

**JOINT LEGISLATIVE FISCAL COMMITTEE**

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, January 13, 2017

**MEMBERS OF COMMITTEE:**

Rep. Neal Kurk, Chair

Rep. Ken Weyler

Rep. Lynne Ober

Rep. Cindy Rosenwald (Alt.)

Rep. Daniel Eaton

Sen. Gary Daniels

Sen. President Chuck Morse

Sen. Lou D'Allesandro

Sen. Andy Sanborn

Sen. John Reagan

(Meeting convened at 10:02 a.m.)

**(1) Acceptance of Minutes of the November 18, 2016, and  
December 21, 2016 meetings**

NEAL KURK, State Representative, Hillsborough County,  
District #02, and Chairman: Good morning, everyone. Welcome to  
the Friday the 13<sup>th</sup> meeting of the Fiscal Committee. Let's start  
off with Tab 1, acceptance of the minutes. Do I have a motion?

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

CHAIRMAN KURK: Moved by Representative Eaton, seconded by  
Senator Daniels that we approve the minutes of November 18<sup>th</sup> and  
December 21<sup>st</sup>, 2016. Discussion? There being none, are you ready  
for the question? All those in favor, please indicate by saying  
aye? Opposed? The ayes have it and the minutes are approved.

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

LYNNE OBER, State Representative, Hillsborough County,  
District #37: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I abstain as I was not here.

CHAIRMAN KURK: I'm sure the record will note that. Thank you.

(2) Old Business:

CONSENT CALENDAR

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

CHAIRMAN KURK: There being no Old Business, we turn to Tab 3, transfers authorized under RSA 9:16-a. This is Fiscal 17-007, request from the Department of Revenue Administration for authorization to transfer \$96,419 in General Funds in and among accounting units and classes through June 30, 2017.

\*\* LOU D'ALLESANDRO, State Senator, Senate District #20: Move the item.

CHAIRMAN KURK: Senator D'Allesandro moves.

REP. EATON: Second.

CHAIRMAN KURK: Representative Ober seconds that the item be approved. Discussion? Questions? Senator Sanborn.

ANDY SANBORN, State Senator, Senate District #09: Thank you, Mr. Chairman. If I can back up a little bit. Since I'm not clear about the Ethics Committee's new guidelines, I feel compelled there could be policy discussions that are being discussed today that I may or may not have a conflict with. Even though I don't have a conflict, I am declaring I may or may not have a conflict based upon our new ethics rules what I was told to participate in and like that to be part of the record, and I'd like that to be in consideration for all of the tabs. Thank you.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: For the entire day, the entire calendar?

SEN. SANBORN: Yes.

CHAIRMAN KURK: Thank you, Senator. Senator Daniels.

GARY DANIELS, State Senator, Senate District #11: Thank you. I do have one question for the Department, please.

CHAIRMAN KURK: Is there someone from Revenue Administration? Good morning, Commissioner.

JOHN BEARDMORE, Commissioner, Department of Revenue Administration: Good morning.

SEN. DANIELS: Good morning. Thank you.

MR. BEARDMORE: Good morning.

SEN. DANIELS: Just one statement. It appears it was indicated that the upgrade would improve the efficiency and enhance the functionability -- functionality of the current system. Could you explain a little bit in detail how that's going to improve the efficiency? What benefit this is going to bring to the State?

MR. BEARDMORE: Sure, be happy to, Senator Daniels. John Beardmore, Commissioner of Revenue.

What we are attempting to do here is enter into a contract with an entity called Fairfax Imaging. Fairfax Imaging provides the software that accomplishes the scanning of all of our tax documents. We procured that software in 2011 for about \$1.8 million, and we pay about \$125,000 a year as an ongoing support maintenance from this entity. We have version three of the software. We missed version four and now version five is out. What we are attempting to do is pay for services to upgrade the software.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

As is typical in the software industry, the software is free because we've bought it and we pay for ongoing maintenance and support; but the services to implement the software is not free and so that's what this is for.

How it will improve efficiency is it's a totally re-designed software solution. I am not the most technical guy in the building, but DoIT is really interested in doing this upgrade because it will be much easier to support on a day-to-day basis. It gets rid of a system that's called Tokens, Token Ring System. IT folks may be familiar with that. I'm not. It gets away from that. So it's an easier to support, less likely to have corrupted files in certificates, whatever those are. That's another benefit I'm told. So that's what we are trying to do. The timing on this is important to us because another instigating factor, which is not noted in the letter, is that software vendors for integrated tax systems of which we are hoping to procure one with the Legislature and Governor's blessing in some time have suggested that we ought to be at the most up-to-date version if we are going to do a new system implementation because a new system would dovetail with this software. They work together.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Even though the Commissioner is not the most technical person, he was able to give the buzz words that clearly make it clear if you are technical that this will greatly enhance the security. And when they miss one upgrade, and he's one behind, you know how fast things changes as far as the young hackers are.

CHAIRMAN KURK: Thank you. Question, Commissioner. Does the vendor have access to any tax returns or other documents?

MR. BEARDMORE: Yes. We do have an information-sharing agreement with the vendor that when they come in and they work in our system they do have visibility into tax information.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

There are several such vendors that from time to time will have access to tax information. Every single person that has access to that information signs a robust confidentiality agreement and that's just the nature of the business.

CHAIRMAN KURK: But they don't retain copies of this somewhere else?

MR. BEARDMORE: No.

CHAIRMAN KURK: Just access to them while they are working on our system in our space.

MR. BEARDMORE: Absolutely.

CHAIRMAN KURK: Thank you.

MR. BEARDMORE: This is hosted on a server secure in the Department of Revenue Administration building. It's not an off-site hosting.

CHAIRMAN KURK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chair. So just one quickie. They change revs all the time. But under our maintenance agreement, aren't we assured that every time a rev change comes we will get it? Why do we miss one?

MR. BEARDMORE: My understanding is there's a difference between an entirely different version and ongoing software upgrades. We get ongoing software upgrades. But to switch to a new version, we effectively need to bring a new version up on a set of servers, run parallel for a while, drop a new version, the old version down. That requires some technical expertise and some personnel that we don't have. And these dollars are for -- really for the services required to help us get the system -- get the version that, yes, we have already paid but don't have the bandwidth to implement it ourselves.

SEN. D'ALLESANDRO: Thank you.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: There being no further questions, thank you, Commissioner.

MR. BEARDMORE: Thank you.

REP. WEYLER: We have a motion.

CHAIRMAN KURK: Are you ready for the question? Further discussion? There being none, all those in favor of approving the item, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN KURK: We turn now to Tab 4. These are items that exceed \$100,000 from non-State sources and require our approval. Because there are so many questions on various items that I've been informed wish to be asked, without objection we will consider this not as a single consent calendar item, but we will consider each item separately.

There being no objection, we will now turn to Fiscal 17-001, a request from Department of Health and Human Services for authorization to accept and expend \$315,295 in Federal funds to the end of this Fiscal Year. Is there a motion?

\*\* REP. EATON: So move.

CHAIRMAN KURK: Representative Eaton moves, seconded by Senator D'Allesandro that we approve the item. Is there someone from the Department who is able to answer questions?

TRISH TILLEY, Administrator, Division of Public Health Services, Department of Health and Human Services: Good morning, Chair. I'm Trish Tilley from the Division of Public Health

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

Services at the Department of Health and Human Services. Thank you.

SHERI ROCKBURN, Chief Financial Officer, Department of Health and Human Services: I'm Sheri Rockburn, finance officer for the Health and Human Services.

CHAIRMAN KURK: Good to see you both. I'll start off the questions. Are we certifying people who are currently uncertified? Are we expanding, in other words, the workforce in this area or are we simply taking existing employees who are already certified and asking them to do something else?

MS. TILLEY: Sure. So the workforce programs here does a number of different activities. So some of it is recruitment. So we are actually, as you know, that we have areas in the state, and certainly populations in the state, who have not been well served by the oral health system. So that's part of the recruitment part of this grant. And then in other ways we are supporting the -- the hygienist and others that are already certified. So it's a combination of factors. Do you need more?

CHAIRMAN KURK: No, thank you.

MS. TILLEY: Thank you.

CHAIRMAN KURK: The other question that some folks have was we were a bit mystified or I was, at least, a bit mystified as to why we're talking about water works operators in the same proposal as hygienists.

MS. TILLEY: Sure. So, overall, this grant from the CDC is looking to increase the capacity and the capacity of all of the workforce with -- that hit oral health. And so one of the innovative parts -- so typically what we have done in the past is exactly what I said. We work with dentists, we work with hygienists, and that's the work we normally do. We expanded in this grant to work with community water fluoridation folks, those specialists that work in community water fluoridation because we, as well as the CDC, want to ensure that where

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

communities that fluoridate their water do that, they do that to the best of their ability and that we have the highest quality data available to understand the fluoridation that's in those communities.

You may be aware that a number of years ago, CDC actually reduced the optimal level of fluoridation for communities that fluoridate their water. We want to make sure that those -- that testing and that the data is reported in a high-quality manner so that we can monitor that.

CHAIRMAN KURK: This is a continuing, ongoing program or not?

MS. TILLEY: It is a new FOA. It's a new funding for work that we have done in the past. The Feds just sort of tweaked it a little bit. So we have reapplied again. So it's not net new work that we're doing, it just has a slightly different focus.

CHAIRMAN KURK: Why couldn't we defer this until the budget?

MS. TILLEY: Well, the main concern that we have, and as I'm sure you've heard from lots of folks in the Department, is really around staffing. We need to have the appropriate staffing in place. We've received money. We want to be able to make sure we can do the work of the grant and so that is what is feeling critical at this moment to have the capacity to do the work that the Feds have asked us to do.

CHAIRMAN KURK: I don't understand why that wouldn't be just as true if you started this July 1<sup>st</sup> after the budget passes. The Legislature has a chance to review this.

MS. TILLEY: Sure. We have been in the process now for a number of months. We certainly know that there is -- that our community partners, especially the Community Health Centers who depend on us to do that recruitment and getting the folks on board so that they can see both the adult and sometimes child population around dental needs that are rampant, especially in

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

the rural areas of the state, they also would like it if we got on the ground running and working as quickly as possible.

CHAIRMAN KURK: And you're actually going to spend the money, the \$315,000 between now and the end of the year?

MS. TILLEY: Yes. We will do our best. We can never assure anything, but that is certainly our -- we will do our best.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. Are you going to be generating reports contrasting communities with the fluoride with communities that don't have fluoridation, not only in areas of oral health but in areas of overall health?

MS. TILLEY: So we, typically, do not use that as a comparison for overall health reports, but that certainly we have the capacity to do that if people are interested in that. We will be generating reports continually about the oral health throughout our state. We usually do an Annual Report and about every five years we do a very big report that's very comprehensive. We just did that in 2015 as well. So sometimes it's not as clear. You know, areas like Manchester that have fluoridated water and newly fluoridated water have a lot of other confounding factors in terms of poverty and access to services. So it's sometimes hard to draw a straight line between fluoridation X means this. What we really do is rely on the national studies that have said that fluoridation in the water has been the best public health investment in the past 50 years in terms of decreasing cavities, not only among children, but also thinking about our seniors in terms of something called edentulism which is essentially keeping your teeth. Areas -- people that have more access to the fluoride keep their teeth longer.

REP. WEYLER: Just as a follow-up.

CHAIRMAN KURK: Follow-up.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

REP. WEYLER: There's still people that think fluoride is poison.

MS. TILLEY: Yes.

REP. WEYLER: If someone is going to bring in a community where it has never been before, they're not just worried about oral health, they're worried about what other effects are there going to be to the health of the people in the community by bringing in fluoride if, in fact, there is some adverse effects on the rest of your health.

MS. TILLEY: Thank you. And we are well aware of the folks that have those concerns. There has never been any significant, well-defined study, certainly, that the CDC supports that puts adverse health effects with fluoride; but we understand people's concerns and that this is one of the things that I think is great about New Hampshire is that each community decides whether or not it fluoridates its water. That is decided on the local level.

As a state, we do not weigh in on that, but we figure that -- but where we do feel like we have a role is that where communities have decided to do that, we can bring the strength of some of our CDC partners and the technical support that we can have to make sure they're doing the best job possible based on the science and evidence.

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

CHAIRMAN KURK: Further questions? Thank you both.

MS. TILLEY: Thank you.

CHAIRMAN KURK: We have a motion. Is there further discussion?

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

REP. OBER: If they don't spend all the money, are they planning to -- or they don't think they are, are they planning to put this in the budget? Because by June 30<sup>th</sup> we will be out of this year. We will be in the new budget cycle. You have this now. This should be in the budget if it's not going to be expended.

MS. ROCKBURN: I can speak to that. So any balance that we do not spend, we can absolutely get into the '18 budget. We already have placeholders in our '19 budget because this grant is multi-years, and we already included all of that in our operating budget estimate for '18 and '19.

REP. OBER: Thank you, Sheri.

CHAIRMAN KURK: Thank you again.

MS. TILLEY: Thank you.

CHAIRMAN KURK: Discussion? Questions? The motion is to approve the item. Are you ready for the question? If you're in favor of the motion, please now indicate by saying aye? Opposed? The ayes have it, and the item is approved.

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

CHAIRMAN KURK: We turn now to Fiscal 17-009, a request from the Department of Environmental Services for authorization to accept and expend \$900,000 in Federal pass-through funds through June 30<sup>th</sup> of 2017. Is there a motion?

**\*\*** REP. ROSENWALD: Move approval.

CHAIRMAN KURK: Representative Rosenwald moves, seconded by Senator Daniels that we approve the item. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Fiscal 17-012, a request from the Department of Justice for authorization to accept and expend \$284,747 in federal funds through June 30<sup>th</sup>, 2017. Is there a motion?

\*\* REP. EATON: Move.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Senator D'Allesandro. Discussion? Questions? This is 12.

REP. WEYLER: Autopsies.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: We got some information from Mr. Kane last night, and it appears that this proposal plans to establish a budget of a full-time position in the budget for which there are not enough funds. And it seems to me this should be tabled until we get the budget to see what's actually in it, rather than face a budget item that says, well, Fiscal approved this, so we need X number of dollars and we don't know how many dollars from this proposal they will need to continue to fund the position.

REP. EATON: Could we hear from General Foster, please?

CHAIRMAN KURK: Is the Attorney General or someone from his office here?

JOSEPH FOSTER, Attorney General, Office of Attorney General, Department of Justice: Thank you, Mr. Chairman. For the record, Attorney General Foster and with me is Kathy Carr.

CHAIRMAN KURK: Good morning, and welcome to both of you.

ATTORNEY GENERAL FOSTER: Good morning.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Representative Ober has a question. Excuse me, Representative Eaton has --

REP. OBER: I think General Foster heard my comment and my concern. And I know that Mr. Kane did get that to him yesterday so we did have information back last night.

ATTORNEY GENERAL FOSTER: The request is to accept a grant. And if it is accepted now, we would do is contract with a medical examiner between now and the creation of the new budget. We have put in the Governor's phase of the budget a request for a position, but this does not create a position. That would have to go through the budgetary process.

REP. OBER: Further question?

ATTORNEY GENERAL FOSTER: Our hope is a position would be created and we could talk to you about why; but I think that's probably more appropriate in the budget process.

REP. OBER: Further question?

CHAIRMAN KURK: Representative Ober.

REP. OBER: Then why does this grant say that in order to utilize towards partially funding a full-time pathologist. So the grant does speak about creating the position and having it only partially funded which is what led to the questions is what somebody over there wrote to us.

KATHLEEN CARR, Director of Administration, Office of Attorney General, Department of Justice: That was me.

REP. OBER: It doesn't say that we're going to argue this position in the budget.

ATTORNEY GENERAL FOSTER: Again, currently, if this item were to be approved, we would seek to contract with somebody on a weekly basis to assist the Medical Examiner's Office which is seriously overloaded. I could go through the numbers for you as

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

to why, but we're not asking that a position be created now. We have put that in our request to the Governor's Office as the highest priority item. We think it is really necessary, but we are not asking that that be created right now. I mean, the grant -- why don't you speak to the numbers. But, you know, the grant would help largely fund it through the whole biennium should you choose to approve a new position, but we are not asking that that happen right now.

REP. OBER: Follow-up.

CHAIRMAN KURK: Follow-up.

REP. OBER: Then why didn't this say, because I could support funding a person through the limits of the grant. Almost all federal grants come, as you know, and say should the federal funds no longer be available, we will not ask for general funds. But this one says, no, we are going to put it in the budget and ask for some general funds and that's what led to the difference. If you'd asked for full-time or part-time the limits of the funding, and then you wanted to argue with the Governor about what to put in the budget that makes a whole different story, and so I don't quite understand. Because I support your -- your idea to use the grants to hire somebody temporarily to the full limit of the money, but I don't support putting a position in the budget that is going to say, well, it's partially funded and so now we need -- do you see the difference, Joe?

ATTORNEY GENERAL FOSTER: I do. We do have that standard language if funds are no longer available we are not going to ask for General Funds, at least outside of the budget process; but perhaps the request wasn't clear enough. All we're asking right now is to accept the funds so we can use it on a contracted basis. There is no position created. You have to create a position in order for us to hire this individual as a State Employee. The person will not be a State Employee unless or until a position is created. They'll been an outside contractor to take some of the load off the Medical Examiner's Office.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

REP. OBER: Thank you for coming this morning.

ATTORNEY GENERAL FOSTER: So we can fully vet it with you.

CHAIRMAN KURK: Mr. Foster, are you asking for \$284,747 to be spent between now and June 30<sup>th</sup>?

ATTORNEY GENERAL FOSTER: It will not all be spent between now and June 30<sup>th</sup>, but that's the amount of the grant we are asking to accept and we would have to extend the usage of the grant if you don't create a position or if you do it would be used to fund that position.

CHAIRMAN KURK: Mr. Kane, would it be possible for us to accept that portion of this amount of money that the Attorney General expects to expend for the additional assistance in 2017 and leave the rest of the grant and the question of a full-time or part-time position for the budget?

MICHAEL KANE, Legislative Budget Assistant, Office of Legislative Budget Assistant: You have done a similar motion in the past in other agencies. You just need the best estimate from the Attorney General's Office what they think they'll spend of that grant through the end of this year.

ATTORNEY GENERAL FOSTER: Do you know what it is? I mean, the estimate is about \$40,000. And I'm asking Miss Carr whether the grant would have to be returned if we don't expend it. I mean, that's the reason we are asking to accept it in full now.

MS. CARR: It may, it may not. I'll have to get back to you.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Procedural question of you. If we move to approve \$50,000 making sure there's enough contingency for the end of June and whether they did or did not have this conversation with the Governor about a full-time position, could

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

they not come back and ask to extend and expend the rest of the money, which is what other agencies do?

CHAIRMAN KURK: I would refer that to Mr. Kane.

REP. OBER: Okay, I will ask Mr. Kane.

MR. KANE: They could. So right now agencies can ask for the authority to expend through June 30<sup>th</sup>, 2017. On July 1<sup>st</sup> of this year, once the new biennium begins, yes, that would be an option for them to come back.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Help me understand this. For this -- this part of the year finishing '17 you're going to do it without an employee and you're going to do it on a contract basis. And why couldn't you commit to doing that to use the whole grant to do it that way?

MS. CARR: Because we are having a hard time even getting --

ATTORNEY GENERAL FOSTER: I mean, we could and that's a discussion we could have through the budget process. I think it may actually cost more to go on a weekly basis in terms of total cost to have somebody on a contracted basis. That's one concern we have, and it's not easy to hire these folks. We will have a challenge even on a full-time basis, frankly, at the current salary levels for medical examiners. We are -- they make a lot of money by anybody's standard in this room. But I will tell you that they're paid about 50 to \$100,000 less in New Hampshire than they are, for example, in Vermont and Maine serve similar states. So we are going to have a challenge hiring somebody for this. And, you know, hiring somebody on a full-time basis where they feel they have a long-term position would, I think, be easier ultimately, to achieve that goal.

CHAIRMAN KURK: Senator.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

SEN. PRESIDENT MORSE: But you haven't been here and actually served on this side of it. I mean, you're not coming before us today with the fact that we are debating hiring an employee.

