

JOINT FISCAL COMMITTEE

Legislative Office Building, Room 210-211

Concord, NH

Thursday, April 26, 2012

Members Present:

Rep. Ken Weyler (Chairman)

Rep. Beverly Rodeschin

Rep. Dan McGuire

Rep. Stephen Stepanek

Rep. Randy Foose

Sen. Chuck Morse

Sen. Bob Odell

Sen. Peter Bragdon

Sen. Sylvia Larsen

Sen. Jack Barnes (Alternate)

(Convened at 3:00 p.m.)

(1) Items Tabled At the April 13, 2012 Meeting.

CHAIRMAN WEYLER: It being 3 o'clock and seeing a quorum present, we will open the Fiscal Committee Agenda. The Agenda is limited to those items which were tabled at our previous meeting because they needed some further look. Those items are 12-125, 12-135, 12-145 and I believe the replacement for that would be 12-146.

So we'll begin with Fiscal Item 12-125, Department of Justice, authorization to retain outside counsel from an out-of-state firm, and we'll recognize anybody from the Department of Justice that like to comment on that.

Attorney General Rice is before us and recognized. Representative McGuire for questions.

REP. MCGUIRE: Thank you.

ANN RICE, ESQ, Deputy Attorney General, Department of

Justice: Good afternoon.

REP. MCGUIRE: Hi. Before the questions I just thought I'd mention that Representative Stepanek and myself met with members of the Attorney General's Office and DES this morning and went into this in detail; and in general, we were in favor of this item. Basically, what's going on is -- basically what's going on is that, you know --

CHAIRMAN WEYLER: That's more sensitive than ever. Why don't we ask Michael Wimsatt from the DES to join the Attorney General at the table since he was also present and is an important person in this subject.

REP. MCGUIRE: So there's quite a few --

CHAIRMAN WEYLER: The off switch doesn't work anyway. See if you can turn that down.

SEN. PRESIDENT BRAGDON: It's off.

CHAIRMAN WEYLER: Did it go off? Thank you.

REP. MCGUIRE: So there's quite a few large oil companies that have gas stations in New Hampshire and have -- and there's a fund of one and a half cents a gallon that's being collected all the time for when gasoline is imported into the state that's used to fix problems from leaking tanks. Those problems have largely -- the list of leaky tanks is largely static because newer tanks are much better than the older ones. But the amount of money that's in this fund, which is roughly \$11.4 million per year, is being spent over a long period of time to clean-up existing problems. It's expected that in 10 to 20 years the entire list will be depleted and that can go -- get smaller.

And so what's happened is the fund is considered to be secondary insurance. So that if the company has primary insurance to cover leaky tanks that should cover it first and then only then would the fund be used secondarily. And

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so the assertion here is that for some of these large oil companies they had internal insurance that should have covered those cases; and yet, they took money out of the fund. And so this is to recover that. And they have already have settled with Exxon, in particular, for \$2 million. So Exxon has already paid the State \$2 million and they're completely settled. So these cases would be companies other than Exxon.

CHAIRMAN WEYLER: So we have \$2 million that has come in from Exxon at this point or --

MR. WIMSATT: That's correct.

CHAIRMAN WEYLER: -- as promised that's gone into the fund?

MR. WIMSATT: That's correct.

REP. MCGUIRE: Correct.

CHAIRMAN WEYLER: When did this occur?

MR. WIMSATT: I don't know exact date, but it was at least two or three years ago.

CHAIRMAN WEYLER: Okay. So there is -- so you're comfortable that there is some reasoning to believe that there might be other companies that did similar actions that might be some money we could recover.

REP. STEPANEK: Mr. Chairman.

CHAIRMAN WEYLER: Let me complete the question here.

MR. WIMSATT: Yes, sir. That's correct.

CHAIRMAN WEYLER: Recognize Representative Stepanek.

REP. STEPANEK: Thank you, Mr. Chairman. We heard

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testimony from the AG's Office this morning that if the suit goes forward there are approximately 10 to 15 companies that will be involved in the suit and that the aggregate amount would be something on or approaching \$20 million.

