

**CAPITAL BUDGET OVERVIEW COMMITTEE**

Legislative Office Building, Room 201

Concord, NH

Wednesday, October 26, 2016

**MEMBERS PRESENT:**

Rep. Gene Chandler, Chair

Rep. John Cloutier

Rep. Frank Byron

Rep. David Danielson

Rep. Daniel Eaton

Rep. Mark McConkey

Sen. David Boutin

Sen. Lou D'Allesandro

Sen. Gary Daniels

Sen. Nancy Stiles

(Meeting convened at 10:01 a.m.)

**(1) Acceptance of Minutes of the June 14, 2016 meeting**

GENE CHANDLER, State Representative, Carroll County, District #01: The time being 10 o'clock, we'll open the hearing of the Capital Budget Overview Committee. Good morning, everybody. First item, acceptance of the minutes of the June 14<sup>th</sup> meeting.

**\*\*** DAN EATON, State Representative, Cheshire County, District #03: Move approval.

DAVID DANIELSON, State Representative, Hillsborough County, District #07: Move approval.

CHAIRMAN CHANDLER: Who moved, John -- Representative Cloutier?

JOHN CLOUTIER, State Representative, Sullivan County, District #10: No, Eaton, Representative Eaton, followed -- seconded by Representative Danielson.

CHAIRMAN CHANDLER: Okay. Representative Eaton moves, seconded by Representative Danielson to approve the minutes. Are there any questions? Any questions or discussion on the motion? If not, all those in favor? All those opposed? Motion carries.

\*\*\* {MOTION ADOPTED}

(2) Old Business:

CHAIRMAN CHANDLER: Okay. First item, Old Business. Nothing under Old Business.

(3) New Business:

CAP 16-028

CHAIRMAN CHANDLER: New Business. Item number 16-028, Department of Transportation, approval of Turnpike Toll Credits. Anyone here to speak to that first item?

CHRISTOPHER WASZCZUK, Deputy Commissioner, Department of Transportation: Good morning. For the record, my name is Chris Waszczuk. I'm Deputy Commissioner for the Department of Transportation. This item is for research work to investigate the extent of mildly contaminated soils that we have alongside our roadways. The mixture of oils that come off the tires, the vehicles, and get into the roadways alongside -- alongside the pavement, we want to get a better assessment of the extent of the contamination in that soil. When we have construction projects that go in and dig up that soil, there are certain restrictions in terms of how that soil can be reused. So we want to better assess just the extent of those restrictions and the extent of the contamination off the edge of pavement.

So this is being done by in-house staff. It's -- it's part of the State Planning and Research Work Program. And the need, the estimated cost of the research work is

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\$75,000 and the amount of toll credits that are needed for this is \$15,000.

CHAIRMAN CHANDLER: Any questions? If not -- uh -- Senator Boutin.

DAVID BOUTIN, State Senator, Senate District #16: No, Representative Danielson.

REP. DANIELSON: Thank you, Senator. Gentlemen, I'm just curious. DES -- looks like these requirements are required by DES that you're trying to fulfill. And so the note to myself is, if DES has required this, why wouldn't DES pay for this?

CHAIRMAN CHANDLER: Is that a question for me or --

REP. DANIELSON: It's the last paragraph, the next to last paragraph. The findings will be incorporated into a guidance document explaining responsibilities from the right-of-way considering any NHDES requirements. If DES is requiring these, why wouldn't DES pay for this?

MR. WASZCZUK: I think DES outlines the requirements in terms of the different levels of contamination in soil and how that soil can be reused, whether it needs to be disposed of in a certain manner, or whether it can be reused like, for example, these soils they have a mild contamination level, and it could be reused within the right-of-way. However, if they're transported elsewhere, then DES requirements are such that they would like that be tracked in terms of where it's being placed. For example, you wouldn't want to place these soils in playgrounds and if -- because there's children playing in the playgrounds. You don't want children to be associated with the contaminates that are in these soils. DES -- we are just trying to abide by DES requirements.

REP. DANIELSON: Follow-up.

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CHAIRMAN CHANDLER: I'm assuming that this happens to be -- affect DOT, affect the property. If it was Fish and Game, they would have to -- same thing would apply just to a different Department, that's all. Just this one is DOT. Now we can argue whether they should be doing it. That's something else.

REP. DANIELSON: A follow-up. Have any problems before?

