

JOINT LEGISLATIVE FISCAL COMMITTEE-SPECIAL AGENDA

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, January 14, 2022

MEMBERS PRESENT:

Representative Karen Umberger, Chair

Representative Tracy Emerick

Representative Jess Edwards

Representative Keith Erf

Representative Mary Jane Wallner

Representative Bob Lynn, (Alt.)

Senator Gary Daniels

Senator James Gray

Senator Lou D'Allesandro

Senator Cindy Rosenwald

Senator Bob Giuda

(The meeting convened.)

(1) Old Business:

KAREN UMBERGER, State Representative, Carroll County,
District #02: Good morning. And -- good morning and welcome to our Special Fiscal Committee meeting today to talk about the items that were tabled, as well as a briefing on the annual comprehensive financial report, and I am especially looking forward to that. I think that we'll be pleasantly surprised from all that I have read. So -- uh -- FIS 21-357 was withdrawn by GOFERR, and so we will not be discussing that. Uh -- the next one is FIS 21-365.

****** TRACY EMERICK, State Representative, Rockingham County,
District #21: Madam Chair, I would move to remove 365 from the table.

CHAIRWOMAN UMBERGER: Do I have a second? I will second that. Okay. Thank you, Senator D'Allesandro. Okay. Uh -- could we have the folks that are --

REP. EMERICK: Do we need to vote on --

CHAIRWOMAN UMBERGER: Oh, yes. I guess we do. Yeah. Okay.

REP. EMERICK: -- 365?

CHAIRWOMAN UMBERGER: Those in favor of removing FIS 21-365 from the table, please raise your hand. Okay. Seven to three. All right. The item is removed. Thank you.

***** {MOTION ADOPTED}**

CHAIRWOMAN UMBERGER: Okay. Hum -- when we tabled this, we had asked -- we didn't feel that we had sufficient information to understand what we were actually planning to do with this money. So -- hum -- Denise submitted to us a very excellent list of all of the items that Vital Records collects, and the RSAs that we as a body had passed to require that collection. So -- and -- hum -- so I guess that -- are there additional questions that anyone has regarding this particular FIS? Okay. Uh -- since there are no additional -- oh, you do. Okay. Go ahead.

CINDY ROSENWALD, State Senator, Senate District #13: It's not really a question. Thank you, Madam Chair. It's a comment. I just want the Members to know I've received approval to file a late bill for a study committee to look at the amount of birth information that goes from the hospital and the mother to the Secretary of State. And -- hum -- that bill is in the process of being signed off on so that we will have an opportunity to discuss it. And my three co-sponsors sit on this Committee.

CHAIRWOMAN UMBERGER: Okay.

SEN. ROSENWALD: Thank you.

CHAIRWOMAN UMBERGER: Well, thank you for that. I appreciate it. Senator Giuda.

BOB GIUDA, State Senator, Senate District #02: Thank you, Madam Chair. To the HHS contingent. I'm of the understanding that some years ago Vital Records was housed in HHS and then subsequently moved to the Department of State. Can you share some light on yes, that's true, and, if so, why or why that -- why that move took place?

PATRICIA TILLEY, Director, Division of Public Health, Department of Health and Human Services: I'll start with that. Thank you, Senator Giuda. And, for the record, Patricia Tilley, Director of Public Health. Thank you for that question.

So I was but a baby when that happened. It was a long time ago in the early 2000's that that moved over. So I wasn't privy to the information at that time. But at one point it was housed within HHS and worked closely with all of our informatics like Vital Records is housed in almost every other state in the country within a Department of Health.

I think my colleagues from Secretary of State might have some additional information about the rationale for that move.

DENISE GONYER, Director, Division of Vital Records, Secretary of State's Office: And, yeah, we're not prepared to answer that. I didn't know we were going to go into the history of the move. So I can get back to the Committee with the findings. But one of the things that I would like to say is that many times Vital Records is looked at as vital statistics and health statistics. But that's very, you know, it is a big part of what we do, but it's also not only what we do.

And so records are held under the Secretary of State, many records for this state. And I -- coming from the town clerk, so I worked as a town clerk in the town clerk's office for 32 years in the Town of Gilford and I know the Town Clerk Association was behind the move so that the focus could be on the vital records portion of it. Because we do a lot of servicing of other State Agencies, the general public, and we're, you know, we're involved with Immigration. It goes much deeper than Public

Health. And so I think I could put together some information for you based on what we do.

MS. TILLEY: And if I could just follow-up. We have worked in partnership since that change and we've worked at both in statute there's a partnership listed out. But just collegially we work in partnership every single day. We can't in Department of Health do our work without vital statistics.

CHAIRWOMAN UMBERGER: Yes, go ahead.

SEN. GIUDA: Thank you, Madam Chair. So is there any formal MOU?

MS. GONYER: Yes.

MS. TILLEY: Yes.

SEN. GIUDA: That's defined then. Thank you.

CHAIRWOMAN UMBERGER: Are there any further questions? Representative Edwards.

JESS EDWARDS, State Representative, Rockingham County, District #04: Thank you, Madam Chair. We heard some testimony about Vital Records being a division of Secretary of State a couple months ago in this Committee. I -- I don't recall exactly how formal the data requests are from when DHHS asks for access to vital records data. And -- and -- but I'm -- I remember the impression that there's essentially a firewall between Vital Records and the Public Health people that -- and that firewall has some formal procedures to get beyond it and get access to the data. Would you please remind me, remind the Committee, of the formality of which it takes somebody in Public Health to get access to Vital Records data for a particular study.

MS. TILLEY: Great. Thank you. Thank you, Representative. I don't know if -- I was trying to follow your question. If you want to follow the data from Department of State to Public

Health or you just want to understand a little bit of how in Public Health we determine that?

REP. EDWARDS: To clarify the question, I'm curious about the formality of which the Public Health people ask for access to vital statistics data. So I'm imagining in the old world we would do a form that would have all the data we wanted access to with a description of why we wanted it and that it would go over to vital statistics so that they could independently assure there was a valid request. You know, I'm -- I'm wondering about the formality which we get access to data.

MS. TILLEY: So we have a formal data governance, a data stewardship process that we use to identify who should have access to that data. The vital records data sits within the -- through our MOU. And please correct me if I'm wrong, Denise. Through that MOU the data moves from Secretary of State's Office into the Department of Health and Human Services and it's housed within our EBI, our --

MS. GONYER: Warehouse.

MS. TILLEY: -- warehouse, our data warehouse which is what I used to call it. It sits within that data warehouse. And then for an individual DHHS staff member to have access to that data warehouse they need to be -- have a particular role.

So, again, we have governance and a stewardship program. So they may have a particular role that allows them or if they need it for a specific purpose that gets worked through our governance process.

Behind me I have Chiahui Chawla who is the head of our informatics section and she takes the lead role in ensuring -- in protecting that data so that only those who have authorized access can get it.

REP. EDWARDS: Thank you.

CHAIRWOMAN UMBERGER: Yes, Senator Rosenwald.

SEN. ROSENWALD: Thank you. Could -- clarify for us, please, if the Division of Vital Records or statistics is either a HIPAA covered entity or has a signed HIPAA Business Associate Contract with the Department of Health and Human Services?

MS. GONYER: I think our MOU does say that we will have a HIPAA -- that we all meet HIPAA requirements. It is part of our MOU.

SEN. ROSENWALD: I'm sorry, is it a HIPAA Business Associate Contract, also?

MS. TILLEY: Yes. So, I mean, obviously the Department of Health and Human Services is a covered entity and has that and so when we -- we through our MOU all of our work has to be within that environment.

SEN. ROSENWALD: My question was about the Division of Vital Records, not Department of Health and Human Services.

MS. GONYER: I'm really I'm not understanding the question. I'm sorry.

CHAIRWOMAN UMBERGER: Perhaps we could rephrase it to say that she didn't know. Representative Gray.

MS. GONYER: I know that we meet HIPAA requirements if that's what the question is.

JAMES GRAY, State Senator, Senate District #06: Well, and that's where I was going is that in statute there are strict requirements on who can get certain data. Being a genealogist, I cannot get data from anyone who isn't 75 in population records and older than that if it's not this or that --

MS. GONYER: If it's not an open record.

SEN. GRAY: -- or the other thing. Could you just summarize some of the policies that you have? Maybe that would satisfy Senator Rosenwald and so that she would understand.