ATTORNEY GENERAL FOSTER: Correct.

SEN. PRESIDENT MORSE: And somewhere along the way in the budget we are going to be debating that which we've consistently in Fiscal said we're not doing this in the spring of the year of a budget.

ATTORNEY GENERAL FOSTER: Understood.

SEN. PRESIDENT MORSE: Consistently said we are not putting new employees in if they're going to outlive the grant and be part of the next budget. Then we'll debate them in the next budget.

ATTORNEY GENERAL FOSTER: Which is why we are doing this on a contractor basis. We understand that.

CHAIRMAN KURK: If we were to accept this for 40 or \$50,000 so that you could hire a contractor for the remainder of the year, would you be able, if we were to defer this for an hour or so, determine whether or not this would affect the availability of the grant or the next budget?

MS. CARR: Yes.

ATTORNEY GENERAL FOSTER: Yes. We can do that and get back to you during the meeting.

CHAIRMAN KURK: May I have a motion to table this?  
Representative Eaton moves to table.

REP. OBER: Second.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Second by Representative Ober. All those in favor, please indicate by saying aye? Opposed? The ayes have it the item is tabled.

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

CHAIRMAN KURK: Please come back to us as soon as you can with the answer.

ATTORNEY GENERAL FOSTER: Thank you.

CHAIRMAN KURK: Thank you. Moving on to Fiscal 17-013, a request from the Department of Safety for authorization to accept and expend \$1,143,205 in other funds till June 30<sup>th</sup>, 2017. Is there a motion?

REP. EATON: I think Senator D'Allesandro did and I seconded it.

CHAIRMAN KURK: Thank you. So understood.

SEN. D'ALLESANDRO: You're very quick.

REP. EATON: I'm learning.

REP. OBER: He was still thinking about it.

CHAIRMAN KURK: Discussion or questions on the motion to accept Fiscal 17-013? Representative Weyler.

REP. WEYLER: What was lacking in this description was the number of these Intoxilyzers, whereas the second similar one has exact number. So I'm curious as to why it wasn't included, the exact number that are being purchased with this grant?

CHAIRMAN KURK: Good morning, gentlemen. Thank you for being here and your willingness to answer questions.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

STEVEN LAVOIE, Director of Administration, Department of Safety: Good morning. Steve Lavoie, Director of Administration for the Department of Safety.

TIMOTHY PIFER, Administrator IV, Division of State Police, Department of Safety: Tim Pifer, Forensic Laboratory Director, Department of Safety, State Police Crime Lab.

MR. LAVOIE: And so this item does purchase 130 new Intoxilyzers to replace our existing inventory of Intoxilyzers.

REP. WEYLER: Thank you.

CHAIRMAN KURK: But how many?

REP. WEYLER: 130.

MR. LAVOIE: 130.

CHAIRMAN KURK: Regardless of who the vendor is.

MR. PIFER: That's correct.

CHAIRMAN KURK: So even if it's priced differently, you'll still have enough to buy 130.

MR. PIFER: Correct.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I'm on Page 2 of your documentation, third paragraph. There are three forensic laboratory staff assigned to the breath alcohol section. Why do three people need 130? Are these disposable things?

MR. PIFER: Thank you for the question. The three individuals actually are responsible for the calibration, control, repair of the 130 devices that are displaced and deployed throughout the State of New Hampshire. So various police agencies, our own State Police, Department of

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

Corrections, some of the County facilities, the jails have those. So these individuals are responsible for traveling and repairing these devices that are in the field. Every six months there's a requirement to be in the field to do that.

REP. OBER: I have one other question.

CHAIRMAN KURK: Follow-up.

REP. OBER: What local police stations, police forces, whether it's Hudson, Pelham or whatever, will not get a new one?

MR. PIFER: Actually, there's -- there's a questionnaire that's required to be filled out from the local agencies based on the number of DWI arrests. So there's a Breath Machine Advisory Committee that meets to review the questionnaires and, basically, they're the ones that authorize the deployment of these devices. Obviously, the southern part of New Hampshire pretty much most towns have one. The further north you go, just due to number of arrests, maybe they would not have the availability to have one of these devices.

REP. OBER: Thank you.

MR. PIFER: You're welcome.

CHAIRMAN KURK: Further questions or discussion? Thank you, gentlemen. Are you ready for the vote on this? If you're in favor of approving item 013, please now indicate by saying aye? Opposed? The ayes have it and the item's approved.

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

CHAIRMAN KURK: Moving to 017-014, another request from the Department of Safety for authorization to accept and expend \$127,497 in pass-through funds through June 30<sup>th</sup>, 2017.

Senator D'Allesandro moves, seconded by Representative Eaton that we approve the item. Are there questions from Members

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

of the Department? Representative Ober. Gentlemen, thank you for staying with us.

REP. OBER: No, I have no question.

CHAIRMAN KURK: Oh, I'm sorry, I thought you raised your hand. No questions. Very good. Thank you, gentlemen. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it. The item is approved.

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

CHAIRMAN KURK: Fiscal 17-015, request from the Department of Safety for authorization to accept and expend \$132,410 in Other Funds through the end of this Fiscal Year. Is there a motion?

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

CHAIRMAN KURK: Senator D'Allesandro moves, Representative Eaton seconds that the item be approved. Representative Ober, I believe you had some questions on this?

REP. OBER: I don't think so.

CHAIRMAN KURK: This is the part-time.

REP. WEYLER: License system.

REP. OBER: Oh, well, I wanted --

REP. WEYLER: Part-time, full-time.

REP. OBER: Their documentation has issues. And I wanted them to explain the staffing which they put in their documentation. They said 22 part-timers in number one, and then they went on and they said we need other people. Is that this one?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Yes. The issue -- one of the concerns we had was on Page 3 of your submission, item number seven.

MR. LAVOIE: Hm-hum.

CHAIRMAN KURK: You indicate you want 16 employees at their current rate of pay.

MR. LAVOIE: Hm-hum.

CHAIRMAN KURK: For 29.5 hours per week and then six employees to 40 hours per week. And at the beginning of the submission you say that you want 22 part-time people, but you only have -- you're requesting or you're describing 16 part-time and six full-time.

MR. LAVOIE: Yes.

CHAIRMAN KURK: It looks as though the part-timers were not new people but current people who were going to be spending more money -- putting in more hours because you talk about the current rate of pay. Could you help us understand this?

MR. LAVOIE: Yes. I understand the confusion and I think I can clear it up. All of these employees are part-time employees. Part-time employees who --

CHAIRMAN KURK: These are current part-time employees?

MR. LAVOIE: Current part-time employees who don't work maximum amount of time that they -- that they could. So they work various, maybe ten hours a week, 12 hours a week, 17 hours a week. What we're asking is to increase their hours that they work to the maximum under the State policy of 29 and a half hours. And then for six of those employees to utilize a few of the waiver spots that we have at the department for part-timers to exceed that 29 and a half hour limit. They'll still maintain their part-time status because that -- the additional hours towards 40 will be in a temporary capacity. That will cease at

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

the end of the Fiscal Year. So it is still part-time employees. We are just asking to increase their hours. Existing part-time employees whose hours we are asking for an increase.

CHAIRMAN KURK: And, therefore, the benefits of \$9,410 is basically Social Security as opposed to health care or some other kind of benefit?

MR. LAVOIE: Correct.

CHAIRMAN KURK: I see.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: That really doesn't answer all the problem though. One of your questions is why wasn't this in the agency's budget request. And the answer was it was supposed to be implemented Fiscal Year 2016, which just ended.

MR. LAVOIE: Hm-hum.

REP. OBER: We are in the same biennium. We are in Fiscal Year 2017.

MR. LAVOIE: Hm-hum.

REP. OBER: You should have had the hours budgeted in '16 even if the software didn't meet the implementation date. So there's still -- you've got 22 part-timers, six of them going to full-time, 16 staying part-time, get more hours, but for a budgeted item that's in the same biennium. So it's -- what happened here, An incorrect budgeting to start with? I don't think we can blame this, I guess, on software deadlines slipping when you're in one biennium.

MR. LAVOIE: We don't have the ability to transfer our Class 50 funds between -- between biennium. So the Class 50 that was budgeted -- not between biennium, I'm sorry -- between the

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

Fiscal Years within a single biennium. So the Class 50 funds that were budgeted in '16 cannot be used in '17. We were planning to have our VISION system go live in Fiscal Year 16, and utilizing those funds then. Because of the delay, coupled with some other factors, we -- we are not appropriately budgeted for our Class 50 to ensure that wait times remain at a reasonable level since there was a delay in the system implementation date. So, unfortunately, we don't have that ability to move those Class 50 funds from Fiscal Year 16 into Fiscal Year 17.

REP. OBER: Final question.

CHAIRMAN KURK: Yes.

REP. OBER: You had budgeted in '16 to use money from the Highway Fund to do this. And now you're asking and you didn't use money from the Highway Fund. Can you verify that you didn't use money from the Highway Fund for this in '16 and now you're asking to use Highway Fund dollars now for personnel instead of repairing red bridges?

MR. LAVOIE: Yes. I mean, we did meet -- at least meet and we did exceed our lapse to the Highway Fund in '16.

REP. OBER: But you're using the money now from the Highway Fund to do this.

MR. LAVOIE: Correct.

CHAIRMAN KURK: And were you also using this money from the highway -- same amount of money for the Highway Fund was budgeted for '16?

REP. OBER: No, because the raises have gone in.

MR. LAVOIE: Correct.

REP. OBER: It's going to cost more this year.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MR. LAVOIE: We had planned for an increase in part-time hours in '16. However, because we couldn't implement the system, we are now dealing with the realities of our '17 budget and trying to make ends meet while maintaining the level of customer service that we need to maintain at the DMV.

CHAIRMAN KURK: Just so I understand. The VISION System is the Department's new computer system that affects the entire Department. It's not just connected with Real ID or some other ongoing activity.

MR. LAVOIE: It's the new driver licensing system, in particular, so DMV specific. It does include Real ID components, but it also includes all DMV functions, including financial responsibility which handles suspensions and all aspects of registrations, all of those areas.

CHAIRMAN KURK: Is it -- do you believe that this is going to be necessary to be continued in the 18-19 budget?

MR. LAVOIE: No.

CHAIRMAN KURK: This is strictly for the transition?

MR. LAVOIE: This has to do with -- really, it's a perfect storm. We have a transition to the new system which we are expecting to go live in February, toward the end of February. We are dealing with the Real ID compliant license request that started effective January 1<sup>st</sup>, which is increasing inquiries that our drivers have when they're getting their licenses renewed. And then we're trying to manage both of those -- both of those items with this increase to part-time hours and we are hoping that it will be temporary, mainly because when a new system goes on-line we have individuals who are very comfortable processing transactions under the old system. We are training them. We are bringing them up to speed, but there is a learning curve. It does take time to gain that same level of proficiency in a new system from transaction processing perspective. We're aware of that and we want to minimize the impact on our customers because

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

of these other external forces that are also applying pressure to our wait times.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. Would you explain the waiver spots and how many you have? You mention that this 40 hours for the six employees you were using waiver spots.

MR. LAVOIE: Yes. So the -- the Division of Personnel in response to the ACA requirements and limits on part-time hours, there's a certain number of positions across the state as a whole that are allowed to exceed the 29 and a half requirement. Those are -- those are monitored and reviewed by DOP, and we have Department of Safety due to the nature of our work and some of our seasonal employees have these spots available for our use. And so we are going to utilize six of those spots in this temporary situation.

REP. WEYLER: Follow-up.

CHAIRMAN KURK: Follow-up.

REP. WEYLER: So if the Affordable Care Act goes away, this is not something we have to be concerned about.

MR. LAVOIE: The waiver process itself would then not be of concern. We would still need the hours to increase for those individuals.

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

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: I'm just going to go backwards here. The -- the -- we have got several employees presented in this whole Fiscal document that we've always stood that we're going to put those into the next budget, you know, unless IT was federal funds that went away and the employee went away. And then I know 132,000 isn't a lot of money, you know, for us to

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

say we are going to approve here today out of additional revenues; but 65 million is and we are going to debate that in item 12.

So I know I negotiated the budget with the Department of Safety and we certainly added millions at the end to come to where we thought the Government needed to run. But they were coming in here and saying we need to transfer money, you know, some other way, that's one thing. This is -- this is creating additional spending and I guess I'd have to equate it to are we going to authorize 65 million in additional spending in item 12 when that comes forward? It's only '17 today, but it's, you know, we still got a whole Dashboard to deal with. This is going to come every month now. You all know it. And the reality is everybody sees the 6 million sitting in those funds and then they believe there's money sitting in other funds. Those, in my opinion, go back to the taxpayer.

REP. OBER: Yep, agreed. I agree --

CHAIRMAN KURK: Representative Ober.

REP. OBER: I agree with the Senator.

CHAIRMAN KURK: Further questions for the Department? There being none, thank you very much. Okay. Discussion on this?

\*\* SEN. PRESIDENT MORSE: Move to table.

REP. OBER: Second.

CHAIRMAN KURK: Moved and seconded we table this item. You ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is tabled. Moving on to --

REP. OBER: 16.

CHAIRMAN KURK: To Fiscal 17-016, request from the Department of Safety for authorization to accept and expend

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

\$238,312 in other funds through June 30<sup>th</sup>, '17. Is there a motion?

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

REP. EATON: Second.

CHAIRMAN KURK: Moved and seconded that the item be approved. Discussion or questions? Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. While I appreciate the program, in a very general sense I am in support of anything we do to try to make our roads safer, I remain concerned at some level about what's a bigger priority in our life today. And is a fining program or encouraging officers to go out and work DWI detail or should the money be better spent in some sort of a fight for the opioid crisis that we are having today? Can you help me justify why we shouldn't be looking to put this toward an opioid fight, which I think more people are dying from today and there's a bigger issue?

MR. LAVOIE: So this funds DWI -- DUI, driving under the influence patrols, which does include alcohol impaired driving, but also includes any substance abuse. Many of the opioid-related arrests that we make are often attached to a traffic violation. That's one way that we can -- we can identify people. So while it does have the intent of starting as a DWI related patrol, it does result in other substance abuse related activity. And I can, if I could ask Captain Shapiro to provide some more insight on that.

CAPTAIN MATT SHAPIRO, Division of State Police, Department of Safety: Good morning.

SEN. SANBORN: Good morning, sir. Thank you for coming.

CAPTAIN SHAPIRO: Thank you.

CHAIRMAN KURK: Would you please identify yourself for record?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CAPTAIN SHAPIRO: Sure. My name is Matt Shapiro. I'm a Captain for the State Police.

CHAIRMAN KURK: Senator.

SEN. SANBORN: Captain, great seeing you as always and thank you for giving us your time today. You heard part of my question. My concern is knowledge where our priorities are. You know, and I'm not trying to be disingenuous but at some level DUI is sort of like fishing. You hope you catch one on the hook where your investigation into the hard criminal activity or, you know, other things that are much more direct and powerful in your ability to respond. So I'm trying to understand where our priority is and if you really believe that this type of expenditure on -- I'm not trying to say in a negative sense but somewhat of a fishing expedition because you're going out trying to find impaired drivers is more important than the other great work you're trying to do to try to snuff out some of our opioid crisis.

CAPTAIN SHAPIRO: To begin with, they're really interconnected. Fatal crashes in this state, serious crashes and fatal crashes, really mainly happen for just a few reasons. Overwhelmingly, they're a result of drinking and driving or drug use. Impaired driving comes from both. You also have distractions, speed and the lack of seat belt usage, but overwhelmingly has to do with impaired driving. And what we have seen in the last decade or so is that more and more impaired driving is coming as a result of drug use with prescription drug use that led to the opioid crisis that we're in now. So there's a lot of crossover between regular alcohol impaired driving and drug driving that's taking place. Drug driving takes place at all times of day and night. Takes place in the morning commute, middle of the afternoon and in the evening. Historically, this wasn't the case. Twenty years ago a lot of these grant funds were basically from 9:00 at night till three in the morning, because it was the alcohol related DUI. That has changed. What is going on with impaired driving today is culturally different than it was before.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

On these details, for example, last year's DWI details, which are DWI, DUI and DRE, drug recognition details, the State Police alone stopped 9,533 cars. We made 148 DUI arrests and 420 other arrests and a lot of those others arrests are drug arrests. And the way that I view that is when we are dealing with drug arrests, a lot of times that prevents somebody from driving under the influence of drugs as well. These are really core component to our highway safety plan with regard to preventing serious and fatal traffic crashes and dealing with part of the addiction problem from our enforcement perspective.

SEN. SANBORN: Thank you very much for the answer. Again, proud you guys are out there. You do a good job. Thank you. Thank you, Mr. Chair.

CAPTAIN SHAPIRO: Thank you.

CHAIRMAN KURK: You say in '16 this program existed. This has been an ongoing program; is that correct?

CAPTAIN SHAPIRO: Yes.

CHAIRMAN KURK: Why wasn't it in the budget?

MR. LAVOIE: We did budget funds for this program. We had 185,000 budgeted for '17. But the amounts at the time are just estimates. We don't have the grant award. So this is -- this is the full grant award amount.

CHAIRMAN KURK: I see. And you made how many arrests last time, Captain?

CAPTAIN SHAPIRO: 148 DUI arrests and 420 other arrests.

CHAIRMAN KURK: And the budget for last year was how much for this program?

CAPTAIN SHAPIRO: I don't know what was budgeted. We spent approximately \$399,000.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: So it cost us \$714 for each arrest.

CAPTAIN SHAPIRO: There was also nearly 10,000 traffic stops.

CHAIRMAN KURK: Yes, but you only made arrests of the numbers you gave us.

CAPTAIN SHAPIRO: Yes, that's correct.

CHAIRMAN KURK: Thank you. Further questions of these gentlemen? There being none, thank you both.

CAPTAIN SHAPIRO: Thank you.

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

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

CHAIRMAN KURK: We turn now to Fiscal 2000 -- Fiscal 17-019, a request from the Department of Agriculture, Market and Food for authorization to accept and expend \$169,948.66 in federal funds through the end of this Fiscal Year.

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

SEN. REAGAN: Second.

CHAIRMAN KURK: Representative Ober moves to approve, seconded by Senator Reagan. Discussion? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

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

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Fiscal 17-020, request from the Department of Health and Human Services for authorization to accept and expend \$97,000 in other funds through June 30<sup>th</sup> of this year. Is there a motion? Representative Ober.

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

CHAIRMAN KURK: Second?

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: By Senator D'Allesandro. Discussion? Representative Rosenwald, did you have a question?

REP. ROSENWALD: Not on this one, Chair.

CHAIRMAN KURK: Not on this one.

REP. ROSENWALD: Thank you.

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

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Fiscal 17-021, a request from the Department of Resources and Economic Development for authorization to retroactively amend a variety of previously approved Fiscal items and extend the end date of this item to December 31<sup>st</sup>, 2017, with no increase in funding.

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

CHAIRMAN KURK: Representative Ober moves we approve the item.

MR. KANE: Excuse me.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Seconded by Senator D'Allesandro. Mr. Kane.

MR. KANE: Sorry, it is December 31, 2016.

CHAIRMAN KURK: It is '16?

MR. KANE: Yes. Because they only had previous authority from Fiscal through September 30, 2016. They didn't receive notice until the middle of November. So the timing that they could extend to December 30<sup>th</sup> so it's retroactive.

REP. OBER: I still move to approve.

MR. KANE: Just so you know.

CHAIRMAN KURK: Let the record show that the item is to extend the end date from September 30<sup>th</sup>, 2016, to December 31<sup>st</sup>, 2016. It has been moved and seconded. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

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

CHAIRMAN KURK: At this time, I'd like a motion to take the Department of Justice item off the table. That was 17- 012. Representative Ober.

**\*\*** REP. OBER: I'll move to take it off the table.

CHAIRMAN KURK: So we can hear from the Department.

REP. OBER: Yes.

CHAIRMAN KURK: Is there a second to that motion?