MR. WASZCZUK: Well, these regulations have been in place. We are just finding that the roadside has these levels of contaminants when we are testing different areas. So it is -- it is -- I think it's an emerging issue.

REP. DANIELSON: Thank you, Chair.

CHAIRMAN CHANDLER: I think Senator Boutin is next.

SEN. BOUTIN: Thank you, Mr. Chairman. Mr. Chairman, I have two questions, if I might. First of all, thank you for coming today. What -- what's the time frame to get this study done?

MR. WASZCZUK: I think it's this coming -- this coming 2016 year. So it's the Federal Fiscal Year. So it would be from October through the end of next September. It's part of the --

SEN. BOUTIN: Follow-up.

CHAIRMAN CHANDLER: Further question.

SEN. BOUTIN: Will the results of this study in any way contribute to resolving the issues of the I-93 Project?

MR. WASZCZUK: No, this is a completely separate --

SEN. BOUTIN: Completely separate. Thank you.

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CHAIRMAN CHANDLER: I think Representative Byron -- well, Senator Stiles.

NANCY STILES, State Senator, Senate District #24: Thank you. Thank you for coming in.

(Representative McConkey enters the committee room.)

SEN. STILES: Two-part question. First of all, because you can use toll credits you have the money to back it up and DES may not have that money?

MR. WASZCZUK: This is something the Department is interested in trying to get a better handle on. I'm not sure DES has the money for this type of research.

SEN. STILES: My other part of the question is, is this something you'll be doing every time you do a road or highway, you'll be testing the soils to find out whether or not they can be used anywhere else?

MR. WASZCZUK: What we want to do as part of this study is to provide the foundation of what we would need to do as part of future construction projects. For example, if we only know that a few feet off the roadway is more contaminated than something that may be further removed from the roadway, then we would handle that segment of soil possibly differently and whether we would test it or reuse it on-site. But we want to provide the mechanisms that we can incorporate into future construction projects so how to handle this soil. Because we want to minimize our expense in terms of how the soils are handled and whether it would need to be disposed of, you know, in a certain manner.

SEN. STILES: Hm-hum.

CHAIRMAN CHANDLER: Representative Byron.

FRANK BYRON, State Representative, Hillsborough County, District #10: Thank you, Mr. Chairman. Isn't it

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true though that if you've got a potential contamination that each case is entirely different and, therefore, you're going to have to sample anyways? So trying to, according to your study, construct a model is not really going to be appropriate and you'll have to sample to begin with?

MR. WASZVCZUK: Well, these -- this is with regard to what we term mildly contaminated. Certainly, when we get into contaminated areas, then those are unique and they need to be handled on a case-by-case basis, and testing would be required for those situations. We want to try to create, as I mentioned, that foundation, that process that shows that we've done the study. It's mildly contaminated. And we can use it in this manner so we don't have to do that future case-by-case testing, which is expensive.

CHAIRMAN CHANDLER: Further question.

REP. BYRON: So to determine whether it's mildly contaminated or grossly contaminated or whatever the case may be or to move that material off-site and to use your example put it into a playground, whatever, you're going to have to be sampling anyways; right?

MR. WASZCZUK: Yes. If we -- there are different levels. There's different thresholds of contamination and how the soil can be reused. So we are trying to -- if we can show that along our roadsides it is beneath this threshold, then it can be reused within the right-of-way corridor. If -- if testing shows as part of this research effort that it exceeds the thresholds, then it would have to be handled in a more specific manner.

REP. BYRON: Thank you.

CHAIRMAN CHANDLER: Any other questions? Senator Daniels.

GARY DANIELS, State Senator, Senate District #11: Thank you. Has this been done before?

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MR. WASZCZUK: No.

SEN. DANIELS: Follow-up?

CHAIRMAN CHANDLER: Further question.

SEN. DANIELS: So I kind of envision DOT scraping all the sides of the roads if you've got this mild contamination, and I kind of shudder to think how much that would cost. But, you know, to the Representative's question, if you happen to test it in an area where there was an accident and oil had leaked out, which would be different than ten feet down the road where it would be milder, how is that going to be treated?

MR. WASZCZUK: I think that's going to be done as part of this effort. It's going to be random testing along the roadsides that is going to form an average level of mild contamination.

DAVID RODRIGUE, Director of Operations, Department of Transportation: Good morning. If I could, my name is David Rodrigue. I'm the Director of Operations for the Department of Transportation. And if I could just take a minute to put a little more context to this issue that we're dealing with, Mr. Chairman.

