

JOINT LEGISLATIVE FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, March 10, 2017

MEMBERS PRESENT:

Rep. Neal Kurk, Chair

Rep. Ken Weyler

Rep. Lynne Ober

Rep. Mary Jane Wallner

Rep. Daniel Eaton

Rep. Frank Byron (Alt.)

Rep. Karen Umberger (Alt.)

Sen. Gary Daniels

Sen. President Chuck Morse

Sen. Lou D'Allesandro

Sen. Andy Sanborn

Sen. Bob Giuda

(The meeting convened at 10:03 a.m.)

(1) Acceptance of Minutes of the February 17, 2017 Meeting.

NEAL KURK, State Representative, Hillsborough County, District #02: Good morning, everyone. I'd like to open the Friday, March 10, 2017, meeting of the Fiscal Committee. First item on our agenda is the acceptance of the minutes of the February 17th meeting. Is there a motion?

****** KAREN UMBERGER, State Representative, Carroll County, District #02: So move.

CHAIRMAN KURK: Moved by Representative Umberger, seconded by Senator Sanborn. 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 minutes are accepted.

***** {MOTION ADOPTED}**

CONSENT CALENDAR

(3) 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: Let's skip to the Consent Calendar, and we'll go back later to full business. On the Consent Calendar, item number three, a request from the Department of Information Technology. This is Fiscal 17-051 for authorization to accept and expend \$180,000 in other funds through June 30th, 2017. Is there a motion?

****** LOU D'ALLESANDRO, State Senator, Senate District #20: So move.

REP. UMBERGER: So move.

CHAIRMAN KURK: Moved by Senator D'Allesandro, seconded by Representative Umberger. Discussion, questions? Does anyone wish to hear from the Department? 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}**

(2) Old Business:

CHAIRMAN KURK: At this point we'll go back to Old Business. We have two audits, both of which were previously distributed. Mr. Smith. Good morning, good to see you again.

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, Members of the Committee. For the record, I'm Steve Smith, Director of Audits for the LBA.

CHAIRMAN KURK: Would you mind moving the microphone approximately four inches away from your mouth.

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MR. SMITH: Is that better?

CHAIRMAN KURK: It's better, especially with folks in the back of the room.

MR. SMITH: I'm here today to present the results of our audit of the Highway Fund Financial Statements for the Fiscal Year ended June 30, 2016.

The Highway Fund accounts for and reports the financial balances and activities associated with construction, reconstruction, and maintenance of the State's public highways, including supervision of traffic and the payment of bonds issued for highway purposes. This set of financials, which includes an introductory section, a Management Discussion and Analysis, the financial statements, note disclosures, and supplementary schedule was prepared by and is the joint responsibility of the managements of the Department of Transportation, Safety, and Administrative Services.

Our responsibility is to express an opinion on the financial statements based on our audit. Our Auditor's Report and Opinion can be found on pages five through seven. And as described in the opinion paragraph on Page 6, we issued an unmodified opinion, also referred to as a clean opinion on the financial statements.

The Auditor's Opinion covers the financial statements and note disclosures starting on Page 15. Other sections of the report are, again, the responsibility of Management. While those sections are not audited, the Management Discussion and Analysis and the budget to actual schedule did receive limited review by our office largely for consistency of information in relation to the financial statements and notes.

Auditing standards require that I make the following additional disclosures to you:

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We were satisfied with the qualitative aspects of Management's accounting practices, estimates, and financial statement disclosures, including those accounting policies as described in Note 1 of the report. There were no significant disagreements with Management on financial accounting and reporting matters that would have caused a modification of our Auditor's Report and Opinion if not resolved to satisfaction.

We received the full cooperation of Management and its staff during the audit. To our knowledge, Management did not consult with other external accountants on issues related to this audit. And we did identify two material misstatements in the financial statements. Those misstatements were corrected by Management and are described in the letter accompanying the report.

Lastly, in accordance with Government Auditing Standards, we are in the process of issuing a report on our consideration of internal control, financial reporting, compliance, and other matters as it relates to the Highway Fund, and that report will be presented to the Committee at a future meeting.

