thank the Charitable Foundation for at least enlightening us. That's number one.

Number two, I've been around this business a long time, a long time. I and Ronnie Pappas founded Granite State Independent Living. We found it. You know why? Because the State wouldn't fund it. That was 35 years ago. We went to the Goffstown Town Hall in those days, and they found a way to fund Granite State Independent Living. It's now become a great provider. Okay. So out of the little things sometimes good things grow. I want to make that point.

So the public initiative that I think you have to build is really what we need here. We need someone with authority who's going to go to the public and say we have a problem and we haven't recognized that. We talk about all these debts and so

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forth and so on, but the public per se has not bought into the fact that we have a major problem. So that's what I would see as the goal. The public becomes aware. Once the public becomes aware, then action takes place. Because for every action there is an immediate reaction, and that's really what we need.

So I -- I'm going to support the position. I support what has been discussed here. But I think, A, we thank Charitable Foundation for coming ahead of us and funding the position. And let's hope that the positive results that we all expect happen, and they don't happen overnight. They don't happen overnight. I think that's another thing we ought to realize. Things don't happen overnight and in this situation our Federal Government has waged the war on drugs for the last 20 years, and we've been losing it every day. That's why we are here today, talking about how to solve a problem. Thank you, Mr. Chair.

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

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

CHAIRMAN KURK: We will take a ten-minute break to five to two. This is a Ceil break.

(Recess taken at 1:44 p.m.)

(Reconvened at 1:56 p.m.)

CHAIRMAN KURK: Committee will come out of recess and we'll resume our work. The next three items are from the Insurance Department, you folks like to deal with them as a group?

REP. WEYLER: Yes.

CHAIRMAN KURK: So Representative Eaton is recognized for a motion.

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\*\* REP. EATON: Mr. Chair, I'd move approval of 153, 154 and 155.

CHAIRMAN KURK: Is there a second?

REP. WALLNER: I'll second.

CHAIRMAN KURK: No second?

REP. EATON: No, she did, Mary Jane.

REP. WEYLER: Yes.

CHAIRMAN KURK: Seconded by Representative Weyler.

SEN. PRESIDENT MORSE: We don't have a quorum.

CHAIRMAN KURK: Three, four, five, six, seven. We do have a quorum.

REP. BARRY: Do you mean Representative Wallner second that?

CHAIRMAN KURK: No, it was Weyler. Representative Wallner tried hard to second that, but Chair recognized Representative Weyler.

REP. BARRY: Thank you.

CHAIRMAN KURK: As soon as we finish these three we'll go back to Item 141. I understand the folks are ready to discuss that.

REP. OBER: Mr. Chairman, are we waiting for the Senate?

CHAIRMAN KURK: I'm waiting for a few Senators. The motion before us, Senator, is to approve Fiscal items 153, 154, and 155. These were the three insurance items that I mentioned.

SEN. SANBORN: Yes, sir. Are we in discussion?

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CHAIRMAN KURK: We are discussing them at this point, yes.

SEN. SANBORN: My question, Mr. Chair, would be, obviously, the first question is, is this an emergency request. And if it's not an emergency request, then was this part of the spend that was in Fiscal -- in Fiscal 15. And, if not, is it new money that would be part of the Fiscal 16 budget. And, if so, therefore, wouldn't it be appropriate to table?

CHAIRMAN KURK: Is there someone from the Department of Insurance here?

SEN. SANBORN: I guess that answers my question.

CHAIRMAN KURK: I think the answer to your question is that these are fiscally approved programs that were not in the 2015 budget, and, therefore, are not in the Continuing Resolution budget, but they're ongoing programs and, therefore, probably should be approved by one set of logic and --

SEN. SANBORN: Tabled by another.

CHAIRMAN KURK: -- tabled by another.

SEN. SANBORN: Seeing how the Department is not here to defend itself, tabling looks like a much better motion today.

REP. EATON: Could we put it on hold and ask LBA to call the Insurance Department?

REP. OBER: They didn't get a notice?

SEN. D'ALLESANDRO: These are significant issues.

CHAIRMAN KURK: Why don't we put these on hold. Mr. Pattison, can you see if you can get the Insurance Department to come down. And we'll now go back -- are the folks here to talk about the education issue, 141? I was told that they -- ha, yes. Are you ready to --

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MR. PATTISON: Shanthi is not back upstairs yet.

CHAIRMAN KURK: Let's continue on to --

REP. OBER: Tab 7.

**(7) RSA 124:15, Positions Authorized:**

CHAIRMAN KURK: Tab number 7, Positions Authorized. And we'll turn to Fiscal 15-118, a request from the Department of Justice for authorization to retroactively amend a previously approved Fiscal Committee item and extend the date to December 31<sup>st</sup>, 2015, for a part-time temporary program specialist.

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

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Representative Ober moves to accept. Is there a second?

SEN. D'ALLESANDRO: I seconded. Senator D'Allesandro.

CHAIRMAN KURK: Senator D'Allesandro. I was hoping it was Senator Sanborn.

SEN. D'ALLESANDRO: You've already forgotten my name.

CHAIRMAN KURK: No, I was hoping I had heard Senator Sanborn second.

SEN. D'ALLESANDRO: He wanted to.

SEN. SANBORN: I was thinking about it.

SEN. D'ALLESANDRO: He was hungry. He was hungry.

CHAIRMAN KURK: Discussion?

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SEN. SANBORN: Mr. Chair, can you speak to the Members of the Committee relative to the disposition of emergency spending in Fiscal 15 versus '16?

CHAIRMAN KURK: Why don't we have somebody from the Department of Justice respond. Miss Rice.

SEN. SANBORN: Mr. Chair, would it be okay if they spoke about all three of them collectively or just one is fine.

CHAIRMAN KURK: The motion is for one unless we change that. So one at a time.

SEN. SANBORN: Yeah, actually, the third one I have questions on.

MS. RICE: Thank you. Ann Rice.

CHAIRMAN KURK: Good afternoon again.

MS. RICE: Thank you. I'm sorry, I didn't get the question or if there was a pending question.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Thank you, Ann, for coming. Appreciate it. As you see, we are struggling here in Fiscal Committee as a result of the Governor's veto, and our interpretation, and there's two different potentials and what we think the Continuing Resolution says. Okay. So predicated on one view of that, we know if there's an emergency request that would provide the ability to come in with a request and convince the Members of this Committee that that's an emergent request that needs to happen. If it's not an emergent request, now we are kind of looking at the Continuing Resolution, which specifically talks about our spend will be limited to what the spend was on the appropriated budget in 2015. So one of those thresholds that I had is, is the spend for this the same or higher or lower than the spend for 2016 and/or was it not in the budget in '15 but is in the budget in '16?