CHAIRMAN CHANDLER: Yes.

MR. RODRIGUE: Okay. So what -- what the Department has found, as all of you know, our roadway network has been in place for a large number of years. And we've -- we've -- roadways are built with petroleum products. Our vehicles use petroleum products and they leak different things, different hydrocarbons and different materials that wind up in the soils along our roadway. This is a widespread issue along the edges of most all of our roadways.

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As environmental testing has gotten better, and environmental guidelines have become stricter, we have started to test some of our roadside soils and what we have determined is most all of them are what we call mildly contaminated. So they are just above some DES thresholds for what clean soils would be. And when they're tested, they're looking at drinking water quality standards. So this really is from our perspective mild contamination.

We've been working with DES for a couple of years on coming up with processes to how we are going to deal with these soils because we pick them up when we sweep the road. We pick them up when we bitch a road. We pick them up when we clean catch basins. Our most recent agreement with DES, they provide us a waiver to some of their standards and basically what we are saying for these -- what we're now calling limited reused soils, if we pick them up within our right-of-way, we can reuse them within our right-of-way, because it's really the same characteristics. That's good for us, and that's good for DES at this point.

What this test is intended to help us do is we know that the soil along our immediate roadsides is mildly contaminated, and we have to deal with that with some restriction. But what we believe is if you go off the roadway, let's say 10 or 15 feet, and you go down 6 or 12 inches, that soil is -- certainly does not have the same characteristics as it does right next to the pavement. So we'd like to do some research to get some information on that soil so that if we do find that certain places it's cleaner, we would be able to reuse that soil without restrictions in the future from DES.

To answer your question specifically, if there's a motor vehicle accident where we know there's oil or some type of contaminant on the side of the road, we deal with that very differently. We have hazardous waste contractors who come, pickup that soil, remove the soil. We then seek to recover those costs from whoever was in the accident. That's a -- that's a different issue. That's a serious

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contamination issue. This mildly contaminated soil is much less serious for us.

CHAIRMAN CHANDLER: Representative McConkey.

MARK MCCONKEY, State Representative, Carroll County, District #03: Thank you, Mr. Chairman. Thank you, gentlemen, for being here. I support the idea of the testing and getting a better feel for what's out there. In my towns I have two major roads that run by. The Highway Department in past years, DOT and others has done a lot of reconstruction, a lot of work, and a lot of that material used to be used to build parking areas for our parks and everything else. And then the fear of contamination came up and that material is gone. And that's a much greater cost to DOT and everybody to dispose of that material now and I like the idea of finding out where we are with it. Where I disagree with the premise is using Turnpike Toll Credits. But the program itself, I'm in favor of what you're doing in the project for that.

CHAIRMAN CHANDLER: What's your pleasure?

SEN. STILES: A question, Mr. Chair. If we didn't approve using the toll credits, where would they get the money to do that?

CHAIRMAN CHANDLER: That I don't know. I don't know -- I don't think there's any budgeted for it; right?

MR. WASZCZUK: Correct.

CHAIRMAN CHANDLER: Just wouldn't happen. That's my guess.

MR. WASZCZUK: Correct. I mean, this -- this SPR Work Program, it requires matching funds. And what the toll credits do, it just allows us to leverage additional Federal funds. So instead of needing \$60,000 in Federal funds and \$15,000 in State matching funds, we are using

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\$15,000 of Toll Credits which we have a balance of over 200 million to increase that Federal portion to \$75,000. That's what the Toll Credits provide us.

CHAIRMAN CHANDLER: Further question?

SEN. STILES: Yes. Well, actually a motion.

CHAIRMAN CHANDLER: Okay.

\*\* SEN. STILES: I would like to move 16-028.

CHAIRMAN CHANDLER: We have a motion.

REP. EATON: Second.

CHAIRMAN CHANDLER: Motion to approve, 16-028.  
Secoded by?

REP. CLOUTIER: Representative Eaton.

CHAIRMAN CHANDLER: Representative Eaton. Any further questions or discussion? Senator Boutin.

SEN. BOUTIN: Thank you. Mr. Chairman. Mr. Chairman, I'm going to support the motion and I think what convinced me in this particular instance is on the second page of the letter from DOT, second half of the first paragraph it says removal and disposal of the MCS at a solid waste management facility in strict accordance with New Hampshire Solid Waste Rules, as administered by the Department of Environmental Services, represents a significant financial burden to the Department. And so while we as legislators up here are always asking State Government to come up with efficiencies, this to me is a means of establishing a base, a model, if you will, of the characteristics of this model, mildly contaminated soil and, hopefully, would lead to methods of removal and further use without incurring the financial burden of having it sent to a waste facility. So

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I think it's a prudent thing to do, and I support the motion.