SEN. D'ALLESANDRO: I'll second.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Seconded by Senator D'Allesandro. If you're in favor of taking Fiscal 17-012, a request from the Department of Justice, off the table so we can continue our discussion, please so indicate by saying aye? Opposed? The ayes have it and the item is off the table.

**\*\*\* {MOTION TO REMOVE ITEM FROM THE TABLE ADOPTED}**

CHAIRMAN KURK: Mr. Attorney General.

ATTORNEY GENERAL FOSTER: Thank you, Mr. Chairman. We did speak with our Grants Unit and understand that we can retain the balance of the grant in the nature that you had described, and I'm going to let Miss Carr talk about the numbers with some specificity that we would ask be approved.

MS. CARR: Good morning. Kathy Carr.

CHAIRMAN KURK: Good morning.

MS. CARR: So this would change the indirect costs on the item to 700 -- we are going to ask to accept and expend \$41,120 which would change the indirect costs to \$720, the audit funds set aside to \$400, and the grant federal to \$40,000.

**\*\*** REP. OBER: So move.

SEN. PRESIDENT MORSE: Second.

CHAIRMAN KURK: The motion is to approve the item in the amount of \$41,120 to provide for a contract employee for the balance of this Fiscal Year. Is that okay, Mr. Kane?

MR. KANE: Yes.

CHAIRMAN KURK: Is there a second to the motion? Senator Morse, are you seconding?

SEN. PRESIDENT MORSE: (Nodding).

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

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

MS. CARR: Thank you.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN KURK: We turn now to Tab 5. There are two items on this consent calendar item and I have -- there are questions for both of them. So, without objection, we'll consider them individually.

Fiscal 17-002, a request from the Department of Health and Human Services to accept and expend \$990,898 in Federal funds through the end of this Fiscal Year, and contingent upon approval of that establish one temporary full-time systems development specialist, LG 23, through -- position through June 30<sup>th</sup>, 2017.

\*\* REP. OBER: I will move for purposes of discussion, Mr. Chairman.

CHAIRMAN KURK: Representative Ober moves, seconded by Senator D'Allesandro, that the item be approved. Is there someone from the Department who can answer questions on this?

MS. TILLEY: Good morning.

MS. ROCKBURN: Good morning.

MS. TILLEY: Good morning again.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Good morning. There is -- there are a large number of interesting outcomes that this program is supposed to achieve. Increase health outcomes for parents and children, school readiness achievement, family economic self-sufficiency, reduction of child abuse and neglect, and reduction of domestic violence among others. Can you tell us before we spend this money the specific numbers that we will see here, either based on historical data in New Hampshire or on the, quote, evidence based, unquote, studies on which this program is based so that we will know in advance what we expect to achieve as opposed to platitudes that are in the request?

MS. TILLEY: Sure. So thank you very much for the question. Again, Patricia Tilley from the Division of Public Health Services. Hum -- yes, home visiting is one of these services that purports to support lots of outcomes for both moms, kids and babies. What we've seen -- we have had this program up and running for a little while now, and it is based on national evidence. The particular program that we use in this home visiting program is called Healthy Families America. It is a national evidence-based program. It is highly evaluated.

One of the pieces -- one of the positions that is actually attached here is the position that takes care of the data for this program. So if you have a question about that, I'd be happy to answer that later; but that is how tied this program is to data.

You know, in a quick look, the main thing that we want from this program is for moms, kids and families to be safe and healthy. We want to have decreased referrals to DCYF. And in those referrals we want to see that there is a reduction in actual cases that are founded, and that's what we've seen already. And you have to -- excuse me as I flip around my papers because I wasn't sure exactly which of those questions you were going to ask so I have got them on a bunch of different notes here.

So of 91% of the families, which is a relatively -- of a relatively small number that were referred to DCYF, again, the

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

families in this program are the neediest of the needy and most at-risk. Most of them are not currently enrolled with DCYF services, but they may have been involved in the past. That is not a requirement to be in the program. These are families that are at-risk because of their young age, because of substance misuse, because of behavioral health problems. These are really kiddoes that are born in some tricky situations. But 91% of the families that were referred into the program -- into DCYF from our program, only 22% had confirmation of abuse and neglect. And we see that this is a great move in the right direction.

One of the things that we are working on right now is --

CHAIRMAN KURK: Before you continue, I don't understand the base for which you're saying 22% is wonderful.

MS. TILLEY: Because the families were so high at-risk. We would -- we would consider that more than 22%, if referred to DCYF, would have a founded case, and they do not. And we work with those families with DCYF that do. Some of the other outcomes -- so that I knew that that was the thing that you were most concerned about, and we are most concerned about. These are the families that often when there's a tragedy in the State folks say why wasn't somebody there? Why wasn't something done? And this program is the program that does try to be there to be the prevention before a tragedy occurs.

Some of the other questions that I heard you ask about was around self-sufficiency. So 6% -- within one year 6% of our families had an increase, a self-reported increase in self-sufficiency and increased the number of hours of paid work. So we are seeing increases that way.

CHAIRMAN KURK: But --

MS. TILLEY: Yes, sir.

CHAIRMAN KURK: -- the question is where do we start from? If we are spending hundreds of thousands of dollars and we have a 6% --

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MS. TILLEY: Sure.

CHAIRMAN KURK: -- a 6% report.

MS. TILLEY: I would be happy -- I have a data book that's about this thick, and I would be happy to share that with the Committee. It is an incredibly complex process to create this data. I can tell you the number of families. But probably the best start would be if I could provide the entire report to you.

CHAIRMAN KURK: So this report will show that but for this program -- in the absence of this program, X would happen. And as a result of this program, there will be a change that's attributed to the program.

MS. TILLEY: So as you know, sir, that's very difficult to say. Any prevention work it is very difficult to say that this intervention is the intervention that helps. However, what we are working on right now, and I do not have the data for you right now, because we are in the process of it, is comparing the home visiting group, the group that receives the services, to a comparable Medicaid population. And that evaluation year will be ending by this spring. I do not have the data in that yet, because the evaluation is not completed. But we are taking -- it's essentially a controlled group. So we have the controlled group of the home visit, the kids that received home visiting, and then there's the Medicaid population. And we are going to be doing those controls. I cannot provide that for you today because you can imagine that the time labor is processed.

CHAIRMAN KURK: I appreciate that. And I think that's an excellent way to go. But when the Legislature is presented with programs that say this is evidence based --

MS. TILLEY: Hm-hum.

CHAIRMAN KURK: -- that signals to me that someone has done exactly what you suggested you were going to do with a controlled group.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MS. TILLEY: Yes.

CHAIRMAN KURK: And based on that the results were we had a 10% decrease over what would have occurred if the program hadn't been done. So when you go into the program, and I would have expected you to tell us we were going to treat 1,000 families or clients and here are the results based on this evidence that we should get for the hundreds of thousands of dollars we're spending. That, to me, is an evidence-based program and gives the Legislature confidence that rather than doing something that feels good and has wonderful sounding names and objectives, we are actually going to get a result for the taxpayer dollars, Federal or State --

MS. TILLEY: Hm-hum.

CHAIRMAN KURK: -- that are expended.

MS. TILLEY: We can provide that. I'm not prepared to give you that information around Healthy Families America which is the curriculum that we use. That information -- that -- those studies have been done in the past. I do not have them in front of me for the exact numbers.

CHAIRMAN KURK: I will accept that, but I would like that evidence so that I can see this for purposes of the budget.

MS. TILLEY: We'll be happy to provide it.

CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Thank you. In your explanation you have a statement that home visits have also been shown to reduce child abuse and neglect, as well as domestic violence.

MS. TILLEY: Yes.

SEN. DANIELS: How can you predict the future?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MS. TILLEY: Thank you for the question. Similar to the Chair's question earlier, it is very difficult to predict the future. And so that evidence comes from national -- the national data around this particular curriculum that we use. And we have to extrapolate that and assume that those similar results will be found here in New Hampshire as well. What we do know is that we are in those homes doing domestic violence screening, behavioral health screening and hooking families up to substance misuse treatment programs. And we know that those activities will lead to a reduction in that sort of violence against both children and families.

SEN. DANIELS: And how do you know that?

MS. TILLEY: Through the -- again, through the national evidence around home visiting programs. And, again, we will be happy to share that information with you.

SEN. DANIELS: Follow-up.

CHAIRMAN KURK: Follow-up.

MS. TILLEY: For specific information.

SEN. DANIELS: What I heard, are you not stereotyping the Medicaid population to say that they're more apt to be part of child abuse or domestic violence?

MS. TILLEY: I would never want to be on the record suggesting that the Medicaid population is somehow more -- that there's a different reason for them. But we do know that there are things called social determinants of how an income and other risk factors put those folks at higher risk. I would never say that one family is more likely than another. But we are talking here about families that have risks and I'm going to pull up my information here.

You know, in terms of very young moms, under 21, former involvement with DCYF, poverty, absolutely, these are risk

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

factors that we know that when coupled together put you at greater risk because the cumulative risk becomes higher.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. I apologize because at some level I feel like I fell off the back of the train somewhere. So help me try to get back on. I thought you had indicated that this request was for someone to compile data, which leads me to believe is I guess my question is do we not have someone compiling data today and is this a new position? There's no one compiling data? Help me understand, I'm lost.

MS. TILLEY: Okay, I'd be happy to explain that. I'm sorry, we've gotten off on a bit of a tangent. The particular position in here is not a net new position. We previously had a different job classification working on our data system. So, yes, we are currently collecting this data out in the communities among the communities that are doing the work. That position was vacated. And we looked at the SJD and felt that we needed a stronger data focused person. The last person was a program specialist. Again, someone who had lots of experience in the home visiting work. And after our experience, after that person left, we realized we needed someone who was much more facile -- needed to attract someone who was much more facile with the data system rather than the content knowledge.

SEN. SANBORN: Follow-up. So we are eliminating that position?

MS. TILLEY: Yes.

SEN. SANBORN: And creating a new position?

MS. TILLEY: Yes.

SEN. SANBORN: The person has already vacated and left.

MS. TILLEY: Yes, that person has vacated. We currently have a vacancy in that role, and we are hoping with this accept

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

and expend to be able to refill that in this new purposed way so that it's focused on the data collection system. So that I can have those numbers for you at the top of my -- at the top of my fingers. We currently have no one doing that.

SEN. SANBORN: One final follow-up. How long has it been vacant?

MS. TILLEY: Several months.

MS. ROCKBURN: Yeah, I don't know the exact date.

MS. TILLEY: I don't know the exact I date, but it's been several months.

CHAIRMAN KURK: Is this something that could be, this expansion of the program, could this be included in the budget as opposed to starting now?

MS. TILLEY: So that's, again, as with everything in this item, that's a complex question to answer. This is an ongoing grant. Part of the reason we are coming to you for the accept and expend is the unique way that the Feds have granted us this funding for the past five or six years. And if you would allow me to indulge for a moment.

If you can imagine, and I'm going to use very simplistic terms here, if the Feds gave us \$100 from January to December to do this work, that would be great. Except five or six years ago, the process took us to accept those funds and to establish the data system and establish the staffing, we probably only spent, again, maybe 20 of those hundred dollars. What made it complicated with the Feds is that they gave us year two funding in July of that year. So our appropriation has never had the elasticity to deal with the fact that the Feds have given us overlapping funding year after year since the first year of the program. So what we would typically, you know, in an easy-peasy grant you get a certain amount of money, you know what you're budgeted, we put that in the appropriation and we're all good. With this one it has been very difficult to guess ahead of time

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

and do the work ahead of time to know exactly what the appropriation will be needed because the Federal Government has given us multiple overlapping years as we go along. And our ultimate goal is to have the full amount of funds that were appropriated to us for the five or six years. If we do not expand our appropriation to allow for that, the residents in New Hampshire will have less money for these services. I'll defer to Sheri. You have anything else?

MS. ROCKBURN: The only thing I would add as an example of the grant award, we talked about the overlapping, but one of the awards went from August to a September period. So August 14<sup>th</sup> through September 16<sup>th</sup>. But then a different award came in in '15 through '17. So you had one grant that ended November of -- sorry, September of '16, but the second grant, you know, overlapped in that. It started in '15. So you have these, you know, here's a period and then a second period. So the grant awards in your packet do show those dates that are kind of misaligned. Back to two questions though I want to add is of this 990,000 that we are requesting, 121 is for the position and about 870,000 is really for the program and most of that is the contracts for the program. So that's contracting out for the actual visiting services. So I just wanted to put a percent, you know, just some dialogue in terms of the dollar value of the position versus the entire amount of this accept and expend.

I think as Trish had said that if we delay, for example, the position side of it, it's \$100,000 that we could delay until Fiscal 18, but that would leave a vacancy of data collection for a full year of this year. Because I know the position was vacant on July 1 of this year. So I know we've had a vacancy at least for six months. That I do know. So if we held that off, some of the dollars could still be going out the door for the services, but we wouldn't have any of the data collection side of it until the next Fiscal Year.

CHAIRMAN KURK: Senator Morse.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

SEN. PRESIDENT MORSE: Thanks, Sheri. So the 870,000 would be gone before we start the next budget. That's going to be granted out immediately?

MS. TILLEY: Yes.

MS. ROCKBURN: Yeah.

SEN. PRESIDENT MORSE: So we could determine at that point whether we're going forward with this program. I guess where I'm getting confused is, you know, we had TANF dollars being discussed by the Governor that we wanted to implement for helping people get back to work and, obviously, child care was discussed there. There's a million dollars here for only four months involved. I have a feeling the Federal Government is going to address this in block grants and would we do it this way is my question, because we are hearing shortages of labor everywhere. I'm not even sure that 807,000 how many different agencies you're giving that to. I certainly would want to understand that. So, I mean, if this is dealing with right now and it's not going into the next budget, I certainly don't support putting another employee in and I guess my bigger question there is we, obviously, have a lapse coming from the other employee that's not here and we're authorizing money here, so.

CHAIRMAN KURK: This is Federal.

MS. ROCKBURN: This is 100% federally funded so any savings from the employee that's not here would be no lapse to the General Fund because it's all Federal funds. So it would just stay within the Federal program.

SEN. PRESIDENT MORSE: So the employee that we don't have now is already being paid under this fund? The employee that's been out for three months.

MS. ROCKBURN: Was paid under this fund, correct.

SEN. PRESIDENT MORSE: All right.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: That position has been empty for at least six months.

MS. TILLEY: Correct.

REP. OBER: You have Federal grant dollars for it. So why can't you use those Federal grant dollars and hire the position instead of putting it here?

MS. ROCKBURN: I think I'll rephrase what Trish had said earlier is that the original position that was established was a different type of position. She said it was more of a program position. And so before we reposted that position, we went back to Department of Personnel to create a data analyst, a systems development specialist position. If we didn't do that, we could have just filled it as is, and we wouldn't have to go through this process because that position was established. What we wanted to do was get a better data analyst position in place. So we took the existing position number, went to Department of Personnel and said we don't want to use it for the program classification level. We wanted to use it for a data level person.

REP. OBER: Follow-up.

CHAIRMAN KURK: Follow-up.

REP. OBER: Is the empty position budgeted in the Class 10 line?

MS. ROCKBURN: No, it is not. It is budgeted in the Class 59, which is a temporary full-time position.

REP. OBER: And where would you budget this new position?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MS. ROCKBURN: In that same class line, temporary full-time.

CHAIRMAN KURK: Follow-up.

REP. OBER: Could I ask the Commissioner of DAS a question?

CHAIRMAN KURK: Is Miss Quiram here?

REP. OBER: It's a personnel question.

VICKI QUIRAM, Commissioner, Department of Administrative Services: It's personnel? Okay.

REP. OBER: Of one you. If I got money in Class 59 and as you heard the testimony they reclassified it so they have a new person, but I'm going to spend the money out of Class 59 and the position's empty and I have the money from the Federal grant, what prohibits me from spending it? What requires me to come here to Fiscal from a personnel perspective?

MS. QUIRAM: Hm -- do you know the answer to that question, Joe?

JOSEPH BOUCHARD, Assistant Commissioner, Department of Administrative Services: If it was budgeted, Representative -- Joe Bouchard from Admin Services. If it was budgeted in a Class 59, then the monies are eligible under the transfer rules to be moved elsewhere to be spent within that Federal program or whatever program. If the item had been -- if the 59 had been created through Fiscal and G & C, they have to come back to you and ask for that approval.

REP. OBER: If the money budgeted it from 59 and going to spend it from 59 just for the slightly different job title, they're in the same class line, they're not transferring that money. What are the requirements?

MR. BOUCHARD: Well, the -- the funds are budgeted with the 59 and it is not tied to a regular position title.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

REP. OBER: Hm-hum.

MR. BOUCHARD: It is just the dollar amount. So they could if they had another position with a different title use that 59 to pay that position.

REP. OBER: Thank you. Thank you. I just wanted to be clear on that. I appreciate it. Thank you, Mr. Chairman.

CHAIRMAN KURK: Further questions? Thank you.

MS. TILLEY: Thank you.

CHAIRMAN KURK: Do we have a motion to accept this item?

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

REP. OBER: Second.

CHAIRMAN KURK: Senator Daniels moves to table, seconded by Representative Ober. You ready for the question? All those in favor, please indicate by saying aye? Opposed? Show of hands, please? All those in favor of tabling? All opposed? The motion passes. The item is tabled.

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

CHAIRMAN KURK: We turn now to 17-005, a request from the New Hampshire Employment Security for authorization to accept and expend \$360,051 in Federal funds through June 30<sup>th</sup>, 2017, and further authorize the establishment of one temporary full-time Program Specialist II, LG 21 position, through the same time period. Is there a motion?

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

CHAIRMAN KURK: Senator D'Allesandro moves, Senator -- sorry, Representative Eaton seconds that a motion that we approve this item. Questions and discussion?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: I apologize, Mr. Chair. Thanks for recognizing me.

CHAIRMAN KURK: Now I believe this is to establish a new temporary full-time program specialist. This is a new position; is that correct?

GEORGE COPADIS, Commissioner, Department of Employment Security: Correct, for the length of the grant.

CHAIRMAN KURK: Could you identify yourself?

MR. COPADIS: Yes, I'm sorry, Mr. Chairman, Committee Members. George Copadis, Commissioner of Employment Security.

RICHARD LAVERS, Deputy Commissioner, Department of Employment Security: And Richard Lavers Deputy Commissioner of Employment Security.

CHAIRMAN KURK: Good morning, and welcome, and thank you for being here. Did you have a further question, Senator?

SEN. SANBORN: Thank you, Chair. I was asking if it was a new position and the Chair answered it was.

MR. COPADIS: Okay.

CHAIRMAN KURK: Further questions.

SEN. SANBORN: Mr. Chair.

CHAIRMAN KURK: Yes.

SEN. SANBORN: Senator Morse has a question.

CHAIRMAN KURK: I'm sorry, Senator. You're recognized.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

SEN. PRESIDENT MORSE: The 360,000 you're accepting and spending from where and does this position continue when that money is gone?

MR. COPADIS: The position does not continue. It's just for the extent of the grant and the majority of the 360 or the majority of the monies is for the technology piece, both software and hardware, as well as the position that's being funded through the grant.

CHAIRMAN KURK: I have a couple of questions about the nature of what you're doing. You're establishing some kind of a portal to which a number of organizations will have access. The questions -- the question I'm concerned about is cyber security. What kind of information will be available, personally identifiable information that would benefit somebody who is interested in identity theft and what measures or how have you taken or what measures are you proposing to take to make sure this is -- this new portal is secure from hacking?

MR. LAVERS: Thank you for the question, Mr. Chairman. I can take you through some highlights of both our cyber security measures that we take at the Department for all of our systems and also our physical security measures that we take.

First of all, the computers that the public access in our resource centers in the One-Stop offices throughout the state are not on the State Network. All of these computers are on a separate network connected to the Internet through a regular Comcast business connection. So none of these computers actually have access to the State system. The computers that are on the State system that are utilized by staff in these offices, staff have credentials in order to get on these systems with user name password. These --

CHAIRMAN KURK: I guess I'm focusing strictly on this new system, not what you have now. You're establishing a portal. Is that portal part of the State Network and will access to that be given to these new folks and will these new folks have access to

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

existing data that includes Social Security numbers and other personally identifiable information?