This completes my portion of the presentation. I'd like to thank the Management staff of the Department of Transportation, Safety, and Administrative Services for their help and cooperation during the course of the audit.

With your permission, Mr. Chairman, I will turn it over to Administrative Services for their comments, and I'll introduce Dana Call, Financial Reporting Administrator, and Joe Bouchard, Assistant Commissioner with Administrative Services.

CHAIRMAN KURK: Thank you.

DANA CALL, Financial Reporting Administrator II, Division of Accounting Services, Department of Administrative Services: Good morning. I just wanted to clarify. So this is a little bit unique this Highway Fund we did jointly between, as Mr. Smith stated, between Administrative Services, Transportation,

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and Safety. So we have representatives here for Management from both of those entities because they are an integral part of what's being reported here, and we're happy to present on behalf; but if, you know, any detail questions, we certainly would like to include them as well.

CHAIRMAN KURK: Thank you. Discussion or questions from Members of the Committee? I do have one. Could you discuss the Highway Fund Surplus or lack thereof?

MS. CALL: The last page. Essentially, what's here is summarized what is in the audited CAFR, which was just presented to you folks at the last meeting. So the State CAFR we include Surplus Statements for General Fund, Highway Fund as well. So this is a summary of what's flowing through in terms of the audited statements. Is there a specific question?

CHAIRMAN KURK: We were given some information that suggested currently, and I know this deals with 2016, that currently there's a negative balance in that. And the question I have is if that's the case, how did we go from 35 million to a negative -- I think it's 13 -- in such a short period of time?

JOSEPH BOUCHARD, Assistant Commissioner, Department of Administrative Services: For the record, Joe Bouchard. This presentation document you have, obviously, is '16 audited financials. The '17 projected and 18-19 Surplus Statements, I think, is what you're referencing that were -- are now in discussion with the House Finance Committee. I think that's -- that's the nexus of your question.

Hum -- the out years that get out to '18 and '19 from that Surplus Statement are related to basically requested appropriations, Representative. They don't represent the nature of what we are here today to discuss. They're basically in the budget process. So I can't speak much beyond that aspect of decisions that have to be made.

CHAIRMAN KURK: Thank you.

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MR. BOUCHARD: You're welcome.

CHAIRMAN KURK: Representative Umberger, did you have --

REP. UMBERGER: No.

CHAIRMAN KURK: Further questions or discussions? There being none, we thank you very much. My understanding is that we have previously accepted this audit and need to take no -- the Committee needs to take no further action; is that correct, Mr. Kane? So thank you very much. And we now turn to the 2016 Comprehensive Annual Financial Report with respect to the State Liquor Commission. Good morning again, Mr. Smith.

MR. SMITH: Thank you, Mr. Chairman. Again, for the record, Steve Smith, Director of Audits for the LBA. Joining me this morning from the Liquor Commission is the Chairman, Joseph Mollica, and Tina Demers, the Chief Financial Officer. Again, I'm here to present the results of our audit of the 2016 Liquor Commission Financial Statements.

The Fiscal 2016 Liquor Commission produced a full Comprehensive Annual Financial Report or CAFR. That includes an introductory section, a financial section with Management's Discussion and Analysis, financial statements, notes, and supplementary information, and a statistical section. Our responsibility is to conduct an audit in accordance with generally-accepted Government Auditing Standards. Our Auditor's Report and Opinion can be found on pages five through seven of the report.

As noted in the Opinion paragraph on Page 6, we issued an unmodified opinion known as an unqualified or clean opinion on the financial statements. The financial statements and notes can be found on Pages 15 through 31.

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Again, as I mentioned before in the last presentation, auditing standards require that I make the following additional disclosures to you:

We were satisfied with the qualitative aspects of the Management's accounting practices, including accounting policies and estimates and financial disclosures that are summarized in Note 1 of the report. We had no disagreements with Management on financial accounting and reporting matters that would have caused a modification to our Auditor's Report and Opinion if not satisfactorily resolved. We received the full cooperation of the Commission and its staff throughout the audit, and to our knowledge Management did not consult with other independent accountants during the Fiscal 2016 on issues related to the Audit. And we did not propose any material adjustments to the Liquor Commission's financial statements as a result of our Audit.