CHAIRMAN WEYLER: And that result, of course, would be that it would all go into the fund. Either the ODD Fund or the GREE Fund. But if that fund exceeded \$10 million under statute, then we would not charge the one and a half cent a gallon on the gasoline. So there'd be some savings, hopefully, to the people of New Hampshire if that money was put in; but it's probably going to come in in small amounts.

MR. WIMSATT: That's correct, depending upon what schedule it came in on. If under the statute, if the fund does hit the \$10 million cap, then we cease collecting for a period of time that fee, that import fee on motor fuels.

CHAIRMAN WEYLER: Thank you. All right. Further from Representative McGuire?

REP. MCGUIRE: Thank you very much. Yes, there's just a couple of things where we heard something this morning that was slightly different than what's in this answer to questions by Attorney General Rice. So I'd like to clear those up.

First of all, on the very last, at the bottom of the last page on number nine, which companies are targeted. There's a list there of nine companies; Chevron, Conoco, et cetera, and one of those is Exxon which is already taken care of so really there's only eight on this list, and we had heard the number ten to fifteen. So is eight the right number?

MS. RICE: We don't know exactly how many companies have done this and that will take some investigation. The companies that were identified were information that was

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provided by the Attorney National Group in terms of where the companies they thought would likely have some sort of a recover -- owe some recovery to the fund. But that's not necessarily a definitive list. That's only an estimate of the companies that we would be looking at. We -- we can't say for sure until that investigation is fully completed and that's why we need to have the ANG involved.

REP. MCGUIRE: Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: So -- but you said here these are -- these eight companies are ones that have received money from our fund.

MS. RICE: That's correct.

REP. MCGUIRE: So, presumably, those are the ones we could sue to say you shouldn't have taken money from us; right? So are there others that have received money from us?

MS. RICE: There may be.

REP. MCGUIRE: Oh, there may be.

MS. RICE: There may be others that have received money and had other insurance. Those are ones that have been identified already as having insurance.

REP. MCGUIRE: Okay. Thank you. And one more follow-up. On number -- question number two here, you said that you would pay the outside counsel 25% recovery. We heard this morning that that's a negotiated item and it may be up to a third; is that correct?

MS. RICE: Hum -- that's -- the 33% is about standard. Their draft agreement identified a 25%.

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REP. MCGUIRE: All right. Thank you.

REP. RODESCHIN: While he's busy, I want to thank you very much for answering all those questions I gave you the last time you came.

MS. RICE: You're welcome.

REP. RODESCHIN: Thank you.

CHAIRMAN WEYLER: Okay. Further questions? I would need a motion to take 12-125 off the table.

** SEN. PRESIDENT BRAGDON: So moved.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Representative Foose to take the item off the table. Seeing that's a non-debatable item, all in favor say aye? All opposed no? The item is taken off the table.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Okay. Now we got a little premature in the discussion, but is there any further discussion on Item 12-125? Representative Stepanek.

** REP. STEPANEK: I'll move to approve the item.

SEN. PRESIDENT BRAGDON: Second.

CHAIRMAN WEYLER: Move to approve by Representative Stepanek, seconded by Senator Bragdon. Further discussion? Seeing none; are you ready for the question? All those in favor say aye? Opposed no? The motion -- the motion passes and the item is adopted. Thank you both very much for coming.

MS. RICE: Thank you very much.

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*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Okay. The next item on the table is 12-135. I believe that has been withdrawn from the information that the LBA has given me. That item is withdrawn?

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: You do have a letter from the Department of Health and Human Services dated April 17th asking that that item be withdrawn at their request.

CHAIRMAN WEYLER: Okay. The item is withdrawn. So we will not -- do we need to take it off the table to withdraw it?

MR. PATTISON: I'm not a parliamentarian.

SEN. PRESIDENT BRAGDON: Probably.

MR. PATTISON: Probably should be.

CHAIRMAN WEYLER: Let's take it off the table then.