MS. GONYER: So are you asking about the general public being able to see certain documentations? Are you talking about staff members in general?

SEN. GRAY: To clarify my question --

CHAIRWOMAN UMBERGER: Yeah, just a minute.

SEN. GRAY: If I could, Madam Chair.

CHAIRWOMAN UMBERGER: Yes, please.

SEN. GRAY: It's who has access, okay. And is that access identifiable down to an individual or, you know, those kind of things are the things that are protected by HIPAA. And, you know, certainly I'm sure that Senator wants, you know, assurance that -- that we're not violating HIPAA even though we may not have it somewhere.

MS. GONYER: Thank you. I think Catherine Cheney's here from our IT Department and she can probably explain the tracking and the different things that we have within our software system. And not everybody in the Department has access to everything. It depends on their role. If that's what you're looking for. Cathy, can you explain that?

CATHERINE CHENEY, Office of Secretary of State: What I'm hearing is that there needs to be clarification on the -- specifically what I'm hearing is medical information in regards to personally identifying information and is that information available to other people. I've also heard that do we have a HIPAA compliant -- a person or some type of assigned business HIPAA compliant person on staff. Those are the two things that I've heard.

The first question is that our data is like what Tricia had said is protected by roles. We have roles in our system and that is one of the -- you know, stellar upgrades of the system is that only certain people can see these records within our own departments. And then everyday these records, specifically the ones we're talking about for DHHS, the death and birth records, are put into the data warehouse where they have access to all the information.

The externally facing files, never in files, never in web, specifically are used for statistics and only numbers are put into that system. And for genealogy that would be part of the research area in a different -- different area. You wouldn't use any of our system files. So anything that's externally facing is not identifiable, just mostly numbers. And then we do not have -- I don't think we have a HIPAA compliant person on staff. I do know we have a nosologist and we are one of the few states lucky enough to have a nosologist who can code causes of death and understands what that -- what that really is.

MS. GONYER: Again, not each staff member has access to everything. It is role-based, very similar to DHHS where it's based on the individual's need based on their work. So, for instance, if somebody is working just in death and they don't have any need to be in birth, we identify it through approval through the director and also they're role based in the computer system to begin with. So they can't get to certain items.

CHAIRWOMAN UMBERGER: Thank you. Senator Giuda.

SEN. GIUDA: Thank you, Madam Chair. I think the nexus or the condense version of the question is, is the Department of State, Division of Vital Records, required either through MOU or an associate business agreement to be compliant with HIPAA.

MS. GONYER: Yes. We are compliant with HIPAA.

SEN. GIUDA: Thank you.

MS. GONYER: We are required with everything that we do.

CHAIRWOMAN UMBERGER: Okay. Are there any further questions?
Representative Edwards.

REP. EDWARDS: If you'll allow, I have a question for
Senator Rosenwald. May I ask her a question?

CHAIRWOMAN UMBERGER: Will you accept a question?

REP. EDWARDS: So I'm a co-sponsor on your bill. So I'm just
curious since you brought it up how does the fact that that bill
has been submitted, how does that -- does that influence your
view on whether we should approve or disapprove this request
today?

SEN. ROSENWALD: No.

REP. EDWARDS: Thank you.

CHAIRWOMAN UMBERGER: Okay. Are there any further questions?
Seeing none. Will the Clerk please call the roll. Oh, yes, I
need a motion. Senator D'Allesandro moves. Do I have a second?

REP. EMERICK: 365 --365 motion to approve. Representative
Edwards.

REP. EDWARDS: Yes.

REP. EMERICK: Clerk votes yes. Representative Erf.

KEITH ERF, State Representative, Hillsborough County,
District #02: No.

REP. EMERICK: Representative Wallner.

MARY JANE WALLNER, State Representative, Merrimack County,
District #10: Yes.

REP. EMERICK: Senator Daniels.

GARY DANIELS, State Senator, Senate District #11: Yes.

REP. EMERICK: Senator Gray.

SEN. GRAY: Yes.

REP. EMERICK: Senator Giuda.

SEN. GIUDA: Yes.

REP. EMERICK: Senator Rosenwald.

SEN. ROSENWALD: No.

REP. EMERICK: Senator D'Allesandro.

LOU D'ALLESANDRO, State Senator, Senate District #20: Yes.

REP. EMERICK: Representative Umberger.

CHAIRWOMAN UMBERGER: Yes.

REP. EMERICK: Madam Chair, the vote is eight yes, two no.

CHAIRWOMAN UMBERGER: With the vote being eight in favor and two opposed, the motion passes.

MS. GONYER: Thank you very much.

***** {MOTION ADOPTED}**

CHAIRWOMAN UMBERGER: We now turn to FIS three -- 21-371. It's a request from the Department of Health and Human Services. It is currently tabled. Okay. I have a motion from Representative Wallner and a second from Representative Rosenwald. Okay. Oh, welcome back. Are there any questions for HHS on this FIS?

MICHAEL KANE, Legislative Budget Assistant, Office of Legislative Budget Assistant: Sorry, Madam Chair. You just have to take a motion on removing it from the table.

CHAIRWOMAN UMBERGER: Pardon?

MR. KANE: You just need to take --

CHAIRWOMAN UMBERGER: Oh, okay. I'm sorry.

MR. KANE: That's okay.

CHAIRWOMAN UMBERGER: Thank you for keeping me straight. Okay. All those in favor of taking this off the table, please raise your hand. Seven in favor and three opposed.

***** {MOTION ADOPTED}**

CHAIRWOMAN UMBERGER: Okay. Are there any questions for HHS on this FIS three -- 21-371? Representative Edwards.

REP. EDWARDS: Thank you, Madam Chair. So I -- I just have just a general concern that I think has been consistent over several meetings now, and that is that in the previous budget year we underfunded, I think arguably underfunded IT enhancements and this -- this budget term with the state money and the federal money we've opened up a massive spigot of cash to go towards IT. And what I would like to see at some point is a summary by the Department, a portfolio analysis of all of the projects going on, all of the people that need to be hired or who have been hired so that we -- we have a sense that in the aggregate, this money that we're allocating in eaches is in the portfolio level being responsibly managed. And I suspect it is, but and just not -- it's not an answer for today. It's a heads-up that I've asked HHS oversight to make it an agenda item. So you've got a couple months. But I really -- I really am lost in the portfol -- not seeing the portfolio as we approve these eaches.

KERRIN ROUNDS, Chief Financial Officer, Department of Health and Human Services: Okay. We can figure out a way to do that. What I would mention is I don't believe there's an IT project associated with this item.

REP. EDWARDS: I'm sorry. I'm seeing data modernization. Am I on the wrong one? Yeah, I am on the wrong one. All right. So I was on the wrong one and that was really embarrassing.

MS. ROUNDS: That's okay. It happens.

MS. TILLEY: You have us reading it as well.

REP. EDWARDS: Yeah. But my comment was generic enough that I think you'll still run with it. Thank you.

MS. ROUNDS: Yes. Understood. Thank you.

CHAIRWOMAN UMBERGER: Okay. Are there any further questions? Seeing none. I will -- uh -

** SEN D'ALLESANDRO: I would move the item.

CHAIRWOMAN UMBERGER: Okay. Thank you. Thank you for keeping me out of trouble. Do I have a -- do I have a second? Okay. And Representative Wallner seconds. Will the Clerk please call the roll.

REP. EMERICK: Yes. On 371. Representative Edwards.

REP. EDWARDS: Yes.

REP. EMERICK: Clerk votes yes. Representative Erf.

REP. ERF: No.

REP. EMERICK: Representative Wallner.

REP. WALLNER: Yes.

REP. EMERICK: Senator Daniels.

SEN. DANIELS: No.

REP. EMERICK: Senator Gray.

SEN. GRAY: Yes.

REP. EMERICK: Senator Giuda.

SEN. GIUDA: No.

REP. EMERICK: Senator Rosenwald.

SEN. ROSENWALD: Yes.

REP. EMERICK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yes.

REP. EMERICK: Representative Umberger.

CHAIRWOMAN UMBERGER: Yes.

REP. EMERICK: Madam Chair, the vote is seven yes, three no.

CHAIRWOMAN UMBERGER: The vote being seven in favor and three opposed, FIS 21-371 is approved. Thank you very much.

