

JOINT LEGISLATIVE FISCAL COMMITTEE

Legislative Office Building, Room 210-211

Concord, NH

Friday, April 12, 2019

MEMBERS PRESENT:

Rep. Mary Jane Wallner, Chair

Rep. Ken Weyler

Rep. Susan Ford

Rep. Lynne Ober

Rep. Peter Leishman

Rep. David Huot (Alt.)

Rep. Erin Hennessey (Alt.)

Rep. Patricia Lovejoy (Alt.)

Sen. Dan Feltes

Sen. Cindy Rosenwald

Sen. Chuck Morse

Sen. David Watters (Alt.)

Sen. Jeanne Dietsch (Alt.)

(The meeting convened at 10:05 a.m.)

(1) Acceptance of Minutes of the March 8, 2019 meeting.

MARY JANE WALLNER, State Representative, Merrimack County, District #10 and Chair: Call the April Fiscal Committee to order, and we have on the Senate side today, we have with us Senator Watters who is here for Senator D'Allesandro. And we have soon to join us, I'm sure, Senator Dietsch who is here for Senator Soucy, I believe. Thank you. Thank you for joining us today.

So let's start right out. The first item is the minutes of the March 8th meeting. Do I have a motion?

**** PETER LEISHMAN, State Representative, Hillsborough County, District #24:** Move to approve.

KEN WEYLER, State Representative, Rockingham County, District #13: Second.

CHAIRWOMAN WALLNER: Representative Weyler -- Representative Leishman moved, Representative Weyler seconded. And any discussion on the minutes? Seeing none. All in favor? Any opposed? None opposed. Item passes.

***** {MOTION ADOPTED}**

(2) Old Business:

CHAIRWOMAN WALLNER: We have Old Business. Does anyone want to discuss the Old Business or shall we just leave it on?

REP. WEYLER: Leave it on file.

CHAIRWOMAN WALLNER: Leave it on file. Okay. Does that meet with your approval? Okay. Old Business stays on.

CONSENT CALENDAR

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

CHAIRWOMAN WALLNER: Now we come to the Consent Calendar. And I know -- I've had a request for 19-079 to be taken off, and I have a request for 19-080 to be taken off. And I have a request for 19-090 to be taken off. Are there other items that people would like to take off the Consent Calendar? Seeing none. Could I have a motion?

**** LYNNE OBER, State Representative, Hillsborough County, District #37**: Move to approve.

CHAIRWOMAN WALLNER: The Consent Calendar.

SUSAN FORD, State Representative, Grafton County, District #03: Second.

CHAIRWOMAN WALLNER: Representative Ober approves, Representative Ford seconds the remainder of the Consent Calendar. And then we'll move -- all in favor? Any opposed?

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: And now let's move on to item 079. This is a Department of Information Technology request. I'll ask you to come up. Thank you.

REP. OBER: Madam Chairman, I have a question.

CHAIRWOMAN WALLNER: Just introduce yourself.

DENIS GOULET, Commissioner, Department of Information Technology: Good morning, Madam Chair, and Members of the Committee. I'm Denis Goulet, the Commissioner of the Department of Information Technology, and with me is Rose Curry, our finance director.

CHAIRWOMAN WALLNER: Thank you. Representative Ober.

REP. OBER: Commissioner, it's always good to see you.

MR. GOULET: Good to see you, too.

REP. OBER: You have a lot in your head.

MR. GOULET: A lot in my head?

REP. OBER: Yes, I know you do.

MR. GOULET: I didn't expect that question.

REP. OBER: Not a question, I know you do. But I don't understand why what is in your head that relates to your paperwork doesn't get on the paperwork. This is probably one of the worst pieces of submissions we had this year. For example, you said to replace an end-of-life camera feed server. Okay. But

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you didn't say because yada yada yada. You already got a question from Mr. Kane because I wrote over and said, well, why wasn't this budgeted if they knew it was end-of-life? And you came back with a reasonable explanation that Microsoft had terminated service for server 2008 after the budget was done. I don't understand why that wasn't in the paperwork. You also said, in addition, DOT also requires resources to replace iPads. What kind of resources? Why does it involve you guys? And, finally, why wasn't it in here so that we could just read this, leave it on Consent, and you would be done for the morning.

MR. GOULET: Well, I have to say that I agree with you because when I was studying up for this I actually had to go back and talk to my own people and get more information because I didn't have -- I couldn't just read my own document and get that. So I heartily agree with you and we'll work to do better on that.

REP. OBER: Thank you. Can you tell us about the resources for DOT?