CHAIRMAN CHANDLER: Okay. We ready -- Senator Daniels.

SEN. DANIELS: Just a clarification. This is not a federal requirement that this be done?

MR. WASZCAUK: This is a State DES requirement.

SEN. DANIELS: Okay. One follow-up.

CHAIRMAN CHANDLER: Further question.

SEN. DANIELS: Is the testing going to be done along interstates as well as rural?

MR. WASZCZUK: Yes. I believe it is going to be done on a varied range of roadways, interstates, other roadways of the State roads.

SEN. DANIELS: I have one more. If -- if it is deemed that work needs to be done along the Interstate, are you expecting the State is going to absorb that cost or the Federal Government?

MR. WASZCZUK: Now I guess just to be clear, we want to outline how a procedure to incorporate into our contracts or when the soil is being dug up how the soil needs to be used -- how the soil needs to be managed. As Dave mentioned, if it's mildly contaminated, it can be just placed within the right-of-way. However, during our construction contracts if a contractor is moving the soil because of the phasing of work and he has to manage the soil and sometimes we have projects where soil needs to be trucked off-site, how -- how that is done throughout the construction duration in the design of the project, this research is going to help us determine how best to approach that to minimize the cost of the work.

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CHAIRMAN CHANDLER: Okay. We have a motion that's been made and seconded to approve item 16-028. You ready for the question? All those in favor of approving the item say aye? Opposed? Okay. Those that are in favor, please raise your hands. Opposed?

REP. CLOUTIER: Three opposed?

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

CHAIRMAN CHANDLER: It's each side votes. So the motion passes.

**CAP 16-036**

CHAIRMAN CHANDLER: Okay. 16-036. Once again -- I thought that was going to be an easy one. Geez.

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

CHAIRMAN CHANDLER: Senator D'Allesandro moves approval --

REP. EATON: Second.

CHAIRMAN CHANDLER: -- of 16-036. Seconded by?

REP. EATON: Eaton.

CHAIRMAN CHANDLER: Eaton. Representative Eaton seconded.

REP. CLOUTIER: All right. Thank you.

CHAIRMAN CHANDLER: You ready for the question? All those in favor of item 16-036, please signify by saying aye? Opposed? Ayes raise your hand. Opposed? Motion is defeated.

**\*\*\* {MOTION TO APPROVE FAILED}**

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SEN. BOUTIN: Mr. Chairman, I think the good Senator from District 24 has a question.

SEN. STILES: I have a question for them and probably isn't as relevant to whether this passes or it doesn't, but I'm just wondering if any progress has been made in the use of recycled bottle products for smaller bridge construction?

MR. WASZCZUK: I'm not sure, Senator. I'd have to get back to you on that.

SEN. STILES: All right.

CHAIRMAN CHANDLER: Okay. Item CAP 16-037.

SEN. STILES: And I have a follow-up question.

CHAIRMAN CHANDLER: Oh, okay.

SEN. STILES: My question is on the use of the unmanned aircraft systems. Will that be still within our State policy, regulation of State policy?

MR. WASZCZUK: Yes.

**CAP 16-037**

CHAIRMAN CHANDLER: Item 16-037. Motion?

\*\* SEN. BOUTIN: Mr. Chairman, I'll move to -- to defeat.

CHAIRMAN CHANDLER: Not approve?

SEN. BOUTIN: Or not approve the request.

CHAIRMAN CHANDLER: Seconded by?

REP. MCCONKEY: Second.

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CHAIRMAN CHANDLER: Representative McConkey. Item 16-037, we have a motion to not approve item 16-037, seconded by Representative McConkey.

SEN. BOUTIN: If I may address my motion, Mr. Chairman?

CHAIRMAN CHANDLER: Yes.

SEN. BOUTIN: Thank you. Mr. Chairman and Members of the Committee, my concern about this is we have many, many needs in this state in terms of road infrastructure projects, so forth and so on. And I feel that those are more compelling needs than doing a study which, by the way, Mileage Based User Fees Study while that might be something appropriate to be done, there is no way that a system based on this is going to be implemented in just one part of the country. It has to be something that's done universally across the country when this is going to be done. Therefore, I believe the Federal Highway Administration should be doing this analysis and maybe they've already done one. I don't know. My preference is given the many needs -- the needs that I see in my district and that maybe others see in their district this Federal credit money should be more appropriately applied to other uses.