I would like to call your attention to the letter included with the report. The letter identifies one significant but immaterial uncorrected misstatement in the financial statements. The Commission recorded a \$1.7 million entry to correct for one or more otherwise unrecognized errors and in order to balance the financial statements.

Lastly, in accordance with Government Auditing Standards we will be issuing a report on our consideration of the Liquor Commission's internal control over financial reporting, compliance, and other matters based on the audit of the financial statements. And that report will be included in our Management Letter which will be presented to the Committee at a future meeting.

This concludes my part of the presentation. I'd like to thank the Liquor Commission and Management staff, as well as the State Comptroller's Office, for their assistance during the Audit. And with your permission, I would like to turn it over to Tina Demers and the Chairman for their comments.

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CHAIRMAN KURK: Before you do that --

MR. SMITH: Yes.

CHAIRMAN KURK: -- could you be a little more explicit about the \$1.7 million entry?

MR. SMITH: Hum -- not much more than stated there. It's really it's an entry that was made and the Commission could not justify it or determine what it relates to. And in order to get the financial statements to roll from year to year in the balance, they had to make that adjustment. It was immaterial to the financial statements as a whole. But because of the nature of it, we felt you should be aware of it.

CHAIRMAN KURK: Does that mean that the State got \$1.7 million less in Liquor profit?

MR. SMITH: Possibly.

CHAIRMAN KURK: That is material to the State Budget.

MR. SMITH: Correct. But, I mean, in terms of the materiality to the financial statements, we are not saying this -- this in and of itself does not make the statements materially misstated. But, however, it is -- it could be less profits. We don't know. The Commission could not give us any support for the entry, and they chose not to make it or correct it.

CHAIRMAN KURK: Is this something that happens frequently in these kinds of audits?

MR. SMITH: Not typically from my experience.

CHAIRMAN KURK: Could they have put in \$5.8 million and it still would have been immaterial?

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MR. SMITH: Uh -- that might be pushing it a little bit. I can't -- I can't give you the number here today but -- and there were other smaller differences, as well, that were noted individually or in the aggregate did not rise to a level of materiality according to our assessment.

CHAIRMAN KURK: Would it have made any difference if the Liquor Commission, if we were back before, what, 2009 and the Liquor Commission was part of the State Government as opposed to an enterprise fund, would there have been -- would the Liquor Commission still have had the same ability to deal with this \$1.7 million entry?

MR. SMITH: Prior to 2009, I think that's just the way -- the Liquor Commission has always been an enterprise fund of the State in terms of the CAFR reporting. It's always been a stand-alone fund under full accrual accounting reporting. So in terms of how it's treated now and how it was treated then in terms of the CAFR, in terms of audit, it's exactly the same. It's the way it was budgeted from the State Budget.

CHAIRMAN KURK: I'll try the question a different way. Would the Legislature have more knowledge or more control over this kind of an entry under the prior system?

MR. SMITH: I wouldn't think so. I mean, again, the statements are prepared by the Liquor Commission.

CHAIRMAN KURK: Thank you. Senator Daniels.

GARY DANIELS, State Senator, Senate District #11: What makes something material or immaterial?

MR. SMITH: Well, for example, if you look at their income statement, they have \$600 million in revenue. So we look at materiality thresholds based on a percent of revenues, percent of equity, percent of assets. We look at it different ways depending upon the nature of the items we may come up against and find.

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CHAIRMAN KURK: Mr. Smith, you mentioned --

MR. SMITH: And again -- and again, its materiality to the point where in our Audit Report if we are going to issue a clean opinion, there's a threshold that we have to be below in order to opine to it and say that this is clean or this is unqualified opinion. However, the reason we are mentioning it here is that because of the nature of this we want to make sure that governance is aware of it. And, obviously, this would be discussed further in a Management Letter as well.

CHAIRMAN KURK: Mr. Smith, you mentioned there was some other entries with a smaller amount. Might we have a list of those?

MR. SMITH: Those will be touched on in our Management Letter probably in our presentation next month, I believe, is what we are hoping to present so there'd be further discussion on that.