MR. GOULET: Sure. The iPads are actually a result of a successful pilot project we've been working on under the auspices of the GIS Committee which was authorized under RSA 4-F which I am the Chair of. We did a field data collection pilot where we combined historically field data has been collected for culverts, in this case, in three places, DOT, Environmental Services, and Fish and Game. So we put part of the authorization of the GIS Committee was to kind of try to provide more efficiency on that type of stuff. So we're doing two things. One is we are going to use technology so that we're collecting that data and then having it immediately accessible by using the iPads. And, secondly, we'll be collecting data from multiple sources in one tranche versus sending multiple people out to look at these culverts. So that's really what that is, and in some of the ancillary stuff supporting the required software that goes on the iPads as well as part of this item.

****** REP. OBER: Thank you. Madam Chairman, when appropriate I would move to approve.

CHAIRWOMAN WALLNER: Any other questions? Yes.

JEANNE DIETSCH, State Senator, Senate District #09: Not a question, but I would like to thank you for updating and helping to bring New Hampshire into the current century with your technology.

MR. GOULET: You're welcome. My pleasure. I enjoy it.

DAN FELTES, State Senator, Senate District #15: Second.

CHAIRWOMAN WALLNER: Representative Ober moves the item and Senator Feltes second. Any further discussion on the item? Seeing none. All in favor? Any opposed? The item passes. Thank you very much. Appreciate it.

MR. GOULET: Thank you.

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: Now we have an item from the Department of Transportation. This is Item 19-080. Do we have someone from Transportation with us today? Oh, yes.

MARIE MULLEN, Director of Finance, Department of Transportation: We do. Sorry.

CHAIRWOMAN WALLNER: So sorry about your leg.

MS. MULLEN: It's all right.

REP. OBER: Oh, what happened? Marie, did you fall?

MS. MULLEN: I did, I fell at home a few weeks ago, broke my leg, so.

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REP. WEYLER: Don't let that stop you.

MS. MULLEN: No.

CHAIRWOMAN WALLNER: Introduce yourself to the Committee.

MS. MULLEN: Marie Mullen, Director of Finance for New Hampshire DOT.

PETER STAMNAS, Director of Project Development, Department of Transportation: Peter Stamnus, Director of Project Development for DOT. Good morning.

CHAIRWOMAN WALLNER: Thank you. I believe we do have some questions. Yes, Represent -- Senator Morse.

CHUCK MORSE, State Senator, Senate District #22: Thank you. The -- good morning. In Class 44 it says that this is from refinancing. Is there anymore refunding available or is that everything?

MS. MULLEN: Hum -- I believe there is some -- there is some additional available, approximately 400,000, that would lapse into the Highway Fund as part of our lapse projections for this year for Fiscal Year 19.

SEN. MORSE: Thank you.

MS. MULLEN: You're welcome.

CHAIRWOMAN WALLNER: Are there further questions? Thank you. I guess you got off easy. Do we have a motion?

** REP. OBER: Move to approve.

REP. FORD: Second.

CHAIRWOMAN WALLNER: Representative Ober moves to approve, Representative Ford seconds. Discussion? Seeing none. All in favor? Any opposed? Thank you very much.

MS. MULLEN: Thank you.

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: Now, if it's okay with the Committee, the Judicial Council has an item that we've taken off consent. But then also on your next page under Tab 6 you'll see that there are two Judicial Council items. And I thought if we would invite Miss Gardner up for, if we could discuss all of them and take them all up at one-time and not make her wait. I know she has another -- she does have another meeting she needs to go to.

NINA GARDNER, Chair, Judicial Council: I do. Retirement is just wonderful.

CHAIRWOMAN WALLNER: You busier than usual?

MS. GARDNER: I am. And the next one pays me. As I explained to Representative Wallner, I'm on the Board of Medicine and so if I get there for the hearing I get \$100. And so I'm motivated to get there.

CHAIRWOMAN WALLNER: We're motivated to get you there.

MS. GARDNER: Thank you very much, Members of the Fiscal Committee, for letting me bring these items forward. I'm here as the Chairman of the Judicial Council. That's what I am. And Sarah Blodgett, who's the Executive Director, is out-of-state at a training with a bunch of New Hampshire lawyers to improve skills for lawyers representing children in abuse and neglect proceedings on a federal grant. So she asked if I could do this and I think I still remember how to do this.

The first item is the item on the -- that you took off the Consent Calendar which is to give the Judicial Council authority

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to transfer between lines an amount that exceeds the \$100,000 that is the limit on transfer authority. So that is the first item, Item 3, that was taken off the table. The second two items --

CHAIRWOMAN WALLNER: Why don't we finish discussion on that one?

MS. GARDNER: Okay.

CHAIRWOMAN WALLNER: See if people have questions and then we can move that one and vote on that and then move to the other two. Yes, Representative Ober.

REP. OBER: Nina, it's always good to see you. Thanks for coming.

MS. GARDNER: Thank you.

REP. OBER: In the little box on Page 1 you have in front of you.

MS. GARDNER: Hm-hum.

