

**JOINT FISCAL COMMITTEE**

Legislative Office Building, Rooms 210-211

Concord, NH

Thursday, February 19, 2015

**MEMBERS PRESENT:**

Rep. Neal Kurk, Chair

Rep. Lynne Ober

Rep. Kenneth Weyler, Clerk

Rep. Cindy Rosenwald

Rep. Daniel Eaton

Sen. Jeanie Forrester, Vice-Chair

Sen. President Chuck Morse

Sen. Gerald Little

Sen. Andy Sanborn

Sen. Lou D'Allesandro

(The meeting convened at 3:08 p.m.)

**(1) Acceptance of Minutes of the January 23, 2015 meeting.**

CHAIRMAN KURK: Good afternoon, everyone. Like to open the February 19<sup>th</sup>, 2015, meeting of the Legislative Fiscal Committee. The first item on our agenda – good afternoon to all members, by the way – the first item on our agenda is the acceptance of the minutes of the January 23<sup>rd</sup>, 2015, meeting.

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

REP. OBER: Second.

CHAIRMAN KURK: Representative Eaton moves, seconded by Representative Ober that we approve those minutes. Discussions? There being none, you ready for the question? All those in favor please indicate by saying aye? Opposed? The ayes have it and the motion is adopted and the minutes are approved.

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

**(2) Old Business:**

CHAIRMAN KURK: We now turn to Old Business and the Chair recognizes the Assistant Attorney General, Ms. Rice. I apologize, Ms. Rice, is it Deputy?

ANN RICE, ESQ., Deputy Attorney General, Office of Attorney General, Department of Justice: It is, but that's fine.

CHAIRMAN KURK: Good afternoon.

MS. RICE: My understanding was that we were not expected to be here on the issue that was brought up at the last Fiscal meeting only because there had been discussions on this so I had not prepared anything.

CHAIRMAN KURK: Representative -- excuse me. Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Deputy, I appreciate that; but I know you are an exceptionally capable woman so we'd love to have a conversation, I'm thinking.

MS. RICE: I'm happy to have a conversation.

CHAIRMAN KURK: Would you care to start the conversation, Senator?

SEN. SANBORN: I will defer to Senator Forrester, unless you would like me to.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: All right. Thank you for coming. I think it was during the last Fiscal Committee meeting we had asked -- someone had asked the Commissioner of Health and Human Services by what authority did he have to take the 7 million from the nursing home and other lines. And what I recall him saying is that the Attorney General said he had the authority. And we asked at that time if we could have somebody from the Attorney General's Office come and tell us by what authority.

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That didn't happen, but we were told that a letter would come outlining by what authority they were claiming. So we were expecting either you or a letter to explain that to us.

MS. RICE: And I apologize. My understanding was that the Attorney General has since that time had a meeting with Representative Kurk and others and that from that meeting there was not any expectation of something further. So that's why there was no letter coming, but I will certainly see what I can provide for you.

In terms of we have looked at that issue, and I do have to say public discussion about this may be ill-advised because there may be a lawsuit on this. So by discussing this in a public forum like this, it does create some problems for us in terms of if there is a lawsuit and putting our position out in the public. I'm happy to have that discussion, but I do want to alert the Committee that there is a risk in doing so.

CHAIRMAN KURK: Ms. Rice, maybe it might be helpful if the Attorney General or you met with Senator Forrester and, perhaps, Senator Sanborn, and Senator Morse, and have the discussion you're talking about rather than raise the issue and discuss the issue here.

MS. RICE: Be happy to do that.

CHAIRMAN KURK: That seems to be satisfactory so thank you very much.

MS. RICE: Thank you.

#### CONSENT CALENDAR

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

CHAIRMAN KURK: We now turn to item number three, transfers authorized under RSA 9:16-a. This is Fiscal 15-030, a request from the Department of Safety to transfer \$310,000.

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

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REP. EATON: Second.

CHAIRMAN KURK: Discussion. Am I correct that this is just transfers within the Department? There is no additional money going into this?

REP. EATON: Right.

SEN. D'ALLESANDRO: Right.

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: Yes.

CHAIRMAN KURK: Further discussion? There being none, are you ready for the question? The motion is to approve Fiscal 15-030, the Department of Safety. If you're in favor of that motion, please now indicate by saying aye? Opposed? The ayes have it and the motion carries.

\*\*\* {MOTION ADOPTED}

REP. OBER: Mr. Chairman, has every item been removed from Consent?

REP. EATON: Haven't gotten there yet.

**(4) RSA 9:16-c, I, Transfer of Federal Grant Funds:**

CHAIRMAN KURK: The next item is item number four under RSA 9:16-c, Transfer of Federal Grants. There are two items on this Consent Calendar item. Does anyone wish to remove either of these?

\*\* REP. EATON: Move approval.

REP. ROSENWALD: Second.

CHAIRMAN KURK: I think these -- I think we should be tabling these.

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MR. PATTISON: These are existing Federal funds within their budget.

CHAIRMAN KURK: These are strictly transfers?

MR. PATTISON: Correct.

CHAIRMAN KURK: Okay. Is there a motion to accept and approve the Consent Calendar?

\*\* REP. EATON: So move.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Representative Rosenwald. Discussion? There being none, are you ready for the question? Representative Eaton.

REP. EATON: Are you moving the entire Consent Calendar or just (4)?

REP. WEYLER: Number four is all we can move.

CHAIRMAN KURK: Number four consisting of two items. Both items. 15-016 -- excuse me. Fiscal 15-016 and Fiscal 15-031. Both of those are covered by this motion.

REP. OBER: Yes, we are in agreement.

CHAIRMAN KURK: Everyone understands that, for the entire item number four. If you are in favor of that motion, please now indicate by saying aye? Opposed? The ayes have it and the motion is adopted and Fiscal 016 and Fiscal 031 are approved.

\*\*\* {MOTION ADOPTED}

(5) RSA 9:16-c, I, Transfer of Federal Grant Funds and RSA 14-30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from Any Non-State Source:

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CHAIRMAN KURK: Moving now to item number five on the agenda. This is Fiscal 15-017 for the Department of Safety under RSA 9:16-c.

\*\* REP. EATON: Move approval.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Senator D'Allesandro that Item 15-017 be approved. Discussion?

SEN. PRESIDENT MORSE: Mr. Chairman, can we recess?

CHAIRMAN KURK: At the request of Senator Morse, we will stand in recess for a few minutes.