CHAIRMAN KURK: Thank you. Ma'am.

JOSEPH MOLLICA, Chairman, New Hampshire Liquor Commission: Mr. Chairman, Members of the Committee, good morning. Just briefly, I would like to thank the LBA and DAS for their collaboration and their partnership on this. And I will let Tina speak to the entry that's in question. Thank you.

TINA DEMERS, Chief Financial Officer, New Hampshire Liquor Commission: Good morning. The entry, the 1.7 million entry we are still further looking into. We have received support from Jean at the LBA, and we are looking at it as a year-end closing equity roll and GAP reversals and accruals.

As far as the distribution to the General Fund, we distributed on a cash basis the 155.7 million. The entry was a reduction on the financial statements to the distribution to the General Fund with an offset to our equity. It didn't -- there

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is no amount that we have to take back from the General Fund at this point.

CHAIRMAN KURK: So if you hadn't had this entry, the General Fund would have received the exact same number of dollars; is that correct?

MS. DEMERS: That's correct. It has to do with our equity roll and our year-end closing.

CHAIRMAN KURK: So your organization is worth \$1.7 million less as a result of this adjustment.

MS. DEMERS: Yes.

CHAIRMAN KURK: Your equity decreased by 1.7 million.

MS. DEMERS: Yes. Correct. Correct.

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

ANDY SANBORN, State Senator, Senate District #09: Thank you, Mr. Chairman; if you'd allow me to ask a couple questions. Ladies and Gentlemen, and Commissioner, thank you so much for giving me the opportunity and thanks for coming in today.

Commissioner, as you know, we have had conversations over the past couple years about just kind of a general concern I have, and not a criticism at all, but just from a frugal, ex-banker kind of concern, about the amount of continued capital improvements and expansions of all the liquor stores. And my concern at what level have we, you know, built the mausoleum so much that if revenues dip it could put us in a difficult position, and knowing that there seems to be some pressure coming from outside the state. So when -- A, when I look in 2011, the State issued a hundred million dollars in bonding, 2012 issued \$90 million in bonding, 2014 issued 55 million in bonding, and in '16 we authorized another \$32 million in

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bonding. But A, I don't see that on your balance sheet. I only see \$38 million in total obligations. Are we paying down at such an accelerated level that this level of bonding is being paid off in six years or are we putting bonding into a different section of the State Government so we are still accounting for it, but it's not on your balance sheet?

MS. DEMERS: We are funding our own debt. It does reflect in our statements.

SEN. SANBORN: Follow-up, if I may?

CHAIRMAN KURK: Sure.

SEN. SANBORN: So with roughly \$250 million in new bonds since in the past five years, you only show a \$38 million in outstanding obligation?

MS. DEMERS: I'd have to get back to you on that. The debts came on to the Liquor Commission in -- do you want to speak?

MR. SMITH: Thank you. Senator, if you refer to Page 23.

SEN. SANBORN: Yes.

MR. SMITH: Is that the page you're on? If you read the second part of those like, for example, on December 11, 2014, 55 million, that is statewide. Of that bond issue, the Treasury Department has allocated 5 million specific to Liquor Commission Capital Improvement Projects. So for each of the bond issues, they're disclosing what the total bond issue was for the State. And of that total, there's a piece that relates to the Liquor Commission.

SEN. SANBORN: Thank you very much for explaining that. When I first read it, I missed that part and all of a sudden I was getting concerned about math.

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The second part of my question has to do with what our lease obligations are. Are we bonding everything we are building at this point or are we entering into operational or capital leases? And, if so, do you have some sort of schedule to take a look at that?

MS. DEMERS: We can provide a schedule. The new stores that we are putting up are a partnership with local business partners. They create the structure for us and we lease the location from them.

SEN. SANBORN: Follow-up, if I may?

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: And along that line, can you provide today or provide at a later time kind of an illustration for this Committee to kind of show where we have gone on the Commission's lease obligations over term? I mean, how big is our lease obligation today? What's our -- what's our nut for all these new locations?

MS. DEMERS: Our annual lease?

SEN. SANBORN: Yeah.