REP. OBER: The very first item, assigned counsel, you're asking to transfer \$96,000 out of this; and then when we go to Tab 6, you're asking us to give you 96,000 more in General Funds. So why wouldn't this 96,000 stay there and we wouldn't have to give you more money in General Funds?

MS. GARDNER: I'll let you know the answer to that question is that the line that funds the TPRs does not have a footnote on it from the budget cycles previous to this. And what, in fact, is the problem here is that there's no ability to get more money into the line to pay for the outstanding bills on TPR without this ability to transfer money in from another line.

The good news is that the Governor's Budget and the budget that has just come out of the House has the footnote in going

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forward, so that we won't have to play this kind of take money from here to go there, because it's the only way we can come up with the money to pay the bills and this was the route that was suggested to the Judicial Council by Admin Services.

REP. OBER: Follow-up.

CHAIRWOMAN WALLNER: Yes, follow-up.

REP. OBER: I'm going to try this method on my husband to get my Ferrari. I don't think it's going to work, but can you tell us for termination of parental rights, what is the role of the guardian ad litem?

MS. GARDNER: Well, it isn't a guard -- one of the other problems with this line it has nothing to do with guardian ad litem. It's been misnamed for, I think, 17 years. It really --

REP. OBER: Okay. Then tell us --

MS. GARDNER: This line's not about guardian litem.

REP. OBER: -- what the bills are for that you need the money for? And, I'm sorry, I used the paperwork --

MS. GARDNER: I did, too. I did, too, for all those years. And what this line is paying for is the representation of parents in TPRs. And what is driving this line is the underlying abuse and neglect case that by Federal Law has to resolve in about 12 months. The parents have got to get their act together, get the services they need under Federal and State Law. And, quite frankly, the folks that we're dealing with here are folks that are not able to do that very quickly. Many of them are drug addicted, have all kinds of problems that just don't resolve in a year, can't even get them into programs.

And so the pressure then becomes the case is moved along and goes to the termination of parental right stage. As you can well imagine, the attorneys are fighting at least on behalf of

the parents to sort of delay that process and to hold it back as long as they can, giving those parents and the State the opportunity to get these kids back to the families, if at possible, which is how the New Hampshire law is built. So that is what is driving this line.

I can tell you for all the years that I used to be here that line held around \$500,000, and it was, you know, maybe 40, 50 cases with TPRs. Now last year was 179 cases. The cost of this line for the representation of parents is almost \$300,000 alone. It is no longer the other parts of the caseload that is paid out of that line. It is this TPR line that's driving it. I mean, this is the -- as you always know I talk about the caboose job the Judicial Council is. We get what's coming through the system at the back end and this is the sort of the unpleasant and ugly side of the -- what's going on in terms of opioids and drugs and families and that's what's driving this line. And she's transferring in to cover the bills that are in now and coming in.

REP. OBER: Just one last question. Isn't really related, Nina. I know termination of parental rights is 12 months and it's a Federal Law, not a State Law. Is there any movement on the Federal side to change that because it's proven that getting over an addiction takes longer than 12 months, even if the person gets in a program? Is there any movement at all on the Feds?

MS. GARDNER: I have no idea. I'm further away than I used to.

****** REP. OBER: I -- I would move to approve this when appropriate, Madam Chairman.

CHAIRWOMAN WALLNER: Representative Ober moves.

SEN. FELTES: Second.

CHAIRWOMAN WALLNER: Senator Feltes seconds. Any discussion on the matter? Seeing none. All in favor? Any opposed? Item passes.

***** {MOTION ADOPTED}**

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

CHAIRWOMAN WALLNER: Now let's go over to Tab 6. And the first one on is 19-092, and Representative, do I hear a motion?

****** REP. OBER: I would move this.

CHAIRWOMAN WALLNER: Representative Ober moves.

SEN. FELTES: Second.

CHAIRWOMAN WALLNER: Senator Feltes seconds. Discussion? Or I should have asked if there are any questions of Miss Gardner. Seeing none. All in favor? Any opposed? Item passes.

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: Now we go to 19-093. Are there any questions of Miss Gardner about this one?

REP. OBER: I would move this one appropriate.

CHAIRWOMAN WALLNER: Representative Ober moves and Senator Feltes seconds. Any discussion on this item? Seeing none. All in favor? Any opposed? Thank you.

***** {MOTION ADOPTED}**

MS. GARDNER: Thank you very much.

CHAIRWOMAN WALLNER: Now you're going to make your meeting.

MS. GARDNER: Thank you. It's always my pleasure to come and see you all. It's fun to be retired, but I really miss what I used to do. Thank you.

REP. OBER: We miss you, too.

MS. GARDNER: Thank you. I understand I'm coming to Senate Finance next week by invitation.

CHAIRWOMAN WALLNER: Okay. Great.

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

CHAIRWOMAN WALLNER: Let's go back and move -- look at Tab 4. Are there items that we want to have off of Tab 4? Senator Feltes would like to have 074 removed. Any other items off of Tab 4? Seeing none. Do I have a motion?