** SEN. PRESIDENT BRAGDON: So moved.

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Senator Bragdon moves to take it off the table. Representative McGuire seconds to remove the item from table. All in favor aye? All opposed no? The item is removed from the table and is withdrawn. So that is disposed of.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: The next item that's on the table is 12-145. I'll entertain a motion to remove that from the table.

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** SEN. MORSE: So moved.

SEN. PRESIDENT BRAGDON: Second.

CHAIRMAN WEYLER: Motion by Senator Morse, second by Senator Bragdon, to remove 12-145 from the table and I believe that will be replaced. So we'll invite the Chief Justice Dalianis and probably Don Goodnow or --

REP. MCGUIRE: Have to vote. Aye.

CHAIRMAN WEYLER: All right. All in favor say aye? Opposed no? It is removed from the table.

*** **{MOTION ADOPTED}**

CHAIRMAN WEYLER: We'll recognize Chief Justice Dalianis and Dale Trombley for discussion.

HON. LINDA DALIANIS, Chief Justice, New Hampshire Supreme Court: Good afternoon, Mr. Chair.

CHAIRMAN WEYLER: Madam Chief Justice, good afternoon. Welcome to the Fiscal Committee.

CHIEF JUSTICE DALIANIS: Thank you very much, Members of the Committee. Thank you all for the opportunity to come here and speak with you today.

With me, as you already know, is Dale Trombley, our outgoing Fiscal Manager, about which we are very disappointed but nonetheless; and I have as well Don Goodnow, Director of the AOC, with me, and Chief Justice Tina Nadeau of the Superior Court, and Administrative Judge Ed Kelly of the Circuit Court, if any of you have any questions for any of them.

I think you probably are all familiar with the background. Last year, we came in and we proposed --

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CHAIRMAN WEYLER: Before we proceed, would you like to replace Item 12-145 with Item 12-146?

CHIEF JUSTICE DALIANIS: I'm sorry, sir. Yes, I would.

CHAIRMAN WEYLER: Okay. We'll entertain a motion from the Committee to accomplish that.

** SEN. PRESIDENT BRAGDON: Move the item.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Representative Foose, to replace Item 12-145 with Item 12-146. So the Committee will now look at Item 12-146. Thank you.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Please proceed, Chief Justice.

CHIEF JUSTICE DALIANIS: Last year in Note 11, you folks trusted us to undertake some serious reforms of the Judicial Branch. And with that in mind, you gave us permission to come back here at this time to request additional FY13 funding. This is what we're here to do.

We have met the conditions you've set for us. We've given you all quarterly reports concerning the progress of the Innovation Commission. We have successfully implemented those recommendations to the extent feasible thus far. You wanted us to reduce our non-judicial staff count to below 500. Today, it stands at 473, and we are continuing to implement the recommendations of the Innovation Commission.

Last year, we estimated that our supplemental need for FY13 would be \$3.7 million. As you know, because you just dealt with it, you had tabled our request back on April 13th. And because of suggestions that were made by

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Senator Morse, the Governor's budget folks, and LBA, we began to look into the possibility of capitalizing software for the e-Court Project. We have done that.

And so on the operating side we are requesting from you today 1.4 million, which would be primarily used to restore services that were previously cut; that is, jury trials and Superior Court judgeships. It will also be used to increase Call Center staffing and some ancillary expenses related to that because it has been wildly successful and, in fact, we have underestimated the number of calls to be handled by the Call Center each day so that we expect to need additional staff. But, of course, that gives back precious hours to the trial courts to process cases.

The Capital Budget request is the other part of our original request. It's basically the same dollars, although Dale can be much more specific about it than I. And we have been working with Representative Chandler and Senator Boutin, as well as the Governor's Office and the State Treasurer, concerning the bonding capacity to see whether or not this is something that is feasible. If it turns out that that is not feasible, then we would like permission to come back to this Committee to look for additional operating funds. And before I turnover to Dale, I should point out to you that \$2.7 million in our FY13 benefit savings are accounted for in our request. We expect to lapse \$5.5 million in FY12. We expect an additional lapse in FY13. So that with the approval of our request, expenditures total will still be less than what was originally anticipated for the biennium. And so if you'd like Dale to take you through the request, this would probably be the time to do it.