***** {MOTION ADOPTED}**

CHAIRWOMAN UMBERGER: We now move to FIS 21-389.

****** REP. EMERICK: Madam Chair, I move to remove it from the table.

REP. ERF: Second.

CHAIRWOMAN UMBERGER: Removed from the table by Representative Emerick, and seconded by Representative Erf. Are there questions from the Committee?

MR. KANE: Madam Chair, just the motion on removing.

CHAIRWOMAN UMBERGER: Oh!

MR. KANE: Sorry.

CHAIRWOMAN UMBERGER: Okay. Thank you. I keep forgetting that. Okay. All those in favor of removing 21-389 from the table, please raise your hand. Looks like 9 to 1; is that correct? You're opposed? Okay. Vote's nine to one. The item is removed from the table.

***** {MOTION ADOPTED}**

CHAIRWOMAN UMBERGER: Now I will try. Are there any questions from the Committee on this FIS 21-389? Representative Wallner.

REP. WALLNER: Thank you, Madam Chair.

CHAIRWOMAN UMBERGER: I think you need -- yeah, bring it a little closer. Thank you.

REP. WALLNER: Sorry. Is that better?

CHAIRWOMAN UMBERGER: Yeah.

REP. WALLNER: I was not here in December. So I wasn't here when the item was tabled. But I would like to understand better if you're having a hard time hiring and you have vacancies, explain to me about why you don't have excess money in your budget at this point to pay for hiring people, and just a little bit follow-up on that? It's hard right now to hire people for any job. So I'd like to understand a little more about where you

think you're going to find these people and where this agency will find them and why is it only a seven-month contract?

MS. ROUNDS: So I will answer the first question and then turn it over to the Commissioner or Director Ribsam. So Karen Rounds, Chief Financial Officer, DHHS.

So I did distribute to the LBA the State Fiscal Year 22 budget which also included '19, '20 and '21 at the bottom. And I hope that that was distributed to the Committee.

The total budget appropriated for SYSC was 10.4 million which included general funds and other and federal funds. Part of what we budgeted for in Fiscal Year 22 and 23 was funds from the State of Vermont, because we do have a contract with them to take kids from the State of Vermont at SYSC.

What we have found now being six months through the year, which is when we typically are able to do the first set of reliable projections, is that the revenue from Vermont is going to be less. We're predicting about a little over a million dollars less. And the way that the law is written, we must write down the appropriation if we're not anticipating the revenue. So we are anticipating writing down by that a million or so dollars leaving us a budget of about 9.5 million.

The expenditures so far this year are about 5.2 million. There's encumbrances that are a little over a half a million. We have spent about \$277,000 in overtime of staff that are not employed by SYSC. So employed by elsewhere in DCYF. So we should transfer that expense to SYSC, which is about \$277,000. There is a slight addition to the budget because of the raise that will happen on 7/1. We are anticipating having to make some additional payouts when people retire for about \$56,000, leaving our expense projections for the rest of the year around 4.2 million.

What I would also mention is in the expenditures already to date is \$330,000 of retirement payouts from reductions in force

that we did at the beginning of the Fiscal Year to meet this budget.

So, with that, we're expecting total expenditures to be 10.3 million, which you'll note is less than the total appropriation that was given for SYSC. But because of that revenue write down, we actually have about an \$800,000 shortfall in the SYSC budget. So in addition to these funds to support this contract, we will be coming back to the Committee with a transfer, transferring funds from elsewhere in the Department, to cover that \$800,000.

So the budget is less than what -- total budget is less than what is appropriated; but because that revenue write down, we don't have enough funds in the budget.

LORI SHIBINETTE, Commissioner, Department of Health and Human Services: So I can speak to why the contract is a short contract. This really is a bridge contract or a transition contract. We've talked now for several years about finding a replacement facility for SYSC, and I don't think there's ever been a time in the past where the Department has been as committed as it is now to closing SYSC and moving those kids into a more clinical model. And it isn't just SYSC that we made that commitment to. If you recall a couple years ago, we committed to closing the Laconia DRF, which had been opened for 30 years and everyone said we could never close it and we closed it in about a year.

We're in the same place with SYSC; but between now and when we build, renovate, buy another building, we need to provide safe level of staffing for the kids. COVID has required us to open quarantine units. We have more kids on two-to-one and one-to-one. All of these were unknown at the time that the budget was developed for SYSC. So it's -- it's caused an escalation in our personnel costs. We're not able to hire for a variety of reasons. This contractor has serviced other areas of the state, have been very successful in getting temporary

workforce for other areas of DHHS and other areas of the state. So we're confident they'll be able to do it.

So, like I said, it's a bridge. We need -- we need transition time between making the commitment to close it and actually closing it, and we need to provide safe -- a safe environment in that time. If we're not able to provide a safe environment, there are -- are alternatives. None of them are -- excuse me -- none of them are good for the kids. None of them are good for the state. That includes sending kids out-of-state, and I don't mean Massachusetts or Vermont. I'm talking far away out-of-state because they don't have beds either. Sending kids with mental health issues to emergency rooms boarding, which is not a great place to be right now because of COVID and the hospitals are overwhelmed. So we're trying everything we can to care for these kids in place until we have that replacement facility up and ready to go.

CHAIRWOMAN UMBERGER: Senator Giuda, you have a question?

SEN. GIUDA: Yes, Madam Chair. Thank you. So if we don't hire these people, will we have our kids going out-of-state?
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MS. SHIBINETTE: If we -- if we don't find additional temporary staff or hire our own staff, which we haven't been successful in, there is a good possibility that if we continue to lose staff or our population goes up or becomes more acute, that we will either have to send kids out-of-state to a detention facility out-of-state, send them to the -- the kids that have mental health issues, send them to the emergency room and have them board there. There will have to be other alternatives to care that are not in the best interest of the kids.

MS. ROUNDS: And if I can just add to that. That will also come with additional cost. So I would have to come back with an item to pay for that.

CHAIRWOMAN UMBERGER: You have a follow-up?

SEN. GIUDA: Yes, Madam Chair. Are you able to quantify in fairly specific terms what the cost of one out-of-state placement is?

JOSEPH RIBSAM, Director, Division of Children, Youth and Families, Department of Health and Human Services: These high-level facilities tend to cost somewhere around \$1700 a day.

CHAIRWOMAN UMBERGER: Would you mind stating your name for the record.

MR. RIBSAM: I'm sorry. Joe Ribsam, Director of DCYF. Thank you.

SEN. GIUDA: Thank you.

CHAIRWOMAN UMBERGER: Senator Rosenwald.

SEN. ROSENWALD: Just for comparison, what is our daily rate we were charging Vermont? Was it like 1600 a day?

MR. RIBSAM: I think it's about 1700 a day. I think it might be just under.

SEN. ROSENWALD: So the cost to have a child at SYSC is about the same as sending them out-of-state?

MR. RIBSAM: It's comparable. But if you don't totally close down SYSC, you still have to manage an essential basic operation. And as we've spoken about in the past, one of the big challenges fiscally with SYSC is we've long gone below the census that makes the economies of scale make sense. We had a lot of conversations about that and this falls Committee to study the closure of a placement of SYSC. So sending kids out-of-state is unlikely to get every child out of SYSC. There's not -- there aren't a lot of options out there right now. We're having difficulty placing kids out-of-state for other reasons and there aren't local, like neighboring states, that are willing to take these kids. So I'm not even sure that that's a

viable option, but that would be the next thing we would try. It would probably be worse for the kids that we have there now.

SEN. ROSENWALD: Thank you.

CHAIRWOMAN UMBERGER: Are there any further questions?
Representative Edwards.

REP. EDWARDS: Thank you, Madam Chair. And, Commissioner, you -- you -- you said something that got me wondering. You mentioned that we're still trying to look at three basic options; renovate, remodel, I forget what the third one was, but that doesn't matter to my question. It leaves me with the impression that here we are in January and a lot of people are expecting the solution to be available in April of next year, whether it's, you know, very close. And so I would like to know from you two things. Is -- is -- are you -- are you strategically leaning one way or another on how to do the replacement part on the Sununu closure? And what are the odds, in your opinion, of us having it done before the end of this budget year, June 30, two thousand, whatever, 23.