CHAIRMAN CHANDLER: Okay. Yes, Senator Stiles.

SEN. STILES: I have a question. The pilots that were done on the West Coast, do we have any results of those pilots?

(Senator Birdsell enters the Committee Room.)

MR. WASZCZUK: Yes, we do. Yes, we do.

SEN. STILES: Have you seen them?

MR. WASZCZUK: Well, Oregon has been a leader in this area. I don't know the specifics of what came out of that. They -- they -- I can't speak specifically to what came out

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of the Oregon study. I can speak to this – and Commissioner would have been here, but she's at Governor and Council meeting today – but, in essence, this is -- this is a long-term problem. If I may pass out there's -- in addition to the information, this is -- this comes from the U.S. Energy Information Administration. Excuse me.

CHAIRMAN CHANDLER: We have a motion that's been made and seconded. We are into a question. We are not into testimony, I'm sorry. But you can pass that out if you want. That's fine.

SEN. D'ALLESANDRO: Mr. Chairman.

CHAIRMAN CHANDLER: Question.

SEN. D'ALLESANDRO: I'd like to speak against the motion, Mr. Chairman.

CHAIRMAN CHANDLER: You may.

SEN. D'ALLESANDRO: Thank you. If you read the narrative, it's a cooperative situation that involves the states on the East Coast. I-95 is on the East Coast and we are using our toll credits as part of the match. And we are quite creative in terms of doing this. We have been for quite a number of years. It's a good project, it's a worthwhile project, and it's something we ought to do. We have Delaware, Pennsylvania, Connecticut, New Hampshire and Vermont. If you read the narratives, the other states are very anxious to work with us in getting this ready. And it's a very cooperative event and venture, and we have the states on the eastern part of the United States cooperating. It's a worthwhile project. It's something that we should do and we are finding a creative way to come up with our piece of the action. That's -- listen, this has been the New Hampshire way for a long, long period of time. So I think we ought to move forward with this, and I hope we will defeat the motion and allow a substitute motion of ought to pass. Thank you, Mr. Chairman.

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CHAIRMAN CHANDLER: Any other questions?  
Representative Eaton.

REP. EATON: Mr. Chairman, while I appreciate the sentiments of my friend from Hooksett, this has been done up in *60 Minutes*, this test program. *60 Minutes* had an entire episode about the long range possibilities that come out of this research. And while the gentleman from Hooksett mentioned this is going to have to be a nationwide solution, no, it isn't. If one or two or three states figure this works for them, they can put it into place in addition to using the gas tax.

Representative Major had a bill to do just that and went down the tubes partially due to a lack of research and data. Here's your research and data. Find out if it's worth it or not. We all know the Highway Fund is in -- still in dire need and dire straits. We weren't smart enough to do the full boot when we had the opportunity on the gas tax and gas prices are low and we're still not smart enough to do it. Here's an opportunity to get the data to find out if we can augment for the people that are using the roads and not paying their fair share.

CHAIRMAN CHANDLER: Just a point of information. Representative Major's bill did not die. The Public Works and Highways Committee this year voted it for future legislation which will be filed to further study the issue here in the House.

REP. EATON: Thank you.

CHAIRMAN CHANDLER: I think it's another reason that we don't need to pass this but that's just my opinion.  
Representative McConkey.

REP. MCCONKEY: Thank you, Mr. Chairman. I agree and the reason I seconded the motion with Senator Boutin was for many of the same reasons and I'll let that lie. My

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problem that I spoke in the original bill that I voted in favor of on the toll credits is 15,000 here, 100,000 here. It will take a lot of that to use up our toll credits. But when we start diving into \$580,000 worth of toll credits, that spigot starts coming down -- that bucket starts coming down pretty low. I believe that it's most likely a worthwhile venture, but should not be using our toll credits and should not be using to that degree. I will support the motion of Senator Boutin.

REP. CLOUTIER: Chairman.

CHAIRMAN CHANDLER: Senator Boutin is next.

REP. CLOUTIER: Sorry. Thank you.