CHAIRMAN WEYLER: Thank you very much. I'll recognize Ms. Trombley.

DALE TROMBLEY, Fiscal Manager, Administrative Office of the Courts: Thank you. On Attachment A, our first

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priority is to add staffing to the Call Center at 45 Chenell Drive. This would enable the Superior Court to begin to roll out the Call Center.

The second line is for additional staff for the Circuit Court. They originally estimated that they would have 2,000 calls a day, and now that they are more than halfway through the process, the number of calls is going to be more like 2600 or 2700 calls per day. So it's going to require additional staffing so that they can continue to roll out throughout the whole state.

The Call Center licenses will enable us to get additional licenses for the software that is needed to have the Call Center setup for these additional people, and also the physical workstations for them to sit at. They will be housed in the same area as the existing Call Center staff.

The additional long distance telephone charges is resulting because we retained all of the original court phone numbers, the public phone numbers for each court. So that it's transparent for the users of the court when they call that same number they're actually -- the call is being forwarded to Concord, and we are paying the long distance charge for that. And that will continue until Voice Over IP is rolled out statewide. And we have expressed our desire to roll out Voice Over IP as soon as the Telecommunications Department is able to do that.

The New Hampshire -- Number two. The New Hampshire e-Court server and server software is resulting from a continual update of our New Hampshire e-Court Project. And there is a need for servers for \$40,000 and server software for \$100,000 that is considered operating cost, not capital cost. That was not included in our budget request.

Number three would enable us to -- to restore jury trials to the level that we had so that they could be -- juries could be brought in throughout the year. Right now we are at about eight months of jury trials.

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Number four is -- would provide funding so that two Superior Court judgeships could be filled and this would be sufficient funds to enable an appointment and a start date for March 1st of 2013. This was revised from our earlier request where we were looking for funds for judges to start as early as September 1st.

Directly below that is support staff, court monitors, and court assistants to support those additional judgeships. Also starting on March 1st.

Item number five is funds sufficient to convert a part-time position in our Domestic Violence Registry. The courts -- Circuit Courts throughout the state take temporary restraining orders in domestic issues and fax those to a central location that is at the Trial Court Center, and the workload is sufficient to justify two full-time people. One individual keys the information firsthand and then we're required, because it's going into a national database, to have a second set of eyes to validate the data. So this would enable a 20-hour position to go to 37 and a half hours and provide benefits.

The part-time accounting position, item number six, is in the Administrative Office of the Courts. We have been struggling to stay current with many of our allocation functions and reconciliations. So that is also very much needed on a part-time basis.

Item number seven, the additional security days. When the Nashua Court moved from the Walnut Street Oval to the Spring Street location in Nashua that made more courtrooms available. So there was a need to increase because they're having more sessions. In that particular location there was a need for additional court security officers. So that's what the 53,825 represents.

The total amount that we're looking for in our request for the operating budget for FY13 is 1,397,141. Are there

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any questions from the Committee at this point?

REP. RODESCHIN: Would you repeat that number?

MS. TROMBLEY: One million, three hundred and ninety-seven dollars --

REP. RODESCHIN: I got it.

MS. TROMBLEY: -- and 141.

CHAIRMAN WEYLER: I have a question. Because the Superior Court judgeships would be -- would require legislation, and the legislation is not currently before us or in either body, I'm reluctant to make a move at this Committee to fund something that isn't legally before us. The jury trial sessions, are they dependent upon having those two new judges?

MS. TROMBLEY: No, they are not.

CHAIRMAN WEYLER: Are any of these other things, the security, the accounting, are any of these other positions requested relying upon having the two new judges?

MS. TROMBLEY: Just the support staff that's also in item number four.

CHAIRMAN WEYLER: Just the ones in item four.