MS. SHIBINETTE: The -- it's unlikely that we will close doors of SYSC prior to June 30 of 2023. I think that we will be well on our way to closing doors. Like whether that's in construction for renovation or building, I think that will be well underway. But I don't know that we would be ready to close doors by June 2023. Just depends on construction schedules and things like that.

I -- we're still looking at the options for property, the restrictions on the land in Manchester. There is a lot of legal issues that are around those different items that we have to investigate before we come with for certain recommendations.

Now we formed a commission last summer that submitted a report to the legislative commission around our recommendations. The legislative commission then submitted their own recommendations around what they thought they would do. I think

we're going to find what we end up doing to be somewhere a combination of both of those things. I'm not leaning one way or the other. I'm really waiting for legal to kind of really investigate what my options are on the different state properties, what we need legislatively to make a change, what we need budget-wise to make that change to fund those projects. That's the phase it's in right now.

REP. EDWARDS: Follow-up. So it sounds like you all have to come back at some point to give us a budget proposal to get you all the way through the budget year, because I don't believe your budget was built to take you there. And I'm just curious when you might be coming back with what -- what the real financial need is to get us through the budget term.

MS. ROUNDS: So, yeah, it's a difficult question to answer for sure because it -- we do have to have a sense of what the plan moving forward is to know what we might need. But I think it will be next Fiscal Year before we come back 'cause we'll need to figure out where the Vermont funds are at that point. We'll need -- the way that the appropriation was done for SYSC, it was just a lump sum appropriation. So we have to go through and figure out, you know, all the different class lines, what the employment looks like at that point, and then figure out how much we'll need for funds. So it won't be until the State Fiscal Year 23 begins.

REP. EDWARDS: Thank you.

CHAIRWOMAN UMBERGER: Representative Daniels or Senator Daniels. Sorry.

SEN. DANIELS: Thank you. I think last we had heard reported from you there were only one or two youth from Vermont. How many did we lose?

MR. RIBSAM: I think overall we've had a total of seven since the contract started over a year ago. At this point we have zero. We've actually had to decline requests, five

requests to take kids over the last couple months because our staffing situation was so tough that we couldn't handle additional youth within the facility.

SEN. DANIELS: Okay. So the -- the reduction didn't take place all at once; is that correct?

MR. RIBSAM: I'm sorry?

SEN. DANIELS: You mentioned we've lost seven over the last year.

MS. ROUNDS: No, it's not about losing them. So the way that the contract is written is that Vermont makes a request to us to take a child on their behalf. So it's not that we had seven there and then it slowly reduced. It's sort of a one-off situation. They call when they have a need. So what Director Ribsam is saying is that we've had seven different children there since the contract began for varying periods of time, not for the entire period of time. And that since then they've made additional requests and we've not been able to meet their request because of staffing.

SEN. DANIELS: So what's the expectation in the revenue that you expected to get revenue from Vermont but --

MS. ROUNDS: Yes, so our expectation was that we would have somewhere between one and two kids for the entire year.

SEN. DANIELS: Okay. What is our population now?

MR. RIBSAM: Today's census is 14. I do have -- I think Representative Umberger asked last time to get, you know, a snapshot of what every week has looked like so I could share that if folks are interested.

SEN. DANIELS: And I believe that when you went through the budget you probably budgeted for 18.

MR. RIBSAM: No. We were budgeting thinking you'd have on average 12, because that's what our average daily census had been; but there's a difference in the needs of the kids that we're serving right now, particularly over the past two months, in that we've had a high number of high acuity kids we've tried to move into high-level psychiatric residential treatment facilities or acute care facilities. But because those facilities are so overwhelmed, it's been a long -- it takes a long time with a long time on a waiting list to get kids into those facilities.

So kids have been -- who are very high need have often required two-to-one supervision are staying in SYSC for a longer period of time than they typically would, because the ability to move them on has been cut off by the children's mental health crisis nationwide.

SEN. DANIELS: So in the directions that we were given on trying to find a replacement for Sununu where we were told that you needed space for 18, why would you budget for 12 when you're telling the Committee that you needed space for 18?

MR. RIBSAM: Because the request for space for 18 was not just about having 18 beds but having the flexibility for when kids go higher and when kids go lower. The census has varied between as low as six and as high as, I think, 16 over the past 12 months. So you have flexibility. You have movement in there, and it changes every day, every week.

You also have need to separate children based on gender, based on Court orders, based on their individual clinical needs. So when you have fixed space on a fixed unit, you can't necessarily use every single bed, right. If you have one unit that has six beds for six girls, but you only have two girls at the facility and you have eight boys in the facility, you're not able to maximize all of the building space. So the conversation around a new facility for 18 beds was largely related to the flexibility to meet the discrete needs of youth and have you

spread appropriately throughout the facility, not that we anticipated having the facility full at 18 at all times.

MS. ROUNDS: If I can just add to that. We also looked to budget conservatively. So we budgeted on the average rather than the maximum. We could certainly budget on the maximum and then lapse more funds, but that's not -- we try not to do that.

SEN. DANIELS: Was I wrong in, I guess, assuming that you were budgeting for the worst case scenario?

MS. ROUNDS: I mean, there are certain -- there are certainly times that I budget for the worst case scenario because I'm expecting the worst case scenario. In this case, it's based on trends we felt pretty comfortable budgeting on the average.

SEN. DANIELS: Okay. And, you know, the similar question with your staffing level. What -- what were you figuring on a ratio when you -- when you put the budget in?

MR. RIBSAM: So the main staff we're talking about here are the youth counselors. Those are the direct care staff. There's also a lot of other staff within the facility which largely hit that economies of scale issue I spoke to you about earlier. Whether you have one kid or ten kids in the building, 12 kids in the building, 15 kids in the building, you need nurses, you need clinicians, you need mental health psychiatrists, psychologists, doctors that are coming in and out. You need all of those things regardless of the level of kids. But the youth counselors, which is what this request is about, is the one that's most dynamic.

You typically need, if you don't have anything extraordinary happening, one youth counselor in SYSC to monitor Central Control. Without somebody sitting there to monitor Central Control, which has all the cameras and access and control over all the doors, there's no way for people to move through the building. You need one youth counselor in that

space. And, typically, you want two youth counselors on every open unit because you don't want one -- one youth counselor with multiple kids. Just a high-risk situation. You do that, staff aren't comfortable. We don't think it's safe or appropriate.

So you often typically would have three units open; one for girls, two for boys. Some boys with higher level needs, boys who have Court orders that have to be separated because they were involved in the same type -- maybe in the same criminal activity where they have issues with each other or they're involved in different gangs or something like that and you have to keep them separated. So you typically on an average day with nothing extraordinary happening need seven youth counselors in the building to make the building run.

This hasn't been an average time. Since the start of COVID, we typically have a young person who's sitting in our medical unit having a COVID test and awaiting results before they can be moved into the rest of the facility. When a young person's assigned to medical for any reason, a youth counselor has to sit with them in medical to make sure that they're safe and they're cared for. The nursing staff aren't appropriate to do that and the nursing staff are running around the building taking care of everybody else in the building.

Then when you have situations like we've had particularly high levels over the past month or so where you have youth who have a two-to-one or one-to-one supervision, that incrementally adds the needs for more staff.

We had a young person in there recently who was -- who had made multiple suicide attempts, required a two-to-one supervision for well over a month, even overnight, because the moment that that youth was left alone, they would have actively tried to hurt themselves, and we needed to have people there to make sure that didn't happen.

Those types of scenarios have been compounding towards the end of this, you know, current COVID period with the mental

health system unable to take these kids. That's what's driving a lot of this. So the staffing that we -- that we require really to be safe to cover all of those shifts and that flexibility each day, depending on youth needs, is about 47 youth counselors in the building. That's what we're budgeted for. We currently have 30 working in the building, and I actually received notice from three more in the past few weeks that they're leaving.

SEN. DANIELS: Okay. Thank you.

CHAIRWOMAN UMBERGER: Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Madam Chair. Joe, just from my standpoint, I read this last draft of the request, and it says the funds will be used to enter into a contract with a health care staffing agency to provide 18 temporary staff for the period of seven months. Given today's economy, where are you going to -- where are you going to get a staffing agency and what happens if you can't find them with a staffing agency? Where does that leave us at this point in time?