MR. LAVERS: The system that would be funded by this, Mr. Chairman, would connect existing systems. So, yes, it is on the State Network. The public users would continue to only have access to their individual information. They would not be on a computer that would allow them access to broader system information. The staff would continue to have access to the same information that they currently have access to. The difference, Mr. Chairman, is that instead of a customer being required to enter their demographic information multiple times in accessing the various systems that we're talking about here, this would allow them to have a single sign-on and that information would not need to be repeatedly entered.

On the staff side, it would allow staff rather than having to access different systems with what could be the same customer on what they're receiving for training, what their status is for unemployment insurance, or what they're doing with re-employment services, this would allow them to access that system through this -- what you described as a portal that connects these systems and one sign-on rather than having to look through many systems to do that. All of the existing security measures would cover this overlapping system that connects these.

CHAIRMAN KURK: So we are not increasing cyber security, and we are in -- and for the sake of convenience, we are going to make it more accessible to or more desirable for hackers.

MR. LAVERS: I would respectfully disagree that we're making this more accessible to anyone with any sort of malicious intent to use this information or does not otherwise have access to the information. The reason why we are doing this, Mr. Chairman, is because it is a Federal mandate required under the Workforce Innovation Opportunity Act. It currently does not have a deadline for states to implement this. The Federal Government did make monies available of which this is New Hampshire's portion to establish this interconnectivity between these systems. These systems are regularly audited by both the IRS and

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

the Social Security Administration. New Hampshire meets all of the standards required by both IRS and SSA for both cyber security and physical security. All users are required to go through comprehensive criminal background checks. This is both our internal staff and this is for DoIT staff who have access to this as well, and as well as any vendor who maintains these systems.

The physical security, other elements of physical security, Mr. Chairman, also include the same standards that apply to all other agencies with systems actually automatic log-off, staffer automatically required to lock out their computers when they step away from their screen, and again, these computers that are on the State Network are only available to staff and to the vendors who have entered into confidentiality agreements, passed a criminal background check, and who currently maintain the system. So no one is seeing new information that they don't currently already have access to.

CHAIRMAN KURK: And there are no new -- no new organizations and people in these organizations are going to have access that don't already -- who don't already have access?

MR. LAVERS: Correct.

CHAIRMAN KURK: Thank you. Senator Daniels.

SEN. DANIELS: You mention that it's Federal requirement that we do this. Is it a Federal requirement that we hire this specialist that you're asking for?

MR. LAVERS: No. The Federal requirement, Senator, is that we establish the interconnectivity between the systems. We feel that in looking at the requirements for launching this initiative that we needed to have a temporary full-time person to oversee this initiative. And at the end of the project the funds expire in September of 2018. It is our intent at this time as the Commissioner's indicated that we will no longer be needing this position; hence why we are requesting a temporary position.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

SEN. DANIELS: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. DANIELS: You just mentioned a 2018 figure. Looks here it said that it's -- you talking about for the project as a whole?

MR. LAVERS: Correct. The grant runs until September of 2018.

SEN. DANIELS: Okay, but the position ends in June of '17; correct?

MR. LAVERS: Correct, for what we are requesting for permission from the Committee today. We have submitted a request for an amendment to our Fiscal Year 18-19 biennium budget to the Governor's Office. We were not aware of these fund at the time we were required to submit our budget. These funds were announced approximately two weeks after we had already submitted the budget. So the portion that's before the Committee today is for the portion that we would use during Fiscal Year 17. And we have submitted an amendment for the remaining portion of this grant, roughly 770,000, to be used during Fiscal Year 18 and 19.

SEN. DANIELS: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. DANIELS: If it is your request to put in this specialist whose job it will be for project management and oversight to only last for six months, yet the project goes out to 2018, why do we not need the oversight and the management for the remaining part of the project? Why do we only need it upfront? Because it appears that it's DES personnel that are going to be doing the work.

MR. LAVERS: And I apologize for not being clear, Senator. The position would continue for the life of the grant until

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

September of '18. So what we are requesting from the Committee today is for the funds for that position through the remainder of Fiscal Year 17, and then we would continue to fund a temporary position in Fiscal Years 18 and 19.

SEN. DANIELS: Thank you.

CHAIRMAN KURK: Further questions? There being none, thank you very much, gentlemen. The motion is to approve. Discussion? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

SEN. DANIELS: No.

CHAIRMAN KURK: No. The ayes have it. The item is approved.

\*\*\* {MOTION ADOPTED}

**(6) RSA 7:6-e, Disposition of Funds Obtained by the Attorney General:**

CHAIRMAN KURK: We turn now to Tab 6, Fiscal 17-017, a request from the Department of Justice for authorization to budget and expend \$6,400,017.56 in General Funds from a multi-state Volkswagon settlement received on October 28<sup>th</sup>, 2016. Senator Sanborn for a motion.

SEN. SANBORN: You want to entertain a motion? I move to table. My first question was discuss it, Mr. Chair.

CHAIRMAN KURK: If you wish.

SEN. SANBORN: Ultimately, I'll be making a table motion.

CHAIRMAN KURK: Thank you. Discussion is perfectly in order.

SEN. SANBORN: Thank you.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Is there someone from the Department of Justice?

JOSEPH FOSTER, ESQ., Attorney General, Department of Justice: Thank you, Mr. Chairman. For the record, Attorney General Foster with Kathy Carr.

CHAIRMAN KURK: Welcome again. Senator Sanborn has a question.

SEN. SANBORN: Mr. Attorney General, thank you so much for taking my question. I appreciate it. Kind of a holistic question. I think by now everyone in this room in watching today understands there was this little issue with Volkswagon cars' emissions and so we don't need to go too far down that road. But I guess I don't understand, unless the State of New Hampshire had a lot of Volkswagons in its operating fleet, why we're due money and why should shouldn't, if there is money available, why shouldn't it be going back to either the taxpayers who were involved in keeping our operation running or the car owners who I think are getting money from a different fund? Why us?

ATTORNEY GENERAL FOSTER: Car owners are getting rights themselves. I believe they can give the car back to Volkswagon on a buy back or receive funds. I'm not as versed in that part of it. And I could certainly have Allen Brooks come over to speak to it who was very involved in that resolution as well as this resolution here. This is a multi-state brought by Attorney Generals and the funds come into the various states for utilization for consumer protection purposes or other purposes.

CHAIRMAN KURK: I think the question is, this is a settlement for what? In other words --

ATTORNEY GENERAL FOSTER: Unfair deceptive marketing practices of Volkswagon.

CHAIRMAN KURK: And we have laws that were violated by their deceptive practices.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

ATTORNEY GENERAL FOSTER: Correct. And I could bring Senior Assistant Attorney General James Boffetti from the Bureau is here and he could speak to that. If you have more questions he knows a bit about this element as well.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you. Again, I did not stay at the Holiday Inn last night. I'm not an attorney. While I appreciate we have laws against deceptive practices, I struggle with who's the injured party. I am not sure the State got injured so why does the State deserve to get 6 million bucks? Shouldn't it go back to the people or somebody or something?

ATTORNEY GENERAL FOSTER: In a sense, the people are benefitting from the fund. However you decide to utilize them, and we are asking them to be used in a particular fashion which we can talk about, but the State as a whole does benefit. When funds come into the state, they are spent, hopefully, wisely by the Legislature, the Executive Branch and, you know, the public benefits from it.

SEN. SANBORN: Thank you.

CHAIRMAN KURK: If this item is not approved, what happens to the money?

ATTORNEY GENERAL FOSTER: Your --

CHAIRMAN KURK: Could it be disposed? Could it be utilized through the budget process?

ATTORNEY GENERAL FOSTER: Yeah, I suppose it could. I would like to talk about the item and the way these funds are directed to be expenditure by current law which is what we are asking to have happen here. There is a statute that talks about how it's --

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Right, but the statute could change in the course of the budget process and the money used for other purposes.

ATTORNEY GENERAL FOSTER: Absolutely could.

CHAIRMAN KURK: It's not that if we don't approve this today the money goes back to Washington to disappear forever.

ATTORNEY GENERAL FOSTER: I think that would be right. That would be correct. There might be concerns about our Consumer Protection Bureau that I'd like to talk about but yes.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: I agree with the tabling motion that's coming, and I think this should be worked out in another forum before we go too far in a hole here. And the amount of money I understand is much bigger than this in the long run if we keep going forward. Yes or no?

MR. KANE: There's a \$29 million portion related to environmental but it's being held by California.

ATTORNEY GENERAL FOSTER: That's being held. That is a restricted amount of money that has to be -- has to be utilized.

SEN. PRESIDENT MORSE: I really believe this needs to be worked out with the Governor. I agree it might be part of the next budget concerns. And I think the Attorney General and the Governor need to work on this.

ATTORNEY GENERAL FOSTER: May I just speak to a suggestion I may make?

CHAIRMAN KURK: You may.

ATTORNEY GENERAL FOSTER: The way this item reads and where the money would go, some would go to the General Fund, some goes to the Rainy Day Fund as you see and the balance would go into

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

Consumer Escrow Account. Not a penny of that money is going to be spent before your budget is over. In fact, it wouldn't even after the budget is done, not a penny would be spent. And my thinking and my suggestion was going to be to accept it. There's going to be new person in my role very soon in the middle of the budget process and it would be worked out. You could sweep the money out of Consumer Escrow Account as a significant amount was in the last budget cycle. It was an agreement made to keep a certain amount in there so that the Consumer Protection Bureau, which is not funded by a penny of General Fund dollars, not a penny of General Fund dollars, funds the Consumer Protection Bureau. That's why this current session law statute, now statute is in place. Accept the item. The money isn't going anywhere. Not a penny of it is going to go anywhere, except actually some will go into the General Fund right away, as well as the Rainy Day Fund. If we have it in abeyance, I can't spend any of it. It's not going to get spent. It's going to sit there. And it can be -- and it can, in fact, be worked out in the budget process. If you want to reassess the way the Consumer Protection Bureau is expended -- excuse me -- is funded that's, obviously, within your purview to do with the new Governor and the new Attorney General. But, really, all we are asking that it get put in there and can go to the General Fund; but it's not going to be expended, not a penny.

CHAIRMAN KURK: Thank you. Representative Ober and then Senator Morse.

REP. OBER: Does Senator Morse have follow-up? He had the floor.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: I want to present the financial situation that's not quite worked out. I am not sure I agree any of this money goes to the General Fund to be honest with you, because I think the Governor should say whether or not that should happen. We had so many questions in Fiscal I had to set up a separate file for the responses yesterday because I was travelling. But the amount of money that we use in that

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

\$5 million account per year doesn't come anywhere near \$3.8 million that they sent to me as a response yesterday.

ATTORNEY GENERAL FOSTER: Correct.

SEN. PRESIDENT MORSE: So that's why I believe this needs to be worked out. The budget is going to be presented on February 9<sup>th</sup> because the House requested that. I would like the courtesy should go to the Governor as to whether this is one-time money and should be dealing with other problems or whether it should go to the General Fund or it should go into the fund being suggested. I don't know why holding it a month would hurt anything.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you, Mr. Chairman. In our documentation as the Attorney General knows he quoted RSA 7:6-f, and that says the Consumer Protection Escrow Account shall, not may, but shall at no time exceed 5 million, with any amount in excess of 5 million deposited into the General Fund. Actually, holding it a month would benefit AG Foster because he would like to interpret that law and add some adjectives that are not found in the law to save the account and this is what he says, he interprets this provision to mean the account shall not exceed 5 million in unbudgeted, uncommitted funds, but the law doesn't actually say that. So if we table it for a month, and he spends more money out of the Consumer Protection, he actually has more money that legally under the law could go into Consumer Protection, which is why I'm going to support tabling, which gives the Governor, as the good Senator mentioned, the time to do what should be done. So I think there are a combination of things here since it doesn't hurt us to table. So I, too, will support the tabling motion.

CHAIRMAN KURK: Questions? Representative Weyler.

REP. WEYLER: Thank you. General Foster, how much effort by the Consumer Protection Bureau went into achieving this money?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

ATTORNEY GENERAL FOSTER: On this particular settlement, I'm going to look to --

JAMES BOFFETTI, ESQ., Senior Assistant Attorney General, Division of Public Protection, Department of Justice: I can speak to that. Good morning.

CHAIRMAN KURK: Good morning.

MR. BOFFETTI: My name is James Boffetti. I'm a Senior Assistant Attorney General, and I'm Chief of the Consumer Protection Bureau. Actually, it was a divided effort between the Environmental Bureau and the Consumer Protection Bureau. So I had a lawyer who served with the other lawyer on the Executive Committee of this multi-state and we expended hours and hours and hours of time in working through the settlement, in reviewing documents as part of the investigation, and then hammering out the settlement. I can get you the number of hours, but I can tell you it was enormous amount of hours that our Bureau put into this, because this -- this money is the consumer protection section of the settlement. There will be a separate settlement involving the environmental claims that are still yet to be finally resolved. But this resolves claims that Volkswagon engaged in unfair and deceptive practices in New Hampshire by the way they deceived consumers about these diesel vehicles.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: How many states involved in the multi- state?

MR. BOFFETTI: I think it was 43. Hold on a second, let me look. This is the press release that we issued. Yes, 43 jurisdictions.

REP. WEYLER: Thank you, Attorney Boffetti. Thank you, Mr. Chairman.

CHAIRMAN KURK: Further questions? Thank you both very much.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

ATTORNEY GENERAL FOSTER: Thank you.

CHAIRMAN KURK: Senator Sanborn is recognized for a motion.

\*\* SEN. SANBORN: Table.

REP. WEYLER: Second.

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

\*\*\* {MOTION ADOPTED}

(7) **RSA 206:33-b, Transfers from Fish and Game Fund:**

CHAIRMAN KURK: We turn now to Tab 7, Fiscal 17-011, a request from the New Hampshire Fish and Game Department for authorization to transfer \$32,000 from the Fish and Game Fund reserve to the Fish and Game 2017 Operating Budget through the end of this Fiscal Year. Is there a motion?

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

SEN. SANBORN: Second.

SEN. DANIELS: Senator Daniels moves to approve, seconded by Senator Sanborn. Questions or discussion? Ready for the motion? All those in favor, please indicate by saying aye? Opposed? The ayes have it. The item is approved.

\*\*\* {MOTION ADOPTED}

(8) **RSA 215-A:23, IX and RSA 215-C:39, X Registration Fees:**

CHAIRMAN KURK: We turn now to Tab 8, Fiscal 17-010, another request from the Department of Fish and Game for authorization to transfer \$338,300 in unexpended funds from

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

Excess Registration Fees to the Fish and Game OHRV 2017  
Operating Budget. Is there a motion?

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

CHAIRMAN KURK: Senator Sanborn moves approval. Excuse me. Senator D'Allesandro moves approval. Seconded by? There is no second.

REP. WEYLER: I'll second.

CHAIRMAN KURK: Representative Weyler seconds. Is there someone from the Department who might be available to answer questions?

KEVIN JORDAN, Chief of Law Enforcement, Department of Fish and Game: Good morning.

CHAIRMAN KURK: Good morning, gentlemen.

GLENN NORMANDEAU, Executive Director, Department of Fish and Game: Good morning. For the record, Glenn Normandeau, Director of Fish and Game.

MR. JORDAN: My name is Kevin Jordan. I'm the Chief of Law Enforcement.

CHAIRMAN KURK: Good morning and thank you for being here. Questions from the Committee? Representative Weyler, did you have a question?

SEN. SANBORN: Mr. Chair.

CHAIRMAN KURK: I'm sorry, Senator Sanborn.

SEN. SANBORN: Senator Morse.

CHAIRMAN KURK: Senator Morse.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

SEN. PRESIDENT MORSE: Thank you for coming. My question is what happens to excess registration fees if they're not spent this year?

MR. NORMANDEAU: The OHRV account is a typical revolving account. They do not -- they just stay in our account.

SEN. PRESIDENT MORSE: Thank you.

CHAIRMAN KURK: And what could you use those for in future years, for your Operating Budget?

MR. NORMANDEAU: No. Not our -- they do not go into the general Fish and Game Fund. They're for generally OHRV and equipment purposes. It's what we have always used them for.

CHAIRMAN KURK: The vehicles that you would purchase under this, would they be used exclusively for OHRV purposes?

MR. NORMANDEAU: I'm going to turn that one over to Kevin.

MR. JORDAN: The answer to that, Mr. Chairman, good morning, would be no, I cannot say they are exclusively used. I can tell you that we are documenting the mileage and the hours that the officers expend enforcing the OHRV laws and these cruisers fit into that role. We put on -- we put on approximately 100,000 miles a year on these cruisers in the enforcement of OHRV laws and the officers expend -- they're averaging about 12 to 13,000 hours each year and that is growing because our ATV trail system and popularity is growing in the North Country. So we -- we were looking to purchase three cruisers this year to be sent to the North Country where those activities have increased.

CHAIRMAN KURK: And the others are not being used for OHRV purposes?

MR. JORDAN: They are being used statewide, sir, but the level of use varies depending on the patrol area and the location. Right now currently in the North Country, Coos County

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

specifically, I'm going to tell you that the officers up there are expending a great deal of their time, in fact, the majority of their time on it where the gentlemen in the -- officers in the southern part of the state, while they may spend some time in those cruisers enforcing these laws, it's not the same amount as it is up north.

CHAIRMAN KURK: So why don't you apportion the mileage so that the portion of the mileage that's devoted to OHRV comes from this fund and the portion of the mileage that is used for other purposes comes from other funds? In other words, it seems unfair to spend money that was accumulated for one purpose on another.

MR. NORMANDEAU: It is, of course, possible for us to do that. I guess to some extent all of these vehicles are used for all purposes all the time. Okay. Snowmobiles are used for fishing enforcement, ice fishing. OHRVs are used for hunting enforcement. The, you know, the trucks are used for everything. So it is possible, obviously, to set a system in tracking and go down that road. We've been operating under this methodology, well, long before I became Director, and it has not appeared to be a hurdle.

CHAIRMAN KURK: Are there other funds from which you buy vehicles which would be used for OHRV purposes?

MR. JORDAN: Yes.

MR. NORMANDEAU: For OHRV purposes?

MR. JORDAN: There would be, yes.

MR. NORMANDEAU: Oh, yeah. Okay.

MR. JORDAN: The only -- the only -- that's a good question, Mr. Chairman. The only other funds that we use to purchase cruisers are federal funds purchased through the Joint Enforcement Grant that we have for the Seacoast Area, and those same cruisers are used to enforce OHRV laws as well. So all the

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

cruisers within the State system at some point are involved in enforcing OHRV laws.

CHAIRMAN KURK: Representative Eaton, followed by Senator Morse.

REP. OBER: Cindy.

CHAIRMAN KURK: Excuse me, Representative Rosenwald had her hand up well before anyone.

REP. ROSENWALD: Thank you, Mr. Chairman. Good morning. So each of these three cruisers costs \$85,000. You're asking for \$257,500.

MR. JORDAN: No, ma'am. No, each of the cruisers are \$35,000. And then in that same equipment line -- for a total of 105 for the three of them. In that same equipment line that would also include replacement for ATVs, trail bikes, and snow machines.

REP. ROSENWALD: Thank you.

MR. JORDAN: Yes, ma'am.

CHAIRMAN KURK: Representative Eaton.

REP. EATON: Thank you, Mr. Chairman. As conversation has gone all morning on every item that's come through here of why isn't this being done in the budget lends the question these funds can still be routed during the normal budget process. Do we have vehicles and equipment that have just collapsed and the Department's unable to function? Is this an emergency or can this be done through the normal run of the budget?

MR. NORMANDEAU: So the thing with OHRV fund is it's highly variable. So because snowmobile registrations really drive the funds. So what happens in the budget process and there's a statute associated with this that is cited in your literature, if you will. So what we have done historically is that we -- we

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

budget a minimum in the budget process and then come to Fiscal sort of the year following when we look back and see what the balance in the account is. Because a perfect example would be year before last we had a lot of snow. We had maybe 5 million, I think, or five plus million in revenue in the OHRV program. Last winter where we had no snow we were something like a million and a half short of that. And we can't predict when we do a budget that starts three years ahead, you know, of the final Fiscal Year, what the weather is going to be.