MS. TROMBLEY: Correct.

CHAIRMAN WEYLER: Is item four unrelated to items one through seven -- the rest of the items one through seven?

MS. TROMBLEY: It is.

CHAIRMAN WEYLER: Thank you. I would like to --

** REP. STEPANEK: I would make a motion at this time.

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CHAIRMAN WEYLER: Representative Stepanek is recognized.

REP. STEPANEK: Mr. Chairman, I would make a motion to amend the request by reducing by the amount of \$189,520. I haven't finished my math on what the new number will be.

CHAIRMAN WEYLER: That's what I get. Okay. I haven't deducted it yet though.

REP. STEPANEK: No.

CHAIRMAN WEYLER: Senator Morse.

SEN. MORSE: Can the Chief Justice explain where we are legally with those two positions so we can understand?

CHIEF JUSTICE DALIANIS: During this biennium as part of the budget process, the Legislature capped the number of Superior Court judges in the seats at 18. We are authorized for 22 total, and we struggle mightily to try to keep current because people keep retiring and we weren't current to begin with. So this request is an effort to start moving back to the 22 total number.

I understand that there's no current legislation. Our legal counsel, who is in Washington D.C. today and who could better speak to the question, has been trying to identify legislative vehicles by which this could be accomplished if the Committee were inclined to authorize the funds; but I cannot specifically give you any information.

REP. STEPANEK: If I could finish my motion, Mr. Chairman? The new number --

CHAIRMAN WEYLER: Representative Stepanek.

REP. STEPANEK: The new number would read \$1,207,621,

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and I'll speak to my motion.

CHAIRMAN WEYLER: Motion to approve 1,207,621. Is there a second?

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Second by Representative McGuire. Motion by Representative Stepanek. Further discussion? Representative Stepanek.

REP. STEPANEK: Yes, Mr. Chairman. I looked at this and where these two positions and the support staff is not anticipated to be brought on-line until on or around March 1st, and where Fiscal will have numerous meetings between now and then, I think it only appropriate that we approve what they're requesting that they need now and moving forward we will have ample opportunity as we get closer to the date and have properly identified how we're going to legally setup these judgeships that we can approve it at a later date in even November or December time frame. There will be ample time to fund it prior to the appointments. So it would in no way would affect the appointments or the timing of the appointments, and I think that would be an appropriate way at this point in time.

CHAIRMAN WEYLER: Thank you. Motion before us for the 1,207,621. Senator Morse.

SEN. MORSE: I guess Howie hasn't talked to me about putting in legislation. Did he talk to you?

CHAIRMAN WEYLER: No, he has not.

SEN. MORSE: So --

CHIEF JUSTICE DALIANIS: I don't have anymore specifics, Senator. I'm sorry, I wish I did.

SEN. MORSE: 'Cause you're going to do it at Fiscal at

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that point in time wouldn't seem to make any sense.

CHAIRMAN WEYLER: Unless we had something before us in the Legislature, one body or the other.

CHIEF JUSTICE DALIANIS: Howard informs me through Don that he has been working with somebody. Do we know anything more specific?

DONALD GOODNOW, Director, Administrative Office of the Courts: I do not.

CHIEF JUSTICE DALIANIS: I'm sorry.

CHAIRMAN WEYLER: Well, we will have time if something happens before we recess.

SEN. MORSE: We have got two weeks.

REP. STEPANEK: Again, I think it's, you know, ill-advised to appropriate money if we don't have --

CHAIRMAN WEYLER: Right.

REP. STEPANEK: -- positions that are legally fillable.

SEN. MORSE: I would agree with you there. I just didn't know if anybody was working on anything.

CHIEF JUSTICE DALIANIS: When Howard comes back, may I have him get in touch with you next week?

CHAIRMAN WEYLER: Please. 'Cause I don't remember him mentioning anything about where he was going to attach it or anything like that.

CHIEF JUSTICE DALIANIS: No, that's fine. And I agree with what Representative Stepanek says.

CHAIRMAN WEYLER: How about you?