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

CHAIRWOMAN WALLNER: Representative Ober moves to approve.

CINDY ROSENWALD, State Senator, Senate District #13:
Second.

CHAIRWOMAN WALLNER: And Senator Rosenwald seconds. All in favor? Any opposed? Seeing none.

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: The Consent Calendar passes with Item 19-074 off consent and that is Department of Safety and someone here can help us. Thank you.

STEPHEN LAVOIE, Director of Administration, Department of Safety: Good morning. Steve Lavoie, Director of Administration.

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CHAIRWOMAN WALLNER: Nice to see you. And do we have questions for Mr. Lavoie? Yes, Senator Feltes.

SEN. FELTES: Thank you very much, Madam Chair. Thank you, Mr. Lavoie, for being up here. Just a couple questions about the grant, the federal grant, what it applies to, how long is the grant, and what -- what's the State's commitment with respect to the grant?

MR. LAVOIE: Sure. So this grant was originally awarded to fund a cooperative anti-heroin-based activities with the City of Manchester. These are -- these are co-activities with both a State Police Trooper and a Manchester Police Officer involved. It's over a certain period of time, typically five days a week over a ten-week period. So very focused activities.

In support of those activities there's additional time for the IAC to help identify where those activities should be occurring. We had planned to hire a full-time temporary -- a full-time temporary position to assist in the IAC. We were unable to do so because of the temporary nature of the position and the skills that are required to perform that function.

So what this item's doing is re-allocating those funds that were intended to be paid for that full-time temporary IAC position back into the field. We've had success in the activities that have been performed to date, and I believe that adding additional funding to the field will have similar results.

SEN. FELTES: Follow-up.

CHAIRWOMAN WALLNER: Further question, yes.

SEN. FELTES: Thank you, Madam Chair. So when does the grant end for this specific purpose?

MR. LAVOIE: This grant is effective through September of '19, till the end of this Federal Fiscal Year.

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SEN. FELTES: Okay.

MR. LAVOIE: These funds would be appropriated through the end of this State Fiscal Year.

SEN. FELTES: Follow-up.

CHAIRWOMAN WALLNER: Further question.

SEN. FELTES: Thank you, Madam Chair. And does this -- is this specific just to Manchester or does it inter-relate in any way to the Regional Drug Task Force Enforcement Program?

MR. LAVOIE: Hum -- this grant is specific to Manchester in that it's a unique -- hum -- it's a community-based program that requires that interaction with certain areas. So these funds are specifically for Manchester. However, the transfer that's occurring -- so the primary purpose of the grant is Manchester. This transfer will allow us to use those funds in other activities across the state.

SEN. FELTES: Okay.

CHAIRWOMAN WALLNER: Any further questions? Seeing none. Is there a motion?

****** SEN. FELTES: Move.

REP. OBER: I move to approve.

CHAIRWOMAN WALLNER: Senator Feltes moves and Representative Ober --

REP. OBER: Seconds.

CHAIRWOMAN WALLNER: -- seconds. Any discussion on the item? Seeing none. All in favor? Any opposed? Motion passes.

******* {MOTION ADOPTED}

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CHAIRWOMAN WALLNER: Thank you very much for coming.

MR. LAVOIE: Thank you.

(5) RSA 198:5-y, III, Public School Infrastructure Fund:

CHAIRWOMAN WALLNER: And we'll move on to Tab 5. Do we have -- do we have any -- any questions on Tab 5?

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

CHAIRWOMAN WALLNER: Representative Ober moves.

REP. FORD: Second.

CHAIRWOMAN WALLNER: Representative Ford seconds. Discussion on Tab 5? This is the Public School Infrastructure Fund. Seeing no discussion. All in favor? Any opposed? Motion passes. Thank you.

******* {MOTION ADOPTED}

(7) Chapter 155, Laws of 2017, Department of Corrections; Budget Footnote:

CHAIRWOMAN WALLNER: Moving on now to Tab 7. I know that we do have some questions on Tab 7 and this is the Department of Corrections.

HELEN HANKS, Commissioner, Department of Corrections: Good morning, Honorable Members of the Fiscal Committee. My name is Helen Hanks. I'm the Commissioner of the Department of Corrections, and with me is my Director of Administration. Robin Maddaus, and we are here to help answer those questions.

CHAIRWOMAN WALLNER: Okay. Thank you.

MS. HANKS: Thank you.

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CHAIRWOMAN WALLNER: Representative Ober has a question.

REP. OBER: Good morning, Commissioner.

MS. HANKS: Good morning.

REP. OBER: I know you're working currently under a budget that you were not the primary in creating, and I know that we put more money in this line in the budget than you did just create. But I wondered if you could just talk to us a little bit about what you call the escalation of emergency room visits. How many visits are you seeing, what kinds of things are you seeing, what trends are you seeing with your prisoners, things that we don't typically have time to discuss when you come to talk about your budget.