MS. DEMERS: Is about \$7 million.

SEN. SANBORN: That is inclusive of all properties? That just two properties or is that out of several properties? At this point, I'm not quite sure what your business model is today relative to you building it all out and owning it versus you leasing it on a capital lease basis.

MR. MOLLICA: What we do, Senator, is a combination. And what we found to be more prudent and a wiser use of funds is to use the private sector dollars to build our stores. And we get involved with lease obligations that have a percentage of the lease as part of the build-out. Usually, around \$1.88 a square

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in some cases is added to our lease obligation in order for the Commission to come into these large stores that we are building and just come in with the product and this shelving and the IT equipment. The rest of the build-out is done by the landlord, is the obligation of the landlord. And we spread that out over the first ten-year period. So our obligation, our obligation to the landlord is to spread out over a period of time to keep the cost low to the State.

SEN. SANBORN: And follow-up?

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: And then so in addition to regrouping that capital expenditure through the lease process, you're also now leasing the space as well; correct?

MR. MOLLICA: That's correct.

SEN. SANBORN: If you give us a kind of a dual look at that.

MR. MOLLICA: Sure.

SEN. SANBORN: Again, let me be very clear. I'm not trying to be critical. I'm just trying to understand. Because like you, I've got some concerns about long-term revenue. And if we have a lot of fixed expenses that are baked into our future, I just want to have a better understanding of it.

MR. MOLLICA: Absolutely. We can provide that.

SEN. SANBORN: Thank you very much.

MR. MOLLICA: One thing I'd just like to quickly speak to is you've mentioned the competition cross border. It's something that if the Liquor Commission hadn't started doing what it did six years ago, we would be in a completely different position right now. We have the largest liquor retailer to our

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south, just finishing their third location, a 20,000 square foot location with 55 employees in that one location. Seventy-five percent of those employees in that one location are full-time. So you can see in that same respect, we run the Hooksett store, either north or south, with six full-time employees. Same size footprint. So our -- our mindset is to run these stores as economically and as efficiently as we can, knowing that we've got the largest retailer to our south, now less than 60 miles away.

So to the point of building a mausoleum, that's not what we are here to do. We are here to remain competitive over the next 20 years. If we didn't set that into motion starting with the warehouse and building locations and building a brand that people recognize, we already would be in a negative position. And we are adding on to our locations, we are adding to our square footage, and our profits remain the same. And even to the point where we are starting to turn the corner and build on those profits, with the additional square footage and with the additional obligation. So we think that's very positive.

SEN. SANBORN: Congratulations on your work.

MR. MOLLICA: Thank you. We appreciate it. And thank you to all the employees out there, Senator, that work every day to make it happen.

SEN. SANBORN: Absolutely, they're awesome.

MR. MOLLICA: Thank you.

CHAIRMAN KURK: Question for the Commissioner. Are there any items that are not in this financial statement that represent settlements, judgments, payments for legal obligations that were picked up by the State General Fund?

MR. MOLLICA: No. No, Mr. Chairman, they're not. To my knowledge they're not, no.

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CHAIRMAN KURK: So any legal issues that the Commission had which have financial consequences are reflected in these statements?

MR. MOLLICA: That's correct. The only legal obligations that the State has come forth with is, obviously, the settlement to Law, which was the third place vendor in our warehouse, and the Liquor Commission in a court of law in the State of New Hampshire presided over the second place person in the warehouse obligation. So we have no other further obligations at all, either from a standpoint of legal cost to the AG or to outside obligations.

CHAIRMAN KURK: And could you refresh my memory as to what year that settlement, that payment, I think it was \$2.3 million, took place?

MR. MOLLICA: I believe it was '14.

CHAIRMAN KURK: Thank you.

MR. MOLLICA: You're welcome, Mr. Chairman.

CHAIRMAN KURK: Further questions? There being none, thank you very much. We appreciate this. Again, no further action is required here.

We will be meeting again on April 14th, that's our next meeting; and for May it will be May 12th. Representative Eaton.