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SEN. PRESIDENT BRAGDON: Not that I recall, but there is a lot going on and I do tend to forget things.

SEN. MORSE: Me, too.

CHAIRMAN WEYLER: As do we all. Further discussion on the motion? Seeing none; are you ready for the question? All those --

SEN. LARSEN: Just a quick question.

CHAIRMAN WEYLER: Senator Larsen.

SEN. LARSEN: Just to clarify. So the lapse is 5.5 million and your total request, including the judicial appropriation of judgeships, which aren't necessarily in this motion now, but that your total is 393 million -- 3,093,799 --

CHIEF JUSTICE DALIANIS: Yes, Senator.

SEN. LARSEN: -- less that amount that we're not approving.

CHIEF JUSTICE DALIANIS: Yes.

SEN. LARSEN: So there's a lapse still of two million.

CHIEF JUSTICE DALIANIS: We've managed our budget rather closely and we're, in fact, in my conceptualizing, we are giving you money back.

SEN. MORSE: I'd like to know if the Governor's Office agrees with you.

SEN. LARSEN: I just wanted to point that out. I applaud you for that.

CHIEF JUSTICE DALIANIS: Thank you.

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SEN. LARSEN: 'Cause I know there is a wait list and all kinds of delays.

SEN. MORSE: I don't think -- well, I'd love to know what John is reporting on that.

CHAIRMAN WEYLER: Thank you very much. Any further discussion?

REP. MCGUIRE: Yeah. On that particular issue, lapses are often -- there's a required lapse as part of the budget. Do you know how this five and a half million compares to the required lapse for the Judicial?

MS. TROMBLEY: I don't have the percentage that was built into the State Budget for an estimate. I simply know that at 7.2% of our budget this is far greater than any of -- any Judicial Branch lapse in recent history.

REP. MCGUIRE: I think they're usually 2 or 3%?

CHAIRMAN WEYLER: We have the expert right here. We'll ask the Legislative Budget Assistant, Mr. Pattison.

MR. PATTISON: 3.33.

CHAIRMAN WEYLER: Yes. There's the answer, 3.33. You have exceeded it. Thank you very much.

SEN. MORSE: Well, the Governor said he's coming up short, so. Good job.

REP. MCGUIRE: So we're just voting on Representative Stepanek's motion?

CHAIRMAN WEYLER: The motion before us is to approve 1,207,621 as described in Items 1, 2, 3, 5, 6 and 7.

REP. STEPANEK: No, no, no. The motion is to amend --

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CHAIRMAN WEYLER: To amend.

REP. STEPANEK: -- the request to the one million, two hundred and seven thousand --

CHAIRMAN WEYLER: Six twenty-one.

REP. STEPANEK: -- six twenty-one. So that's an Amendment. So we are voting on the Amendment and then we'll vote as amended.

CHAIRMAN WEYLER: So, in reality, we are approving Items 1, 2, 4, 5, 6 and 7.

REP. MCGUIRE: Not quite yet.

REP. STEPANEK: Not yet.

SEN. PRESIDENT BRAGDON: The Amendment is to take out Item 4 basically and then we vote on approving what's left.

CHAIRMAN WEYLER: As long as we are in agreement on something. All right. Further discussion? Seeing none, are you ready for the question?

All in favor say aye? Opposed no? The motion is adopted. Thank you for the money you saved.

***** {MOTION ADOPTED}**

REP. STEPANEK: Mr. Chair.

CHAIRMAN WEYLER: Not the motion is adopted. The Amendment is adopted.

****** REP. STEPANEK: I will now make the motion to approve as amended.

CHAIRMAN WEYLER: Motion to approve as amended by Representative Stepanek. Seconded by?

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SEN. PRESIDENT BRAGDON: I'll second. It's already been moved but that's all right.

CHAIRMAN WEYLER: Senator Bragdon. Further discussion?

REP. MCGUIRE: Yes.

CHAIRMAN WEYLER: Representative McGuire.

REP. MCGUIRE: So I would like to ask questions about the software items here, including on the capital side.