(Recess taken at 3:15 p.m.)

(Reconvened at 3:19 p.m.)

CHAIRMAN KURK: The motion -- Committee will come out of recess. The motion before us is to approve Item 15-017 from the Department of Safety. All those in favor, please indicate by saying aye? Opposed no?

CHAIRMAN KURK: The nos have it and the motion fails. The Chair recognizes Senator --

REP. WEYLER: What was the vote, 6 to 5?

CHAIRMAN KURK: I hope it's not 6 to 5.

REP. EATON: Should have been a 5/5 tie.

CHAIRMAN KURK: Someone like a show of hands? All those in favor of the motion to accept Item 15-017. One, two, three. Opposed? Three being in favor, seven being opposed, the motion fails.

\*\*\* {MOTION FAILS}

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CHAIRMAN KURK: The Chair recognizes Senator Sanborn for a motion.

\*\* SEN. SANBORN: Make a motion to table.

CHAIRMAN KURK: Is that seconded?

SEN. FORRESTER: Second.

CHAIRMAN KURK: Moved by Senator Sanborn, seconded by Senator Forrester to table Item Fiscal 15-017. All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion carries and that item is tabled.

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

(6) 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 now turn to item number six on the Consent Calendar. The Chair recognizes Senator Sanborn for a motion.

\*\* SEN. SANBORN: Thank you, Mr. Chair. I move tabling of the Consent Calendar item number six.

CHAIRMAN KURK: Senator Sanborn moves, seconded by Senator Forrester that item consent -- excuse me -- Item (6) on the agenda be tabled. That consists of four items; Fiscal 15-012, 019, 020 and 038. The motion is to table those four items. Ready for the question?

All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion carries and those four items are tabled.

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

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(7) **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 Restricted:**

CHAIRMAN KURK: We now turn to item number seven on the agenda. Fiscal Committee approval required for acceptance of expenditure of funds over \$100,000 from any non-state source under RSA 14:30-a. There are four items; 15-018, 021, 032, and 033. The Chair recognizes Senator Sanborn for a motion.

\*\* SEN. SANBORN: Thank you, Mr. Chair. I move we table consent item number seven.

CHAIRMAN KURK: Is there a second?

SEN. FORRESTER: Second.

CHAIRMAN KURK: Senator Forrester seconds. You ready for the question? The motion before us is to table consent item number -- excuse me -- agenda item number seven on the Consent Calendar, four items. If you're in favor of that motion, please now indicate by saying aye? Opposed? The ayes have it and the motion passes and those four items are tabled.

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

(8) **RSA 124:15 Positions Restricted:**

CHAIRMAN KURK: We turn now to number (8) on the agenda, Positions Restricted, one item, Fiscal 15-022 from the Department of Justice. Is there a motion? Senator Sanborn.

\*\* SEN. SANBORN: I move to table, Mr. Chair.

SEN. FORRESTER: Second.

CHAIRMAN KURK: Senator Sanborn moves to table. Senator Forrester seconds the motion. This is under (8).

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REP. OBER: (8).

CHAIRMAN KURK: Fiscal 15-022.

SEN. D'ALLESANDRO: Mr. Chairman.

CHAIRMAN KURK: This is not debatable.

SEN. D'ALLESANDRO: I just want a parliamentary inquiry.

CHAIRMAN KURK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Some of these items have a direct effect on the ability of the State to function. This particular item talks about a juvenile investigator position. It seems to me if we are inhibiting an agency's ability to do its job by tabling this, we are taking the safety and security of New Hampshire citizens into our hands. I find that to be very discouraging and very disconcerting.

CHAIRMAN KURK: Thank you for your parliamentary inquiry, Senator.

SEN. D'ALLESANDRO: You're very welcome, Mr. Chair.

CHAIRMAN KURK: The motion is to table item number eight, Fiscal 15-022. If you're in favor of that motion, please now indicate by saying aye? Opposed? The ayes have it and the motion carries and that item is tabled.

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

(9) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from Any Non-State Source and Chapter 3:7, II, Laws of 2014, Department of Health and Human Services; Contracting; Transfer Among Accounts:

CHAIRMAN KURK: We turn now to item number nine on the agenda under RSA 14:30-a. Again, Fiscal Committee approval

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required for items over \$100,000 in non-state sources. This is Item 15-034 from the Department of Health and Human Services. Senator Sanborn is recognized for a motion.

\*\* SEN. SANBORN: Thank you, Mr. Chair. I move to table.

SEN. FORRESTER: Second.

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

Show of hands, please. All those in favor of the motion to table? Thank you. All those opposed? The vote being 7 to 3, the motion carries and Item 15-034 is tabled.

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

**(10) RSA 177:2, II, Closing of State Stores:**

CHAIRMAN KURK: We now turn to item number ten on the agenda, Fiscal 15-026 from the New Hampshire Liquor Commission requesting approval of the Indirect Cost Allocation Plan for State Year 2015.

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

CHAIRMAN KURK: Senator D'Allesandro moves we approve the item. Is there a second? Senator Eaton -- excuse me -- Representative Eaton seconds. Representative Ober.

REP. OBER: I would like the agency to explain why they were so late in giving us this. This is well beyond their deadline.

CHAIRMAN KURK: Is there someone from the Liquor Commission who is ready to address this? Good afternoon, folks. Thank you for being here.

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STEVE KIANDER, CPA, Chief Financial Officer, Financial Management Division, New Hampshire Liquor Commission: Good afternoon, Chairman Kurk.

MARY ELLEN EMMERLING Administrator III, Financial Management Division, New Hampshire Liquor Commission: Good afternoon.

MR. KIANDER: For the record, my name is Steve Kiander.

MS. EMMERLING: My name is Mary Ellen Emmerling.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I would like to understand why you are so late with this. I believe you're about seven months late with this, and I don't think you've been here seven months, Steve, so you may not know what caused the original delay.

MR. KIANDER: One year ago we presented the Indirect Cost Allocation Plan as we are today, and that was within two months of arriving. And this one is late and it is -- it's -- we -- we recognize that this has to be -- this has to be moved up in terms of -- this most recent year we've -- we've made this a priority to meet these deadlines. Unfortunately, I don't have a good answer for you, but we are going to make sure that this is filed timely next year.

CHAIRMAN KURK: Could you explain the method of allocation?

MR. KIANDER: Sure.