MS. HANKS: Thank you for that question. I don't have the specific number in the increase. I can tell you we're about 120% increase over last year and unique to this year we're not seeing a specific pattern of medical diagnoses that are prompting it. In the past we've had a lot of increase in self-injury, and we're able to really narrow down. This year we're seeing a very diverse, different sets of groups such as cardiac. We are seeing some self-injury. We're seeing some anomaly in health care issues around complications with multiple sclerosis and some other very varying diverse diagnosis, which is unusual because usually I can come to this Committee and say we have an uptick in this particular disease, but this year it's really across the board.

We have an increase in individuals with cancer diagnoses, things of that nature. And we have had some, not a lot, but had some individuals come in from the community that have needed some hospital-based detox. So it's really across the board.

CHAIRWOMAN WALLNER: Further question? Representative Weyler.

REP. WEYLER: Thank you, Madam Chair. Ms. Hanks.

MS. HANKS: Yes.

REP. WEYLER: I recall some years ago we also had a big uptick and it was a different doctor come in, seemed to be hesitant and wanted to send everything off to the emergency room. Is this reoccurring again? Have you had a change in medical staff?

MS. HANKS: Representative Weyler, that's a great question. I've actually looked at that because I was concerned myself. This particular year that's not the issue. We are appropriately triaging people off to the emergency room and then thus the outpatient after care is validating the need to have done that.

REP. WEYLER: Thank you for checking. Appreciate it.

MS. HANKS: Yeah. I will add one piece we are examining is within our own system that residents who are not showing to their appointments that if they're not participating in their health care how that's affecting the system. So that's one path we're looking at to see people more invested in their health care so that it's not deterring it to an emergency room need.

CHAIRWOMAN WALLNER: Thank you.

REP. WEYLER: Thank you.

CHAIRWOMAN WALLNER: Yes, Senator Watters.

DAVID WATTERS, State Senator, Senate District #04: Thank you, Madam Chair. I see here you note anticipated increase this year for Hep C and would you project over the next few years we are going to see more expenses there?

MS. HANKS: Yes, I do anticipate we'll see more expenses there. This is the first of that, that being the literal lab -- changes in lab to identify which stage a person is in

that illness and we continue to monitor, again, nationally in correctional settings so what that trigger and the litigation around it that's saying to the medical community and corrections this is the time to treat.

MS. HANKS: Thank you.

CHAIRWOMAN WALLNER: Senator Rosenwald.

SEN. ROSENWALD: Thank you. To follow-up on Senator Watters' question, it's my understanding that the Professional Association of Prison Medicine Providers has changed its recommendations on how to treat Hepatitis C and when to start treating it. And they have moved it up, and also the price of the treatment has come down. Are we following those new guidelines or are you treating at an earlier point in someone's illness now?

MS. HANKS: So, Senator Rosenwald, that hasn't come out across the board nationally. That group of individuals are examining with their corrections administrators because there are some states that are in active litigation on it so they haven't been -- they haven't committed to them exactly yet, but we are watching that aggressively and looking at when to treat. Because the new pharmaceuticals are on the marketplace and show efficacy in any stage of that treatment, and we're trying to make sure we don't do harm in treating patients. So, further, we have made some adjustments with that in mind, and these labs are part and parcel of that adjustment to looking at those national trends.

SEN. ROSENWALD: Thank you.

MS. HANKS: Thank you.

CHAIRWOMAN WALLNER: Thank you. Further questions? Seeing none. Do I have a motion?

****** REP. WEYLER: Move to approve.

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REP. OBER: Second.

CHAIRWOMAN WALLNER: Representative Weyler moves, Representative Ober seconds. Is there discussion on the item? Seeing none. All in favor? Any opposed? The item passed.

***** {MOTION ADOPTED}**

REP. OBER: Madam Chairman.

CHAIRWOMAN WALLNER: Yes.

REP. OBER: Could we ask the Commissioner if she's going to stay during the audit review of the Parole Board because they made several responses during that audit?

MS. HANKS: Yes. Yes, I am.

CHAIRWOMAN WALLNER: Is that your plan?

REP. OBER: Thank you, 'cause I had a couple questions about that.

MS. HANKS: I brought my --

REP. OBER: Oh, perfect. Thank you, Helen.

**(8) Chapter 156:13, Laws of 2017, Judicial Branch;
Transfer Among Accounts and Classes:**

CHAIRWOMAN WALLNER: Let's move on to Tab 8 which is the Judicial Branch. They have one item on. It's 19-072. Do you have any questions for the Judicial Branch? Seeing none.

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

CHAIRWOMAN WALLNER: Representative Ober moves to approve.

SEN. FELTES: Second.

CHAIRWOMAN WALLNER: Senator Feltes seconds. Discussion on the item? Seeing none. All in favor? Any opposed? Item passes.