DANIEL EATON, State Representative, Cheshire County, District #03: Mr. Chairman, about 50 years ago today I was trying to figure out which is my right sock and which is my left sock. But at that same time in a foreign land, a member of this Committee decided to get hitched and call her parents from thousands of miles away to let her know. And I think it would be nice if the Committee recognized Representative Wallner's 50th anniversary.

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CHAIRMAN KURK: We certainly will. Congratulations, Representative.

(Applause.)

CHAIRMAN KURK: There being no further business to come before us and in celebration of your anniversary we will end the meeting immediately. We stand in recess.

(The meeting concluded at 10:29 a.m.)

(Reconvened at 10:30 a.m.)

(4) Miscellaneous:

(5) Informational Materials:

CHAIRMAN KURK: I apologize. We have a late item and the Senator wishes to discuss it.

SEN. SANBORN: Again, only after discretion of the Chair if you're comfortable with everything.

CHAIRMAN KURK: No, if you'd like to raise some questions about the Dashboard, you're certainly welcome to do so, Senator.

SEN. SANBORN: Commissioner.

CHAIRMAN KURK: And, by the way, before that begins, if there are any other items, late or otherwise, that are in the information section that members have questions on, please feel free to raise them. I was trying to expedite matters but -- but not cutoff anyone's opportunity to raise questions. Senator.

SEN. SANBORN: Mr. Chair, I apologize. I'm not trying to delay matters at all. As you know, this report tends to be important to me and to the fiscal health of your bill that's in front of you, I think, right now.

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CHAIRMAN KURK: Please.

SEN. SANBORN: Thank you, Mr. Chair. To both of you, good morning. Thank you very much. Thank you for giving the Dashboard. I know it's always an important piece of information for me to kind of pour over. Can you talk to the Committee a little bit about where you feel you are relative to lapse, expenditures, upside down a little bit? You still feel will be about 17 million short by the end of June?

SHERI ROCKBURN, Chief Financial Officer, Department of Health and Human Services: Sure. So just for the record, Sheri Rockburn, Chief Financial Officer for the Department. Good morning.

So the Dashboard is as of February 28th, 2017, so it's as of last month, we are currently projecting, this is on Page 2 of the cover letter, a 48 -- \$48.4 million deficit in our Medicaid Program. There's a few miscellaneous items in our DCYF area bringing our total shortfall just under 50 million, 49.3 million.

As of this point in time, we have scrubbed all of our accounts looking for any potential lapse that could offset this shortfall. Page 3 of the letter goes through where we feel funds that would otherwise lapse could help offset this shortfall. It totals just over 32 million. That 32 is a combination of 20 million worth of expenditure related savings and about 12 million related to excess revenue that the Department anticipates to bring in. Most of that 12 million -- actually, all of it right now is in our drug rebate area for our Medicaid Program, and that is money that we collect on a quarterly basis. And so right now we only have actual invoices from the September and December quarter. We don't have anything for the March, obviously, yet. So that is a preliminary estimate that we are expecting. And we are going to monitor that as the March invoices go out to see if that trends any differently. So I'll pause at the moment.

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CHAIRMAN KURK: Senator.

SEN. SANBORN: Thank you. Thank you, Sheri. I always appreciate it. So I thought I had read something in the paper relative to the injunction and there are some sort of that to me suggested we had some additional exposure that's not in this report today. And I think you got a TBA there now. Can you comment on that at all?

MR. MEYERS: Yes. I can say very little at this time. And I think because it relates to litigation I prefer the Attorney General's Office actually address it directly. I have amended the description of the DSH Payment that is on the bottom of Page 4, on the top of Page 5. And what that says is that the Court issued the permanent injunction on March 1st of 2017. That decision enjoins the Federal Government, CMS specifically, and the State from enforcing the federally -- excuse me -- the frequently asked question which is known as Sub-regulatory Guidance, unless and until the policies and procedures are replaced by enforceable or properly promulgated regulations.

So to the extent to which the Federal Government actually promulgates that regulation in a time frame that could impact Fiscal 17 is unknown right now. And under the terms of that decision were the Government to promulgate that regulation that have -- would have the effect of removing third-party payments from the definition of Uncompensated Care, it could impact how Uncompensated Care is determined for Fiscal 17 as well as into the future.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: Thank you. So if I remember correctly, and I apologize, it was late at night and I just skimmed it, it implied to me from the report from the press that we could be facing a 33 or \$36 million negative impact. And I don't know if that included the 15 you've been recognizing to date or if there's an additional exposure that exists.