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MS. RICE: For 15-118, this position was approved after '15 was developed. It was not in '15. It was a discretionary Federal grant. It was not put into the new grant. Excuse me. It was not put into the new budget because it's a discretionary grant and we didn't know if it was going to continue to be approved. It is an ongoing program. There is a position, a part-time position that is filled. So I'm not sure which of those buckets that falls in.

SEN. SANBORN: Follow-up. I think it's an exciting time to actually have an attorney sitting at the table so maybe we could ask for your interpretation on the House Resolution as to what --

CHAIRMAN KURK: I don't believe the Department of Justice advises the Legislature and gives a legal opinion.

MS. RICE: I appreciate that, Representative Kurk.

CHAIRMAN KURK: Despite our efforts to get them to do so.

SEN. SANBORN: Yes, despite our efforts to get them to do so.

REP. WEYLER: Part of their job which they don't do.

SEN. SANBORN: So approved subsequent to the budget passing in Fiscal, so not part of the '15 budget but is part of the '16 budget.

MS. RICE: The first item is not part of the '16 budget.

SEN. SANBORN: Thank you, ma'am, I appreciate it.

CHAIRMAN KURK: Further questions or discussions?

\*\* SEN. SANBORN: Seeing it's not -- was not part of the '15 budget, and my understanding of the Resolution we're operating under tying spending to '15 budget, I would entertain a motion to table at the appropriate time.

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CHAIRMAN KURK: This is not in the '16 budget?

SEN. SANBORN: No, it is in the '16 budget, was not in '15 budget.

MS. RICE: It was not. It was not put into the '16 budget because it's a discretionary grant.

MS. CARR: You're correct.

CHAIRMAN KURK: It is not in the '16 budget. It was not in the '15 budget. It was a separate grant approved by Fiscal. Do you still wish to make your table motion?

SEN. SANBORN: I wish to withdraw my thought process for making a table motion.

CHAIRMAN KURK: Further discussion? Motion before us is to approve. Are you ready for the question? All those in favor, please indicate by say aye? Opposed? The ayes have it and the item is approved.

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

CHAIRMAN KURK: We turn to Fiscal 128, again from the Department of Justice, to retroactively amend a previously approved Fiscal item by extending the end date to December 31<sup>st</sup> for a full-time temporary position.

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

CHAIRMAN KURK: Representative Ober moves to accept. Seconded by?

REP. EATON: Second.

CHAIRMAN KURK: Representative Eaton. Discussion? Senator Sanborn.

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SEN. SANBORN: Without having to repeat, trying to save us time, you know, my threshold questions. So, Ann, was this in '15?

MS. RICE: No, it was not. It was approved by Fiscal after '15.

SEN. SANBORN: And is it in '16?

MS. RICE: It is in '16.

SEN. SANBORN: Therefore, be slightly different than the last item we looked at, Mr. Chair.

CHAIRMAN KURK: That's correct, from your perspective.

SEN. SANBORN: I apologize, I do have another question. We're on 130; correct?

CHAIRMAN KURK: 128.

SEN. SANBORN: Oh, my apologies.

SEN. D'ALLESANDRO: You need help?

SEN. SANBORN: Thank you, sir. I need all the help I can get as you know.

CHAIRMAN KURK: Further questions?

SEN. SANBORN: No, sir.

CHAIRMAN KURK: The motion is to accept. Ready for the question?

\*\* SEN. SANBORN: I move to table.

CHAIRMAN KURK: Motion is in order. Is there a second?

REP. WEYLER: Second.

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CHAIRMAN KURK: Seconded by Representative Weyler. Moved by Senator Sanborn, seconded by Representative Weyler. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

CHAIRMAN KURK: The nos have it and the motion fails.

**\*\*\* {MOTION TO TABLE FAILED}**

CHAIRMAN KURK: The motion before us now is to approve. Further discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

SEN. SANBORN: Opposed.

CHAIRMAN KURK: The ayes have it and the item is approved.

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

CHAIRMAN KURK: We turn now to Fiscal 15-130, a request from Department of Justice to retroactively amend previously approved Fiscal item to extending the end date to December 31<sup>st</sup>, 2015, for a full-time temporary position. Is there a motion?

REP. OBER: I think we should discuss this one.

CHAIRMAN KURK: Discussion.

REP. OBER: I think Senator Sanborn says he has questions.

CHAIRMAN KURK: Miss Rice, was this in the 2015 budget?

MS. RICE: It was not in the budget. It was approved by Fiscal after that.

CHAIRMAN KURK: Is this in the 2016 Budget?

MS. RICE: It is in 2016.

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CHAIRMAN KURK: 2016 Budget.

MS. RICE: Continuing Resolution. Because it was not part of our adjusted authorized -- because it was adjusted authorized, it's not in the Continuing Resolution.

CHAIRMAN KURK: It's not in the Continuing Resolution, but it was in House Bill 1.

MS. RICE: That was vetoed.

MS. CARR: Right.

CHAIRMAN KURK: Thank you. Senator Sanborn, did you have some questions?

SEN. SANBORN: I have another question in addition to that. Thank you for asking those. I appreciate it. Ann, this thing is being funded by Federal forfeiture money?

MS. RICE: That's correct.

SEN. SANBORN: You know that whole civil forfeiture seems to be percolating around many places, including the State of New Hampshire and the Federal Government. So is the funding for this coming from assets that were taken essentially under the civil forfeiture process that people didn't get through process? How does the civil forfeiture process work to generate the money to fund this?

MS. RICE: There's a process by statute that we follow. We cannot forfeit anything where someone hasn't been convicted of the offense.

SEN. SANBORN: I'm sorry?

MS. RICE: We can't forfeit anything until someone has been convicted of the offense and has to be a felony level offense. It is a civil forfeiture process. That is, the Department of

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Justice handles separate and apart from the criminal aspect, and a person has a right to either go through an administrative process or an actual civil trial in Superior Court.

SEN. SANBORN: Follow-up on that to make sure I understand because I'm not an attorney and I did not stay at Holiday Inn. All of these assets that you're using, every one of those the owners of those assets were provided with full due process to justify whether or not they should be allowed to keep them or not?

MS. RICE: Absolutely. Every one of them had the option of going through two different kind of procedures, judicial or administrative. Some of them chose not to do that, but they had the option to do that and were informed of that option.

SEN. SANBORN: Thank you, ma'am.

REP. WEYLER: I have a question.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you, Mr. Chair. General Rice, it wasn't clear. So there could be a civil process for forfeiture and the people could forfeit things without having felony convictions?