MR. RIBSAM: So -- and the Commissioner could speak to this, too. She has at Governor and Council, but the staffing agency that we actually -- we already have G&C approval on the contract, but it's not funded so it's not moving forward pending the action of this Committee. That's with the staff agency called Maxim, which has had a lot of success within the state. They've actually already identified a number of staff that are ready to start training next week; but it's pending the action of this Committee.

SEN. D'ALLESANDRO: One further question, Madam Chair.

CHAIRWOMAN UMBERGER: Yes.

SEN. D'ALLESANDRO: Now, but we're going to pay dearly for this staff; is that correct?

MR. RIBSAM: The -- this is a request that is for a little over \$800,000 in ARPA funds to pay for the staffing contract. I think it's somewhere the staffing agency is, you know, the total contract value is running \$800,000 and change for 18 staff.

SEN. D'ALLESANDRO: Thank you, Madam Chair.

CHAIRWOMAN UMBERGER: Senator Rosenwald.

SEN. ROSENWALD: Thank you. I thought I was following this; but this request would bring you up to like 50 youth counselors and we're budgeted for 47. So I don't understand, again, now why the money is not within the current appropriation.

MR. RIBSAM: We're budgeted for 47 youth counselors. We currently have about 30. Three more have given their notice. This contract is for 18 because we were anticipating we'd still have turnover and dynamic situations with hiring our own staff.

As CFO Rounds explained, the problems with the budget have to do with the declining revenue from the Vermont contract, and the unexpected or unbudgeted payouts for staff that retired when we went through the last round of restructuring staff as a result of the budget cut at the start of this State Fiscal Year. We reduced 26 positions as a result of that. A lot of those staff rather than be reassigned chose to retire. And when staff retire from state service, they get a payout for their -- for their sick time, et cetera. That hit our budget. It was not something that we -- that we were anticipating at the time that that budget was crafted. So there's a couple things and the high overtime usage.

What I would hope is that if we're successful, if this contract works and we get folks in, that the overtime demand will go down drastically. You look in the budget that was distributed there's a lot of overtime going out right now which costs a lot more than even the staffing contract would. Typically, we're paying Juvenile Probation Officers and now even have CPSWs going in there to work overtime because we're

desperate, and those folks are making a lot more than even the staffing agency's getting paid when they're working overtime hours.

SEN. ROSENWALD: Follow-up.

CHAIRWOMAN UMBERGER: Yes.

SEN. ROSENWALD: Thank you. So given that the Department is looking to move to more of a treatment focused model with the new facility, and we are going to stop using the parole officers, hopefully, is -- is the Department or the Division able to commit to training these temporary youth counselors in a more treatment-oriented model than we've gotten from parole officers?

MR. RIBSAM: Yeah, and we've already started that work, although it's not complete. We started moving into a model called PBIS. At the moment I'm not remembering what the acronym stands for; but our psychiatrist or psychologist that's working down there has started implementing that already. The idea is to start to move folks into the direction of being clinically oriented while we're in the process of moving towards a new facility.

We also intend to relook at those SJD's, change training and education requirements and all of those things to make sure that those staff are actually the right staff to do this more clinically-oriented, mental health-oriented treatment that we expect of them. But that hasn't been the historical model as you and many people know. That's the transition phase we're in.

The staff that come in -- the temps that come in are going to be trained with the same things that we're training our current YC's on which do include training of things like PBIS, the escalation strategy, and things like that to continue the movement towards a clinically-based model; but that's, as I said, that's a work in progress.

CHAIRWOMAN UMBERGER: Are there any further questions?
Representative Wallner.

REP. WALLNER: Thank you. The \$846,000 will pay, hopefully, we'll be able to recruit and pay 18 additional staff for seven months, and that will cover -- the \$846,000 will cover their wages during that time. What if they only recruit nine? Let's say they are only able to recruit nine, then will you expend only 400 some odd thousand of the contract?

MR. RIBSAM: Yeah, the way the contract is structured it's an hourly rate per hour worked by temp employee. So there's nothing paid if nobody works. And if everybody works every shift, it's the maximum.

REP. WALLNER: Thank you.

CHAIRWOMAN UMBERGER: Are there any further questions?
Seeing none. Could I have a motion to accept?

** SEN. GIUDA: I'll move the item.

CHAIRWOMAN UMBERGER: Thank you, Senator Giuda.

REP. EDWARDS: Second.

CHAIRWOMAN UMBERGER: Seconded by Representative Edwards. I did better that time. So will the Clerk please call the roll.

REP. EMERICK: Yes, Madam Chair. On 371. Representative Edwards.

REP. EDWARDS: Yes.

REP. EMERICK: Clerk votes yes. Representative Erf.

REP. ERF: Yes.

REP. EMERICK: Representative Wallner.

REP. WALLNER: Yes.

REP. EMERICK: Senator Daniels.

SEN. DANIELS: Yes.

REP. EMERICK: Senator Gray.

SEN. GRAY: Yes.

REP. EMERICK: Senator Giuda.

SEN. GIUDA: Yes.

REP. EMERICK: Senator Rosenwald.

SEN. ROSENWALD: Yes.

REP. EMERICK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yes.

REP. EMERICK: Representative Umberger.

CHAIRWOMAN UMBERGER: Yes.

REP. EMERICK: Madam Chair, the vote is 10 to zero.

***** {MOTION ADOPTED}**

MS. ROUNDS: I hate to mention it, but Representative Emerick, you said Item 371 and it's actually Item 389.

REP. EMERICK: My apologies, 389. You're correct.

CHAIRWOMAN UMBERGER: Okay.

REP. EMERICK: Too much paperwork.

**JOINT LEGISLATIVE FISCAL COMMITTEE
SPECIAL AGENDA
January 14, 2022**

CHAIRWOMAN UMBERGER: On a vote of 10 to one -- 21-389 -- 10 to zero, FIS 21-389 passes. And I thank you all for coming back and providing the additional information that you did to help us make a decision.

So okay. Maybe we could stand for a moment, maybe five minutes. And before we head on to our annual comprehensive financial report brief, just give us a little -- get rid of all those.

SEN. GIUDA: That a five-minute recess?

(A recess was taken.)

(Reconvened.)

(2) Audits:

CHAIRWOMAN UMBERGER: Okay. Welcome all. I'm glad you had an opportunity to sit through our tabled items, and we are sincerely looking forward to the annual comprehensive financial report briefing. So, Commissioner Arlinghaus, would you like --

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: I'll kick it off, Madam Chair.

CHAIRWOMAN UMBERGER: All right.

MR. SMITH: Good morning, Members of the Committee. For the record, Steve Smith, LBA Audit Director. And as you know, we retain KPMG to do the state audit, and joining us from KPMG is Brock Romano, the Partner, and Karen Farrell, who's the Manager on the engagement this year. And then from the Department of Administrative Services who actually prepares the report, Commissioner Arlinghaus, and State Comptroller Dana Call. So, with that, I'll turn it over to Brock and Karen, and they can actually present their opinion and results of the audit.

BROCK ROMANO, Partner, KPMG: Thank you, Steve. Good morning, Madam Chair, Members of the Committee. It's good to be back in person again. And I'm glad, Madam Chair, you mentioned this as a briefing, because our intent is to purposely be high level given, you know, the ocean of information that's contained in a 162-page document.

We're prepared and happy to go into whatever level of detail the Committee would like; but, initially, we'd like to make just some general high-level comments and then -- and then Management will kind of drill a little deeper into a couple elements of the report but that -- that is background.

So when -- whenever I meet with a governing body to discuss the report, I like to give a little bit of an overview of what KPMG is doing. So just as a refresher, KPMG does the audit of the annual comprehensive financial statement, which we're going to discuss today. In conjunction with that, that audit, we also issue a report on internal controls over financial reporting. I believe that's also in your package, and we'll touch briefly on that as well. (Cell phone rings.) That's me and shouldn't be. And if I were smart, I'd know how to fix this thing. Hang up on them. My apologies. I'm out of practice as I've admitted before.

So, also, KPMG, New Hampshire hires us to do the separate audit of the Turnpike and that will be presented next week to the Fiscal Committee. And then, of course, we also do an audit of the State's federal programs and that's something we would present to this Committee later on this winter, early spring time.