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MR. MEYERS: Senator, all I can say at this time is that the amount of the DSH Payment for Fiscal 17 and into the future as a result of this litigation is really undetermined.

SEN. SANBORN: All right. Thank you.

MR. MEYERS: Yes.

SEN. SANBORN: I probably have one more question, if I might? Thank you, Mr. Chair.

CHAIRMAN KURK: Yes.

SEN. SANBORN: Moving over to the drug rebate. Sheri, you've gotten two of the four quarters we have.

MS. ROCKBURN: Correct.

SEN. SANBORN: On a cash flow basis to help the two Chairs, talk to me a little bit about the timing. Is there timing this to get that third rebate in? Because you're so close to June 31st that we kind of look at how we are managing our cash flow.

MS. ROCKBURN: So a few things. On a cash flow basis, we have rebates that were from the June quarter last year that have flowed and got reported in about August of this year. So from a cash perspective we have three-quarters of revenue that is currently in the books. The March quarter that's coming up will hit -- for the most part, almost all of that cash from those invoices should hit before June 30th. So the lag is always a June quarterly invoice that sometimes crosses years.

On an audited financial statement what we normally do is back out the prior June, report that back to the old year, and then do an estimate for this current June to get reported for the CAFR or for accrual purposes. So there's always an adjustment in June of each year. But from a cash perspective, we should be able to have four quarters' worth of cash, once

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again, June from last year, and then this coming March one should be in there.

SEN. SANBORN: Does this 12 million potential cash show the four quarter cash or is there another option there?

MS. ROCKBURN: No, this is not all of the excess that's come in. The excess right now is a little bit less than that. But what our expectation would be is that by June of this year that 12 would be able to be realized. What I'm hesitant on is if the March quarter trends higher, the 12 million could grow a little bit. If the March invoice trends a little lower, then that 12 might have to get adjusted.

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

CHAIRMAN KURK: I do have another question. Going to Page 2. The last time this was reported the TBD was around 16.5 million.

MR. MEYERS: On Line 16, Mr. Chairman?

CHAIRMAN KURK: Yes.

MR. MEYERS: That's correct? I believe it was \$15 million previously.

CHAIRMAN KURK: Okay. Thank you. And then the question I have is regardless of that number --

MR. MEYERS: Hm-hum.

CHAIRMAN KURK: -- if you're using your lapses to deal with your deficit, which is what you're doing here --

MR. MEYERS: Right.

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CHAIRMAN KURK: -- that means you're going to contribute zero to the lapse that you're normally required to make towards the General Fund, which is usually about \$20 million.

MR. MEYERS: It's 20.8 million for '17 to be exact, yeah.

CHAIRMAN KURK: So in addition to whatever is here or not here, there's a \$20.8 million problem.

MR. MEYERS: What I will say is -- yes. I mean, I understand what you're saying. What I will say is the Department continues, in addition to what is reflected on this sheet, continues to work internally to be able to generate additional lapse. It's a fluid situation as it is every year, as I know you know. And we are going to continue to work with you and the Governor in addressing this issue before the end of the Fiscal Year.

CHAIRMAN KURK: Thank you.

MR. MEYERS: Yeah.

CHAIRMAN KURK: Further questions on the Dashboard? There being none, is there any other item on the information section that anyone wishes to raise or any of the other late items?

REP. WEYLER: Don't we need a motion?

CHAIRMAN KURK: To accept it?

REP. EATON: No.

CHAIRMAN KURK: No, we don't need to accept any of these information items. Is there anything else to come before us? There being nothing, in that case, thank you, Commissioner.

MR. MEYERS: Thank you very much.

CHAIRMAN KURK: Mr. Kane, anything else?

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MR. KANE: Nothing else.

CHAIRMAN KURK: We stand adjourned.

(The meeting adjourned at 10:38 a.m.)

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CERTIFICATION

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



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