MS. RICE: Well, there's -- items are seized. And as part of -- typically part of the criminal investigation, and that is a separate proceeding. Most of the time if someone wants to challenge a forfeiture, then the civil process doesn't go forward until there's a criminal conviction. It is not uncommon for people to say I'm going to waive that process and go through just an administrative forfeiture. But they have the option and are informed of the option of going through a full judicial process.

REP. WEYLER: The full judicial process would mean if they were not convicted of a felony they would not forfeit.

MS. RICE: Correct.

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REP. WEYLER: Thank you.

CHAIRMAN KURK: So you're telling us at least something I didn't understand. As I read in the papers, at least in other states, that property was being forfeited by people who had not been convicted of criminal offenses. You're telling me that that does not happen in New Hampshire.

MS. RICE: It is not uncommon for people to waive their right to forfeiture. So they waive the right to a forfeiture proceeding. Typically, with money that is seized, as for drug proceeds, people commonly will waive and say I don't need to go through a drug forfeiture proceeding and that may happen.

CHAIRMAN KURK: Even though they have not been convicted of a crime?

MS. RICE: Yes, yes.

SEN. SANBORN: Or charge.

MS. RICE: Or charged sometimes.

REP. KURK: Why would one do that?

MS. RICE: They may not want to claim that they have a property interest in the money. And you have to do that in order to challenge a forfeiture.

CHAIRMAN KURK: And you could still prosecute them for the criminal offense, for the felony?

MS. RICE: Yes.

REP. WEYLER: I don't know where that money came from in my car. Somebody must have put it there.

SEN. SANBORN: Mr. Chair, if I could continue this line of thought, because this has been percolating in the Legislature

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this year. So, Ann, I hear and this is what I'm kind of concerned about is where we are getting the money from? I, like the Chair, I heard several instances, I've read many other instances where law enforcement will take -- I'm trying to find a better word for that, say they stopped someone. They find --

REP. WEYLER: Seized.

SEN. SANBORN: Seized.

MS. RICE: Seized.

SEN. SANBORN: They find \$10,000 in someone's car and they take the \$10,000 and they essentially turn to the owner of the car, at least, and say we are either going to fight this out in court or we agree that we are going to keep half, you keep half, as long as you sign a waiver that you're not going to come back and sue us for it.

MS. RICE: No, we can't negotiate like that. If we are going -- if we are going for forfeit, we will forfeit the whole thing. It's not a give and take negotiation.

SEN. SANBORN: Okay.

CHAIRMAN KURK: Further discussion? Representative Eaton.

REP. EATON: Would it be appropriate to say that the process in New Hampshire is significantly greater and more reasonable and transparent than possibly what it is in South Carolina or Georgia or some other jurisdictions?

MS. RICE: I don't know specifics. I know there are problems with forfeiture process in many other states. We don't have that. And I know that we just recently filed with the Legislature a report for what was taken, seized in forfeitures for the last biennium. So we have a fairly transparent process in terms that we are providing that information to you. I think that was sent to the Speaker and the President and the Governor's Office.

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CHAIRMAN KURK: Is there --

REP. OBER: We don't have a motion.

CHAIRMAN KURK: Is there a motion?

\*\* REP. EATON: Move approval.

CHAIRMAN KURK: Representative Eaton moves approval, seconded by Senator Sanborn.

SEN. SANBORN: Sure.

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

MS. RICE: Thank you.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Moving on to Fiscal 15-142, request from the Department of Education. Before we get into that, could we go back to the item we put on hold, 141? And I'd like to try to move this around. We are going to lose two of our of our Members at 3 o'clock as an absolute. I hope we can complete our activity by then.

REP. OBER: You don't feed us, you might lose us sooner.

CHAIRMAN KURK: We return now to the item we put on hold that was 15-141 under Tab 6. This was a million -- the million eighty-four thousand dollar request. Are you folks in a position to give us the information about the positions?

MS. VENKATESAN: Yes. Program Assistant II position was offered on June 3<sup>rd</sup>. Program Specialist III position was offered on June 10<sup>th</sup>.

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CHAIRMAN KURK: The budget was vetoed sometime late in June.

MS. VENKATESAN: Yes.

REP. OBER: When were they accepted?

MS. VENKATESAN: They were offered and accepted.

CHAIRMAN KURK: On those dates?

MS. VENKATESAN: Yes.

CHAIRMAN KURK: And that means their date of hire. I mean, did they start working on that date?

MS. VENKATESAN: No, no.

REP. OBER: What was the date of hire?

MS. VENKATESAN: The person who was offered the position on June 3<sup>rd</sup> started on June 26<sup>th</sup>. They actually wanted to start on June 19<sup>th</sup>. Because it's an internal candidate to the state, our human resources staff advised to start on a pay period. Our pay period fell on June 26<sup>th</sup>. So they started June 26<sup>th</sup>.

CHAIRMAN KURK: At that time you were legally committed to hiring them?

MS. VENKATESAN: Yes.

REP. OBER: No, you can back out an offer.

SEN. SANBORN: We are employee-at-will, Mr. Chair.

REP. OBER: That's right. We are an employee-at-will state.

CHAIRMAN KURK: Where did Miss Rice go?

REP. WEYLER: What about the second person?

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CHAIRMAN KURK: There were three people, right?

MS. VENKATESAN: Two.

CHAIRMAN KURK: Two.

REP. OBER: When did the second one start?

MS. VENKATESAN: The second one started on July 20<sup>th</sup>, because they had to give a month notice.

REP. OBER: July 20<sup>th</sup>.

CHAIRMAN KURK: When was the offer made and accepted?

MS. VENKATESAN: June 3<sup>rd</sup> and June 10<sup>th</sup> for offer of acceptance and start date was June 26<sup>th</sup> and July something. July 20<sup>th</sup>, yes.

CHAIRMAN KURK: Do we have a motion for this?

REP. OBER: No, we don't have a motion on this one, because we were trying to decide.

CHAIRMAN KURK: Okay. This is -- this was another case where we had a \$9 million or a substantial grant that went through Fiscal, did not make it into the '15 budget, did make it into the '16 budget that was vetoed. And the request is to continue this ongoing program by appropriating another tranche of the Federal funds.

SEN. SANBORN: Mr. Chair, I understand it so even one of these two positions was offered and hired after the Governor's veto.

CHAIRMAN KURK: No, both positions were offered and hired prior to the Governor's veto.

REP. OBER: They were offered before, but they were hired after, because the start dates were after the veto.

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REP. WEYLER: Yes.

CHAIRMAN KURK: Start date for one position was June 20<sup>th</sup>. I don't remember the exact date of the Governor's veto.