SEN. BOUTIN: Thank you, Mr. Chairman. Mr. Chairman, I -- I feel that I have some credibility on this issue because I was one of the Senators who voted for the increase in the Road Toll; wrongly criticized for that, but I thought it was the right thing to do. And I just listened, Mr. Chairman, I think we all heard it, my good friend in the western part of the state to say that, and I wrote down his exact words, use in addition to the gas tax. Well, for me, Mr. Chairman, that's all the more reason why we should defeat this because it suggests that we are going to do something on top of the gas tax as it is now and I have a problem with that. Just increased the Road Toll, We ought to see where that is going to take us over the next couple years and then go from there. I think my good friend and Representative has given more reason for the Committee to uphold the motion.

CHAIRMAN CHANDLER: Representative Cloutier.

REP. CLOUTIER: Okay. Thank you, Mr. Chairman. More of a, I don't know, a procedural question. If we defeat this today, could this similar item be brought back up, say, next year? I mean, I don't know.

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CHAIRMAN CHANDLER: I guess bring it back any time they want.

REP. CLOUTIER: Is there a shelf life? In other words, could we reconsider it, maybe that's more the question as a possibility?

CHAIRMAN CHANDLER: Yeah, they can bring it back any number of times.

CHRISTOPHER SHEA, Deputy Legislative Budget Assistant, Office of Legislative Budget Assistant: If the Committee were to defeat this today, the Department could certainly bring it back at a later time.

CHAIRMAN CHANDLER: Senator Stiles.

REP. CLOUTIER: Follow-up.

CHAIRMAN CHANDLER: I'm sorry.

REP. CLOUTIER: Is there a timeline? In other words, if we defeat this, do we have until sometime next year to either reconsider or we lose the grant money?

MR. SHEA: I suspect there's a timeline associated with it since there's a number of states getting together to do this project, but I would defer to DOT on that.

MR. WASZCZUK: The timeline for this is it's supposed to start the end of the year and extend for 18 months. So if this Committee does not approve, then we cannot participate in the study.

CHAIRMAN CHANDLER: Senator Stiles.

SEN. STILES: Thank you, Mr. Chair. You said there was a study committee and the results of that study committee was to come out with legislation. Can you identify what that legislation is?

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CHAIRMAN CHANDLER: Well, it's to look at this issue among others. It was Representative Major's and others piece of legislation was filed last session. It was put into interim study and the Committee looked at it and decided they couldn't come up with an answer in the time they had. So we voted to recommend, which is what the House does or not, further legislation which Representative Major has filed. So we'll continue that process through this next legislative year.

SEN. BOUTIN: Mr. Chairman.

CHAIRMAN CHANDLER: His identifies this procedure as one of the proponents of what he'd like to see done.

SEN. BOUTIN: As I recall, Mr. Chairman, if I may, that Representative Major the proposal was a very specific proposal. It wasn't a study. It was made interim study, but he had a specific outline of a way to do it here just in New Hampshire, as opposed to spending a half million dollars toll credits to do a study.

CHAIRMAN CHANDLER: And part of, if I may, I don't want to elaborate too much, but part of what the problem was he realized -- he and the other sponsors realized that wasn't going to happen the way he envisioned doing it; couldn't without further study. That's why it was incorporated into a study. Representative Danielson.

REP. DANIELSON: Thank you, Chairman. Oregon was the first person to stand up or first state to stand up and say we'll do it. We'll take a look at the study. They have studied this, I'm going to guess, for at least eight years now. They have studied this. They have come up with nothing that I'm aware of that's conclusive to say, look, I think this is the way we should probably look at it.

The other thing in process what's happened is a number of different fuels have become available to vehicles that

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are going out. I've asked -- twice I've asked the Office of Energy and Planning if they could kind of look at the possibilities of how would we -- how would we look at revenue from the different fuel sources to try to equalize as we go forward because you've got, you know, the numbers of different fuels. We have at least nitrogen. We have electronic. We have got multi-fuels. Can you give us some kind of formula that's going to allow us to go forward and plan for these changes over time? In both cases -- one case I got an answer back no. We don't know who it is. I finally found someone in the bowels of DOT, some fella who told me that he -- he measures the amount of fuel that gets sold every month. I think it's every month. But as far as the OEP is concerned, they told me they couldn't come up with that. That's not what they do. I've sent another letter to the new director asking her if she would take a look at it. I've not received an answer yet.

So, Mr. Chairman, I don't think there's anything conclusive. If we are going to study for another 18 months, we are going to get the same answers we have right now. It's not an answer that we can work on and that's my concern.