So, with that, just getting into the annual comprehensive financial statements and, again, the headline for us is the audit opinion. I like to remind Committee Members in this 160-page document there's one page that belongs to us and that's our opinion. The rest of it belongs to Management. And the headline there is -- is that we are rendering unmodified opinions on the contents of the annual comprehensive financial

statements. So we do our audit in a couple of -- in accordance with professional standards, both from the AICPA, as well as government auditing standards because you do receive federal funding and that's where we get that byproduct report on internal controls as well.

In terms of -- in terms of other items in the report, the audit opinion that might be of notice, this year the State adopted a new Government Accounting Standard Board pronouncement on fiduciary activities. We noted in our opinion; but for Members of the Committee, it really was not as impactful as maybe some other standards has been in the past. So we won't get into too much detail on that.

And then, of course, we also perform limited procedures on some of the supplemental information included in the report, particularly over the budget and statements that are in the back of the report, as well as the supplementary information on the status of your Pension and OPEB Plans, which is a personal favorite of mine. And if there's questions on there, I'd be happy to entertain them.

I'm going to move off of the audit opinion for a minute and just briefly mention that separate report on internal controls over financial reporting. We have one item in there. We have been reporting the same item for the last couple years related to the credit carryovers. I think that's a topic that we've discussed at length at previous Committee meetings. Happy to go into detail today if the Committee would like.

I think the point here is that there is -- New Hampshire's not unique. Most of your businesses are making estimated payments and as of a point in time they are typically in an overpaid position, meaning they paid more taxes than ultimately their returns are required. And then there's an accounting mechanism to determine whether you should recognize all of that as revenue or retain a portion as either unearned revenue or due back to the taxpayer. And so there's an academic exercise that we go through with DRA. And I think the good news is that

number is kind of stabilized around \$60 million for the last couple years, but it is -- it is something that we've been discussing with Management and is -- that is the sole item in our separate report on internal controls.

So I'm going to pause here for a minute because I'll go on forever and I'll ask Karen Farrell to kind of jump in and maybe go through some of the required communications that we typically go over when we meet with a governing body. I will warn you in advance that you are likely hear this again when KPMG shows up next week to do the Turnpike presentation; but I do think it's -- it's important for us to make sure we communicate to you those items that are significant as it relates to our audit. So, with that, I'll turn it over to Karen.

KAREN FARRELL, Manager, KPMG: Thanks, Brock.

CHAIRWOMAN UMBERGER: I'm sorry, Representative Edwards has a question on the -- hum --

MR. ROMANO: Credit carryover?

CHAIRWOMAN UMBERGER: Yes.

REP. EDWARDS: So I was just a finance major because GAAP scared me. But it says in the supplemental report that we think our best estimate is about \$64 million, in that neighborhood, is money that taxpayers aren't necessarily going to -- aren't expected to apply to future tax payments, and then it says that 64 million is not considered to be a liability. And without getting into the green eye shades thing, I -- it feels like a liability to me, and I'm just curious why just Management judgment whether or not it's required by some rule, why we wouldn't just carry it as a liability if we think it really is?

MR. ROMANO: Yeah. I make just one comment and then let -- and turn it over to Management. Maybe just to put a finer point on it. So most of your -- most of your taxpayers are calendar-based organizations. And so they are paying taxes based

on a tax year. And most taxpayers who make estimated payments, me being one of them, in my own personal life oftentimes will overpay with the knowledge that it would be applied to the next quarterly payment. And so what happens is as of the tax reporting year there's -- they have made an overpayment, and then there's an analysis -- then there's a separate analysis done to see how much of that overpayment would have been earned by the State by the end of your Fiscal Year. They're different points in time.

So I would say that the taxpayer's intent is to leave that money on deposit to be used for -- for future taxes. It just happens to cross Fiscal Years. So the accounting mechanism that we're highlighting is that there's an estimate of \$64 million that really applies to the next Fiscal Year. And -- and it's quite common, every state that I'm aware of kind of runs into this situation. The question is should you -- should you record that money as revenue as of today or should you kind of report that revenue in the next fiscal period when it technically will be earned. And so we're probably in a little green eye shade category. So I will pause and maybe invite --

REP. EDWARDS: As a follow-up, I think maybe you've shaken me enough to where I now reread the sentence, the State, however, does not record a CCO tax refund liability in its annual financial statements. And the preceding paragraph left me with the impression that we thought there was \$64 million that would never be applied to any future tax payments. So I just misread the paragraph and sentence.

MS. FARRELL: Yeah. One of the things that I'm going to go over is just a few uncorrected misstatements that we identified and that is one. So I think that, you know, just to kind of clarify a little when I get to that point is that KPMG believes it should be a liability as of June 30th, '21 of the 64 million. So we kind of include that in our analysis to see what would be material and whether we can pass on that entry not being recorded in the State's annual financial report. And we got

there with that one entry and then a few others that I'll mention in a little bit.

But, you know, I think to answer your question, we do -- KPMG does believe that it should be a liability that's recorded at the end of the Fiscal Year each year and that's why it kind of keeps coming up in our discussions.

DANA CALL, State Comptroller, Department of Administrative Services: Good morning. Dana Call, State Comptroller. Yes, this issue, obviously, has been ongoing for quite a while and we've presented to Senate Finance in the past a similar finding. So this is kind of a repeat finding for us. And we would agree that if there is an accounting determination that's made, but there's also statements of a policy by you folks that it sort of conflicts in some scenarios, and this is one of those scenarios because this would directly affect General Fund surplus.

So if we were to record it, it would have a significant effect on the funding that you all use to create the State Budget. So that has been one of the points that we've been discussing over the past several years. I'll let Mr. Arlinghaus.

CHARLIE ARLINGHAUS, Commissioner, Department of Administrative Services: So one of the things -- is this on? One of the things that we've done over time, you know, this is -- this has been an issue and it becomes an issue when things -- when things bump up and when they bump down. I think probably two or three major inflection points over the last, I don't know, dozen years. I think probably the big presentation to Fiscal was probably four, five years ago, before my time technically, and I've been Commissioner four and a half years.

So when you consider this, think of the CAFR a bunch of different ways. One is it's an accounting document, it's the State's major accounting document. It's our books. It's also a transparency document and an accountability document. And one of the things that's very important from a State standpoint is that we don't change how we account for things. We don't change what

we do constantly so as to confuse anybody trying to look at it. If somebody wants to look at the State finances and see how we're doing, they want to look at what we do, it's important that there be consistency over time to the extent that there can be.

We do make changes when GASB, whoever GASB actually is, some obscure board hiding in Connecticut, but pronounces, you know, GASB 80 and you'll have these discussions, you know, GASB 78 is going to make us change everything. And it's OPEB calculations.

A lot of those calculations have to do with how the State's books look. Are we carrying a \$1.9 billion OPEB liability or is it 2.1, and what are the components of that? Functionally, from a practical decision-making standpoint, those aren't really that different, even though it sounds like a lot of money. We've been doing this the same way for decades, from time in memorial, probably till the origin of the Business Profits Tax. And to change it would make a sudden budget change.

Most of the accounting decisions we make do not suddenly take 60 or 70 million dollars off the books and remove them from your ability to spend them or balance the books with them. And if we made a dramatic change -- one of the reasons to not make a change is because it looks different, and it makes things less comparable. Another is that we would suddenly say \$65 million that you probably have and you should have and you probably will have because this averages out and washes out in the end, suddenly you don't. And, by the way, Dear Fiscal Committee, could you write a check. Happens to be here when you're awash with money; but it's very rare that that's the case. So it seemed like an obvious decision to not book it that way, even though -- even though KPMG thinks we should.

MR. ROMANO: Yeah, and maybe I'll just make the last couple of points on this topic. So the opinion that I mentioned earlier on that we, you know, our opinion is your financial statements present fairly contemplates this topic. So we still believe

your financial statements are presented fairly, including this topic of discussion.

The other point I would make is even though we refer to it as a liability, these funds are available to you. It's just the timing of when you would recognize them. So if you wanted to substitute unearned revenue as a proxy for accounts payable, because we're not suggesting you write a check necessarily back to the taxpayer. This is really just an accounting mechanism of when do you record that revenue. The funds will be available for you, right, 'cause you have them. They're in your possession. They can be spent. So the cash flow, none of this is affecting the cash flow. It's just affecting the timing of recording a tax revenue. And I'll probably stop there because eyes will glaze over if we've kind of gone into too much minutia. But --

MS. CALL: I would just add to that that while we have been talking about this for years, we have made some headway. You'll see in the response, the Management response to the finding that the Legislature has chosen to take a look at analyzing the credit carryover liability and putting caps on it. And I'm a member of that Commission, should it ever start; but there is legislation in play that has passed that is taking a look at that. So it's not that we're not -- we're not ignoring the issue and we've been actively working with the Legislature to explain the issue with the Department of Revenue and try to address it, at least from a high level going forward, because it is a large number.