REP. OBER: The other one was July 20<sup>th</sup>.

CHAIRMAN KURK: The other one was in July, but both positions had been offered to these people and accepted by these people on June 3<sup>rd</sup> and June 10<sup>th</sup>. But regardless of that fact --

SEN. SANBORN: I guess we are an employment-at-will state.

CHAIRMAN KURK: Regardless of this fact, this is an ongoing program that didn't make it into the '15 budget by virtue of the fact that it came in a bit late and was approved by Fiscal. But for the fact that it would have been in the '15 budget and, therefore, under the Continuing Resolution. And talking about consistency, if those of us who adopt position B, you having adopted position A, wish to remain consistent, we need to approve this.

REP. WEYLER: I don't see this as ongoing.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: This is the first year of a five-year.

MS. VENKATESAN: Yes.

CHAIRMAN KURK: Or second year of a five-year.

MS. VENKATESAN: First year of the five-year, that's correct.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

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REP. OBER: There's something wrong with those dates. June 26<sup>th</sup> is a Friday.

MS. VENKATESAN: Yes.

REP. OBER: July 20<sup>th</sup> is a Monday.

CHAIRMAN KURK: She didn't say 20<sup>th</sup>, she said 29<sup>th</sup>.

MS. VENKATESAN: If I may, Representative Ober. June 26<sup>th</sup> is a Friday. Friday is when our pay period starts. That's the reason one of the internal candidates to the State had to start on June 26<sup>th</sup>. The second one is the -- she's an external candidate. So it did not matter for an external candidate when she started. That's the reason she started on July 20<sup>th</sup>.

REP. OBER: A Monday. Thank you.

CHAIRMAN KURK: Is there a motion?

\*\* REP. EATON: Move approval.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: The motion is to approve made by Representative Eaton, seconded by Senator D'Allesandro. Further discussion? There being none, are you ready for the question? Are you moving to table?

SEN. SANBORN: I will vote no at this point, Mr. Chair. Doing my best to help the time.

CHAIRMAN KURK: Thank you. The motion before us is to approve. If you're in favor, you'll vote yes. If you're opposed, you'll vote no. All those in favor, please indicate by show of hands? One, two, three, four, five, six. Opposed? Senator Little, I didn't get your vote.

SEN. LITTLE: I'll vote no.

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REP. OBER: Make up your mind.

CHAIRMAN KURK: The vote is seven to three and the item is approved.

SEN. SANBORN: Every vote makes a difference.

CHAIRMAN KURK: We are moving on to --

REP. WEYLER: 142. Back to 142.

CHAIRMAN KURK: We are back to Item 142 under Tab 7. This is authorization to retroactively amend a previously approved Fiscal item by extending the end date for a consultant position to December 31<sup>st</sup>, 2015. Does anyone have any questions?

SEN. SANBORN: Apologize, Mr. Chair. What number we on?

CHAIRMAN KURK: 142. This is on Tab 7.

REP. OBER: It's Department of Education. Was this budgeted in HB 1? Was this in the -- was this budgeted in the 2015 budget?

MS. VENKATESAN: It was not. It was only budgeted by our Fiscal and G & C approval in April 2015, but it was included as part of the 2016 and '17 budget.

CHAIRMAN KURK: Thank you. And the person who -- to whom this refers has been hired and is working?

MS. VENKATESAN: This is a consulting line item. No, we have not hired anyone. We are in the process of going through the Request For Proposal stage at the beginning stage on putting together a Request For Proposal.

CHAIRMAN KURK: Have you spent any money on this in 2015?

MS. VENKATESAN: I believe we spent like a couple of thousand dollars, yes. We spent about \$2,011 in 2015.

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CHAIRMAN KURK: If this is delayed for six months, will the grant be lost?

MS. VENKATESAN: Hum -- we have this grant through November 30<sup>th</sup>, 2016.

CHAIRMAN KURK: 2016?

MS. VENKATESAN: Yes. For two years, yeah.

CHAIRMAN KURK: Do you normally -- is it normal for an extension to be granted?

MS. VENKATESAN: This particular grant is from the University of Florida. They get the grant award from Department of -- U.S. Department of Education. So we can certainly request for an extension, but I'm not sure that this will be granted or not at this time.

CHAIRMAN KURK: Senator Sanborn, did you have questions?

SEN. SANBORN: No, sir.

REP. OBER: Do you have a motion?

REP. KURK: Would anyone care to make a motion?

\*\* SENATOR FORRESTER: Motion to table.

SEN. SANBORN: Second.

CHAIRMAN KURK: Senator Forrester moves to table, seconded by Senator Sanborn. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? Let's have a show of hands, please. All those in favor, please indicate by raising their hand? One, two, three, four, five, six, seven in favor. Opposed? Three.

(Representatives Wallner and Eaton and Senator D'Allesandro opposed the Motion to Table)

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\*\*\* {MOTION TO TABLE ADOPTED}

CHAIRMAN KURK: The motion carries. Congratulations, Senator.

SEN. SANBORN: I'm sorry?

CHAIRMAN KURK: I was congratulating you.

SEN. SANBORN: Peeling them off. It's a movement.

CHAIRMAN KURK: We now turn to Fiscal 15-151, a request from the Department of Transportation to establish consultant positions through Department 31<sup>st</sup>, 2015. Senator Sanborn, you have a motion?

\*\* SEN. SANBORN: I will move to table.

CHAIRMAN KURK: Is there a second?

REP. WEYLER: Second.

CHAIRMAN KURK: Seconded by Representative Weyler. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is tabled.

(Representatives Wallner and Eaton and Senator D'Allesandro opposed the motion to table.)

\*\*\* {MOTION TO TABLE ADOPTED}

CHAIRMAN KURK: No one is here from Insurance yet?

MR. PATTISON: No, they're not.

CHAIRMAN KURK: Did they indicate they would be coming?

MR. PATTISON: Commissioner and Deputy Commissioner are not available. They're trying to find Barbara Richardson and have her come down.

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**(8) Chapter 158, sub-paragraph I, (a), Laws of 2015,  
Making temporary appropriations for the expenses and  
Encumbrances of the State of New Hampshire:**

CHAIRMAN KURK: Thank you. Moving on to item number (8), Fiscal 15-149, a request from the Department of Transportation for authorization to exceed the 6/12 limit in the amount of \$674,000 to the extent shown as projected deficits through December 31, 2015. Is there discussion or does somebody wish to make a motion?

SEN. SANBORN: Mr. Chair, discussion, I guess.

CHAIRMAN KURK: Is there somebody here from the Department of Transportation?