CHAIRMAN CHANDLER: Okay, the motion before us is on item number 16-037, and the motion is to not approve. So if you wish to not approve item 16-037 you would be voting yes.

SEN. BOUTIN: Show of hands, Mr. Chairman.

CHAIRMAN CHANDLER: So all of those who would like to not approve item 16-037, please raise their hand. Motion is defeated.

**\*\*\* {MOTION TO DENY ADOPTED}**

MR. SHEA: Mr. Chair.

CHAIRMAN CHANDLER: Yes.

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MR. SHEA: Could we go back to item 16-036?

CHAIRMAN CHANDLER: Yes.

MR. SHEA: The Committee approved not to pass that.

CHAIRMAN CHANDLER: Right.

MR. SHEA: But you didn't say whether you wanted to table it or you didn't want to approve it at all so just to clarify what's happening to that item.

CHAIRMAN CHANDLER: We didn't approve it.

MR. SHEA: So it's not being tabled?

CHAIRMAN CHANDLER: No.

MR. SHEA: Nothing is happening to it. Okay, just wanted to make sure. You approached 16-037 differently than you did 16-036.

CHAIRMAN CHANDLER: Well, was a different motion.

MR. SHEA: Right.

CHAIRMAN CHANDLER: I'm sorry. We voted not to approve it so that's it just so -- just to make it clear for everyone because sometimes -- we'll get in another Committee in few minutes that operates differently. This Committee basically it's a 1-to-1 vote. I mean, the Senate gets a vote and the House gets a vote. So the vote the Senate has to have a majority and the House has to have a majority. If either side doesn't, then whatever the motion is fails. So I just want to explain that. Item 16 -- why that is, I don't know; but that's just -- I just sit here and administer whatever someone else adopted a number of years ago.

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**CAP 16-038**

CHAIRMAN CHANDLER: 16-038, Department of Transportation, approval of Amended Equipment Acquisition Plan.

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

REP. EATON: Second.

CHAIRMAN CHANDLER: Senator Boutin moves we approve the item, seconded by Representative Eaton. Questions? All those in favor say aye? Any opposed? Motion is approved.

\*\*\* {MOTION ADOPTED}

**CAP 16-039**

CHAIRMAN CHANDLER: I'll recognize -- thank you. I have two -- I would -- the next item is we will do them together if that's okay, 16-039 and 16-043. Can we do them together?

MR. SHEA: We can. Just explain 16 --

CHAIRMAN CHANDLER: Yeah, I want you to explain. All right. Well, I'll do it separately. 16-039, and please explain why the original agenda had them together.

MR. SHEA: 16-039 you can take a vote on that as you want, then I'll explain 16-043.

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

CHAIRMAN CHANDLER: So move to approve 16-039.

SEN. STILES: Second.

CHAIRMAN CHANDLER: Seconded by Senator Stiles.

REP. DANIELSON: Question.

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CHAIRMAN CHANDLER: Question by Representative Danielson.

REP. DANIELSON: Chairman, just trying to get recollection. Didn't we look at this last year? Didn't we look at the Port and looked at the wharf and said it's in pretty terrible shape?

CHAIRMAN CHANDLER: Yes.

REP. DANIELSON: Didn't we study this last year?

CHAIRMAN CHANDLER: Yes, we did.

REP. DANIELSON: Didn't they ask us to look at the condition of the wharf?

CHAIRMAN CHANDLER: Traditionally, it's kind of like -- you can sit -- kind of like old home week. We always have to have some item on the agenda dealing with the Port Fund, you know. But I don't know what we'd do if we didn't have it. So I'm sure that, once again, through the initial problem, we need some more money to finish up, right? I'm guessing.

GENO MARCONI, Director, Division of Ports and Harbors, Pease Development Authority: Representative -- Mr. Chairman, Representative is correct. I did come in here about a year ago. The expenditure was contingent on our being awarded a TIGER grant. We were not awarded the TIGER grant, but it's been ten years since the facility has had a condition survey done on it, and we really need to know the shape of the facility for planning purposes and safety purposes.

CHAIRMAN CHANDLER: Right. Okay. Representative Byron.

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REP. BYRON: Yes, thank you, Mr. Chairman. Is it your intention, I think we discussed this a year ago, is your intention to apply for other TIGER grants?

MR. MARCONI: We have been investigating other sources of funding that are available through the Federal Government. But for us to make a reasonable application we really need to know what the condition of the facility is.