REP. EDWARDS: Thank you.

MR. ROMANO: We're going to move on.

MS. FARRELL: Some more mundane topics. Okay. So, for the record, my name is Karen Farrell, and as Brock mentioned under AICPA auditing standards we're required to communicate certain items to those charged with governance, which is yourselves.

So the first one being that we did not identify any significant unusual transactions -- is that a little bit better -- while performing the audit. Management in compiling their annual financial statements needs to make judgments about accounting estimates like the tax receivables or the OPEB obligation. And we deem these to be reasonable in all material respects in relation to the financial statements. We did not have any disagreements with Management or any scope limitations in completing our audit. As far as we are aware, the State did not seek out other auditors' opinions on the application of Generally Accepted Accounting Principles.

We did not have any major issues that we discussed prior to being retained as auditors for the state. We received full cooperation from the State with Management all the way down to staff, really at every level, in completing our audit. We are required to confirm that we are independent accountants with respect to the State under all relevant professional and regulatory guidelines.

We did not identify actual or suspected fraud involving Management or any employees that were in significant positions of internal control, and no fraud resulted in material misstatement in the financial statements.

We did not identify material non-compliance with laws and regulations. And then, lastly, in addition to the CCO liability we just talked about, we did identify two other audit differences that weren't corrected in the annual financial statements. All of these audit differences individually and in the aggregate did not preclude us from providing an unmodified opinion.

But the second one was in the prior year there was about 36 and a half million of personal protective equipment that was recorded in the Coronavirus Relief Fund. In '21 that was deemed to be reimbursable by FEMA. So for us to kind of analyze that transaction being in a different period, we proposed an entry to

push those expenses back to the General Fund just so we could analyze the effect on the beginning equity.

And then the second one was a reversal of the unemployment fund receivables that were booked in contemplation of CARES fund transfer. That really wasn't recognizable as of June 30th, '21, and that was approximately \$10 million. And those are the required communications we need to go through. If there's any questions with that.

CHAIRWOMAN UMBERGER: I would just say that if anybody has any handle on CARES funds, ARPA funds, who else funds, thank you.

MS. CALL: If it's all right, I would just like to add that I want to thank my staff, obviously, and KPMG for another successful audit. 100% remote again for the second time ever. My staff's in the office, but KPMG folks are remote. So it was -- it was another smooth audit and as well thank LBA for their help because they provide a lot of the staffing assistance. So we work well together as a team.

I can take a few minutes to highlight a few things in the book if you'd like, if there's interest. Just a couple. Okay.

CHAIRWOMAN UMBERGER: Just a couple.

MS. CALL: Just a couple.

CHAIRWOMAN UMBERGER: Yeah. And the reason --

MS. CALL: So, again, it's a 160-page book. There's a lot of work involved. I'll bring up a couple of the areas that we tend to discuss the most is Page 8 is where you'll find the General and Education Trust Fund Surplus Statements. That is not an audit document. So that's purely on Commissioner and I to prepare, but it does align with our audited financial statements. So you will see that it reflects a very healthy year in unrestricted revenue and a very healthy Rainy Day Fund

balance that is now up to \$257.8 million. So that is where we ended the year. That means because it's the end of the biennium, the General Fund does not carry over any unrestricted, undesignated fund surplus. That is now all in the Rainy Day Fund per statute.

So we start anew going into FY 22, but halfway through the year we're already in good shape. And then if there are no questions on that, I would turn you to Page 28 and 29 is our primary financial statement where you'll see the items that Commissioner Arlinghaus discussed in terms of OPEB, pension, debt, all of our long-term, this is our balance sheet. This is our long-term assets and liabilities. Nothing really has changed since last year. So that's good news.

And then, lastly, I would turn you to the General Fund statements which is on Page 33, General, Education, Highway, and the Coronavirus Relief Fund are reflected here and their fund balances are here which is similar to what you would see in the Surplus Statement, but this is GAAP based. And one thing I would point out, the Coronavirus Relief Fund we typically don't put Federal funds into their own column. Federal funds which we received, you know, for years and will continue to receive for years run its course through the General Fund. But with -- when the Coronavirus Relief Fund came along, the 1.25 billion that the State received we thought it was warranted to be highlighted. Unbeknownst to us, we've now continued to receive the same level of funding in terms of the ARPA funds.

So we will be -- we will be -- this column will have an end life to it, and then we will continue our past practices of having the Federal funds shown through the General Fund reporting. But that will be -- there's a variety of other places where ARPA funds are reported, including our transparency website. So we'll be talking about that more in the next audit. So those are the highlights.

REP. EDWARDS: I have a question.

CHAIRWOMAN UMBERGER: Yes, Representative Edwards.

REP. EDWARDS: Thank you, Madam Chairman. It seems like it's been two years, maybe it's been three, but Ways and Means used to have somebody from the state, a very senior guy. He's retired and been replaced. But one of the things he would talk to Ways and Means about is how the financial analysts were viewing New Hampshire's books, and particularly the Rainy Day Fund.

MS. CALL: Hm-hum.

REP. EDWARDS: And how that could potentially influence our bond rating. And so has this \$257 million Rainy Day Fund, has that had any influence with the analysts to either raise or maintain our bond rating and remind us what the bond rating is?

MS. CALL: I couldn't -- well, actually, I probably could find it in there. Our Department of Treasury, so Monica Mezzapelle is in charge of the bond issuances. And what I can tell you that we are issuing -- starting that process this month. So in the next couple of months they'll be issuing bonds and going through the rating agency process. So stayed tuned, I guess, is the short answer because we will find out if that had any implication on our current bond rating, which I think is -- I'll get that. I'll get that number. I'll let Charlie.

MR. ARLINGHAUS: Each agency has a different rating system. Our bond rating is not the absolute highest but it's close. It's not been lowered in a long time. It was lowered at one time because the Rainy Day Fund went through significant depletion. The State's balances, in general, in a period running through the last recession. The Rainy Day Fund has never, ever been this high, and that will lead to very good things for the bond rating. I don't want to predict and I don't think Monica would predict that they will go up; but bond rating agencies will go, ooh, that's great, or words to that effect.

REP. EDWARDS: That was my analysis.

MR. ARLINGHAUS: It's hard not to. It's -- I mean, it's astonishingly -- I'm going to look at Senator D'Allesandro, and probably he doesn't even remember being this high ever.

CHAIRWOMAN UMBERGER: And, oh, by the way, we're making giant progress in 2022, FY 2022.

MS. CALL: Thank you to Steve. He found it on Page 26. It's AA+ for Fitch, Aa1 for Moody's, and AA for S&P.

CHAIRWOMAN UMBERGER: Representative Emerick.

REP. EMERICK: Thank you, Madam Chair. One of the -- when you talked about the ARPA funds and there's another one called the Governor's Office of Emergency Relief and Recovery. Is that under this umbrella or is that being accounted for somewhere else?

MS. CALL: So the Governor's Office, the GOFERR Office --

REP. EMERICK: GOFERR.

MS CALL: -- is reflected. They're managing the funds in the Coronavirus Relief Fund column. So the original 1.25 billion that we received is being managed by that group, and that is winding down. So as of the end of Calendar '21, we were supposed to have encumbered all of that funding. So it will take us some time to trickle out.

The -- all of the other funding is -- that's why it's different in that at the time we were working under emergency orders. So the funding and the acceptance of the funds and the spending of the fund was going through an entirely different process. The ARPA funds are all going through the normal -- this process. So anything that's being added to the budget is coming through this -- the normal mechanism, which is you folks. And that is all going to be accounted for within the Agencies that received the funds. So if Health and Human Services receives that federal grant, it comes through their portion of the

General Fund. If Environmental Services receives funding, it comes through their portion of the General Fund. So it will be reflected. It will just make our base numbers that much higher. But it's not -- some of it may be managed by the GOFERR Office, but it will still fall in line with whatever category of government is spending those funds.