PATRICK MCKENNA, Deputy Commissioner, Department of Transportation: Hello, Mr. Chairman, Members of the Committee, Patrick McKenna, Deputy Commissioner from DOT with Bill Janelle, our Business Director of Operations, and Marie Mullen, our Finance Director.

CHAIRMAN KURK: Good afternoon. Senator Sanborn has a question.

SEN. SANBORN: Thank you, Mr. Chair. Lady and gentlemen, thanks so much for coming in. You, obviously, see how hard we are struggling with all of these issues. And, for us, Tab 8 is this new category which the Chair has referred to as it's an emergency. And so, honestly, as much as I love you guys and you do great work, and I love how the roads are plowed, as a guy that plows himself, I'm trying to struggle with how I can go HB 2 parts by tomorrow so I'm not sure I see the emergency in this. And based upon the Governor's veto, which is obviously forcing this discussion, is passage of this today versus a month, tomorrow, you know, September, August, is it truly an emergency and what's our down time, Patrick? I'm trying to get my hands on this.

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MR. MCKENNA: Thank you for the question and, again, we understand, you know, our planning process and the work that we have to do to establish the resources and make sure we have things in place, equipment in place so that we can avoid emergency, we believe is an emergency. You know, it's hard to be up here and defend that winter in 2015-2016, for plows that we need for I-93, and equipment we need for into 2017 is an emergency issue here. But to the extent that we put things in place, there's a long procurement cycle as well as getting everything ready. We tried to just bring these things forward as we see the needs that the Department has. So we understand that emergency is kind of in the eye of the beholder.

We believe that resourcing our needs now and making sure that we're -- making sure we are planning for our winter periods and our other equipment needs we believe avoids emergency in the future. So that's really why we brought the item forward.

CHAIRMAN KURK: Senator Sanborn for a follow-up.

SEN. SANBORN: Acknowledging in our society today that winter is coming, you're a fan of some new TV show, not going to be end of the world if we respect the fact that we are operating under the Governor's veto, because I'm thinking it's not going to snow in August, September.

MR. MCKENNA: Again, we do have lead times for procurement that are fairly significant. So with the Mechanical Services piece of this, if we miss the bids and we could actually miss a model year, it will cost the State more money effectively to get the equipment we need later. That's what we are trying to avoid.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: If this situation is resolved on September 16<sup>th</sup>, isn't that early enough to order equipment?

MR. MCKENNA: That's when we'll order it. We may well put ourselves in a position where on a pricing basis we might miss a model year for some of the equipment. So we'll deal with

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whatever circumstances this body chooses. It makes it difficult to run our operation. That's what we're saying.

CHAIRMAN KURK: Representative Eaton.

REP. EATON: Patrick, you're asking financial approval. What you're really asking is order approval.

MR. MCKENNA: That's correct.

REP. EATON: You're not going to pay for this stuff until it comes in which is going to be well past the CR, well beyond --

MR. MCKENNA: That's correct.

REP. EATON: I assuming some of it even in next spring.

MR. MCKENNA: Thanks. We have to approve funding ability to Capital Overview Committee, bring an acquisition plan forward to them. That's the first step. This is the step to have funding availability for the -- to encumber to order equipment. We're probably six to nine months beyond that before we actually receive it and pay for it.

REP. EATON: Follow-up, if I could?

CHAIRMAN KURK: Follow-up.

REP. EATON: If you got approval today, you would be coming to Capitol Overview on August 4<sup>th</sup> as a late item to make the order, but you would not be spending any State dollars until well beyond the existing CR and probably well beyond that as well; correct?

MR. MCKENNA: That's correct. With the Mechanical Services component, the winter maintenance, the plow arms, those would be some that we'd purchase earlier.

REP. OBER: Mr. Chairman.

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CHAIRMAN KURK: Excuse me. Senator D'Allesandro, and then Representative Ober.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. Just, again, with regard to the request referencing the LBA Performance Audit, the LBA Performance Audit under DOT Fleet Management, November of 2014, in its conclusions reported that the reliability of the fleet continues to age and as it ages, breakdowns more frequent potentially affecting the Department's ability to operate efficiently and to have equipment available when needed. So question is we have the LBA audit. We're responding to the audit. So we respond to the audit because we say to the auditors send these audits back to the Committees and make sure that the Department reacts to the audit. So you've reacted to the audit and I think that's important that it be brought forward, because we asked people react to these audits. Thank you, Mr. Chairman.

CHAIRMAN KURK: Senator Morse. Sorry.

REP. OBER: That's okay.

SEN. PRESIDENT MORSE: I think both these items define what we are going to be living under the next three months. Does this rise to emergency? Emergency. I spoke about Catastrophic Aid. You go home and define that one in the next three months 'cause I know it's coming forward if we don't get a budget and figure out whether that's about an emergency or not. To me, there's nothing here that defines emergency. We don't have a budget. I know these two are frustrated today with some of the votes, but some of them went the way you thought they were supposed to go. But these are the items that are going to start what's coming in in August. You're going to define emergency today. Because on August 26<sup>th</sup> you're going to see the rest of the emergencies come forward. I know they're well-intended. I understand it. We researched the tone of different things. We changed a lot in the budget. You know, they were lucky. \$5 million in Capital Budget got approved and sailed right through because it's bonding. That's easy. We can do that in this state. To me, you're defining emergency in Section 8 today and I can't support

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something like this because I don't think this rises to the level of emergency.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you, Mr. Chairman. On September 16<sup>th</sup> I plan to vote to override the Governor's veto which is how we got into this position. But I recognize that if that veto is not overridden that the 600,000 that they're asking for that is in the budget that is vetoed by the Governor may not be there when whatever budget gets passed. So I don't know how you can vote to order something even though you don't have to pay when you don't know what the budget is going to have. So I would urge everybody on September 16<sup>th</sup> to vote to override the veto so we can move ahead within. Thank you.

CHAIRMAN KURK: Further discussion? Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. Patrick, would it be possible to address this issue with a transfer between accounts? And, if so, why wouldn't we? And that way you could observe the 6/12 and comply with the CR.

MR. MCKENNA: Something like squeezing a balloon, Senator. I appreciate the consideration, but we are under pretty severe constraints from the budget perspective with the 6/12 budget as it stands. We do appreciate the fact that it was 6/12ths and not allocated per month. That was -- that did avoid many of the issues that we have. But that's -- that's really in many ways why we -- why we come for this additional authority.

SEN. LITTLE: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. LITTLE: Technically, this could be addressed with a transfer between accounts, and you could observe the CR, get the authority as Representative Eaton has pointed out to put your order in because you're not going to be paying for these until

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they arrive, and manage within the CR because of the Governor's veto like everybody else is attempting to do.