So we have -- the process has always been to have a more conservative revenue side out of the OHRV account and then comes using that statute that is -- which also, I believe, allows DRED to come be with their share of the -- of this money also, and it's sort of a look back period. And we are doing that now because the -- if I understand right, the vehicle bids are out and, you know, we're looking to get some in because it's months from when you put your dibs into the vehicles actually arrive at the site.

So, again, it's a process we always have used for years. If, in fact, it's the wish of the Legislature and the Governor that we don't do this anymore, and we find some other methodology then, you know, we would certainly like to know that, because it will change how we do our business here on equipment for these purposes considerably.

VICE-CHAIRMAN DANIELS: Thank you. Further question?  
Senator Morse.

SEN. PRESIDENT MORSE: Yeah, I've been -- I think our concern here is it isn't as usual, especially with this Department, because I had LBA look things up. You're request so far has been two and a half million in General Funds in '18 and two and a half million in General Funds in '19 which we have never even gone there. In fact, you kept us from going there because you didn't want our General Funds. So I think things --

MR. NORMANDEAU: That is correct. I didn't want to until I don't have any place to go.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

SEN. PRESIDENT MORSE: Which is why, you know, I think we need to talk as a whole on where we're going in the future. I get it. And I certainly think we have built something here that, you know, ATV users, snowmobile users, hunters, they all want the money to stay in their buckets. I'm not going to touch that right now. I would honestly want to work with you on it, but I think things are changing. I think that Department can't live on its own anymore, which I've always said we need to support you. You just haven't wanted it. But I think that's the discussion today. That's what I'm hearing. So don't take it offensively. I think it's how we going to solve this problem.

MR. NORMANDEAU: No, I recognize that. And, in fact, Mr. Arlinghaus will be at our digs this afternoon, so, which is our first meeting with him to start down that discussion.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Thank you, gentlemen. First and foremost, I recommend go buy an argyle tie before the meeting will always help. Holistically, you know, I think you guys are awesome. You're doing a great job. You know my commitment to the North Country. OHRV is unprecedented and I stand behind it, all the great work that's happening up there. But I am concerned that as the success of Ride the Wild, and OHRV and, hopefully, good snow continue to bring in more revenue, that we are using it to continue to promote and support those types of endeavors and have a real appreciation for the sensitivity of all of the active outdoor people when they feel that their bucket's being poached for a little bit of money. So I am just raising the concern because you know that I would. I do every time we have this discussion. Just for the record, I'm just concerned that if with that success I'd love to see you invest it in continuing the successes in the North Country.

MR. JORDAN: Senator, if I may? I a hundred percent agree with you. I'm very mindful of that. I'm very careful when we -- how we spend this money so that it's spent only on things that are used in this field of enforcement to include the ATVs

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

to patrol with, the snow machines to patrol with, and then the fact that the cruisers in this particular request that are going to be -- that I would like to purchase to put in the North Country for that reason. So, you know, we are teaching -- the thing that you got to keep in mind, we are teaching OHRV safety classes. Those are being taught statewide. We certified over 1500 students last year. All the officers are attending to those. We are responding to accidents. We are transporting individuals when they have been -- become arrested. So there are a number of uses that these cruisers are engaging in that include OHRV work, as well as law enforcement. And with the limited -- and with a limited budget, it's really the only way I can replace these aging cruisers at this point.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: Help me understand. I think Senator Woodburn passed a bill which we all agree to again, that allows your enforcement in coordination with either Border Patrol or Feds in the North Country. Will that type of equipment be utilized for that as well?

MR. JORDAN: Yes. What we passed up there was the ability for the Border Patrol to assist us in the enforcement in the state, if that's the one you're referring to.

SEN. SANBORN: They're assisting us, we are not assisting them.

MR. JORDAN: Correct. That's correct. That gives us more people in the North Country where we are short on officers.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you, Mr. Chairman. Your explanation about you didn't know how much money would be in the fund is a great one. But if we were consistent and said this is something that should be in the upcoming budget since you're working on that,

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

this money would now be available to use in the upcoming budget; is that correct? It doesn't disappear. Help me understand what happens.

MR. NORMANDEAU: That would be correct. It's, again, we have kind of done this as a look back. Where's the fund now after the last year's winter operations, because in spite of the expansion in ATVs which has been large, the advent of the side by side, which now is much more popular than the old ATV where you have two to four people in a machine, has meant that our actual numbers of registrations are sort of just back to where they were before the crash. And the real driver still is -- still is where do we have a good winter? And so that -- but that's correct. If it wasn't spent, it stays. It's, you know, a revolving account that doesn't expire. And it would be useable in the next.

And so, again, what we have done is we have budgeted some out of it in the budget and then we, you know, we've traditionally come and looked back to add to that amount.

REP. OBER: Thank you.

MR. JORDAN: That's a good point, too, that I think is important for you to understand. I don't know enough about my -- the boss would know more about the budget part of this. But the one advantage that I use as creator of this budget for the OHRV is the ability to roll the money over. And last year we had -- I had banked, due to a former colonel teaching me that that was the proper way to do it, I banked over \$150,000 that I didn't touch. Thankfully I didn't do that because we had a collapsed snow year and I'm functioning this year, our concentrated patrols are functioning based on that money I saved last year. So if we had a bad winter, this particular setup allows me to continue if I've made myself clear.

So this year out of this money I set aside 200,000 that I don't want to touch to address these issues if we have another collapsed winter or we have a crisis next year and I don't have the money to make ends meet. So the ability to do that is very

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

valuable to us. I don't know if that could be included in the budget or not, but the ability to do that is valuable.

CHAIRMAN KURK: We also have a Rainy Day Fund.

MR. JORDAN: Yes.

CHAIRMAN KURK: Further discussion? There being none, Senator Daniels moves, seconded by Representative Eaton that the item be tabled. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? Show of hands, please. All those in favor? One, two, three, four, five six. Opposed? Six to four, the item is table.

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

**(9) RSA 604-A:1-b, Additional Funding:**

CHAIRMAN KURK: We turn now to Tab 9, Fiscal 17-018, request from the Judicial Council for authorization to receive an additional appropriation for funds not otherwise appropriated in the amount of \$500,000 in General Funds for the period ending June 30<sup>th</sup>, 2017.

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

SEN. PRESIDENT MORSE: Second.

CHAIRMAN KURK: Moved by Representative Ober, seconded by Senator Morse the item be approved. Are there questions? Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

REP. WEYLER: I'm a little behind. Who made the motion?

REP. OBER: I did.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Representative Ober, seconded by Senator Morse.

REP. WEYLER: Thank you.

CHAIRMAN KURK: I'm sorry we are moving so fast.

(10) **Chapter 275, Laws of 2015, Agency Footnote:**

CHAIRMAN KURK: Turn now to Tab 10, Fiscal 17-003, Request from the Department of Administrative Services that a warrant be drawn for money in the Treasury not otherwise appropriated in the amount of \$1 million to cover un -- to cover an anticipated utility appropriation shortfall through the end of this Fiscal Year. Is there a motion?

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

CHAIRMAN KURK: Moved by Representative Ober.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Seconded by Senator D'Allesandro that the item be approved. Discussion or questions? There being -- Senator Daniels.

SEN. DANIELS: Yes, I have a question for the Commissioner, please.

SEN. DANIELS: Good morning.

MS. QUIRAM: Good morning. Vicki Quiram, Department of Administrative Services.

CHAIRMAN KURK: Welcome. Thank you for being here.

SEN. DANIELS: Thank you for taking my question. During our discussions on Concord Steam, we had talked about this coming transfer. Part of the transcript shows that you made a comment we think that we are going to be able to squeeze by with current

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

line item that we have for utilities with a 3.3 million, as long as we don't have an extremely bad winter or we don't see any big rate increases in electrical prices, because our utility lines are all in one line. You're coming before us now asking for a transfer of 1 million, but yet you said it seemed, unless I read it wrong, you seem to indicate that we had money that we'd be able to squeeze by before. So I'm just asking why now.

MS. QUIRAM: I think when we were talking about that money, and you are correct, that is exactly what we were saying, that we had \$3.3 million in the line item, but what -- we took a million dollars out in October. This Committee allowed us to take that million dollars out of that account and use it for the preliminary engineering for Concord Steam. And so all we are asking for now is that money come back into the fund so that we can still make it through the winter with the original amount that was appropriated in that line item.

SEN. DANIELS: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. DANIELS: So I read your statement as if we could handle the 1 million within the 3.3 and still make. So what you're saying is we are going to be a million short?

MS. QUIRAM: Well, we are going to live within our original budgeted amount. But if we pulled a million dollars out of that account, we have always said we need to put that million dollars in. I think the context that you're -- that you're referring to that I made that statement was when we were talking about the Concord Steam rate going up. Because our Concord Steam rate is going up which is going to cost us about an additional \$150,000 in Fiscal Year 17 because of their rate going up. And we still think that we could live within the original appropriation even with that \$150,000 raise. But this million dollars being taken out still needs to be put back in.

SEN. DANIELS: Thank you.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: We have a motion on this?

REP. OBER: Yes, we do. I moved to approve.

CHAIRMAN KURK: Further questions? Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Thank you, guys Thank you for coming in. Is the PUC still putting the screws to us for 27% surcharge?

MS. QUIRAM: We still have a -- we still have a rate increase in order for Concord Steam to stay open through '17.

SEN. SANBORN: Thank you.

CHAIRMAN KURK: Further questions? Thank you both very much.

MS. QUIRAM: Thank you.

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

\*\*\* {MOTION ADOPTED}

**(11) Chapter 276:23, Laws of 2015, Judicial Branch;  
Transfers:**

CHAIRMAN KURK: We turn now to Tab 11, Fiscal 17-023, a request from the Administrative Office of the Courts for authorization to transfer \$299,810 in General and Other Funds between expenditure classes through the end of this Fiscal Year. Is there someone from the court system who would like to address questions? Good morning.

CHRISTOPHER KEATING, Director, Administrative Office of the Courts: Good morning. Thank you, Mr. Chairman. Chris Keating, Director of the Administrative Office of the Courts.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

DONNA RAYMOND, Fiscal Manager, Administrative Office of the Courts: Donna Raymond, Fiscal Manager.

CHAIRMAN KURK: Welcome, Mr. Keating. Delighted to see you. Good luck in your new position.

MR. KEATING: Thank you, Mr. Chairman.

CHAIRMAN KURK: If this item is approved, will the Judicial Branch still meet its General Fund lapse requirements?

MS. RAYMOND: Yes.

CHAIRMAN KURK: Thank you. Questions? Representative Ober.

REP. OBER: Thank you for coming. Donna, the questions aren't so much for you. The question is really in the written backup. The purpose of this request is to re-allocate appropriations to best meet the needs of the Judicial Branch, but it doesn't say what needs are not being met, what needs have to be met, and then the second piece of that right down there you say that there's an appropriation to comply with State policy. Is that an RSA? Is that administrative rule? Could you please clarify both of those items?

MS. RAYMOND: Did you want me to respond to that?

REP. OBER: I don't know. I mean, there's no -- there's no justification for why we are doing these transfers. I'm trying to figure out why the transfers are needed and that's not in here.

MS. RAYMOND: Okay. Well, all right. I apologize if it wasn't clear in the explanation section. If you're asking in terms of -- are you asking what authority we have to do this or why we have --

REP. OBER: I'm asking you why you need to do it?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MS. RAYMOND: There are a few different issues that are at play in this single request. The first is really a housekeeping issue -- excuse me -- on the explanation section. It regards our Class 66 training account.

Back in March of 2016, we were having a budget preparation meeting, I believe, at which Tim Hartshorn spoke and he actually mentioned to the group for your Class 66 line, please make sure that the only things you budget in that line are items associated directly with the training. Do not include training related expenses such as travel, hotel, meals. And I remember hearing him say that and I thought, boy, if he took the time to tell the entire crowd this, it was important to him. And thinking further about it, I said I think I'm one of the guilty parties in this as well.

So I went back and confirmed that, in fact, we were expensing in budgeting all training and training-related activities in that Class 66 line. So what I did was I went back and I analyzed all the expenditures that we had paid out of that class line and said which one of these are really Class 70, in-state travel, Class 80, out-of-state travel and so on. And based on that I said how do I need to re-allocate the appropriation in our Class 66, which is 120,000, to better meet Tim Hartshorn's request to more accurately budget for these funds.

So I put a little bit into Class 20, some into Class 26, some into Class 70 and into Class 80. So it was a total of \$83,000 out of Class 66 which was being re-allocated. So that was one portion of the -- this request today.

REP. OBER: Now you want to allocate it back?

MS. RAYMOND: I'm moving it -- I'm moving what was -- a portion of what was budgeted in Class 66 for training to other class lines that are training related.

REP. OBER: Mr. Chairman.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Representative Ober.

REP. OBER: If I might. I think, Donna, you're just saying I budgeted incorrectly. We didn't fix it at budget time. Somebody told me it should be fixed, and I'm trying to backfill. Do I have it now?

MS. RAYMOND: Yes. This is the 16-17 budget though, not the 18-19.

REP. OBER: Yeah, but you're trying to backfill what was actually approved based on kind of a change mid-stream from budgeting. Yes?

MS. RAYMOND: Yes.

REP. OBER: Thank you.

CHAIRMAN KURK: Of the amounts in here, how much is being allocated and how much is being transferred to take care of shortfalls? Approximately.

MS. RAYMOND: Yes. Let's see. I think, really, I'd say about 105,000 of it; 30,000 is a shortfall in our overtime line.

CHAIRMAN KURK: So let's make it 100,000.

MS. RAYMOND: Hm-hum.

CHAIRMAN KURK: If this request were approved your lapses would increase by \$200,000 in round numbers. If we only approved the re-allocation and did not approve the rest of it, you would lapse additional money, because you're not spending it in some accounts and the accounts to which you wish to transfer wouldn't get the money.

MS. RAYMOND: Yeah. Well, yes. Well, it depends because we also have a default fund that can be used to pay for unbudgeted items. If I paid for these items out of the default fund

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

instead, it would not affect my General Fund lapse. Those are revolving funds.

CHAIRMAN KURK: Oh, you mean you have another way to pay for these if we don't approve this?

MS. RAYMOND: Yes.

CHAIRMAN KURK: A default fund? That's something new. Could you explain that to us and tell us how much money is in it?

MS. RAYMOND: The default fund is a revolving fund that for individuals who default on motor vehicle fines have to pay a \$50 fee. That fee is deposited into the default fund. It earns about 250,000 and declining every year. The balance in it is approximately 600,000 right now.

CHAIRMAN KURK: And you have statutory authority to spend that for any purpose you wish?

MS. RAYMOND: Yes.

CHAIRMAN KURK: Thank you. Representative Ober, did you hear that?

REP. OBER: I did, but it's a dedicated fund. How am I supposed to get rid of that if it doesn't come to the budget?

CHAIRMAN KURK: Speak to Representative Major.

REP. OBER: I should speak to Senator Sanborn. Maybe he can help me out.

SEN. SANBORN: Maybe he can.

CHAIRMAN KURK: Further questions? Thank you very much. Is there a motion on this?

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

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Representative Ober?

REP. OBER: No.

CHAIRMAN KURK: Would you care to make a motion?

REP. OBER: No, but somebody did.

CHAIRMAN KURK: Senator D'Allesandro moves the item be approved. Is there a second?

SEN. REAGAN: Second.

CHAIRMAN KURK: Second by Senator Reagan. Discussion? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Those opposed? The item is approved. Motion carries and the item is approved. Thank you both very much.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Thank you for that information for the default fund.

REP. OBER: If you read the dedicated fund list you would see that.

(12) Chapter 276:143, Laws of 2015, Department of Health And Human Services; Transfer Among Accounts and RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 From any Non-State Source:

CHAIRMAN KURK: We turn now to item number 12 on our agenda, Fiscal 02 -- Fiscal 022, a request from the Department of Health and Human Services for authorization to transfer \$17,253,649 in General Funds, increase related Federal revenues in the amount of \$6,626,590, and increase related other revenues in the amount of \$201,526 through June 30<sup>th</sup>, 2017.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

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

CHAIRMAN KURK: Before we have a motion, why don't we have some discussion. I believe there were some questions that folks had on this.

JEFFREY MEYERS, Commissioner, Department of Health and Human Services: For the record, Mr. Chairman, Jeff Meyers, Commissioner of Health and Human Services. With me today is my Chief Financial Officer, Sheri Rockburn. Good morning.

CHAIRMAN KURK: Good morning to you and thank you for being here.

MR. MEYERS: Good afternoon. Sorry.

CHAIRMAN KURK: Good afternoon, yes. If this is approved, what effect will this have on the Dashboard estimate of --

MR. MEYERS: Shortfall.

CHAIRMAN KURK: Shortfall.

MR. MEYERS: Yeah, it would.

MS. ROCKBURN: So the Dashboard shortfall is independent of this transfer request. And what that means is that this transfer request is not moving any funds to offset any shortfall that's listed on the Dashboard. And as an example what I mean by that is there are movements within salary and benefit funds to true-up where someone was originally budgeted; but due to reorganization efforts, they're now being paid out of a different accounting unit. So this is solving some of those issues. The Dashboard is only representing shortfall items that we do not have a specific plan or transfer that we are bringing forward at this time.

MR. MEYERS: And we'll talk more about that, obviously, when we get to the Dashboard.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: So if this were not approved --

MS. ROCKBURN: Hm-hum.

CHAIRMAN KURK: -- aside from allocating monies correctly, there are no areas that you are proposing to put money into that if we didn't approve this would, in fact, increase your lapse. In other words, if this isn't approved wouldn't the Department's lapse increase?

MS. ROCKBURN: I think the short answer to that is that there is a potential for that. But what I would add to though is that if this is not approved, there would be other items that would end up showing up on the Dashboard as a shortfall.

MR. MEYERS: Right. And -- I'm sorry. If you want to recognize the Senator, I'll defer.

CHAIRMAN KURK: No, please continue.

MR. MEYERS: In addition to that, there are items that we would not be in compliance with. So there are contracts would not be funded. There are some Federal requirements around cyber security that are required in the Medicaid Program under the MARS-2 Initiative of CMS that we are required to do. This transfer would allow that work to go forward and so forth. And so if this wasn't approved, we would not be able to comply with some of those requirements.

CHAIRMAN KURK: Let's assume we approve the Federal Funds portion, but not the General Funds portion, is that possible? You can see where these questions are headed.

MR. MEYERS: I do. No, I understand.

CHAIRMAN KURK: I'm trying to figure out ways to reduce the Department's shortfall estimate.

MR. MEYERS: Right.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: I shouldn't say the estimate, the actuals.

MR. MEYERS: I hear you.

MS. ROCKBURN: If you approve just the Federal Funds part of the transfer, what that would give us is 5.6 million and out of the 6.6 is a combination of the MARS that the Commissioner just talked about which is CMS security. Two million of that would be the Federal match for some position moves that we're doing, and then about another million is for IT related to our New Heights Project. So those IT projects would still move forward if only the 6.6 is approved.

What I would also add though is that if nothing else was approved, I just can give you some examples of the contracts and services that we would have to cut or reduce, and 1 million would be related to DCYF out-of-home placements. We have about a two months' sustainability right now. This transfer was moving 1 million from excess money in the foster care line into the out-of-home placements. It's a very specific example; but if it wasn't approved, what would happen is that the million in the foster care line could potentially lapse, but we would be unable to provide out-of-home placements for DCYF children after two months from now.

The other piece to this is we have \$1 million that was funding some staff temporary contracts with a staffing agency. That contract, obviously, was not budgeted, but we were planning to use vacancy savings from salary and benefits to fund that temporary staffing contract.

MR. MEYERS: For nurses.