*** {MOTION ADOPTED}

(9) Chapter 163:9, Laws of 2018, Department of Administrative Services; Transfer Authority; Consolidation of Human Resources and Payroll Functions:

CHAIRWOMAN WALLNER: Moving on now to Tab 9. And I know that I had -- there are questions on Tab 9. If there's someone here from Administrative Services. Thank you.

CHARLES ARLINGHAUS, Commissioner, Department of Administrative Services: Charlie Arlinghaus. I'm the Commissioner of -- excuse me -- of Administrative Services. And with me is Sheila Gagnon who's our Chief Financial Officer.

CHAIRWOMAN WALLNER: Thank you. I know that there are some questions about this item. Representative Ober.

REP. OBER: Thank you. Commissioner, good morning.

MR. ARLINGHAUS: Hi.

REP. OBER: You're in much the same way as Commissioner Goulet was when he came. I know there's a lot of stuff in your head, but it doesn't get on the paperwork, and we do read the paperwork.

When we look at transferring funds and creating new class codes, we are expecting that the Legislature in its wonderful wisdom has passed a State Law that now you have to follow that wasn't in your budget. However, when we looked on the back page of that Page 2, it said the transfer involves continuing

programs. And so if it was a continuing program, why wasn't it explained in the paperwork why you needed new class codes? And the second piece of this, my favorite annoyance of all the paperwork, cite any requirements you have. And the catch-all phrase is the Department is mandated by various State and Federal Laws. And why couldn't you give us the State Laws? This looks like, you know, that's kind of a catch-all? You have to do this because there's a State Law, but I'm not going to tell you which one. So it's really kind of an annoyance that the paperwork isn't complete. Again, it's the same thing as I said to Commissioner Goulet. So can you explain those anomalies in the paperwork you submitted?

MR. ARLINGHAUS: Sure. I think if you look at the instructions from the Budget Officer in '84, '85 when that was created, the idea about mentioning which State Law to do is -- is meant for particularly a program where -- where something is being done that's unusual. You're being asked to stand something up. And there's a new State Law that is requiring you to do this. In this particular case I think our answer, although vague, is appropriately specific in this sense.

The things that we are doing are general transfers that affect the operations of the agency across the agency. And as such, all of the things that we do are -- we are -- are things that we are required to do under RSA 21-I. They're not new things. We're not -- we're not transferring money to take care of new and additional programs. It's meant -- it's meant to say that. I think our language can be approved in the future. It's not meant to say there's a State Law. I don't want to tell you which one, but it's meant to say that this is -- this is to address the entirety of the operation of the Department, rather than a specific State Law.

REP. OBER: Follow-up.

CHAIRWOMAN WALLNER: Yes.

REP. OBER: But we do expect that a continuing program that you're required to do shows up in your budget with an appropriate class code and some money.

MR. ARLINGHAUS: I think to get at this, and we responded to the LBA's request yesterday to try to explain this.

REP. OBER: That was my request to them to ask for a difference and I think I copied you on it.

MR. ARLINGHAUS: I think so. So the -- I understand that. And let me sort of explain what we're doing here in a little more detail to kind of -- to kind of provide the background for this.

We're going to more than meet our lapse this year in a fairly significant way. And our -- my general understanding of the general instructions of the Legislature over time are that there are a lot of things that agencies do operationally that you're meant to replace equipment and do things in the normal course of maintenance. If you're having a tight year, you don't replace the vacuum cleaner. You need to wait and replace the vacuum cleaner in a good year.

For looking at this for the Department, we actually used in every meeting, I think, the vacuum cleaner analogy for this. Our initial list was there were three vacuum cleaners that we wanted to replace. Vacuuming is boring. It's, at least, for most people it's boring. I don't know, maybe for some people it's not, but it is a necessary function. Vacuum cleaners get old and they can often be extended for a year or two or three or four beyond -- I mean, I have a vacuum cleaner that we bought when we were first married. We tend not to use it inside the house as much as on other things, but it still works. And so -- but at some point you get a new one. This was the year where we did that.

One of the things -- so what we did is we talked to everybody operationally in the Department and said put together some thoughts on things that you might want. Do you want a new

mouse? Do you want -- do you want, you know, a glove and boot dryer which is only \$80 and is important for -- for the people who are shoveling snow but is not the kind of thing we would normally do. We collected those. For example, people wanted new chairs. We did a survey of everybody who wanted a new chair and picked of the 120 requests the 40 neediest chairs, which didn't include mine I'm going to say. I like my chair, anyway, so it's okay. But -- and so we went through some of those lines.