MR. MCKENNA: Technically, perhaps.

CHAIRMAN KURK: Further discussion? Is there a motion?

\*\* SEN. LITTLE: I would move.

CHAIRMAN KURK: To deny?

SEN. LITTLE: To deny because I think that Patrick has time to come back to us next month with a straight transfer between accounts and we can -- so we can fix this issue for him and allow him to go order the parts.

CHAIRMAN KURK: You want to second?

REP. WEYLER: Second.

CHAIRMAN KURK: Seconded by Representative Weyler. Further discussion? Motion is to deny Fiscal 15-149. Are you ready for the question? All those in favor of denying 15-149, please now indicate by saying aye? Opposed?

SEN. D'ALLESANDRO: No.

REP. WALLNER: No.

REP. EATON: No.

CHAIRMAN KURK: The ayes have it and the item is denied.

\*\*\* {MOTION TO DENY ADOPTED}

CHAIRMAN KURK: Moving on to Fiscal -- excuse me -- Fiscal 15-150, also from the Department of Transportation for authorization to exceed the 6/12 limit again as contained in the Continuing Resolution in the amount of \$3.14 million to the

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extent shown as projected deficits through December 31st, 2015. Senator Sanborn, you wish to make a motion?

\*\* SEN. SANBORN: If we are keeping with consistency as to questioning whether or not this is an emergency, unless I hear otherwise from the Committee that this is an emergency, I would, again, I would either move to table --

CHAIRMAN KURK: Move to deny.

SEN. SANBORN: -- or deny.

CHAIRMAN KURK: Motion is to deny. Representative Weyler seconds. Discussion?

REP. EATON: Hum --

CHAIRMAN KURK: Representative Eaton.

REP. EATON: To follow on the Senator's statement, would Deputy Commissioner help to let me know if this is or is not an emergency of any sort?

MR. MCKENNA: Thank you, Representative. We -- we have the primary item on here is for renewal and replacement contracts on the Turnpike System. We have contracts that are in force right now. Seven out of eight of our contracts for this year's resurfacing and other activities are in place and what we are attempting to do is have the funds available to fulfill those contracts.

We do have one contract that hasn't started yet, and that's for paving in the central part of the state on the F. E. Everett Turnpike. We would have to draw that back and tell the contractor to not start the work. We may be under some legal claim component with them. We'd have to look at that. It would -- it would eliminate our ability to pave F.E. Everett Turnpike this summer. The limits of the contract extend until September 11<sup>th</sup> and that's when we expected it to be complete.

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It's an item that's been approved by G & C and the contract is out on the street and vendor's ready to work, so.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Patrick, how much revenue are we not realizing right now just under the gas tax because we don't have a budget?

MR. MCKENNA: How much revenue we are not realizing?

SEN. PRESIDENT MORSE: Yeah, the 9 million from '15, the money from '16, how much revenue are we not realizing because we don't have a budget?

MR. MCKENNA: Just within the Highway Fund?

SEN. PRESIDENT MORSE: Just within the Highway Fund.

MR. MCKENNA: The revenue is coming in as it normally --

SEN. PRESIDENT MORSE: You can't spend it.

MR. MCKENNA: We can't spend it.

SEN. PRESIDENT MORSE: We can't spend it. We don't have it. It doesn't exist right now.

MR. MCKENNA: We don't have spending authority.

SEN. PRESIDENT MORSE: All that money is coming into the State of New Hampshire and we can't spend it. That's what the contractors should hear. In my opinion, again, we are talking about defining emergency today. Defining emergency. You know, we didn't vote to veto this budget. So I think the emergency is passing the budget, and I don't think this rises to that level.

CHAIRMAN KURK: Further discussion?

SEN. SANBORN: I make a motion to ITL.

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CHAIRMAN KURK: The motion before us is to deny the request. You made the motion. Representative Weyler seconded. Representative Eaton.

REP. EATON: I would just follow that with I think an emergency would be failure to comply with a contract and putting the State in civil liability jeopardy and jeopardy of the financial claim and expanding an expense beyond what we have already incurred.

CHAIRMAN KURK: Isn't it true that State contracts contain a disclaimer or clause that says subject to appropriations?

MR. MCKENNA: It is and it is also true that within the specs the contractors have the ability to seek damages for mobilization expenses, for their financial harm that comes as a result of pulling the contract back. So we don't know. We'd have to determine how that goes and whether or not the pricing would hold for a new contract going forward.

SEN. SANBORN: Chair, I guess I do need to speak. Let me be really clear. Let me be really clear, Representative. A close personal friend of four of my employees committed suicide on Saturday as a result of heroin. That's an emergency. \$45 million in this budget. She vetoed it. That's an emergency.

CHAIRMAN KURK: Representative Eaton.

REP. OBER: Let's not go there, please.

SEN. PRESIDENT MORSE: Mr. Chairman.

CHAIRMAN KURK: Excuse me. Did you wish to speak?

REP. EATON: I'm going to let it go.

SEN. PRESIDENT MORSE: Dan.

CHAIRMAN KURK: Senator Morse.

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SEN. PRESIDENT MORSE: Mr. Chairman, I think based on the statements, I think the motion should be tabled so the State wouldn't be in any lawsuit predicament because we could come back at the end of August and debate it again, and maybe debate it again as we see where we are going as we all have these meetings that we have been working on to try and get a budget. So if we want to protect the State and it's being suggested that we might be throwing him into some kind of lawsuit, then Senator Sanborn could withdraw his motion and move to table and we won't act on it today.

REP. OBER: Mr. Chairman, before we have a table motion could I say something?

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you. Should we move forward with the table motion, this needs to be redone. We just heard that this is for paving of Everett Turnpike; and yet, we have got money in here for software. How much software do you use when you pave a road? And we have got money in here for other things. So I think should we table, I would urge the Agency to bring this back for just what they need for contract and not try to make it many things and perhaps split their request into multiple pieces, if that makes more sense to them. And if we are going to have a table motion, then I thank you for letting me speak before we got to that.

CHAIRMAN KURK: I need to ask Assistant Commissioner a question. Do you have the authority now to enter into a contract?

MR. MCKENNA: Contract was already -- was already entered into. The traditional practice of the State, particularly when it comes to construction contracts for the construction season, is that we bring those contracts forward in February, March and April for our paving work, for much of the summer construction season, to G & C for an approval.

CHAIRMAN KURK: Even if there's no budget.