MS. ROCKBURN: For nurses. For nurses at New Hampshire Hospital. Another 2 million is our Dartmouth contract to stand up the doctors and nurses at New Hampshire Hospital. About 500,000 moves money from Acquired Brain Disorder In-Home Supports of maintenance clients into the DD maintenance line. That doesn't change any Wait List funding but just existing

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

clients. There's also money in here for 22 positions for a CPSW. That's taking vacant funded positions at DCYF.

CHAIRMAN KURK: Social workers?

MS. ROCKBURN: Correct. These are social workers.

MR. MEYERS: For assessment purposes.

MS. ROCKBURN: Correct.

MR. MEYERS: And to staff the 24/7 initiative so there's a second shift that goes to 8:00 p.m. That money it would be transferred and this item would help fund the overtime for that as well.

MS. ROCKBURN: Then the last contract that would not have enough money to move forward is domestic violence. That's part of our other funds though. And we have 100,000, about 100,000 of other funds from child support areas, and we also have domestic violence money that comes into us and we would want to put that -- move that into the contract for domestic violence. So those areas, those contracts and/or services would not happen if this wasn't to move forward.

CHAIRMAN KURK: The answer is yes but at a steep price.

MS. ROCKBURN: Correct.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Is it coincidental that this transfer from the seven and a half million dollars in salary and benefits and you're carrying in your lapse numbers some number or close to that, is that coincidental?

MS. ROCKBURN: It is. Those are not related to each other. The seven million that's on the Dashboard as an estimated lapse already accounted for this movement. So that seven million on the lapse is independent of this. So that's additional vacancies

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

that we have out there that would come to that 7 million. Where that number -- to give you a reference point, and we can talk more about it on the Dashboard, but last year -- let me go back.

In '15 we lost about 6.5 million. In '16 we lapsed 3 million of salary benefit vacancy savings. But during the year we moved 5 million to cover other shortfalls. So, in total, we had about 8 million of salary and benefits that was able to move around. This year we are looking at about a 7 million that would still be available. So 6 to 7 million has been our trend of lapsing out of salary and benefits. That's independent of this. Every year we always look at movement within our salary and benefits into other areas. So --

MR. MEYERS: And that seventy, just to add, I apologize, Senator, that seventy represents we are still carrying 260 positions that are funded but vacant that we're not filling now in light of the financial challenges.

SEN. PRESIDENT MORSE: Which has always happened in that Department. I mean, so aside from that, I don't know how you have the two separate discussions. But in that lapse number that you're carrying right now, the drug and rebate -- drug rebate money is in the lapse number that you're carrying right now?

MS. ROCKBURN: That is correct, at 10 million.

SEN. PRESIDENT MORSE: Okay. Just a comment, Mr. Chairman.

CHAIRMAN KURK: Sure.

SEN. PRESIDENT MORSE: I certainly believe anything that gets labeled DCYF would come to a higher priority and they seem to be moving money from DCYF foster care is one of the General Fund transfers which happens to match the placement number. I wouldn't want to hold that up. But I don't believe that this Legislature and both finance teams have a handle on what's going on. I certainly believe in the Dashboard, the \$65 million is a problem. And I've met with the Governor and the Speaker and we have asked that the two finance Chairs, LBA, and the Department

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

get together with the Governor's Office and figure this out. We certainly aren't prepared to write the check for \$75 million. And in this, I see things that I'm not sure need to be done. So if we have to come back next Friday, my intention and I think the Governor's Office is working on it, is to have you people meet Monday, Tuesday, Wednesday, Thursday till we get an answer that I understand. Because I think there's numbers being used twice, and I certainly heard you a minute ago say you're trying to solve the problem. And I don't think you have an answer either, because I've talked to you about it, and I'm concerned. That over spend in that Department, I've been here long enough, I've never authorized spending at the end of the year to cover -- write a check, I've never done it. So I -- and I can tell you I don't intend to do it. So I want to understand where we are and I can't approve a \$17 million item without understanding how it ties to the Dashboard.

CHAIRMAN KURK: Commissioner.

MR. MEYERS: I don't disagree with the Senator. Uh -- there's a significant shortfall that I inherited. I want to work -- I've talked -- I've met with the Governor. I talked to the Governor now several times and his staff as well. The Senator's correct, the Governor's asked me to work with you and him. I'm, obviously, aggressively looking at everything in the Department in terms of reducing spending to do -- to maximize what -- a solution for the shortfall. I was going to ask my CFO if there's -- if a week -- I mean, I'm not opposed to a week's delay, if that is what the consensus of the Committee would be. I'm -- I've told the Governor I'm prepared to meet with him and his team and the leadership of the Legislature and the House and the Senate every moment of every day between now and then if that's necessary, along with my team. So I think, you know, a week's delay I don't think is going to have, or maybe even two, would impact anything. I think if we were talking about a month's delay, then I'd want to make sure that there aren't bills that would default as a result of that.

CHAIRMAN KURK: Could we delay a month, Miss Rockburn?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MR. MEYERS: Go ahead.

CHAIRMAN KURK: February 17<sup>th</sup>.

MS. ROCKBURN: I think the biggest one I would ask if you were to delay it a month is at least move the Federal Funds forward. That's really dealing with our IT projects and security, and I would not want to see that move forward a month and that 6.6 million is the two major projects in terms of our IT. I would ask at least approve the transfer related to those two projects.

CHAIRMAN KURK: If that were done, there would be no adverse consequences for DCYF appropriations? In other words, services wouldn't be denied in that area as a result of the delay?

MR. MEYERS: We'd be okay for a month.

CHAIRMAN KURK: A month.

MR. MEYERS: A month.

CHAIRMAN KURK: That's all we are talking about.

MR. MEYERS: Yeah.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Commissioner, Sheri, thanks for coming in. This body knows that I continue to have real concerns, both on an operational basis and a financial basis, of what's happening over in that agency. You have been very good to stand up and say, yep, there are parts of the house that are on fire today and we need to get this under control.

If what I just heard you say to me, honestly, at some level makes me more concerned that as the Senate President indicated you're showing a \$65 million potential operational shortfall, but that's before lapse. So it really makes it 80 million or 86 million. And as you started to walk down some of these things on

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

your transfers and your priorities, I don't understand, and I think I'm reasonably good at math, how we have budgets for things that we spent, but now you're saying we are coming up short, like DCYF was a policy change, and I can understand if we made a policy change that we need to throw a bunch of FTE's to it. But shouldn't that be showing up over on your Dashboard side of new unanticipated expenses on and above the budget? And so when I hear just that one and three or four other ones you're throwing in here, I guess from my perspective is our potential, if we did nothing today, right, if we did nothing, you're coming here saying that DCYF with the 22 new part-time or full-time equivalents you're trying to move, the other program changes you're trying to make are expenses that today you don't have the money for. So shouldn't that be part of -- you say you don't have the money for, you're looking to transfer money to fund them; right?

MS. ROCKBURN: Yes, that is correct.

SEN. SANBORN: If you didn't transfer the money it would be lapsed. And if the expense wasn't higher, it would be within the budget that you had did. So --

MS. ROCKBURN: Right. Two things, if I could?

SEN. SANBORN: I'm concerned here.

MS. ROCKBURN: The DCYF on the staffing side that is one -- it's only one of a small piece on here that does show up on our Dashboard. So that is one that is, you know, shown up on our Dashboard and here in this transfer we are doing a small piece to fund it.

The Dashboard traditionally, and we can talk more about that, traditionally has focused on our major Medicaid shortfalls, not everything in the Department. And the reason I say that is that we've always had a transfer authority because of the 2 billion, 2.1 billion total fund budget that the Department has. So we've always been given as a tool to monitor or to work within that 2.1 billion this transfer authority. So

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

we've always used the transfer authority to work through what I would consider smaller things that happened during the biennium. And by a million might seem large. When I'm thinking about a \$55 million Medicaid issue, the million doesn't rise to that same materiality. I know it doesn't mean it's not any less significant, but we've always used the transfer as a tool to work within our budget.

So in one case DCYF foster isn't tracking as high, but the out-of-placement is tracking higher, we've always used this transfer as a tool to move those budgets around. If that transfer authority wasn't there for us, you're correct, we would have to then say these monies would otherwise have lapsed, and we would have to then identify every single item that was unexpected in the biennium to be put onto the Dashboard. Because this tool exists, we generally have used our transfer authority to solve these smaller areas and use the Dashboard as the major material Medicaid.

SEN. SANBORN: Follow-up. Thank you, Mr. Chair. And I appreciate that. And on the \$2 billion line, a million dollars here, a million dollars here, not insignificant by any stretch of the imagination but reasonable.

MS. ROCKBURN: I know. Hm-hum.

SEN. SANBORN: But my fear is that at an \$86 million shortfall globally, if I include the lapse, what you show with the 65, that for me is raising it to another level of angst of every transfer we are talking about has a material impact on coming down on those numbers or not; right? So that's why all of a sudden I am now have additional angst because we seem to be so far behind -- behind the eight ball in this one, and I guess I would love some better understanding, as the President said, you know, you cut out federal funds. You look at the other things that help me understand what truly is needed to make this work and what is something we could put towards -- lapse towards your 65 and then towards your, you know, how to make that work.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Just let me make something clear to myself and to everyone. My understanding is you have a \$65 million shortfall but at that level you will need your lapse.

MS. ROCKBURN: Correct.

MR. MEYERS: Absolutely. I want to reinforce that, first of all, the shortfall is, with the exception of \$400,000 for the extra or \$500,000 for the extra DCYF positions, it's Medicaid, and it's things that weren't done correctly or assumptions that were not realized in the budget. The Department remains on track to let more than meet its requirement. Its requirement is \$20.8 million. We've conservatively said 22 now. I, obviously, been working over the last number of months to increase the size of that lapse. And every time you put a number out you're held at a number. I feel safe at 22. I think, in fact, it will exceed that at the end of the day. And, again, I met with the Governor and the Governor wants to convene this meeting so we can all sit down and find a way to resolve this.

CHAIRMAN KURK: And Senator Morse.

SEN. PRESIDENT MORSE: Sheri, in order for the Federal number that you were asking, the 6.6 million, you would need General Fund matching dollars.

MS. ROCKBURN: Of about 2 million.

MR. MEYERS: Yeah. Some of the Federal is 90/10 match on the technology stuff so we need some General Funds.

SEN. PRESIDENT MORSE: Yeah, I think everyone hasn't decided whether we want to appropriate any General Funds today. Let me make one thing clear, because I had a response and, again, I came yesterday on how we built the last budget. I can assure you when the last Commissioner came before Senate Finance and we made the final appropriation in Senate Finance, when we didn't agree to move the money in the disabled lines of ten to \$13 million, we were told it was a good budget and it was solid, and the 2% that you're claiming the Senate knew about was not an

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

issue. So when we took the budget to Committee of Conference and approved almost \$30 million worth of issues that almost all related to Health and Human Services, this was a good budget for the State of New Hampshire.

Where I see the problem is we let something happen in Fiscal that let rates go up. We shouldn't have done that if the State can't afford it. We certainly have that authority, because any contract in this state says if the Legislature doesn't approve it, then there's no money to spend. We didn't have the money to spend, obviously, if you couldn't transfer it out of other lines. So blaming it on the Legislature what they built in the last budget isn't going to fly with this Senator, because I've watched this like a hawk. Transferring out of other lines, whether it be the disabled or not, has always happened and we have always solved the problems that way. You certainly have turned in huge lapses in the last two years. Forty-one million in one year, which you hit on the -- you had that number in Senate Finance. When you were talking about the budget you knew the number exactly. Even though no information was coming out of the Governor's Office to the Senate on finances, it was talked about in our meeting. We knew it. There was almost an \$80 million presentation that -- on the lapse that year. It shrunk by a little bit but not much. So the money that's been spent over the last year offends everyone at this table right now. Because the reality is, we knew we had a problem. We should have started saving as of July. So as we solved this and the Governor's agreed to meet with us, I can assure you that the Legislature is going to by themselves decide how we solve this \$65 million problem, and we certainly have a problem with it.

The \$22 million lapse that's being carried certainly shows me there's duplication in what we all believe is out there. Because none of us were carrying the \$10 million in drug rebate money in the lapse. When we were presented that you could make your lapse, we didn't think that number was in there. So as this gets settled and as there's an urgency, I can sure you the finance teams from the Senate, along with talking to the House, will be at the table. But the reality is, it's important and it's a huge concern. I don't know how anyone can sit here and

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

approve an item in this budget without saying to every Department we need your lapses to be extensive this year because HHS isn't going to make theirs. It's that big a deal.

So with that, I -- I guess I can't make a tabling motion, but I wish the Chair would from finance because reality is I wouldn't even approve the Federal money, Mr. Chairman, right now because it's going to require General Funds, and I think you two need to understand where we are going here.

CHAIRMAN KURK: Thank you, Senator. If there is no General Fund money appropriated along with the Federal money --

MR. MEYERS: Hm-hum.

CHAIRMAN KURK: -- do you have the ability within your budget to transfer without our approval?

MS. ROCKBURN: Of the 6.6, 4.6 of the 6.6 does not require any General Fund match. And those are strictly the IT projects. The 10% match of the General Fund is already budgeted in the Capital Budget. So if we only did the MARS Project and the New Heights, which would total 4.6 million, that would not require any General Fund match and we could at least move forward with those two security projects.

CHAIRMAN KURK: And the other projects are what that require --

MS. ROCKBURN: The other piece to that was moving staffing around. And we could -- we could not do that transfer and continue to pay people out of their existing accounts and we could -- we can work through that.

CHAIRMAN KURK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. Been listening to this narrative. So we are boiling it down to this, as I understand it. We approve the 4.6 million in Federal Funds. Because you have a Capital Budget match, there's no General Fund

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

money that's required. The operation of the Department and delivery of all of the services that have been mentioned here will continue unabated for 30 days.

MS. ROCKBURN: For 30 days.

SEN. D'ALLESANDRO: At that point in time, if something isn't done, there will be significant problems associated with the Department; is that correct?

MR. MEYERS: It is. We would not have sufficient money in certain lines in order to pay certain contracts and other expenses at that point in time, yes.

SEN. D'ALLESANDRO: So it should be clear to everybody that unless something is done within that period of time, the functionality of the Department is basically hampered or curtailed.

MR. MEYERS: It be compromised, yes.

SEN. D'ALLESANDRO: It's been compromised. So the action -- the action that we take here today we should all be absolutely aware that we've got to come back here within the 30-day period and make other decisions, otherwise we got significant -- significant problems.

Now the fact that the Chairman of Senate Finance, the Chairman of House Finance, the LBA, you're going to meet with the Governor, you know, that's a happening. That's going to take place. But, Mr. Chairman, we are going to be back here in 30 days to make some decisions.

CHAIRMAN KURK: That will be my expectation if we were to either table this completely or approve the 4.6 million of federal funds that does not require any General Funds.

SEN. D'ALLESANDRO: Just one further point, if I might? The fact if we don't approve the 4.6, the projects that are going on will be delayed?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MR. MEYERS: Well, we are already a little bit behind on the security project because of just timing issues with bringing things to G & C and to Fiscal. But that's not -- I'm not suggesting that that's intentional on anybody's part. It just happened to be how the timing worked out. So we're under some pressure from CMS to go forward on the MARS Project. The New Heights, I know we have got a schedule that may be slightly different; but, obviously, it's important because that's our eligibility system.

SEN. D'ALLESANDRO: So I'm gathering from your statements that it's really an imperative that we take the 4.6 and move it forward. Otherwise, we create problems.

MR. MEYERS: Right. I understand where the Committee is overall; but if there's a way to go forward with the 4.6, it does not require any General -- any additional General Funds then, obviously, that would be -- that's very helpful to us.

CHAIRMAN KURK: Senator Daniels.

\*\* SEN. DANIELS: Chairman, I would like to move that we approve 4.6 million that does not require the State Match.

CHAIRMAN KURK: Is there a second.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: The motion is to approve this item insofar as it relates to approximately \$4.6 million in Federal Funds which do not require any General Fund match, and that the rest of the item is not approved, which would -- assuming that that were to pass, that would mean that you would be able to come back here with a new proposal --

MR. MEYERS: Correct.

CHAIRMAN KURK: -- on February 17<sup>th</sup>, which is when I expect we will next meet.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MR. MEYERS: Thank you. Yes.

CHAIRMAN KURK: Does everybody understand the motion?  
Representative -- excuse me, Senator Sanborn.

SEN. SANBORN: I do, Mr. Chair, but I apologize. I am stuck on something and if you allow me to ask other questions.

CHAIRMAN KURK: Of course.

SEN. SANBORN: It sounds to me, Commissioner, the ones we're applying that operationally HHS runs the risk in some respects that it would grind to a halt financially without this type of a transfer. I keep hearing you say that we have contracts that we have to fund. We have FTEs that we need to pay. But we have a budget that I thought had recognition of contracts that were in place that we have been funding and FTEs that are in place that we have been paying. So have we like transferred a bunch of people --

MR. MEYERS: Yes.

SEN. SANBORN: -- before we got the approval to move the money and sign the contracts before we got the approval to have contracts? I'm lost. Do you understand my question?

MS. ROCKBURN: I do.

SEN. SANBORN: It bothers me we are sitting here saying if we don't do this in 30 days, you know, we slow down to a slow crawl the operation for the people of New Hampshire. We can't be doing that. What's going on?

MR. MEYERS: I will let Sheri supplement what I'm going to say, but some of the reasons we're transferring some of this money is for things that have arisen since the last budget. So, for example, there's this nursing staffing crisis in the State of New Hampshire. Last January I took a contract amendment to -- a contract, that is, to the Governor and Council and

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

there's been -- we have hired now I think a total of three nursing staffing agencies so that we can provide the requisite number of nurses that we need at the New Hampshire Hospital and the Glencliff Home. There was a Dartmouth contract entered into. So these are contracts approved by the Governor and Council that we are now legally obligated to, you know, to honor and to pay.

I think some of the items, and Sheri can talk more about this part of it, is that there -- there have been various organizations and reorganizations within the Department. My predecessor moved a bunch of people around. When I became Commissioner, I created the Division of Behavioral Health, because I felt that mental health and substance abuse disorder programs and funding and personnel should all be together in order to -- for a variety of policy and financial reasons as well. So some of the movement in here is to square that up. So this isn't money that wasn't in the budget. It was in one pot in the budget and it's being moved to another pot in the budget because of the movement within the budget of personnel. If I'm -- I hope I'm being clear. You want to add to that?

MS. ROCKBURN: I think the other thing -- the only other thing I would add is that in terms of whether it's contracts or personnel, when we've had issues, and I'm going to say years ago there's language that talks about the contracts could be, you know, terminated if General Funds weren't available or money wasn't appropriated in future budgets. And this was a little bit before my time, but my understanding legally is that they don't look at - they being providers or someone that might file a claim against the contract - saying you entered into an agreement with me and now you're saying there's no funds to pay that. The legal side of it has always looked at the Department on a whole, that's sort of the \$2 billion worth of funds that you have, you have money to pay this. Maybe it wasn't sitting in this line, but it was sitting in this line; but you overall in your Department can honor this contract.

Now, this transfer allows us to move those monies in order to honor it. But I was told that, like I say, this is before my

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

time that the contracts don't always look at just that specific line item when -- if a vendor would come forward and say do you have the money or not. They would say, look, you have money available. In fact, you're lapsing 22 million so you clearly have money to pay us. I think when the details come in is that we have restrictions within the accounting system that binds us to that lower level of detail.

So this transfer has always been a tool to allow us to move our money around to cover those. So I wouldn't say that Governor and Council had approved a contract that there was no funding available. We identified that there's funding, but we have a true-up of where the budget was available. So the contract might identify, for example, a Class 100, but we have money in 100 and 102 that would cover it. So I wouldn't say we've overspent in that sense.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: And I appreciate that. And, Commissioner, I'm not trying to tell you that you shouldn't be doing your job and you guys shouldn't be operating. We're talking about all this stuff has been happening. But as the last Commissioner here, and I feel we're just coming to the game really late in the day if you're finally asking for a transfer to true all this stuff up. If we don't do it in 30 days, oh, by the way, we are shutting off the lights. That, to me, it makes me concerned, right? If this stuff can happen over the past 18 months, I guess I would have liked to have seen requests over the past 18 months to equalize the move in FTEs or additional new contracts as we were doing it and not wait till this last second where we come -- where we come, you know, an excitable event.