CHAIRMAN WEYLER: Okay.

CHIEF JUSTICE DALIANIS: Yes, sir.

REP. MCGUIRE: First of all, is item number two, the 140,000, connected to those 8 or 9 or is it separate?

CHIEF JUSTICE DALIANIS: It's separate.

REP. MCGUIRE: Can you explain that in more detail?

MS. TROMBLEY: The e-Court servers and server software are needed for the e-Court Project. However, they are determined to be operating costs. Down below in the Capital Funds section that is the amount that we're requesting in the Capital Budget to specifically purchase software for different modules to allow the e-Court Project to operate.

CHIEF JUSTICE DALIANIS: I think of it as the plumbing of the e-Court Project. All of the software is the upfront infrastructure that will allow us to digitize and connect the entire Branch. And it makes greater sense, our IT experts tell me to do it this way than to just head down some little tunnel and then later on try to connect additional bells and whistles at the outset -- outer side of the project.

CHAIRMAN WEYLER: I think Mr. Goodnow has something to

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offer.

MR. GOODNOW: Mr. Chairman, I raised exactly this issue with Peter Croteau, our Chief Technology Officer. He's not able to be here today, and we discussed it at some length. The \$140,000 for server and server software is better characterized as a recurring cost and more appropriate to the Operating Budget than to the Capital Budget. It was put there intentionally for that reason.

CHAIRMAN WEYLER: Thank you.

REP. MCGUIRE: May I?

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: So I guess that wasn't quite my question. My question was if those Capital Funds were never approved, does that mean the 140 would not be spent? Because one is servers and the other is software that runs on that server. Does that make sense?

CHIEF JUSTICE DALIANIS: It makes sense and I can't answer the question.

MR. GOODNOW: I think it's true to the extent if the e-Court Project stopped, that's correct. We would not need the \$140,000. But everybody in the Court System or at least the leadership is working night and day to make e-Court a reality. Make it difficult for us to conceive that this not be going forward.

REP. MCGUIRE: And then one more.

CHAIRMAN WEYLER: One more.

REP. MCGUIRE: So let's talk about the software items. One thing we're very concerned about, because we've been burned so many times, is paying or borrowing money upfront for software that later gets delayed and not used and, you

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know, blah-blah-blah. And, you know, we could name projects where that's happened. So in the case of jury management, for example, have you -- have we selected a particular software that's been working, that we know other states are using or the Feds are using or something so that we have high confidence it will work for us. And the same thing with the other -- the other piece, I guess, is maybe more specific to New Hampshire.

HON. TINA NADEAU, Chief Justice, New Hampshire Superior Court: I'll take a stab at it.

CHAIRMAN WEYLER: I think Chief Justice Nadeau wants to answer that question.

JUDGE NADEAU: Thank you. I'll take a stab at it and if Mr. Goodnow could support me that would be helpful, too.

Basically, our jury software is so old it is being used with spit and duck tape basically right now. We don't have a vendor in mind as we stand here, but we have a working group that is putting together an RFP. And my charge to the working group, and I've participated in it, is to let's think really bold. Let's make this as efficient as possible. Let's put in some requirements and specifications that will allow us to automate the system, to centralize the system so we don't have one person in each County dealing with juries, and to make it much more efficient. And so we are in the process of putting together an RFP and it's not gone out yet. And, Mr. Goodnow, you have anything else I left out?

MR. GOODNOW: I would only confirm Chief Justice Nadeau that the Chief's leadership has been critical to this project. It is easy to automate what you are already doing. And what Chief Justice Nadeau has done is to challenge her clerks, her users, to be bold about it and to retool their business process before we go out to bid so that we are buying a product that will not be cutting edge, but would allow us to accomplish significant efficiencies.

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I know that they had an all afternoon session today in which they talked about the business process and how they could streamline it. I was not at that; but as I say, I do know the Chief Justice Nadeau's directive was to be bold and I'm sure that her clerks have that message.

CHAIRMAN WEYLER: Thank you. Senator Morse and then Representative Stepanek.