So what happens is it ends up affecting everybody. There's some places where we didn't have to create new class lines. We could have spent the money in a different accounting unit and bought something and then just rolled the, hypothetically, the chair down the hallway. And we didn't buy it out of the budget office. We bought it here. But, instead, we created -- we created class lines so the expenditure's occurring in the accounting unit where it exists, right? If an accounting unit is meant to describe the budget for the operations of a function of an activity. This is being done that way so that we're not, you know, buying a computer mouse in Public Works when it's actually being used in the Budget Office. I keep saying the Budget Office like there's a chief prognosticator.

So were these in our budget? No. Because when the budget was done in 18-19 there were instructions at that time from various people to reduce expenditures, vague memories of some of that. And that in Administrative Services' attempt to reach that target number one of the things we did was we eliminated a bunch of things in a department and rather than budget that class line on an ongoing basis at a dollar, or when we weren't going to spend a dollar it was just eliminated. In this case, it's being put back. It looks weird from a budgeting standpoint. It looks like we're adding a function that we're not doing. I honestly believe that what we're doing is in the interest of transparency, not of distinction.

REP. OBER: Madam Chairman.

CHAIRWOMAN WALLNER: Yes.

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REP. OBER: Charlie, that's a really great explanation about you're going to exceed your excess and you went through and this is what you're going to do. If that had been in here, you wouldn't be having any questions at all. I have to tell you I smile at your vacuum example because last night on the news police were called to a house where an I-Robot had gotten into the bathroom, closed the door and locked it. The woman thought there was a man in the house breaking in. It was just the I-Robot vacuuming.

MR. ARLINGHAUS: We're officially anti-robot vacuums.

CHAIRWOMAN WALLNER: Thank you, Commissioner Arlinghaus. I think that was a fairly good explanation.

MR. ARLINGHAUS: Thank you.

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

MR. ARLINGHAUS: Probably more than you wanted to know.

CHAIRWOMAN WALLNER: Representative Ober moves to approve. Second? Senator Feltes seconds. Discussion on vacuum cleaners or anything else?

REP. WEYLER: Thank you for the comic relief.

MR. ARLINGHAUS: Sorry.

CHAIRWOMAN WALLNER: All in favor of the item? Any opposed? Item passes.

***** {MOTION ADOPTED}**

(10) Chapter 355:4, Laws of 2018, Transfer: Department of Health and Human Services and RSA 9:16-a, Transfers Authorized:

CHAIRWOMAN WALLNER: We have one more item on the regular calendar and that is Item 10. This is a transfer, Department of Health and Human Services and Item 19-085. Questions? Seeing none. We have a motion? Representative Leishman moves. And is there a second? Representative Ford seconds. Any discussion of the item? All in favor? Any opposed? Seeing none, the item passes.

***** {MOTION ADOPTED}**

(11) Miscellaneous:

(12) Informational Materials:

CHAIRWOMAN WALLNER: Now we have a number of informational items. Is there anyone that would like to have any further discussion about the informational items? Look at them at your leisure. Now we move into several audits.

Audits:

CHAIRWOMAN WALLNER: And we are right on time. The first audit we'll do is the Single Audit of the Federal Financial Assistance Programs.

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good morning, Madam Chair, Members of the Committee. For the record, Steve Smith, Director of Audits for the LBA. We are here to present the Single Audit of the Federal Financial Assistance Program or as most people refer to it the Single Audit for Fiscal Year 18. Our office engages KPMG to perform this audit for the state. And here from KPMG is the Partner, Brock Romano, and Karen Farrell next to me is the Manager. And they will be presenting their audit. And also joining us from the Department of Administrative Services is Commissioner Arlinghaus and Dana Call, the State Comptroller. So turn it over to KPMG.

BROCK ROMANO, Partner, KPMG: I'll grab the microphone. For the record, my name is Brock Romano, Audit Partner with KPMG. I just wanted to make a few opening remarks before I hand it over to Karen to kind of walk us through the document. We have what I affectionately call the telephone book for our audit results. It's quite complex. We're going to try and approach it from -- summarize it at a high level. To the extent that there are questions from Committee Members, we'd welcome that to get into more detail if there is a desire to do so. But our intention will be to try to take this telephone book and condense it into something that's meaningful and understandable and in the brief amount of time we have this morning. So, with that, I'm going to ask Karen to walk us through the telephone book.

KAREN FARRELL, Senior Manager, KPMG: Thanks, Brock. I'm Karen Farrell. I'm a Senior Manager with KPMG responsible for the day-to-day completion of this report. Seeing that some of you may be new to this report, I was just going to walk through, highlight a few sections, and then speak in a little bit more detail about the two KPMG deliverables that are included in here.

So the first section is really the C section which includes the State's financial statements and that I believe was presented to Fiscal in January. So kind of skip over that but that's required, the Federal Government has a requirement that that be included in the package that's submitted to them to their clearinghouse.