MS. ROCKBURN: If I can speak to that. Last year I think we did four transfers throughout '16. So, you know, during '16 we had several of these transfers that happened. We originally had this transfer scheduled for your October meeting, which would have been a much better planning tool. At the very last minute we ended up asking the item to be pulled because we knew that there was an error in that transfer. So what ended up happening

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

is when we pulled that to research an error, was a mathematical error that occurred, we had missed the deadline for November, December's meeting didn't happen, now we're here in January.

MR. MEYERS: Which is why we're here.

MS. ROCKBURN: So that's why that timeline in terms of our preplanning shrunk.

SEN. SANBORN: Fair enough. Thank you.

CHAIRMAN KURK: Further discussion or questions? The motion is to approve \$4.6 million of Federal Funds but no General Funds on this particular item. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and that part of the item is approved.

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

MR. MEYERS: I have one question. With respect to what the Committee just approved, does the Committee or LBA require that we resubmit an item, an amended item that would reflect just the 4.6?

CHAIRMAN KURK: Mr. Kane.

MR. KANE: I think that would be helpful. Not a request, obviously, but just to outline exactly where that 4.6 would go would be a good follow-up.

MR. MEYERS: We will do that right away.

CHAIRMAN KURK: Thank you. And we'll see you on the 17<sup>th</sup>.

MR. MEYERS: Of course.

SEN. SANBORN: Mr. Chair, may I ask? Make sense to do a new request on the 17<sup>th</sup>?

CHAIRMAN KURK: That's what we'll be getting, a new request.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MR. MEYERS: Right.

CHAIRMAN KURK: And that request will be dependent on a great deal of discussions that will be happening between now and then. Thank you.

MR. MEYERS: Thank you.

SEN. SANBORN: Thank you.

**(13) Chapter 276:219, Laws of 2015, Department of Corrections; Transfers:**

CHAIRMAN KURK: We turn now to tab number 13, Fiscal 17-004, request from Department of Corrections for authorization to transfer \$360,000 in General Funds among accounts through June 30<sup>th</sup>, 2017. Representative Ober, did you have questions on this?

REP. OBER: I don't know. I haven't gotten to that page yet.

CHAIRMAN KURK: I do have a question. Is there someone from the Department who could be available to answer?

ROBIN MADDAUS, Director, Division of Administration, Department of Corrections: Good afternoon. Robin Maddaus, Director of Administration, Department of Corrections.

CHAIRMAN KURK: Thank you for being here.

MS. MADDAUS: Thank you.

CHAIRMAN KURK: Two questions. One directly related, one somewhat less directly related. Are we still going to meet our lapses -- excuse me. Is the Department of Corrections going to meet its General Fund required lapse even after this is approved?

MS. MADDAUS: Our estimated lapse of 1.48, yes.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Thank you. The second question, because you're here and you may not be the right person to answer this question, if so, please let us know.

MS. MADDAUS: Okay.

CHAIRMAN KURK: We read in the paper about problems with drugs in the prison. I thought we had approved various kinds of screening devices --

REP. EATON: Magnetometers.

CHAIRMAN KURK: -- that the Department would install so this kind of activity would not occur. It's my understanding that instead of getting these electronic devices the Department used dogs or is using dogs to sniff drugs. And I guess the question is why would the Department go the less -- what I assume is the less effective route, K-9's, rather than the magnetometers?

MS. MADDAUS: We were investigating the body scanners. We had presentations and there's concerns about the radiation for the security officers or people going through. So there are some hurdles that we were addressing.

CHAIRMAN KURK: I see. Are the dogs being used on both staff and visitors?

MS. MADDAUS: They were just trained recently so they're just new to the job.

CHAIRMAN KURK: Will they be used on staff and visitors?

MS. MADDAUS: I would say yes.

CHAIRMAN KURK: But you're not sure?

MS. MADDAUS: Correct. Yeah, the -- what I've heard, yes.

CHAIRMAN KURK: Representative Ober.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

REP. OBER: What authority do you have to get dogs? What RSA allows that?

MS. MADDAUS: We got a grant from DOJ that was approved.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Don't grants have to come here? It's a question for you, Mr. Chairman, or Mr. Kane.

CHAIRMAN KURK: Mr. Kane --

REP. OBER: Perhaps Mr. Kane. Sorry, I keep putting Mr. Chairman on the hot seat.

MR. KANE: Over the threshold. So over the hundred thousand dollar threshold, yes, Fiscal would approve grants. Anything under that wouldn't require Fiscal Committee approval.

CHAIRMAN KURK: And all of the dogs came in at less than 100,000 or they did it one dog at a time?

MS. MADDAUS: Seventy-five thousand and we have two.

CHAIRMAN KURK: The Commissioner's not here today?

MS. MADDAUS: No, he had a Citizen Advisory Board meeting.

REP. OBER: Are these gold-plated dogs?

MR. MADDAUS: We needed vehicles to transport the dogs.

REP. OBER: Mr. Chair, I do actually have a question on the item.

CHAIRMAN KURK: Representative Ober.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

REP. OBER: I'm on Page 4 of 4, and the Chairman's correct, I did have some questions. This is for a brand new contract that wasn't in the budget. And you're proposing to take money from a line item and transferring it to a new contract. Shouldn't that be in the coming budget as opposed to doing this now? Because we've had to transfer money into these line items to cover expenses and we transferred money in and now you're asking us to transfer it out to cover a new contract, have a new system.

MS. MADDAUS: It was a project that was approved through our Capital Budget for the electronic health records.

REP. OBER: Then why are you spending these dollars? You should have capital dollars.

MS. MADDAUS: It's to continue the project electronic health record for software maintenance fees and any changes that we need.

REP. OBER: That doesn't answer the question. The question is why are you not using your capital dollars? Why have you come with these if these are capital projects?

MS. MADDAUS: It's been expended. For '16 that's a capital fund, 16-17. So there's additional funds. The vendor at the point where we did go into a contract these were the dollars that were needed.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: How much money did you get in your capital request?

MS. MADDAUS: To my knowledge, it's 500,000.

REP. OBER: You got 500,000 in your capital request and what did you spend that on?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MS. MADDAUS: To implement the system. And we had a contract with NaphCare and they have come, we have gone live in November, and to purchase the equipment necessary.

CHAIRMAN KURK: The question is why -- if this was capital appropriations, is this because we didn't appropriate enough capital funds?

MS. MADDAUS: Correct. It is a continuing -- there will be continuing costs just like any other.

CHAIRMAN KURK: This is not for equipment. This is to operate the equipment and you didn't include this in your operating budget.

MS. MADDAUS: Correct. The contract was just negotiated. It was approved on January 27, 2016.

REP. OBER: So now we are back to my original question. Why shouldn't this be in the budget that's coming forward as a budgetary item? Because you're taking money from a line item that the Commissioner told us he had to have. We have transferred money in and out of, and now suddenly we have excess money. And I don't understand how we got surplus in a line item that we already put money in at a request of the Commissioner, the Assistant Commissioner.

MS. MADDAUS: The line item we are taking for this purpose is for our Strafford County housing of inmates, and that does vary by how many we have. So we can never -- we do have -- we did have the surplus of the 180,000 to cover this.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Page 4 of 4 says that the money is coming from 8231 Mental Health, Class 101 Medical Payments to Providers, 8234 Medical-Dental, Class 101 Medical Payments to Providers.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MS. MADDAUS: We are moving 180,000.

REP. OBER: It's coming out of medical lines that we had to transfer \$2 million into to cover medical expenses.

MS. MADDAUS: No. Actually, we are taking that. It's the same amount is what happens here 180,000 taking out of 8231, 101, 8234, 101, specifically for medical payments. The 180,000 for this contract for the electronic health records is actually out of the cost for the Strafford County from the Women's Prison, for the Strafford County room and board.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Unlike Senator Morse was earlier, I can't now make a motion to move 'cause I've been talking. But it appears they have tried to mix two unrelated items into one request with little to no explanation and I think we should wait on this. Thank you for letting me ask my questions.

CHAIRMAN KURK: Let me try to understand this.

MS. MADDAUS: Hm-hum.

CHAIRMAN KURK: I'm on Page 2 of 4. The top account says Mental Health.

MS. MADDAUS: Correct.

CHAIRMAN KURK: It looks as though you're taking \$180,000 from that.

MS. MADDAUS: Yes.

CHAIRMAN KURK: And then on Page 3 of 4 titled Prison For Women, you're taking \$180,000 out of contracts for program services.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MS. MADDAUS: Correct.

CHAIRMAN KURK: Okay. Then you're transferring that total, 106 -- \$360,000 in the bottom of page -- second half of Page 2 to Medical-Dental for medical payments to providers and for contracts for operational services.

MS. MADDAUS: Yes.

CHAIRMAN KURK: So we are not spending money on Mental Health in the Men's Prison?

MS. MADDAUS: It was recognized as surplus from that -- that line to put towards the Medical.

CHAIRMAN KURK: I thought mental health issues were a major problem at the Prison and that we wouldn't have surplus, and I'm surprised to find out we have surplus in that line.

MS. MADDAUS: That's what I have been consulting with the medical staff and that's where they felt they could move the money from that line to 8234.

CHAIRMAN KURK: Because how much mental health services we provide is very variable.

MS. MADDAUS: We have a contract with MHM and that's the majority of that class, the rest is for assessments, and they felt the remaining budget was enough for the assessments that were necessary.

CHAIRMAN KURK: What would be the consequence if this item were not approved?

MS. MADDAUS: The one would be the 180,000 for the electronic health records that invoice is due and that is not in the right -- the right class, the 103. It's just not in the right class. In 103 is where it should be paid out for.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Is this an invoice for services already received or is this an invoice for services yet to be delivered?

MS. MADDAUS: It would be to continue. It's for the software licenses.

CHAIRMAN KURK: For the future?

MS. MADDAUS: Yes, going forward.

CHAIRMAN KURK: If we didn't pay this, what would happen?

MS. MADDAUS: We could stop doing electronic health records. It be up to the vendor. This is what's due at the time.

CHAIRMAN KURK: This is covering -- which period of time would this invoice cover?

MS. MADDAUS: I'm not sure of that.

REP. OBER: Can we get a copy of that invoice?

CHAIRMAN KURK: Do you think it's for 2017 or for some future period?

MS. MADDAUS: It's due this month. I'm assuming it is for this -- this year.

CHAIRMAN KURK: The balance of this Fiscal Year as opposed to going for one calendar year or, excuse me, 12 months from the date of the contract?

MS. MADDAUS: I'd have to find that out.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Yes.

REP. OBER: Could we perhaps do as we did with the Justice Department? We have other things to do. Table this and let her

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

find out and come back, and when she comes back with the answer take it off the table immediately as we did for AG Foster. I think we need to see that invoice. I think she needs to answer. She just offered to find out.

CHAIRMAN KURK: Would you be able to find out shortly?

MS. MADDAUS: Hopefully. So the software license, what time period it applies to.

CHAIRMAN KURK: Yes. Anything else, Representative Ober?

REP. OBER: I mean, the software licenses should have been in your capital project, so.

MS. MADDAUS: I agree and it wasn't. It was 500,000 to implement the project, and then there's continuing, I think, with any software.

REP. OBER: I would suggest you fax the information in and we have a fax machine right here. I'm sure Janet Clayman would help you and you could get that faxed in for us.

MS. MADDAUS: The invoice?

REP. OBER: And the capital project so we see why you didn't have software licenses included.

CHAIRMAN KURK: Without objection, we will move on and as soon as you come back with the answer we'll insofar as we can get right away to you. Thank you.

MS. MADDAUS: Thank you.

CHAIRMAN KURK: That completes the items on which we have to take action. However, we do have informational materials including the Dashboard from the Department of Health and Human Services.

REP. OBER: We going to do that next?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Yes. Commissioner.

MR. MEYERS: Yes, sir.

CHAIRMAN KURK: Mr. Kane, do you have additional copies of that for members who may not have brought theirs?

MR. KANE: Yes, we have a few.

CHAIRMAN KURK: Good afternoon again, Commissioner.

MR. MEYERS: Good afternoon, Mr. Chairman. For the record, again, Jeff Meyers, Commissioner, along with Sheri Rockburn, our CFO. Thank you.

CHAIRMAN KURK: Thank you both for your willingness to be here and sit in the hot seat. I'm turning to Page 2 of the Dashboard dated January 11, 2017, Fiscal item 17-025.

MR. MEYERS: Yes.

CHAIRMAN KURK: It shows a shortfall of \$65,972,000 and this is after having met your lapse of \$20,885,000; is that correct?

MR. MEYERS: The way you phrased it, I think it's correct. We've got a \$65 million shortfall that is 99.9% Medicaid. There's some DCYF cost there, carried here, but that's very minor compared to everything else.

As I said, we are on track to meet -- we are projecting now 22 and a half. That could be used to offset or not offset but -- and I understand the way that people look at that. So but we -- we do -- we are on track to lapse \$22 million.

CHAIRMAN KURK: So if we were to solve the \$65.9 million problem --

MR. MEYERS: Correct.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: -- then the budget would be balanced, you would meet your lapse, and everything would be --

MS. ROCKBURN: That would be great.

MR. MEYERS: That is one way to look at it. The other way to look at it, of course, is the 22 be put toward the deficit and the amount to be solved would be 40 odd thousand -- million dollars, excuse me.

CHAIRMAN KURK: Correct. Then we have a \$20 million problem somewhere else in the budget. You would be problem shifting.

REP. OBER: But that's not their problem.

CHAIRMAN KURK: Okay. Does anyone have any questions they wish to ask about this? Representative Rosenwald.

REP. ROSENWALD: Thank you. Thank you, Mr. Chairman. I guess my specific question is about Line 17.

REP. OBER: Which page?

REP. ROSENWALD: Page 2.

MR. MEYERS: Yes.

REP. ROSENWALD: Could you please explain -- my understanding is that there's a fee charged to insurers that this represents.

MR. MEYERS: That's correct.

REP. ROSENWALD: But I guess what I don't understand is why the State is paying it and not the insurers. Is that something that changed?

MR. MEYERS: So it's described more specifically in item (e) on Page 5. But the answer to your question is that the Government requires states to compensate the Managed Care plans

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

for their Federal insurance. This is a Federal Insurance Premium Tax.

REP. ROSENWALD: Right.

MR. MEYERS: That's assessed on premiums to help fund premium subsidies on the Exchange and Medicaid Expansion. And because this is considered a reasonable business expense, then it has to be paid in one of two ways. It either has to be factored into the capitated payment made to the Managed Care Organizations or paid separately retroactively after a particular 12-month period.

You know, I want to say, and I point this out early on in my explanation, this is the only -- this is only the second budget of the State of New Hampshire that's had to look at Managed Care and how it's paid for within the Medicaid Program. Managed Care Program didn't start until December 1<sup>st</sup> of 2013. It was approved by the Executive Council in early April of 2012. There was money put into the 14-15 budget for the first time and then the 16-17 budget. The program very early on had very little experience. And so, you know, there were estimates made by the actuary and others at the Department at the time as to what all the fees might be and what level it may be at. It turns out that this fee total actually of 9 million we pay half and the Federal Government pays half. So this is a mandated fee that we have to pay either through the capitated rate or as a separate payment.

We chose, the Department chose then, prior to my time, to pay it as a separate payment. So that's why it's showing up in this particular manner. And I think what happened here, as best as I can reconstruct, is that there was a belief by the Department at the time that the budget was enacted that this would not be as significant a fee and that it would be managed within the Department's budget. It turned out to be much higher.

CHAIRMAN KURK: If this is not paid by you, would this be a legal obligation against the MCOs such that their profits would shrink but the states would not be obligated to pay them anymore?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MR. MEYERS: I believe the answer to that question is no. This is the Federal Government requires the State of New Hampshire to make this payment in one way or another.

CHAIRMAN KURK: The State, not the MCOs.

MR. MEYERS: Well, yes. The State has to -- well, it may be a -- I think it's a reimbursement. It may be that they pay it and we reimburse them.

MS. ROCKBURN: That's correct.

CHAIRMAN KURK: Who's they?

MR. MEYERS: The MCO makes the payment.

CHAIRMAN KURK: Why do we reimburse them?

MR. MEYERS: 'Cause we're required to.

CHAIRMAN KURK: Under the contract?

MR. MEYERS: No, by Federal Law. This is a reasonable business expense of the program. The Federal Law requires as a condition of our Managed Care Program that we reimburse the MCO for this fee.

CHAIRMAN KURK: I understand that; but that we enter into a contract with the MCO, isn't that part of the contract?

MR. MEYERS: Sure, it is; but it's also a Federal Law obligation. I'm saying it's not just a contractual obligation that we could re-negotiate. There's a Federal requirement that we pay this money.

CHAIRMAN KURK: That the State, not the MCO?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MR. MEYERS: Correct, the State must reimburse the MCO because this is a reasonable business expense that is required to be reflected in the cost of the program.

CHAIRMAN KURK: My thought was that they would eat this cost, forgetting about how it's reimbursed, based on the actuarially determined monthly rate. You're saying it's in addition to that, and I was hoping the contract could be construed to say that, in effect, they got nine -- 4.5 or whatever it is less and then you would --

MR. MEYERS: No, my understanding is we cannot do that. Now, whether or not the State should put it into the capitated rate is a legitimate question that when we renew the program, re-procure the program, you know, we need to consider and, obviously, have a common understanding about. But as it stands right now, the Federal Government requires us to reimburse this money.

CHAIRMAN KURK: Representative Rosenwald.

REP. ROSENWALD: Thank you. If I could follow-up though. Why did we think it would be less? Isn't it a set percentage premium tax the way the other insurance premium tax is?

MR. MEYERS: Go ahead. Yeah.

REP. ROSENWALD: I mean, this is traditional Medicaid, right, because it's Managed Care.

MR. MEYERS: This is standard Medicaid population.

REP. ROSENWALD: We kind of knew how many people it would be. I don't understand why we thought it would be less.

MS. ROCKBURN: So I just -- Thank you for the question because I actually just asked our staff that exact question yesterday. So just bear with me. I was under the same assumption that you are in that the tax rate is a 2% premium tax. So I thought, well, shouldn't we be able to just take our, you know,

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

premium which would be our MCO payment, times it by 2%? What I learned is that every insurance carrier has to report to the Federal Government what their premiums are. This is nationwide what a carrier nationwide did for premiums. So if you have, for example, whether it's Anthem or Centene, any organization would have to report about four months after their calendar year ends in April what premiums they issued nationwide. The Federal Government then takes that aggregate of all premiums across the entire nation and then issues a bill back to those carriers. So it takes in the aggregate, times it by 2%, and then does a proportional adjustment or rate adjustment to all the carriers and says now, carriers, this is your bill that you pay us. So it's very different than what we think of as each carrier has to pay exactly 2%. What they do it takes it into the aggregate and then the Federal Government does a formula to distribute it back out to every carrier. Then that carrier then takes that amount of money and prorates it for all the different states they did premiums or did business in.

At that point that MCO in New Hampshire gets, you know, after all this process is done will determine, okay, this is our prorated share that the Federal Government has assigned to us related to the program here in New Hampshire. So it's not just a straight percentage. It's a nationwide adjustment that happens at the Federal level and then prorates it back to each carrier and then prorates it back to each state.

MR. MEYERS: And I think what happened --

MS. ROCKBURN: Which I didn't know but that's really how that really is working.

MR. MEYERS: And so I think our actuaries in the prior reach of the Department did, you know, have an understanding about what this might be. It just turned out to be that much more.

CHAIRMAN KURK: Further questions?

REP. OBER: Cindy would ask a question.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

REP. ROSENWALD: No, I'm speechless.

MS. ROCKBURN: I think, Representative, it was -- like I said, I was under that same assumption that wouldn't it just be -- you know, I think about our regular taxes. We had earnings of X and we pay X percent, and it's almost like thinking of if everyone in this room earned a certain amount of money you would report that to the Government and the Government would prorate what each of your tax amount is going to be. And then they issue a bill to you that says here's your tax that you now owe us. That's exactly what this does. And so it's very different when we think about how a normal tax payment works.