CHAIRWOMAN UMBERGER: Commissioner, did you want to add anything?

MR. ARLINGHAUS: No.

CHAIRWOMAN UMBERGER: Senator Giuda, did you have a question?

****** SEN. GIUDA: Thank you, Madam Chair. In that we're discussing ARPA and CARES Act funds and such, I would like to seek support from this body to require GOFERR to report to the Fiscal Committee in the aggregate and specifically how much money has been received, how much money has been granted, and how much money has been spent, both for CARES and ARPA. There's a lot of money. A lot of it is going out fast in places and so forth. I think it would help me and I would hope that some other Member of the Committee would second my motion to ask GOFERR to provide such an analysis.

So with the permission of the Chair, I'll move that GOFERR be required to present to the Fiscal Committee a spreadsheet detailing the expenditure of funds for CARES Act and ARPA Act revenues to the State.

CHAIRWOMAN UMBERGER: Is there a second?

SEN. D'ALLESANDRO: I would second that.

CHAIRWOMAN UMBERGER: Okay. Senator D'Allesandro. Yeah. I haven't gotten there yet. Let me just ask this question. I know you said a spreadsheet, but would it be helpful if they actually came and spoke? So would you mind amending your motion.

SEN. GIUDA: So to request GOFERR to come before the Fiscal Committee to explain in detail how much has been received, how much has been appropriated, how much has been expended for CARES Act and ARPA Act revenues received by the State.

SEN. D'ALLESANDRO: I'll withdraw my second and --

CHAIRWOMAN UMBERGER: Okay.

SEN. D'ALLESANDRO: -- second the amended motion.

CHAIRWOMAN UMBERGER: All right. Thank you.

SEN. D'ALLESANDRO: You're welcome.

CHAIRWOMAN UMBERGER: Is there any discussion?

REP. EDWARDS: I have a question.

CHAIRWOMAN UMBERGER: Just a moment.

REP. EDWARDS: Okay.

CHAIRWOMAN UMBERGER: Representative Edwards.

REP. EDWARDS: Thank you, Madam Chair. Senator Giuda, are you aware, is the Executive Branch already required to provide us with that information or because this happened under the state of emergency it still remains us asking instead of us expecting?

SEN. GIUDA: Constitutionally, they're required to get the approval of the Legislature by act to resolve before dispensing any funds. Okay. That was violated. Okay. I haven't seen any comprehensive report on receipt, expenditure, appropriation, and so forth. And I'm not aware, because the process completely circumvented --

CHAIRWOMAN UMBERGER: Under CARES.

SEN. GIUDA: Right, right. Thank you. The normal process, the Constitutional process of accepting and then expending revenues. I'm not aware of any such -- such report.

CHAIRWOMAN UMBERGER: Before we continue this discussion, thank you all for coming and thank you for the great report. Okay. I mean, it's -- it's a lot of work on the part of DAS and, of course, we love it when we receive a -- what was it called, audit excellence?

MR. ROMANO: Clean opinion is the generic term we use.

CHAIRWOMAN UMBERGER: Oh, no, no, the certificate.

MS. CALL: Yes, we submit the financial statements to the GFOA for an award every year and we did receive it again.

CHAIRWOMAN UMBERGER: Yes. And that's very good. So I thank you all. If you'd like to continue to listen to our discussion, you're more than welcome to stay but probably not.

MR. ROMANO: Thank you very much.

CHAIRWOMAN UMBERGER: Okay. I'm sorry to interrupt that, but I thought we should get back to --

REP. EDWARDS: Thank you, Madam Chair. I think I heard the answer to be that it's not clear whether we should be expecting it or whether we're just asking for it.

SEN. GIUDA: Correct.

CHAIRWOMAN UMBERGER: Is there any other discussion? Yes.

SEN. DANIELS: Does the change in motion preclude -- preclude the presenters from having available an electronic or paper copy of the information that Senator Giuda

has asked for? Because that's what I heard in the original motion was that we would have some sort of document that would be used for referral. That now has been changed to a verbal, but I would like to also ensure that there was something electronic or in paper that we'd be able to refer to going forward.

CHAIRWOMAN UMBERGER: My goal was just simply to enhance the motion to add a presentation. It was not to eliminate the -- the spreadsheet.

SEN. GIUDA: So safe to say by consensus of the body that a spreadsheet will be provided in addition to the presentation as a part of that motion.

CHAIRWOMAN UMBERGER: Correct, yes.

REP. ERF: And that it be electronic?

CHAIRWOMAN UMBERGER: More than likely.

REP. ERF: It can be both, but electronic at least.

CHAIRWOMAN UMBERGER: That's because you have your little computer sitting there which is totally against the rules. Okay.

REP. ERF: It's in the public hearing.

CHAIRWOMAN UMBERGER: Oh. Okay. Is there any other discussion? Michael, do you have a feel for what is going on with CARES and ARPA?

MR. KANE: I do. So I know that GOFERR has a lot of information on their website. The problem it's not in the -- a summary format that I believe be very helpful for the Legislature. So, for instance, CARES you have 1.25. They have a high-level summary by program type of where it went; but how much has been expended, how much -- I think that's something the Committee asked. So we can relay that to the Commissioner.

As far as ARPA funds are involved, they did put out a new report, GOFERR, on their website. I just noticed it today. Just kind of breakdown of all the Fiscal approvals of the ARPA. There's about 958 million of flex funds, lack of a better term. About 400 million has been spent and they have it down to a certain category level. I'll send that to the Committee.

Obviously, I don't believe GOFERR will be ready to go for your January 21st meeting. Plus, I think you have your binders in your office right now. But I'll send you kind of what they have now and wait for feedback from you and then communicate this with Taylor and -- Taylor Caswell and GOFERR -- to get a report that's going to be helpful so you can see where that money went.

I know they keep track of it, so much money coming in. I think they have to keep track of it 'cause it's audited. It's just the reporting part of it. I'll pull together some links from GOFERR that I think may get you closer to where you want to go. And then I'll wait for your feedback and I'll include everyone and share that with Taylor Caswell. So you'll get a report and a presentation is what you're looking for. I think there's a lot of information. Sometimes it's too much information. Nothing against GOFERR, but if you go to the GOFERR site, the time that you have to spend on that we'll try to minimize.

CHAIRWOMAN UMBERGER: Okay. Thank you.

MR. KANE: Okay.

CHAIRWOMAN UMBERGER: Anymore discussion? Seeing none. Do I have to do a roll call?

MR. KANE: No.

CHAIRWOMAN UMBERGER: No. Okay. All those in favor, please raise your hand? Opposed? None. Motion carries 10-zero.

***** {MOTION ADOPTED}**

**JOINT LEGISLATIVE FISCAL COMMITTEE
SPECIAL AGENDA
January 14, 2022**

(3) Date of Next Meeting and Adjournment

CHAIRWOMAN UMBERGER: Okay. I know it says we have to schedule our next Fiscal meeting. We've done that already. It's next Friday at 10 o'clock. And as was just reported for the House, our books are out here.

MR. KANE: Yes.

CHAIRWOMAN UMBERGER: And the Senate books are?

MR. KANE: In their offices.

CHAIRWOMAN UMBERGER: In their offices. Oh, what a nice service.

SEN. D'ALLESANDRO: It is, it's marvelous, really. I think we're over served.

CHAIRWOMAN UMBERGER: Yeah. Well, that's -- well, that's wonderful.

SEN. D'ALLESANDRO: I want as many people taking care of me as there are available.

CHAIRWOMAN UMBERGER: I totally agree. All right. So in that case, thank you all for coming. And I --

****** SEN D'ALLESANDRO: Move to adjourn.

CHAIRWOMAN UMBERGER: -- have a motion to adjourn, D'Allesandro, Senator D'Allesandro, and Senator Giuda seconds. All those in favor? Opposed? I guess I'll just sit here by myself. Thank you.

******* {MOTION ADOPTED}

(Meeting adjourned.)

CERTIFICATION

I, Cecelia A. Trask, a Licensed Shorthand Court Reporter in the State of New Hampshire, do hereby certify that the foregoing transcript was transcribed by me from a YouTube recording. I was not physically present at this meeting, and I have transcribed the recording to the best of my ability, skill, knowledge, and judgment.

Cecelia A. Trask, RMR, CSR
NH Licensed Shorthand Reporter #00047