CHAIRMAN KURK: I see there's a note at the bottom of the page you've given us, but the chart shows dollar figures.

MR. KIANDER: Okay. So an indirect cost is any cost which is not directly identified with our primary single objective retail sale of wine and liquor. The agency costs which directly support this objective are marketing, merchandising, purchasing, store operations. An agency cost which do not directly support the

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retail sales of wine and liquor are allocable indirectly, but those costs are then categorized at the end of the year and put into a indirect cost pool. And then based on a store's profitability, we apply those indirect costs to the direct expenses of each of the stores and then rank them. So we get a full profitability of each of our stores.

CHAIRMAN KURK: So if a store is extremely profitable it pays a higher share of the indirect cost?

MR. KIANDER: We apply the indirect cost based on the -- how well those -- you know, the pro rata share of their sales. Because indirect costs, such as human resources, and information technology, are not -- they're not based on how that store is performing, but we pro rata allocate them throughout all of the stores so each store shares in some part of those indirect costs.

CHAIRMAN KURK: Thank you. Further questions?

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Yes.

REP. OBER: What happens if we don't approve this? You're seven months late. We could say this is the start of the next one. So you're on your way to being early and we just won't approve this one.

MR. KIANDER: At this point, there are no stores that are on the discussion for closing. I mean, that is -- that is -- that is a -- as we move into the budget process. If we were to close stores, then the stores that were least profitable would be up for discussion. And there is an ultimate if there's a plan in place. However, this is -- this is one of the tools that the agency looks at to determine which stores may need to be either consolidated and/or --

REP. OBER: I don't think you understood the question.

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MR. KIANDER: Okay. Fair enough.

REP. OBER: This is seven months late.

MR. KIANDER: Yes.

REP. OBER: What happens if we just don't approve it and we say come back in five months and be on time?

MR. KIANDER: We would have to accept that.

REP. OBER: And what's the impact to you? That's what I'm trying to find out.

MR. KIANDER: The impact would be if we were to, in fact, close a store then, obviously, we'd have to go through the process and we'd have to request permission to evaluate and determine that and then we would be back before you.

CHAIRMAN KURK: Let me try it a different way. If you are not closing a store, do you have any use for indirect costs and their allocation?

MR. KIANDER: Absolutely. They're a cost to the Commission. We have to categorize them and allocate them to determine what the full profitability of each store is. If we do not apply annual costs, then you could -- you could essentially change the ranking of how those stores are reporting their -- that profitability.

CHAIRMAN KURK: Thank you. Further questions? Senator Little.

SEN. LITTLE: So if this report is not accepted, are you allowed to use it to make management decisions?

MR. KIANDER: I would say that it is an internal tool for management to look at how well our stores, you know, which ones need to be looked at. That's done on a constant basis. But we

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are required by law to present to you our plan and what, you know, what stores are profitable.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Guys, thanks for coming in today. Is it safe for me to assume that you would support the concept of the Legislature considering amending the current RSA to require that you come in to report on an indirect cost allocation basis solely at the times we are looking at closing a store?

MR. KIANDER: That would certainly make, you know, make it easier. I will state that, you know, when we present our Fiscal Year 16 plan and, you know, it's done -- we prepare the numbers on an annual basis that we don't have -- you know, that the Fiscal Year 15 compilation, the audited figures, et cetera, are sometimes three months following the June 30<sup>th</sup> deadline which is September 30<sup>th</sup>, that that data is really vetted. At that time is where we really have confident audited figures of where store allocation and net profitability lies.

So in respect to your question, it would be certainly easier to present this at a time when there's a consolidation plan to close stores or locations. This is -- for a while my understanding was this didn't get filed. The Commission, you know, failed in its regard to come in on an annual basis. Last year was the first time that we had. In the recent memory was we didn't know when we came in prior. So this is an earnest effort to make sure that we come forward each year with our allocation plan.

CHAIRMAN KURK: Further discussion?

REP. OBER: That's something that needs to be changed.

CHAIRMAN KURK: There being none, you ready for the question? The motion is to approve this item and the motion was made by Senator D'Allesandro, seconded by Representative Eaton. Further discussion? There being none, you ready for the

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question? All those in favor say aye? Opposed? Nay. The motion passes and the plan is approved.

\*\*\* {MOTION ADOPTED}

MR. KIANDER: Thank you very much.

CHAIRMAN KURK: Thank you. We hope to see you sooner next year.

(11) Chapter 144:31, Laws of 2013, Department of Administrative Services; Transfer Among Accounts and Classes:

CHAIRMAN KURK: We turn now to item number eleven on the agenda from the Department of Administrative Services, Fiscal 15-036.

\*\* REP. EATON: Move approval.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Representative Eaton moves, seconded by Senator D'Allesandro, that the item be approved. Is there any discussion? There being none, are you ready for the question? All those in favor say aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

(12) Chapter 144:56, Laws of 2013, Department of Corrections; Transfers:

CHAIRMAN KURK: Turn now to item number twelve. This is under Chapter 144:56, and it comes from the Department of Corrections, Fiscal 15-024. Is there a motion?

\*\* REP. EATON: Move approval.

CHAIRMAN KURK: Representative Eaton moves.

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SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Second by Senator D'Allesandro that the item be approved. Senator Forrester has a question. Is there someone here from the Department of Corrections? Good, afternoon sir. Welcome to Fiscal.

ROBERT MULLEN, Director of Administration, Department of Corrections: Thank you, Chairman.

CHAIRMAN KURK: Senator Forrester is recognized for a question and in response if you could identify yourself that would be helpful.

MR. MULLEN: Yes, sir. For the record, my name is Bob Mullen, Department of Corrections.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: Thank you for taking my question. You are looking at a transfer out of medical provider payments and that, my understanding, is mental health; is that correct?

MR. MULLEN: That is correct.

SEN. FORRESTER: So are you seeing a drop in mental health - I guess, you must be - in the Corrections Department, a drop in mental health patients or needs?

MR. MULLEN: No, ma'am. The reason why we have the ability to transfer those monies from mental health contract to other areas is because at the point in time that the budget was developed, what was budgeted for the mental health services was X number of dollars based upon what we thought the contract was going to be. And at that point in time the CMS CPI increased, and as it turned out, we negotiated a much more favorable contract. Therefore, we have those monies available.

SEN. FORRESTER: Thank you.