SEN. MORSE: I think really the true question today is -- I mean, number one, we're approving an amount of money that we basically told them to go out and capitalize it. The Capital Committee's come back and say that they don't want to bond that portion of it, which I think you'll hear a debate from the Capital Committee. 'Cause then they're going to be back here asking for --

CHIEF JUSTICE DALIANIS: Anyway.

SEN. MORSE: -- operating money. That's what's going to happen. It changed a little bit, but I think that's because of some items you already paid for. But I mean -- and you decided to capitalize them. But it was 2.8 last month or two weeks ago, and now it's 3 million the total numbers. So I really think these numbers should be debated in the Capital Committee; and then if they don't work it out, they have to come back to Fiscal. So we're here today to approve that one point, whatever you reduced it to. I don't remember the number.

CHAIRMAN WEYLER: Your impatience is over discussing something that's to be put off.

SEN. MORSE: I'm tired and I'd like to go back to the nursery.

CHAIRMAN WEYLER: Everything's growing. Okay, Representative Stepanek.

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REP. STEPANEK: Thank you, and I'll make this brief so that Senator Morse can go back to the nursery. And again, this is -- this is just my concern because, you know, I was involved with the tail end of our financial software program which was a fiasco as far as I'm concerned, and I don't want to see it repeated. And that is, is that we went out and designed our own system when there were platforms out there that other states were very successfully using. But we were going to be bold and we were going to be daring, and we ended up spending way more money. And we had consultants, who were overseeing consultants, who were overseeing the vendor and that's not an exaggeration. And we were behind three, four, five years on that system that's just now on-line.

So I applaud what you're doing, but I don't want to reinvent the wheel. If there's something out there that's successful that needs to be modified for the nuances of New Hampshire, great. Don't go out and reinvent the wheel.

JUDGE NADEAU: I completely agree with you. I'm hopeful that there's some product out there that matches our vision.

REP. STEPANEK: Final follow-up. If you haven't picked a vendor, how do you know what the cost is?

MS. TROMBLEY: I can answer that. We had \$206,000 appropriated in this current Fiscal Year. That was based on an earlier estimate with a lease model. What this \$500,000 is based on is Vermont's most recent experience with the purchase of their jury management system. They spent just under 400,000. We're a bit larger so we've requested 500,000. Certainly, anything that we don't spend on the purchase will lapse.

REP. STEPANEK: Follow-up.

CHAIRMAN WEYLER: Follow-up.

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REP. STEPANEK: So what happened to the \$260,000?

MS. TROMBLEY: It is lapsing in FY12.

REP. STEPANEK: Okay.

MS. TROMBLEY: It's part of the 5.5 million. We could not bring it forward because we're not at the stage of our requirements development where we could actually obligate or commit a vendor.

REP. STEPANEK: Excellent. Thank you.

CHAIRMAN WEYLER: Further questions? Seeing none; are you are you ready for the question?

All in favor of the motion as amended say aye?
Opposed no? The motion is adopted, 1,207,621. Thank you very much for all your help and all your work.

*** {MOTION ADOPTED}

CHIEF JUSTICE DALIANIS: Thank you. You, too, Members of the Committee.

CHAIRMAN WEYLER: See you again probably next week.

CHIEF JUSTICE DALIANIS: Tuesday afternoon.

CHAIRMAN WEYLER: Tuesday afternoon. Thank you very much.

CHIEF JUSTICE DALIANIS: Thank you.

CHAIRMAN WEYLER: Move to adjourn? Senator Morse moves to adjourn. Is there a second?

SEN. BARNES: Yes.

CHAIRMAN WEYLER: Senator Barnes seconds. Our next

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meeting will be in May.

MR. PATTISON: 18.

CHAIRMAN WEYLER: 18. All in favor of adjournment say aye? Opposed no? We are adjourned.

***** {MOTION ADOPTED}**

(Adjourned at 3:40 p.m.)

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CERTIFICATION

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

Cecelia A. Trask

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