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MR. MCKENNA: Again, they do have the language in them that says they're subject to appropriation. I would say that some contracts have started. We do have some funding in the existing Continuing Resolution budget. We have eight contracts. We think one primary contract is at significant risk based on funding that we have here. So we do bring the contracts forward because we would not be able to do the bid work and everything else. We'd lose our construction season if we held specifically to the State Fiscal Year basis.

CHAIRMAN KURK: So some sort of statutory authorization for G & C to approve and you to execute a contract when there's no appropriation?

MR. MCKENNA: Again, they're subject to appropriation. So the work doesn't start until -- until funding is available and we give a notice to proceed. We do have to execute. It's been a matter of tradition, I believe, more than anything else, and understanding on the part of multiple branches of government over the years that otherwise we would not have a construction season.

CHAIRMAN KURK: I always thought that Commissioners were personally liable for contracts they enter into that exceed their appropriation?

MR. MCKENNA: If the appropriation is exceeded, that's correct. Under 9:19 -- Bob's here. He quotes that. 9:19. So the fact that it's subject to appropriation is what provides the coverage.

CHAIRMAN KURK: Then you told us every time we do this we run the risk that we are going to get sued for -- I forgot the exact language you used -- for the cost to the contractor of assembling things and that apparently is part of the contract.

MR. MCKENNA: I believe that's separate, separate authorization on spec work.

CHAIRMAN KURK: Is there a motion to table?

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\*\* SEN. SANBORN: So made.

CHAIRMAN KURK: Representative Sanborn moves to table, seconded by Representative Weyler. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

REP. EATON: No.

REP. WALLNER: No.

SEN. D'ALLESANDRO: No.

CHAIRMAN KURK: Let's see show of hands. All those in favor? All those opposed? Seven to three, the motion to table.

\*\*\* {MOTION TO TABLE ADOPTED}

MR. MCKENNA: Mr. Chairman, can I ask a question?

CHAIRMAN KURK: Yes.

MR. MCKENNA: In deference to Representative Ober's request, shall we split this item and would that be considered appropriate for the split item to come back as the tabled item?

REP. OBER: I would think so.

CHAIRMAN KURK: Mr. Pattison.

MR. PATTISON: I'd recommend just leave this item as tabled. Have Patrick submit two new items. We'll deal with all three of them on next month's agenda.

CHAIRMAN KURK: Thank you. Thank you, folks.

REP. WEYLER: Insurance.

CHAIRMAN KURK: Ha.

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REP. WEYLER: 155.

CHAIRMAN KURK: We have three items for Insurance and motion on the table to adopt all three of them, but there were questions. This is Fiscal 153, 154 and 155 under Tab 6.

ROGER SEVIGNY, Commissioner, Department of Insurance: Good afternoon, Mr. Chair, Members of the Committee. Let me start by apologizing for not being here. It did not make my calendar. And when I got the call I said, oh, my goodness, we do have things that are coming before Fiscal. I did bring the two folks that can technically speak to the questions that you may have. And I'm, again, I apologize for holding you up.

CHAIRMAN KURK: Not a problem. Thank you, sir. Was it Representative Ober had questions or was it Representative Sanborn -- Senator Sanborn?

REP. OBER: I see them in Division I. I know what this is about.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: We are talking collectively. Gentlemen, thank you so much for coming in. So you haven't been here for part of the morning and we continue to have this discussion relative to is this part of your authority under the Continuing Resolution specifically 'cause that leads us down one path. That be the first part of the question. Second part of the question is did -- was this part of an appropriation in 2015? And is the request above or below '15. That's the Continuing Resolution question? Was it not in '15 and is in '16? Let's start there.

MR. SEVIGNY: Let me start, then I'll turn it over to these folks. These matters have been before this Committee and have been approved by this Committee once. Because there is a Continuing Resolution on the budget, we have to bring it back in order to be able to give the money to execute on what it is we would like to do.

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SEN. SANBORN: So I appreciate, Commissioner, but specifically DES -- DAS has given some advice relative to all of these issues in front of Fiscal today as specifically saying whether or not they would be included or not included in your authority under the Continuing Resolution. Do you have that position?

MR. SEVIGNY: Let me introduce Ted Perkins is our business manager.

SEN. SANBORN: Hi, Ted.

MR. SEVIGNY: Al Couture is our Health Reform Coordinator. Go ahead.

TED PERKINS, Business Manager, Department of Insurance: Two of the items have been in the '15 budget and one the items is in '16 budget that was vetoed.

SEN. SANBORN: So two in the '15.

MR. PERKINS: Correct.

SEN. SANBORN: And in the '16 with no change of dollar amount or up or down.

MR. PERKINS: Correct, slightly down.

SEN. SANBORN: Slightly down. And one of them was not in '15 and is in '16.

MR. PERKINS: Correct.

SEN. SANBORN: Which one is that?

MR. PERKINS: It's the very first item 15-153.

SEN. SANBORN: 153 not in '15, is in '16. 154. Okay, I think I've got that. So my only other question is, the Chair's

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allowing me to continue to combine the questions. 155 is part of the plan management of the partnership exchange; correct?

MR. SEVIGNY: Yes.

SEN. SANBORN: I thought the Federal Government was paying for all of that. Is this the 100% Federal funds?

MR. SEVIGNY: Yes.

MR. PERKINS: Yes.

\*\* SEN. SANBORN: I guess, Mr. Chair, if you would allow, I guess my thought would first be on 153 based upon the fact it was not in '15, is in '16, I'd make a motion to table, unless you'd like further discussion.

CHAIRMAN KURK: The motion is -- motion is for all three.

AL COUTURE, Health Reform Coordinator, Department of Insurance: We have some detail explanation. It was not in the original '15 budget, but we did come later on once the budget approved and we came to Fiscal meeting and had portions of this grant approved for Fiscal Year 15.

MR. PERKINS: Small portion of it was approved.

SEN. SANBORN: I appreciate the position as far as our discussion today is really if we are going to live by the letter of the law and Continuing Resolution doesn't say '15 appropriation and all acts thereon. It says the '15 appropriation which is kind of putting us in a difficult spot.

CHAIRMAN KURK: So let me make sure I understand this. In each case you came before Fiscal to get approval and got approved. You expended some money on that approval in '15, but it was not part of the 2015 budget, just adjusted authorized, in effect, but it was not part of the budget that was passed in 2015 covering '14 and '15.

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MR. PERKINS: That is correct.

MR. SEVIGNY: Correct.

CHAIRMAN KURK: In all three cases it is in the budget that was vetoed by the Governor in House Bill 1.

MR. COUTURE: Correct.

SEN. REAGAN: Correct.

CHAIRMAN KURK: These are ongoing programs.