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CHAIRMAN KURK: Follow-up question. So you're confident you won't be coming back to Fiscal to transfer money into that account at some other time during this Fiscal Year?

MR. MULLEN: That is correct, Mr. Chairman. We would not be coming back to request any monies going into the mental health contract.

CHAIRMAN KURK: Thank you. Further questions? There being none, are you ready for the question? The motion is to approve this item. If you're in favor of that, please now indicate by saying aye? Opposed? The ayes have it and the item is approved. Thank you, Mr. Mullen.

\*\*\* {MOTION ADOPTED}

(13) Chapter 144:97, Laws of 2013, Judicial Branch;  
Transfers:

CHAIRMAN KURK: We turn now to item number thirteen, request from the Administrative Office of the Courts. Fiscal 15-013 to transfer \$252,000 in General Funds. Is there a motion?

\*\* REP. EATON: Move approval.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Senator D'Allesandro that the item be approved. Discussion or 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}

(14) Miscellaneous:

CHAIRMAN KURK: Under Miscellaneous -- Senator Morse.

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REP. OBER: We have a late item.

CHAIRMAN KURK: Yes.

SEN. PRESIDENT MORSE: Before you go forward, you seem to be losing your audience and I guess I'll call it a parliamentary inquiry because we set a standard already today. Is it the Chair's intention that in future Fiscal Committee if there's positions in the item that they're going to deal with them in the budget?

CHAIRMAN KURK: Thank you for that. I think that's the most appropriate thing to do. This is a Fiscal Committee as a stand-in for the Legislature and where items could go into the budget for '16 and '17, they ought to, and where positions are being created but should go through the budget, seems to me that this group of ten people should not be doing the approvals, but it should be done by the entire legislative body.

SEN. PRESIDENT MORSE: Thank you.

CHAIRMAN KURK: Thank you for the question. Chair recognizes -- no.

We now have the late item before us, which is Fiscal 15-039, a request from the Department of Transportation. Before we take a motion on that, is there someone here from the Department of Transportation who can answer some questions?

PATRICK MCKENNA, Deputy Commission, Department of Transportation: Hello, Mr. Chairman.

CHAIRMAN KURK: Welcome, gentlemen.

MR. MCKENNA: Thank you, Mr. Chairman, Members of the Committee. My name is Patrick McKenna. I'm the Deputy Commissioner at the Department of Transportation. And with me here today is Bill Janelle. He's our Director of Operations.

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CHAIRMAN KURK: Thank you. I have a basic question on this. You want to take an additional \$8.8 million in the Highway Fund.

MR. MCKENNA: Yes.

CHAIRMAN KURK: It's my understanding that the Governor's Budget also takes money from the Highway Fund. And if this transfer is approved and if the Governor's Budget is approved, the Highway Fund will be in deficit by, I believe, it's \$5 million; is that correct?

MR. MCKENNA: That's correct.

CHAIRMAN KURK: And you're still asking us to put the Highway Fund into deficit?

MR. MCKENNA: Yes, Mr. Chairman. We have, as part of the item, we do have the Fiscal Year 15 projected balance which also aligns with the Governor's Budget at a Highway Fund Surplus at Fiscal Year end at \$16.9 million. So in the present period and in the present Fiscal Year, we will not put the Highway Fund into a deficit position. That does put pressure going into the '16 and '17 budget for that very -- for that very issue. Yes, you're correct.

CHAIRMAN KURK: So you will be asking us to reduce the Governor's Budget by \$5 million and, therefore, your budget by \$5 million over the biennium in order to avoid the Highway Fund going into deficit. Is that what you're telling me?

MR. MCKENNA: I believe we'll be going through a series of discussions in the budget hearings to determine what the best course of action would be.

CHAIRMAN KURK: You advocate putting the Highway Fund into deficit?

MR. MCKENNA: No, sir, I don't. But we are simply not in a position to not plow snow and we are in a budget position where the '14 and '15 budget allocation for winter maintenance was

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based on the Fiscal Year 12 actuals, which put us in a position. We were hoping, I guess, budgetarily for light winters. This past month has proven us wrong.

CHAIRMAN KURK: And is there any other place from your current budget where you can transfer money? And before you say no, it's a very broad question. Is it possible to transfer money from other lines, not do those things that those other lines would have you -- would authorize you to do, but use it to plow snow? So repair less miles of road, for example?

MR. MCKENNA: The funding in terms of repair of road is typically restricted for that purpose. So we don't have the capability for that sort of thing, such as moving money from Betterment, which is our primary source of funds for repairing roads. It's restricted for that purpose. So we don't have the authority to even come for that request.

With regard to the remainder of the operating budget, we're in a fairly tight position throughout. If we were to make some adjustments within -- even within our Operations Division, that would put us in a position where we might not be able to do the work in advance of the paving that would be -- that is promised through SB 367. We have a lot of drainage work and roadside maintenance that has to be done in advance of that paving. Otherwise, we would have trouble executing the SB 367 provisions.

CHAIRMAN KURK: Thank you. Other questions?

REP. WEYLER: Explain the chart.

WILLIAM JANELLE, Director of Operations, Department of Transportation: Yes. Again, Bill Janelle, Director of Maintenance Operations. The chart that I have - actually, can pass these out as well. This is a summary of salt use over the winter. And, essentially, if you look on the chart the blue lines represent total salt use for a three-year average. The yellow bars represent a ten-year average. And the blue line that ends with -- it ends at about February 12<sup>th</sup> which is week 14,

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which is last week actually. There's 25 weeks of winter. We are in week 15 now. Last week was week 14. So that represents that we have used 144,000 tons of salt so far this winter. And then if you were to take that line and project it based on the ten-year average line, which are those yellow bars, it shows that we estimate using about 194,000 tons of salt.

In a typical winter we use about 140,000. The ten-year average about 170,000. So salt is kind of representative of other classes that we use for winter maintenance. But if I could, I'll just give you a brief summary of where we are to date, if you'd like.

CHAIRMAN KURK: Sure. Thank you.

MR. JANELLE: So our Fiscal Year 15 winter budget was 42.5 million. As of February 13<sup>th</sup>, which was the end of week 14, we spent 33.6 million. Again, there's 25 weeks of winter. Goes from November 13<sup>th</sup> to April 30<sup>th</sup>. We are currently -- as of week -- last week which, again, February 13<sup>th</sup>, we were 56% through winter based on the calendar. We'd spent 79% of our appropriated budget for winter and that's overall.