REP. ROSENWALD: I just can't imagine it varies so much.

CHAIRMAN KURK: On Line 16 the revenue shortfall, do you have any insights on the status of the case?

MR. MEYERS: So what -- a little bit, not a lot, to be honest. So what I know is that the -- all of the pleadings and arguments, I believe, have been submitted to the court with respect to the injunction matter that is pending in the District Court here in Concord. The case is with the judge. I check in with Attorney General's Office very regularly about what they may or may not hear about whether we hear something. We don't know when we are going to hear is, unfortunately, the answer. It's really up to the court. But I will tell you based on where we are in the calendar right now and based on the judge's reasoning that was reflected in the preliminary injunction decision, I don't believe that it may impact -- it will impact '17, whether something could happen after that.

Now, this is just a decision of the District Court Judge, admittedly, on a preliminary injunction but that's something to appeal. There may well be further legal action in New Hampshire or other jurisdictions. There are similar cases pending, I think about three or four other states and the District of Columbia. So it may be the Circuit Court of Appeals at some point gets ahold of this case and it goes up potentially even to the Supreme Court eventually. So I don't believe that '17 will

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

be impacted. I think for budgeting purposes, I think we have to assume right now that our additional General Fund obligation for '17 would be approximately \$15 million.

Now, the hospitals are filing some of their projected MET numbers with the Department of Revenue. I think the actual date by statute is January 15<sup>th</sup>. I think because it falls on the weekend and there's a holiday on Monday, DRA may not get that until Tuesday. You know, we'll have access to that information and so we may be able to provide additional information once we see those numbers.

CHAIRMAN KURK: What about a perspective change by the Federal Government in its regulation which would affect us for '18 and '19, I assume.

MR. MEYERS: Yeah, I think that's very possible. Look, the essence of the case, in part, was procedural that lawsuits were filed because CMS did not go about changing the definition of Uncompensated Care in accordance with Federal rulemaking standards. That's one of the claims in some of the cases. The answer to your question is there could well be a change on the Federal level given the new administration, but that would impact potentially '18 and '19 but not '17.

CHAIRMAN KURK: Is the Department urging its Washington lobbyists if we have any or its Washington affiliates to make sure this happens or to bring this to the attention of the new administration?

MR. MEYERS: I think so. We don't -- we don't pay for lobbyists in Washington. I don't have money for that, Mr. Chairman.

REP. OBER: It's against the law.

MR. MEYERS: Nor do I think that that's necessarily a good idea. What I can tell you though, obviously, I've talked to the Governor about this. You know, I've talked to the Federal Delegation about this and there's going to be a new Attorney

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

General as the existing current Attorney General noted. And so whoever that is in the next several months or whenever that occurs, clearly, I'll be having discussions with the State's Attorney General about our position in the litigation.

CHAIRMAN KURK: Okay.

MR. MEYERS: Yes.

CHAIRMAN KURK: A general question about Line 13 and 14. One of the problems that a number of folks foresaw would occur by switching from Fee-For-Service to Managed Care was that the Legislature would lose some of its ability to control the cost of the Medicaid Program in the state.

MR. MEYERS: Hm-hum.

CHAIRMAN KURK: One of the things the Legislature had done in the past years was to reduce provider rates.

MR. MEYERS: Correct.

CHAIRMAN KURK: And as a result, the program costs us less.

MR. MEYERS: Correct.

CHAIRMAN KURK: Assuming that would be reasonable in those reductions and the providers still continued to provide services at the lower rates.

MR. MEYERS: Correct.

CHAIRMAN KURK: Would you share with us what ability the Legislature has for either the current year '17 under the contracts or '18 and '19 through the budget to reduce the amount that we spend on the Managed Care contracts?

MR. MEYERS: I'm happy to do so. So I took to the Council, I believe, in late May or early June of '16 amendments to the existing Managed Care contracts that updated those contracts and

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

set a rate for services for our Fiscal Year 17, that rate on an average per member/per month basis so the average composite rate that was increased from based on the actuary's determination. And, again, after it provides us with a range and we pick the low number in the range. So the low number --

CHAIRMAN KURK: I want you to say that again. You did, in fact, pick the low number in the range?

MR. MEYERS: We have always asked our actuary to provide us with a -- keep in mind, there's many rates set within the contract. There's an average rate that's blended. But there are some people, for example, who are medically complex that have a much higher cost than, you know, a ten-year old in the Medicaid Program. So there's various rate cells. But the average composite per member/ per month rate from '16 to '17 went from \$343 to \$349. That was the contract approved by the Council in June of '16 for Fiscal 17. The Federal Government allows us to set a rate for the program for no more than a 12-month period because of the uncertainty -- well, because of the need to be able to assure that the rate reflects financial positions and access to services and other federally required criteria.

So we only get to set a rate -- any Managed Care Program in the country only gets to set a rate for a 12-month period is my understanding. And our actuary, if you go back to '15, in '15 the average per member/per month rate was \$331. And so the bulk of the Medicaid shortfall is the fact that the rate went up -- the process wasn't aligned, all right, the timing of the process --

CHAIRMAN KURK: I'm not asking for an explanation why the shortfall occurred, I'm asking whether or not the rate --

MR. MEYERS: I'm getting to that. I just wanted the rest of the Committee to have the threshold information was that in '15 it was 331. It went up to 343 in Fiscal 16 and then another \$6 per member/per month to 349 in '17. The answer to the second part of your question is that I have asked our actuary, contrary to past practice by the Department, I have asked our actuary,

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

first of all, to have draft rates available no later than March 1<sup>st</sup> so that the House phase of the budget, the House has the information and we don't repeat what happened last time.

Secondly, I've asked the actuary to come to New Hampshire this month. In fact, in coordination with the House Chief of Staff and the Senate Chief of Staff and Governor's Office, our actuary is coming to New Hampshire on the 30<sup>th</sup>, Monday the 30<sup>th</sup> of January, and there is a session being set up for House and Senate leadership and other folks to meet with the actuary so that they can hear presentation in terms of what work is going on right now and how the rate is being built, what's being taken into account, what the time line's going to be, and what the flexibility is in terms of the Legislature being able to impact how that rate is set.

So that is something that I feel is very important to do. I'm committed, as I have said previously after becoming Commissioner, I want the ratemaking process to be transparent to the Legislature so that everybody has the same information and that people aren't left guessing in terms of what's happening. So that session is being -- in the process of being set up, Mr. Chairman.

CHAIRMAN KURK: I was aware of that. Thank you for that. At this point, though, you don't have any words of wisdom for us as to what could be done through the budget in '18 or '19 or even presently to reduce the cost of Medicaid through the MCOs?

MR. MEYERS: We always -- I mean, there are mandatory services in Medicaid and there are optional services in Medicaid. For example, pharmacy is an optional Medicaid service. The State could choose, if it wished, not to offer a pharmacy benefit. That would reduce the cost of the program, I believe, I don't have the numbers and I haven't asked specifically for numbers yet, but I would assume that would reduce the cost of the program very substantially.

CHAIRMAN KURK: Could that be done for '17?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MR. MEYERS: No.

CHAIRMAN KURK: No changes could be made in the contract for '17?

MR. MEYERS: No. We would have to open up our CMS approval for '17 and it wouldn't be -- we have got five and a half months left in the Fiscal Year.

CHAIRMAN KURK: Other questions? Representative Rosenwald.

REP. ROSENWALD: Thank you. Could you please tell us what states have dropped the optional pharmacy benefit?

MR. MEYERS: I don't know. All I'm saying to the Committee is it's not a mandatory Medicaid service.

REP. ROSENWALD: Well, we looked at that last budget.

CHAIRMAN KURK: Yeah. I was thinking more of the kinds of things that we used to do in the past, such as rate changes. And my understanding when I -- when this was discussed a couple years ago before we went into the first or the second contract was that the actuary will take into account in doing his or her work the fact that the State has made some changes, either explicitly or indirectly, that affect rates. So, for example, if we were to go back to our traditional practice of saying this is how much we are going to pay -- this is how much a certain class of provider will receive that would be reflected in the actuary's determination of what the rate should be.

MR. MEYERS: Well, the way -- I mean, the actuary should speak to this. The actuary is a better spokesman on this issue than I am. But I think what the actuary has tried to convey in the past is that there's a range of what may be actuarially sound. But if New Hampshire is paying at the bottom of that range, then it's still -- the rate still has to be both actuarially sound and it has to be approvable by CMS under Federal Medicaid standards.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: I understand that. But both of those could occur if the State made a determination as to what rates providers would receive, as we have in the past. That would be reflected by the MCOs when they negotiated their contracts and would be reflected by the actuary when he determined what the per member/per month charge would be. But you're right, that's something we need to talk about on the 30<sup>th</sup>.

MR. MEYERS: Right, right.

CHAIRMAN KURK: Is there any further discussion on this? Okay. Thank you both very much.

MR. MEYERS: Thank you very much. Thank you for having us.

CHAIRMAN KURK: It is now 1:20. Mr. Kane, must we hear the two audits at this time or could they be without --

MR. KANE: Well, I mean, you've already accepted them and put them on file. We do have our auditors from KPMG here relative to the Turnpike Audit and I did see Executive Director.

CHAIRMAN KURK: Could these be done expeditiously?

MR. KANE: Yes, I think they heard that, so.

CHAIRMAN KURK: They have acute hearing. I'm glad to hear that.

MR. KANE: They do.

CHAIRMAN KURK: Are there any other items, Mr. Kane, that we need to bring up? Are there any questions about any other informational items that folks have?

MR. KANE: You have Corrections one you held off on. I don't believe we have an answer yet.

CHAIRMAN KURK: Okay. Let's have the Turnpike Audit and the Lottery Audit.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

**Audits:**

CHAIRMAN KURK: Good afternoon, ladies and gentlemen. Welcome to the Senate -- to the Joint House-Senate Fiscal Committee.

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good afternoon, Mr. Chairman. For the record, Steve Smith from the LBA Audit Division. And as you know, we have for the State CAFR, we have KPMG under contract with our office. And as a component of that overall audit, KPMG did the audit of the Turnpike System. And representing KPMG is Karen Farrell here. She was the Manager on the job. And also joining us from DOT is Marie Mullen, the Director of Finance. So with your permission, I'll turn it over to KPMG.

KAREN FARRELL, Senior Manager, KPMG: Good afternoon.

CHAIRMAN KURK: Good afternoon.

MS. FARRELL: Karen Farrell, Senior Manager with KPMG, and I'm here today to present the audit results from the New Hampshire Turnpike System.

CHAIRMAN KURK: May I ask, and I know you won't be able to do this, but would it be possible to say we have audited the Turnpike System and you have nothing to worry about?

MS. FARRELL: That's exactly correct.

CHAIRMAN KURK: Have you finished your report?

MS. FARRELL: Well, as far as the audit results go, yes. So the audit opinion was clean and modified on the financial statements. Our internal control report, which isn't an opinion of itself but is a byproduct of the audit, resulted in no material weaknesses or significant deficiencies identified. And the DEC covenant letter, which is the one-page letter that you

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

have, resulted in no non-compliance identified by us to the DEC covenants.

CHAIRMAN KURK: You get a Gold Star. Absolutely.

MS. FARRELL: That was easy.

CHAIRMAN KURK: Thank you so much.

MS. FARRELL: You're welcome.

CHAIRMAN KURK: Does the Department have anything to say?

MARIE MULLEN, Director of Finance, Department of Transportation: Very briefly. Just --

CHAIRMAN KURK: Could you identify yourself?

MS. MULLEN: I'm sorry? Oh, yes, Marie Mullen, Director of Finance for Department of Transportation. Just very briefly. We like to thank Karen and her KPMG team, very efficient audit. And also Len Russell, Mag Blacker of the Business Office and the Finance Department, thank you. They did an excellent job on the audit this year and we are very pleased with the results, and we'll entertain any questions if you have any questions.

CHAIRMAN KURK: Was this a late audit?

MS. MULLEN: No.

CHAIRMAN KURK: We accepted this last time.

MR. KANE: Yes, you released it last November. Knowing that it was coming forward, you released it.

CHAIRMAN KURK: So this was not late.

MR. KANE: No, no, no.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MS. MULLEN: No, this was not late. The DEC covenant we have to submit by December 31<sup>st</sup> and we did provide that to our shareholders so that was not an issue.

CHAIRMAN KURK: I'm thinking of the Lottery.

MR. KANE: No, they're okay, too.

REP. OBER: You're thinking of Liquor.

CHAIRMAN KURK: Liquor.

MS. MULLEN: Okay. Thank you.

REP. OBER: Keep saying L, eventually one of them will be right.

CHAIRMAN KURK: Mr. Smith, are we ready for the Lottery?

MR. SMITH: Yes.

REP. OBER: Ask them the same question.

CHAIRMAN KURK: Welcome, gentlemen. As you heard from the prior presentation, I hope we can award you a Gold Star, too.

REP. OBER: Quickly.

MR. SMITH: Thank you, Mr. Chairman. The Lottery Commission, this was audited by our office. And here to present the audit is Jim LaRiviere, Senior Audit Manager on this job. And joining us is Charlie McIntyre, the Executive Director of the Lottery Commission.

JAMES LARIVIERE, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, and Members of the Committee. Again, for the record, my name is Jim Lariviere. I can go into like a four-minute presentation or if you would like I would do the same thing as the Turnpike.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Would you make that statement publicly? We would very much like to hear it?

MR. LARIVIERE: We issued an unmodified or clean opinion as well in the Lottery financial statements. And we did not propose any material adjustments. So it was a clean audit. And I guess I'll turn it over to Executive Director, Mr. McIntyre.

CHAIRMAN KURK: But I award you a Gold Star.

MR. LARIVIERE: Thank you.

CHARLES MCINTYRE, Executive Director, New Hampshire Lottery Commission: Good afternoon, Chairman. I'll waive my Gold Star, Members of the Committee. I want to thank the folks at LBA for their efforts in this. I know we got a crunch before New Year's and then want to publicly thank our new CFO who I hope stays on as CFO. She came in two sick days between Christmas and New Year's. Every one of her direct reports has been replaced within the last year, has retired or moved on, and in one case it's been twice. So Cindy Baron, who is our Chief Financial Officer, follows in a long line, at least in my tenure, of wonderful chief financial officers at the Lottery. Publicly thank her. This document is hers, not mine.

CHAIRMAN KURK: Thank you.

REP. OBER: Then you get the Gold Star.

MR. LARIVIERE: Mr. Chairman, if I may? One thing I should have probably mentioned is that we will be issuing a report on the -- a report on the Internal Control of Financial Reporting and Compliance and Other Matters and that will be a report that will present in Management Letter at a future date. I also want to thank the Lottery Commission Executive Director, Charlie McIntyre, and Cindy Baron, the Chief Financial Officer, as well as the Lottery Staff and the Bureau of Financial Reporting at the Department of Administrative Services for their assistance throughout the audit.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

CHAIRMAN KURK: Thank you. And thank you for being so accommodating. Questions for Members of the Committee? Hearing none; thank you, gentlemen.

REP. WEYLER: Congratulations.

MR. MCINTYRE: Thank you. Thank you very much.

CHAIRMAN KURK: Our next meeting will be on Friday, the 17<sup>th</sup> of February. And the reason for that earlier date is because the Senate is, in fact, taking a vacation on the week of the 24<sup>th</sup>. So out of respect to the Senate, we would be meeting on the 17<sup>th</sup> at 10 o'clock.

REP. EATON: Mr. Chair, we are still awaiting Corrections.

CHAIRMAN KURK: Mr. Kane.

MR. KANE: Still awaiting Corrections. You have a choice; continue to wait or postpone this to next meeting.

CHAIRMAN KURK: Is there any -- do you have any sense that postponing would create an issue?

MR. KANE: We have -- I'll go check with her. One moment. She will be right in. Yes.

CHAIRMAN KURK: Good afternoon, ma'am.

MS. MADDAUS: Hello. What I've been able to find out is that the initial Capital Budget was for \$500,000. It was from --

REP. OBER: Do we have copies of these documents?

MS. MADDAUS: I didn't get any documents in yet. So it was \$500,000 for the implementation and hardware for electronic health records system, put it out for bid. We didn't get -- we entered into a contract and these are the monies that would be for the maintenance which would include the software licenses.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

The 180,000 is for six months for January 1<sup>st</sup> through June 30<sup>th</sup> of this Fiscal Year.

REP. OBER: Of software licenses?

MS. MADDAUS: And maintenance, yes.

REP. OBER: Okay. But that -- Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Software licenses are not Medical-Dental expenses and they go into other class lines. Mr. Kane just told me he thought that would have gone into a different class line, but it wouldn't be a medical expense. A software license is not a medical expense.

MS. MADDAUS: It is in the contract line. I had that same question. It was approved by the G & C in that line.

REP. OBER: It doesn't matter. That was budgeted incorrectly. I think the problem is they can only come to Fiscal to ask to transfer within -- more money into certain lines and software licenses isn't one of the lines where they were granted that extra authority.

MS. MADDAUS: We are allowed to transfer on all our classes.

CHAIRMAN KURK: Let me ask you this question.

MS. MADDAUS: Hm-hum.

CHAIRMAN KURK: If this covers the period January 1<sup>st</sup> through June 30<sup>th</sup>.

MS. MADDAUS: Correct.

CHAIRMAN KURK: And we're now into January, and this bill has not yet been paid, could we wait to deal with this until February?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MS. MADDAUS: I did ask our OIT person and she didn't have an answer if we didn't pay it. She's trying to locate it to send it over. It would be due February 1<sup>st</sup>.

CHAIRMAN KURK: This money is due February 1<sup>st</sup>?

MS. MADDAUS: Correct. The invoice that they're sending us.

CHAIRMAN KURK: But it's for a period prior to?

MS. MADDAUS: Yes.

REP. WEYLER: State is always late in its bills any way.

CHAIRMAN KURK: Mr. Kane, if we were to delay this until we got more complete information, I think that's what Representative Ober is looking for or not, Representative Ober.

REP. OBER: Well, I don't think they have got it in the right place. I'm not sure why we are getting this. They didn't have money for it and they didn't have the authority for it. If G & C had approved a contract and we have a Capital Budget, we would have had that money in the Capital Budget, and this was not in the budget. This system was never discussed when Commissioner Wrenn and his staff came to their budget hearings. I mean, this is just like out of the blue someplace that we never heard about before.

MS. MADDAUS: It's typical is what our OIT person said. It's typical we would then come forward with more money within -- with a system request.

REP. OBER: You tell your IT person please to come to the budget hearing for Corrections. We'd love to hear her say that.

MS. MADDAUS: I do wish she was here.

CHAIRMAN KURK: Mr. Kane, could we defer this till the 17<sup>th</sup> when we have more complete information? Would you make sure

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

that if, in fact, there's going to be a crisis, the vendor is going to pull out, that in some way you notify us so we can hold an emergency meeting.

MR. KANE: Yes, I'll work with the Department to make sure we communicate that with the Committee.

CHAIRMAN KURK: Then in that case, if we were to table this --

REP. OBER: It is tabled. We didn't move to take it off.

REP. WEYLER: No, we didn't do anything.

SEN. D'ALLESANDRO: We didn't table.

CHAIRMAN KURK: We would need to take an action on this. We were to table this now, you will be able to come back to us with the complete information, perhaps a change in funding and so forth.

MS. MADDAUS: Yes. Yes, sir.

CHAIRMAN KURK: Is there a motion? Representative Ober is recognized for a motion.

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

SEN. DANIELS: Second.

CHAIRMAN KURK: Seconded by Senator Daniels. All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is tabled. Thank you.

MS. MADDAUS: Thank you.

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

CHAIRMAN KURK: There being no further business to come before us --

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

MR. KANE: Correct.

CHAIRMAN KURK: -- we stand adjourned.

(The meeting adjourned at 1:30 p.m.)

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**January 13, 2017**

## CERTIFICATION

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

*Cecelia A. Trask*

Cecelia A. Trask, LSR, RMR, CRR  
State of New Hampshire  
License No. 47