MR. SEVIGNY: Correct.

CHAIRMAN KURK: Do each of them have people are being paid out of the funding from the various sources?

MR. COUTURE: Yes, we do. Yes.

MR. PERKINS: Yes.

CHAIRMAN KURK: Thank you.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Aren't those people consultants?

MR. COUTURE: There's a bookkeeper position that is being reimbursed by all three of these, small portion of it. The balance of the dollars are consultants.

MR. SEVIGNY: Right.

MR. PERKINS: One part-time bookkeeping position.

CHAIRMAN KURK: Further discussion? Further questions?

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SEN. LITTLE: I'd like a clarification, if I could?

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: On the second or third item, 154 and 155, these are in '15 budget. They're actually in the budget. These programs did not start by coming through Fiscal and asking for approval.

MR. SEVIGNY: They did start --

SEN. LITTLE: They were in the budget. That would seem to backup Fiscal.

MR. PERKINS: Should be attached.

MR. SEVIGNY: Should be attached to this, I think.

CHAIRMAN KURK: Each one of these says that there was a Fiscal item that was approved and, therefore, they were not in the --

SEN. SANBORN: Budget.

CHAIRMAN KURK: -- budget for 2015 that was adopted in Spring of 2013.

MR. COUTURE: That's correct.

CHAIRMAN KURK: They may have been in adjusted authorized, but it was not in the budget as adopted in June basically of 2013.

MR. COUTURE: That's correct.

MR. PERKINS: That is correct.

CHAIRMAN KURK: Does that answer your question?

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SEN. LITTLE: Usually the prior Fiscal action is attached. I'm missing -- maybe it's here. It is on the first one. I don't see on the second or third. So that's what caused me to ask the question. Maybe I'm missing it.

MR. SEVIGNY: Is it there?

CHAIRMAN KURK: Further questions or discussion? Motion before us is to approve the three items. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

SEN. SANBORN: Opposed?

CHAIRMAN KURK: The ayes have it and the item is approved. That is all 153, 154, 155 are approved. Thank you. Appreciate you coming in.

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

SEN. SANBORN: Mr. Chair, Senator Little, it was a little unclear on the answer to his question. He would like clarification.

SEN. LITTLE: Yes, I'm -- so the word is yes there was Fiscal action but it's not -- just not attached.

CHAIRMAN KURK: Correct. That's my understanding. Because if you read the item it refers to a specific Fiscal item. For example, 153, it's Fiscal 14-174.

SEN. LITTLE: It's attached on 153. My point is it is attached on 153, but that's clear to me was a prior Fiscal action, not attached on 154, 155.

CHAIRMAN KURK: I agree with you they're not attached, but I assume --

REP. OBER: I have an attachment on 154. Went to Fiscal November 22, 2013.

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(9) Chapter 158, sub-paragraph I, (a), Laws of 2015, and Chapter 144:31, Laws of 2013, Department of Administrative Services; Transfer Among Accounts and Classes:

CHAIRMAN KURK: Moving on. You okay? Moving on to Tab 9, Fiscal 15-148, Department of Administrative Services, authorization to transfer \$128,743 through December 31<sup>st</sup>, 2015.

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

CHAIRMAN KURK: Is there a second?

SEN. FORRESTER: Second.

CHAIRMAN KURK: Moved by Representative Ober, seconded by Senator Forrester. Discussion? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

(10) Chapter 158, sub-paragraph I, (a), Laws of 2015 and Chapter 144:95, Laws of 2013, Department of Transportation; Transfer of Funds:

CHAIRMAN KURK: We now turn to Tab 10, two items. Fiscal 15-146, request from the Department of Transportation to transfer \$508,200 through December 31<sup>st</sup>, 2015. Is there a motion? Senator Forrester moves. Representative Ober --

REP. OBER: Second.

CHAIRMAN KURK: -- seconds the approval of this item. Discussion?

SEN. SANBORN: Mr. Chair, there's an appropriation for \$10,000 in here to buy shoes.

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CHAIRMAN KURK: This is a transfer in and among accounts. Did you, and it's perfectly legitimate for us to question transfers if you think \$10,000 for shoes probably for union contract.

SEN. SANBORN: Make sure we are clear on it.

CHAIRMAN KURK: Did you want to raise the issue with the Department?

SEN. SANBORN: It's late, I'll see them directly.

CHAIRMAN KURK: Motion before us is to approve 146. Further discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

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

CHAIRMAN KURK: We turn now to Fiscal 15-147 from the Department of Transportation to establish a non-budgeted class and transfer \$2,366,534 in Federal funds in and among accounting units through December 31st, 2015.

SEN. FORRESTER: Move approval.

REP. OBER: Second.

CHAIRMAN KURK: Moved by Senator Forrester, second by Representative Ober to approve. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Those opposed?

SEN. SANBORN: Opposed.

CHAIRMAN KURK: The ayes have it and motion is adopted. The item is approved.

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

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(11) Miscellaneous:

(12) Informational Materials:

Audits:

CHAIRMAN KURK: Due to the lateness of the hour, we will delay discussion of the informational items --

REP. OBER: Thank you.

CHAIRMAN KURK: -- under Tab 12 until the next meeting. And as I indicated at the beginning, the Audit of the Food Protection Service has been delayed until the next meeting which has previously been set for Wednesday, August 26<sup>th</sup>, 2015.

Mr. Pattison, is there anything else to come before us? Anything else we need to do before we adjourn?

MR. PATTISON: There's two very quick administrative things. One, I had spoken with the Chairman and you all at some of our pre-Fiscal Committee meetings and I indicated I would be coming forward to seek the ability to fill a vacant position in our audit position. We have a staff auditor position has become vacant. I'd like to fill that and need your approval to do so.

\*\* REP. WEYLER: So moved.

CHAIRMAN KURK: Moved by Representative Weyler.

SEN. SANBORN: Second.

CHAIRMAN KURK: Second by Senator Sanborn. 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 approval is granted.

\*\*\* {MOTION ADOPTED}

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MR. PATTISON: The last thing I like to do is just ask you, I know some of you like to take your binders back with you and some you pull some items out. I'd like you, if you could, leave the tabled items in the binders and also leave the Audit in the binder as well so that we can use those for next month.

CHAIRMAN KURK: Thank you. There being no other business to come before us at this time, we stand adjourned and our next meeting, as I said, will be on August 26<sup>th</sup> at 10:00 a.m. Thank you all, and I appreciate the fact that you worked through lunch without it.

(Adjourned at 2:58 p.m.)

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CERTIFICATION

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

Cecelia A. Trask  
Cecelia A. Trask, LSR, RMR, CRR  
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