If you look at specific classes, like Class 18, which is overtime, we spent 94% of our budget as of last week, last Friday. Class 20, the majority is salt, we spent 88%. Class 22, which is hired trucks, we'd spent 93%. Class 60, benefits, 84%. We've had about 17 winter events so far. Of those 17, eight of them have happened on weekends or on holidays. So that's increased our cost as well. We plowed about 2.2 million miles so far this year. And, again, I've gone over the salt totals for you already so that's just a summary of where we are.

CHAIRMAN KURK: Further questions or discussion? Senator Morse.

SEN. PRESIDENT MORSE: Patrick, at this time last year you came into Fiscal, I think, for a transfer. There was a million dollars or something like that.

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MR. MCKENNA: Yes. Senator Morse, we actually came in, I believe it was on Valentine's Day last year, and I've got the testimony. We came in in winter maintenance in two phases last year. We came in the first time at about this time for \$2.2 million transfer. And we had discussed with the Committee in advance the option of, you know, because at this time of the year, we do count on it getting warmer and stopping -- and the snow stopping. So we waited for another month to get more full results of the winter and then we came in for another 6 million, a little bit more than 6 million at that time. I believe it was a total of 10 million transferred last year.

CHAIRMAN KURK: Follow-up.

SEN. PRESIDENT MORSE: That leads to where -- this 8 million you're coming in for now, do you believe at this point it's the end of it or you coming back?

MR. MCKENNA: You know, if I were --

SEN. PRESIDENT MORSE: If we had a normal winter from here on in?

MR. MCKENNA: If we had a normal winter from here on in, we'd be very close with this request. We've already in the week that the transfer cut that we did was on week 14 and we are already having a series of events this week with one planned this -- potential this weekend. So if the severity continues at the rate that we are at, we may well need further transfer before the winter is out. We are hopeful that that's not the case.

CHAIRMAN KURK: Further questions.

SEN. PRESIDENT MORSE: Probably more of a statement, but I appreciate everything you're doing. I think you guys are doing a great job in keeping the mountains open and everything. I do think we need to communicate better about the whole Department. I was the one that put you in the budget back in '05, and I understand very little today about where this Highway Fund is.

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I'll support you because I believe you're spending it anyways. So we have to pay for it. And we have to support, you know, the industries that are driving it. And you're wishing for no snow hurts me because I'm doing okay with it. Thank you.

CHAIRMAN KURK: Is the Senator going to recuse himself on this issue?

SEN. PRESIDENT MORSE: No, I'm not. I'm waiting for receivables, too.

CHAIRMAN KURK: Further discussion or questions? There being none, thank you, gentlemen.

MR. MCKENNA: Thank you.

CHAIRMAN KURK: Appreciate that, you being here. Is there a motion on Fiscal --

\*\* REP. EATON: Move approval.

REP. WEYLER: 039.

CHAIRMAN KURK: 039.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Senator D'Allesandro. Further discussion? Ready for the question? All those in favor of approving this item, please now indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

(15) Informational Materials:

CHAIRMAN KURK: Chair recognizes the LBA for a request.

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MR. PATTISON: This is becoming pretty regular, but I'm coming before you today to request authority to fill another vacant position. One of our staff auditors is leaving, and I would like the opportunity to fill that with a new staff auditor.

\*\* REP. EATON: Move.

REP. OBER: Second.

CHAIRMAN KURK: Representative Eaton moves, Representative Ober seconds the approval of the request by the LBA to hire a replacement auditor. Discussion? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the request is approved.

MR. PATTISON: Thank you.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: That completes the ordinary agenda. There are some information items here about which folks may have questions. If they do, there may be people in the audience who are in position to respond to them. Are there any questions on any of the informational items? Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Appreciate it. I thought in our last meeting Senator Morse had asked Commissioner Toumpas if we were going to have a Dashboard this month, and he confirmed that we were, but I don't have one in my packet. So I'm not sure if others have one or if there's going to be one or not and we expect one.

CHAIRMAN KURK: Is someone here from Health and Human Services? Commissioner, good afternoon and welcome.

NICK TOUMPAS, Commissioner, Department of Health and Human Services: Good afternoon. For the record, Nick Toumpas, Commissioner of Health and Human Services. I have signed the Dashboard. I did not send the Dashboard. The Dashboard has not

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changed since the last time. I am meeting tomorrow with the LBA and the Governor's Office to look at one item that is on the -- that has been appearing on the Dashboard that shows a -- we are projecting a shortfall of a little over \$5 million to cover the Community Mental Health Agreement. There's some question as to whether or not those funds actually exist within the budget, in which case, if they exist within the budget, I will -- I will change the Dashboard and reduce that of the shortfall by \$5 million. And if it doesn't, then I will send the January and the December Dashboard and that will basically read the same way that the December 1 does.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: Thank you, Mr. Chair. Nick, thanks so much. I appreciate it. Obviously, my big concern right now is the MAGI calculation. We have a lot to discuss but the MAGI stuff. You still feeling pretty confident hasn't changed and not anticipating a change?

MR. TOUMPAS: No. The projections that we have between now and the end of the year have not changed. That caseload has stabilized. The Department continues to have a discussion with the Federal Government to see if there's any potential relief on that. I'm not particularly optimistic about that but we have pursued that, but those numbers have not changed dramatically.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: Commissioner, thanks for raising that, 'cause I was going to ask the same question. Last time you were here you indicated that when there were discussions about implementation of the ACA and specific discussions about MAGI that the Feds said they would hold us harmless financially. Did they ever put that in writing? Do we have any other assurance other than conversation?

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MR. TOUMPAS: No.

SEN. SANBORN: What can we do? It's a big number.

MR. TOUMPAS: It is a big number. The Department has -- is working through some of the associations with whom we -- that we belong to. The National Medicaid Association Directors and so forth. We are not the only state that is dealing with the issue. So we have -- we have raised the issue with -- with the people in the Federal Government because of some of the changes that are going on in the Center for Medicare and Medicaid Services. I'm not particularly optimistic that we are going to get any relief on it. We will continue to -- continue to proceed to try to get some.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: Thank you, Chair. Commissioner, thank you. I appreciate it. I reached out to some other states to ask about the MAGI thing. Like you, I'm very concerned about where we lead with it and some other states I've talked to aren't seeing a MAGI increase for them. So I'd love maybe if you could help share with us why it's affecting New Hampshire versus not some other states and be happy to give you some other states offline. That's the first half of the question. And the other half, second half of the question, I don't want to take all afternoon, but I heard that the Feds have also changed reimbursement under Medicaid Expansion. There was an expectation it would be 2% and now being led to believe that they have decided it's going to be 5% which, again, is just another load onto the budget as they're trying to prepare that and can you confirm that? Is there any validation?