MR. BYRON: This would tie in with that?

MR. MARCONI: It would, yes.

REP. DANIELSON: Question, Chair.

CHAIRMAN CHANDLER: Representative.

REP. DANIELSON: Last year when you gave the presentation, humbly, this is my opinion, that place is in terrible shape.

MR. MARCONI: Correct.

REP. DANIELSON: And for lack of attention I guess, so why don't we just bite the bullet and fix the darn thing?

MR. MARCONI: That's part of this planning process is to make that decision. Do we -- do we go this direction and try to seek additional funding or is the condition to the point where we are going to shut it down and we need to go in there and do rehabilitation now and not -- not have the ability to look for Federal funding.

REP. DANIELSON: Question, follow-up.

CHAIRMAN CHANDLER: Follow-up.

REP. DANIELSON: Do we really need to do that study? Again, humbly, based on what I saw you can make that determination now and go ahead or not.

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MR. MARCONI: Yes. If I may? We do need to do the study because our engineers cannot determine what needs to be fixed, to what extent it needs to be fixed. We can't develop bid documents. We can't do an engineering rehabilitation plan without knowing the existing condition.

REP. DANIELSON: Thank you, Chair.

CHAIRMAN CHANDLER: Any other questions? If not, motion is to approve the item. All those in favor say aye? Any opposed? The motion is approved.

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

**CAP 16-043**

CHAIRMAN CHANDLER: Item is approved. Item 16-043 and, Mr. Shea, just respond.

MR. SHEA: So in your packets we distributed to you last week you had an item in the informational section, 16-040. In that item there was a report as well as requested action. Geno brought that to our attention because we had put it under informational item in the agenda. We asked him to break that apart. That has resulted in this new item 16-043 which is the action item that you had the original document that you had in your material, and then replacement for 16-040 which is just the reporting of their expenses. So just want to be clear that there was two things being asked for in the original document. We asked them to split it.

MR. MARCONI: That was my lack of understanding of the procedure, Mr. Chairman, when I wrote the letter.

**\*\*** SEN. BOUTIN: Mr. Chairman, I'll move 16-043.

CHAIRMAN CHANDLER: Senator Boutin moves 16-043.

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SEN. STILES: I'll second.

CHAIRMAN CHANDLER: Seconded by Senator Stiles. Anyone have any questions or discussion? If not, all those in favor? Any opposed? Very good.

\*\*\* {MOTION ADOPTED}

MR. MARCONI: Thank you, Mr. Chairman. Thank you, Senators. Thank you, Representatives.

(4) Miscellaneous:

(5) Informational:

(6) Date of Next Meeting and Adjournment:

CHAIRMAN CHANDLER: I think that finishes our agenda for the day. I have been asked to schedule a meeting, Long Range more, but I guess but this one, too.

MR. SHEA: We would suggest that you schedule this meeting, as well as Long Range, near the end of November to give agencies an opportunity. We know there's a couple of agencies that are working on items from each of the committees.

CHAIRMAN CHANDLER: Right. So we will tentatively, I guess, just if we need it schedule November 30<sup>th</sup>. He said to the end of November. That's about as far as I can go.

SEN. BOUTIN: What day is that?

CHAIRMAN CHANDLER: That be a Wednesday.

SEN. STILES: I won't be here.

REP. CLOUTIER: That would be the last Wednesday in November?

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CHAIRMAN CHANDLER: It will be the last Wednesday.

REP. CLOUTIER: November 30<sup>th</sup>, okay.

SEN. BOUTIN: You'll have to replace her.

CHAIRMAN CHANDLER: So going to Tuesday you wouldn't be here then, the 29<sup>th</sup>?

SEN. STILES: No.

SEN. BOUTIN: No, she's leaving the 10<sup>th</sup>.

CHAIRMAN CHANDLER: Okay. We'll try. We'll schedule. I have to run it by Long Range a little bit. But stay tune if the Long Range members agree to the 30<sup>th</sup>.

SEN. D'ALLESANDRO: You'll let us know?

CHAIRMAN CHANDLER: Yeah. You'll be notified. May not be anything. Right now Long Range is the only thing that has a couple things going to come in but hasn't been anything from here yet so may not need one actually. Okay. We are in recess.

(Recessed till the call of the Chair at 10:41 a.m.)

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CERTIFICATION

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

Cecelia A. Trask  
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