MR. TOUMPAS: It is 5% and that has not changed. The Lewin analysis that we had provided when we were going through the discussions was a blended rate looking at where we were in -- because the -- we were using Fiscal Years and they are on -- they were on a different Calendar Year basis. So that number that we had in there was we did talk about 2% because

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that was the blended rate. But the regulation, the -- what is in the bill, what is in the law has not changed. It is 95%. I had the same question, quite honestly. I went back and I looked at it. It has not changed.

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

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: Thank you, Commissioner, for coming in and taking my question. My question is about the cut to the nursing homes. In the last Fiscal Committee meeting you came to us with a plan. It was an informational item. And there was a proposed cut of 7 million to the nursing homes. At least, that's what I read in the line and since corrected me to, you know, we spoke about it. It's actually not 7 million, it's like 4.9. But in that conversation you pointed out or I guess I learned then that it had to do with there are also cuts being made with mid-level care, elderly adult, and home health services; is that correct?

MR. TOUMPAS: We did not make -- basically, the \$7 million, Senator, that a number of people quoted were the total from the four class lines making up long-term care, one of which was -- one of which was the nursing -- the nursing home line. That was the 4.9 million. And the expectation was that we would rollover that surplus from Fiscal 14 into a supplemental rate that would be effective in January.

What we did was we rolled over 1 million of that. So right now there's a gap of from what the nursing homes expected from the surplus is just basically 3.9 because we did -- we did payout 1 million of that in enhanced rates.

The other lines that you -- that you reference in the other areas of the long-term care line, those -- those remained as a surplus and we'd be using those in order to basically fill the shortfalls. We were not -- we were not cutting any rates. The rates in those areas, in many of those smaller providers which I referenced in the letter that I had sent to the Committee and others, basically indicated that we have not taken any rate

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action in those lines since 2010, and at that time we reduced the rates by 2% that had been granted in 2008.

CHAIRMAN KURK: Follow-up.

SEN. FORRESTER: Just one more question. So do I understand correctly that the 7 million cut, did we give up the 50% match at the Federal level? Did we lose 7 million from the Federal Government by taking this cut of 7 million?

MR. TOUMPAS: Again, the 7 million was total funds. So it's basically three and a half million for the -- I don't have the numbers in front of me, but it would be whatever we're not -- we are not going to claim, then yes, those numbers we're not utilizing the Federal dollars on that.

SEN. FORRESTER: Thank you.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. Thank you, Commissioner. So what are the daily rates under this scenario versus what they were last year?

MR. TOUMPAS: Again, the rates, and this was in the letter that I sent, the rates are calculated twice a year, in January and in July. The rates that we had done for the period that prospectively looking from January 1<sup>st</sup> -- January 1<sup>st</sup> to June 30<sup>th</sup>, those rates did decline, but it had nothing to do with that which -- the action that we took on the 23<sup>rd</sup> of January. That was due as a result of lower acuity of the individuals. Because there are several different variables that go into calculating the rates. It was due to lower acuity and, again, the estimates that we had. So the number -- the number of -- there was a decline, a decrease in the rate from January 1<sup>st</sup> to June 30<sup>th</sup> of, I believe, somewhere around 2.8%. But, again, that had nothing to do with this.

Those numbers, there is a MQIP, the Medicaid Quality Incentive Program. Those dollars that is a tax on the nursing

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homes match with Federal dollars, those will reimburse the nursing homes to bring up to close to what their -- what their cost was. In some cases it doesn't include all of it. And then for the county homes, the county homes get an additional payment beyond that to bring them up to Medicare rates.

So for the action that we took on the 23<sup>rd</sup> where we did not pass -- apply those -- that surplus to the rates, was not -- I don't consider that a rate cut. We did not -- we did not move those dollars forward. The rates were cut as a result of the standard formula that we use. And I pointed out in the letter that over the last several rate periods that we had, the nursing homes had received an increase of somewhere around 10%.

REP. WEYLER: So the 2.8% after the January 24<sup>th</sup> action, what's the effect?

MR. TOUMPAS: It's a decrease of 2.8%.

REP. WEYLER: That was the acuity based thing.

MR. TOUMPAS: The acuity and then offset somewhat by \$1 million of the surplus of that -- of what Senator Forrester had talked about. We applied 1.9 -- 1 million of that -- of that \$4.9 million surplus over. So that the net of those two ended up being a reduction of the 2.8% in aggregate. That's the average. That's not the -- it doesn't hold for each individual facility.

CHAIRMAN KURK: Let me try to get to the bottom line. Would the nursing homes, and particularly the county nursing homes, be better off or worse off if this money were not used to balance the deficit but paid to them?

MR. TOUMPAS: The counties will be made whole, Representative Kurk, because of the -- because of the MQIP, and then they will get the additional ProShare dollars that will come on top of that because ProShare covers the difference between Medicaid rates and Medicare rates.

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CHAIRMAN KURK: So you're saying the county nursing homes shouldn't care one way or another whether this money is taken for some other purpose?

MR. TOUMPAS: I won't say --

CHAIRMAN KURK: From a financial point of view.

MR. TOUMPAS: Yeah, from a financial standpoint. First off, the -- when all of the -- all of the nursing homes, whether they're county or private, they don't know whether we are going to have a surplus at the end of the year. So when they're putting together their budgets, they don't know we are going to have a surplus. Be one thing if we said we are going to payout \$5 million and that's in the budget and say that's what we are going to payout. We are not doing that. If we had no surplus, if there was no surplus in F14, I'm not sure we'd be sitting here having this type of conversation.

CHAIRMAN KURK: What surprises me that we in the Legislature doing budgets did such a poor job of estimating that there was actually a surplus in that particular line. I can't recall that we ever over estimated the cost of nursing home care in New Hampshire.

MR. TOUMPAS: It's -- I believe you're -- you're aware, Mr. Chair, that the calculation has a number of different variables, including the acuity, including the number of bed days, which is difficult to project two years in advance, as well as what the -- what the indirect and what the direct cost of care is going to be, and then with the budget neutrality factor. Again, I don't want to get into all the detail because --

CHAIRMAN KURK: Thank you.

MR. TOUMPAS: Right now, but again, the -- we -- the action that we -- that 2.8% decrease that I talked about was -- would have been -- basically would have been more if we hadn't applied that \$1 million over.

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CHAIRMAN KURK: Further question? Okay. Thank you, Commissioner. Any other items about Members have questions?

**AUDITS**:

CHAIRMAN KURK: Mr. Pattison, is there anything else to come before the Fiscal Committee?

MR. PATTISON: Yes, you have on Page 4 of your agenda you have two audits.

CHAIRMAN KURK: Are the auditors available?

MR. PATTISON: Steve Smith is here.

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good afternoon, Mr. Chairman, Members of the Committee.

CHAIRMAN KURK: Good afternoon, welcome.

MR. SMITH: For the record, my name is Steve Smith. I'm the Director of Audits for the Office of Legislative Budget Assistant. And the two audits before you are for the College Tuition Savings Plans. We have PricewaterhouseCoopers under contract with our office to perform these audits. And so Rachel Bradley, the partner on the both audits, is here. And we'll also be joined by Bill Dwyer, State Treasurer. And with your permission, I believe Bill has a couple brief remarks before Rachel presents.

CHAIRMAN KURK: That would be fine. Thank you. Good afternoon, Mr. Dwyer. Welcome.

WILLIAM DWYER, State Treasurer, Treasury Department: Good afternoon, Mr. Chair, Members of the Committee. For the record, my name is Bill Dwyer, and I'm State Treasurer. Under section -- I'm sorry -- RSA 195-H, the State Treasurer serves as Trustee of the College Savings Plan that is authorized pursuant

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to Internal Revenue Code 529, which authorizes each of the states to sponsor tax advantaged college savings plans.

The New Hampshire plan was launched in Fiscal Year 1999, and in the time since then has grown to be the fourth largest college savings plan in the country with approximately \$14 billion in assets under management. The College Savings Plan is divided essentially into two sub plans. One is called the Unique Plan which is sold on a direct basis by Fidelity to investors. And then there's another plan, sub plan called the Fidelity Advisor 529 Plan, which is sold essentially to other -- other investment advisors who don't offer their own plans. The clients of those other investment advisors can purchase and invest in 529 accounts that are essentially sold to those investment advisors by Fidelity.

Since the inception of the plan through the revenue -- I should add as well, that the plans that are administered by Fidelity involve a revenue-sharing arrangement whereby the State receives a share of the investment administration fee that Fidelity charges on each account. From the inception of the plan a large share of that revenue is -- has been used to support two different types of scholarship programs. Two qualified New Hampshire students attending New Hampshire colleges that are non-profit, whether public or private, and since that time approximately \$60 million, a little over 60 million has been used to establish restricted endowments at a number of New Hampshire colleges, and then another \$17 million has been paid directly to, again, students who qualify on the basis of certain criteria.

With that, I'd like to turn it over to Miss Bradley to summarize the results of the audit, and then I think at the end either one of us can take questions. Thank you very much.

CHAIRMAN KURK: Thank you.

RACHEL BRADLEY, Partner, PricewaterhouseCoopers: For the record, my name is Rachel Bradley, and I'm a partner with PricewaterhouseCoopers, and I'm happy to be here to present the

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results of our audits of the Unique College Investing Plan and the Fidelity Advisor 529 Plan.

As Bill mentioned, these two plans are used to invest and to facilitate the savings of money for attendance in college. The Unique College Investing Plan is actually comprised of 36 different portfolios and each of those portfolios is audited as a distinct entity and so I offer an opinion on each of those 36 portfolios separately.

Each of those portfolios invest in either Fidelity, mutual funds, or there are a series of what we call multi-firm portfolios where those portfolios invest in funds that are managed by someone other than Fidelity. So it gives the participants an option of choosing whether or not they want to invest in Fidelity products or non-Fidelity products.

The Fidelity Advisor 529 Plan is -- we treat as a separate audit and itself has 27 portfolios. All of those portfolios invest in Fidelity underlying mutual funds. So as I mentioned, we have completed the audits for all of those underlying portfolios for the period ending September 30<sup>th</sup>. And so all of the information included in this presentation reflects information as of September 30<sup>th</sup>.

Pages 3 through 8 include a summary of the assets in each of the underlying portfolios. And you'll note from 2013 to 2014 the Unique College Investing Plans assets under management increased almost a billion dollars. And if you flip to Page 7, it summarizes the Fidelity Advisor 529 Plan and those assets under administration increased about \$200 million. So you can see the growth between the two different plans.

The other pages I included show each of the underlying portfolios and the makeup of the types of underlying investments that exist under those portfolios.

If you flip to Page 9, this highlights the areas of focus that we focus on during our audits. And as you would imagine, our number one focus is making sure that the underlying investments of the portfolio actually exist and evaluated

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appropriately so we go through and evaluate the controls and processes in place Fidelity has to value and to issue shares of those portfolios.

Page 10 gives you a quick update of the results of our audits. As I mentioned, we issued unqualified opinions for both of the plans. And I'm happy to report that we had no adjustments, either booked or unadjusted, as a result of the audits this year. And I was mentioning earlier in the hallway that this is the first time, I think, in my four years doing these plans that we didn't have any adjustments. So I'm happy to report that things were very clear for this year.

Starting on Page 11, and continuing through Page 17, our list of all of the -- of all of the items that I'm required to report to those who are charged with oversight of the plans according to auditing standards. I'm not going to go through each of these individually. And I'm happy to answer questions if you have any. I will say that there's nothing with respect to any of these required communications that I think is unique or different. So, for example, the accounting policies that have been adopted by the plan, I think, are consistent with industry standards and are exactly what I would expect. If they -- if anything had deviated from the standards, that's something I would highlight in this communication.

Similarly, I mentioned there have been no adjustments, no unadjusted differences, and there were no instances of fraud or illegal acts that came to our attention during our audit.

With that, I think that that was everything that I had wanted to highlight. There's certainly a lot of additional information in here; but in the interest of time I wanted to make sure we kind of got through things quickly. I'm happy to take any questions

CHAIRMAN KURK: Senator D'Allesandro has a question.

SEN. D'ALLESANDRO: Thank you. Thank you very much, Mr. Chairman. Maybe this is for the Treasurer. Just an iteration. When you say the plan -- because of the structure of the plans,

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the number of basis points that's given to New Hampshire, the dollar amount that's accrued to the State and has been given to the public and private institutions for the endowment side and for the scholarship side, what's the aggregate amount at this point in time?

MR. DWYER: Thank you, Senator D'Allesandro. On an aggregate basis approximately \$78 million between, again, the restricted endowments and the individual scholarships has been funded through the revenue sharing.

SEN. D'ALLESANDRO: Thank you.

CHAIRMAN KURK: Could you tell us how much you expect to get for Fiscal 15 -- 16 and 17 or how much you got for Fiscal 15?

MR. DWYER: At this point what we budgeted, Representative Kurk, for Fiscal 15 is about 13 and a quarter million.

CHAIRMAN KURK: For both?

MR. DWYER: Between both plans?

CHAIRMAN KURK: Both plans.

MR. DWYER: Correct.

CHAIRMAN KURK: And all uses?

MR. DWYER: That's correct. Now, again, that was based on a projection made a year ago which is defined by expectations of asset values. As many know, the stock market has somewhat leveled off and its performance over the last quarter or more. So I would anticipate or project that we'll likely come in at between 12 and a half million to 12 and three-quarters million of revenue compared to the budget.

CHAIRMAN KURK: Another question. What percentage do we charge -- is charged by Fidelity to the account holder for their services? What percentage of assets or however it's done?

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MR. DWYER: The fees that Fidelity charge vary by the type of investment pool. For index funds which tend to be passive and mirror allocations in the broader markets, the overall fee that Fidelity charges is only nine basis points which is .09%. The revenue share that the State receives is actually five basis points of that. So Fidelity keeps only four basis points in the index funds.

In the active funds, Fidelity charges 20 basis points. The State receives ten basis points, Fidelity receives ten. And then in the multi-firm share -- I'm sorry, the multi-firm pool, the State still receives ten basis points and Fidelity receives a little over one full percentage point because, again, there's much more administration involved in recordkeeping and reporting the underlying funds of other investment advisors. So that's a little bit of a lengthy answer, but in most investment pools the State receives ten basis points.

CHAIRMAN KURK: What percentage of the funds are in the multi-category so that the higher one plus percent fee applies?

MR. BRADLEY: If you flip to Page 6 of my materials, this gives you a quick summary of all of the multi-firm portfolios. And we could add it up quickly in my head to get you to a total number.

CHAIRMAN KURK: So this is a relatively small proportion.

MS. BRADLEY: It's a relatively small proportion and the decision to invest in a multi-firm portfolio is made at the participant level. So they're making a decision to invest in a multi-firm and at the point that they make the investment they know what the fees are that they will be charged.

CHAIRMAN KURK: In doing your audit, do you compare the performance of these funds with the performance of competitive funds, other states for 529 funds?

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MS. BRADLEY: We do not do that. In the front of the financial statements there's a section for each of the portfolios that we'll compare the results of the plan to what we would call a benchmark. And so we compare it to an average. But as part of my audit procedures, I don't compare the results to any specific other State Plans. I compare it to the benchmark and that is reported in the front of the financial statements.

CHAIRMAN KURK: Thank you.

MR. DWYER: I would just add as a follow-up that as well that Morning Star does an annual evaluation of State Plans on more of a peer basis so we typically see that report in October, maybe November for each year.

CHAIRMAN KURK: The real question is are we doing well compared to our competitors so that the growth that we've seen in the past will continue into the future; and, therefore, the State's revenue from this will continue into the future? And I realize this is somewhat outside the audit, but the Treasurer is here.

MS. BRADLEY: You can answer this one.

MR. DWYER: The -- in the Fall of 2013 rankings, the State achieved what Morning Star characterized as a bronze rating. There's gold, silver, bronze, and then neutral. That bronze rating was the first time that the State had moved out of the neutral category. Unfortunately, in Morning Star's 2014 rankings the State fell back into the neutral rating.

There's quite a bit of controversy around the different metrics that Morning Star uses to evaluate the states. One of the factors that the State has essentially no control over that hurts the State's ranking is the fact that there's no state income tax. And many of the other state plans offer state income tax benefits to investors in their plans. So there are different measures where New Hampshire is not in a position to garner sort of additional ranking points and that income tax benefit is among a few others.

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CHAIRMAN KURK: Thank you. Further questions?  
Representative Weyler.

REP. WEYLER: Mr. Chairman, I move --

CHAIRMAN KURK: Excuse me. That was -- that was not an argument in favor of the State having an income tax, was it?

MR. DWYER: There are no policy statements being made here, correct.

CHAIRMAN KURK: Representative Weyler recognized for a motion.

\*\* REP. WEYLER: Chairman, I move we accept the report, place it on file, and release in the usual manner.

CHAIRMAN KURK: Seconded by Senator D'Allesandro. Discussion? There being none, you ready for the question? All those in favor please indicate by saying aye? Opposed? The ayes have it and the motion is adopted. Thank you both for your report. The brevity was much appreciated.

Mr. Pattison, anything else to come before us?

MR. PATTISON: Other than setting of the meeting date.

CHAIRMAN KURK: The next meeting will be April 2<sup>nd</sup> at 9:00 a.m. That's Friday, April 2<sup>nd</sup>, at 9:00 a.m. The reason for the delay is to give the House Finance Committee a chance --

REP. OBER: April 2<sup>nd</sup> is a Thursday. Did you mean April 3<sup>rd</sup>?

CHAIRMAN KURK: April 3<sup>rd</sup>. Friday, April 3<sup>rd</sup>. Thank you. 9 o'clock, at the usual time. And the reason for the delay, as I say, House Finance is going to be busy with the budget and prefer not to spend time during that season.

SEN. D'ALLESANDRO: April 3<sup>rd</sup> at 9:00 a.m.

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CHAIRMAN KURK: Yes. There being nothing else to come before us --

MR. PATTISON: I would only ask if people could leave, since we have so many tabled items, if you leave the items in the binder. We reuse them.

SEN. D'ALLESANDRO: Leave them on the table.

MR. PATTISON: Leave them on the table.

REP. OBER: We'll leave them on the table.

CHAIRMAN KURK: And with that we stand adjourned. Thank you all.

(Meeting adjourned at 4:17 p.m.)

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## CERTIFICATION

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

*Cecelia A. Trask*

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