So the first deliverable from KPMG is on D-1, and that is our report on internal control over financial reporting. And in planning and performing our audit of the financial statements, we consider the State's internal control over financial reporting to determine which audit procedures would be necessary in the circumstances to issue our audit opinion. And in doing that, we are required to inform you of any material weaknesses or significant deficiencies in internal control over financial reporting that we identify. And we did not note any material

weaknesses or significant deficiencies in internal controls over financial reporting for the 2018 Audit.

For those of you who may not be familiar with those terms, a material weakness is a deficiency or several deficiencies that may, you know, where it's reasonably possible that a material misstatement in the financial statements would occur and not be detected or prevented. A significant deficiency is a level of severity that's below that; but it's still important to present to the Committee. So as I mentioned, we didn't find either of those or any of those.

We did find some control deficiencies and that's at the lowest level. We're not required to put those in this report, but we put them in a letter that we call the Management Letter and that will be presented to you by Brock after this presentation.

So the next deliverable from KPMG is on D-3 and this is really the heart of the compliance work that we performed. We audited 17 programs in 2018 to determine whether the State complied with the federal requirements that are included in the OMB compliance supplement and the results of our audit are on D-4. I think the best way to point these out are in the table here. And there were six findings or six programs, two of which had more than one qualification. They have two each and that's in the table there. And, as I mentioned, there's a finding number which references back to the F Section that I'll point out in a little bit.

So for a specific compliance requirement that was applicable to this program we are saying that the State did not materially comply.

The -- on the bottom we have other matters, the bottom of D-4, and these are other compliance findings that we noted that are not material compliance issues. There were 25 of those that we identified during the '18 audit.

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Moving along to Page D-5, we also look at, you know, kind of similarly for the financial statements where we look at internal controls over financial reporting. For the compliance audit we looked at internal control over compliance. And, similarly, instead of looking at whether a material misstatement would occur, we look at whether a material non-compliance instance might occur. And in performing the audit, excuse me, we identified nine material weaknesses which the finding numbers are included in the midst -- about mid page, and 27 significant deficiencies. And I think that Dana may have some statistics comparing her prior year that she'll review with you in a little bit.

I wanted to point out the date of the opinion which is March 28th, which is within the required time frame the Federal Government wants you to complete and file your report. So that was filed timely.

So following the D Section is the schedule of expenditures of federal awards which may be interesting to you to see which agencies and programs are getting the federal funding and what the total federal funding is which is on E-28. Yeah. And it was approximately \$2.3 billion which was very consistent to the federal funding that the State had received in the prior year.

Another section is Section F and this is really, you know, call it KPMG section where we have the summary of the auditor's results that I just spoke about and then the narrative of each of the findings that you could reference back to our opinion.

And the last section is the G Section. And this is a good guide if you were interested in the status of any of the prior year findings. So it will list the prior year findings that either have been resolved during the current year or unresolved or partially resolved. If they're unresolved or partially resolved, they'll reference the narrative of the finding following that. Or if there's a current year finding it will reference to the F Section where the current year finding is listed.

So that's kind of my brief presentation of the report. Be happy to take any questions that you have or turn it over to DAS.

CHAIRWOMAN WALLNER: Questions? Thank you.

MS. FARRELL: Thank you.

DANA CALL, State Comptroller, Department of Administrative Services: Good morning. Dana Call again. I think you were provided in advance like a two-page handout we provided last year as well just to give you a sense of the trend. And, again, we -- we just want to give our thanks. This audit effort is literally a nine-month effort that we do every year. And thank Steve Giovinelli who is our spear-headed auditor in our Department to get this done. And we are seeing a favorable trend over the years. We're tracking this to make sure our findings do appear to be being resolved.

One of the things we really focus on is the number of prior year findings that repeat and trying to limit those. So we are doing some processes within Admin Services to help agencies get through that and get some of these findings off the list so we are pleased with our -- how our trends look. Other than that, do you have anything to say?

MR. ARLINGHAUS: No. I just want the Committee should know that the Steve Giovinelli who does this for us does a really remarkable job and Dana's whole team does. And it's, you know, if you look at the decline in both the number of material weaknesses and significant deficiencies, a lot of that is about the sort of constant or quarterly communication with agencies. And I think that I would love to take credit for this but it's -- but a lot of it, frankly, is because we have some -- we have some very good people in the State's -- the State's accounting staff led by Dana and this issue led by Steve Giovinelli has a passion for this and does a real remarkable job.

I would also say in the spirit of thank you so much I have another that we enjoyed working with KPMG as well, so does a great job.

CHAIRWOMAN WALLNER: Thank you. Questions? Yes, Representative Leishman.

REP. LEISHMAN: Thank you, Madam Chair. Commissioner, is the two-page handout, which is actually very handy, shows the \$2.3 billion that we received back from the Federal Government. Do you have any idea what the State as a whole sends to the Federal Government?

MR. ARLINGHAUS: I would say -- I don't know the exact number but New Hampshire, in general, is without fearing wading into a education debate term, something of a donor state in terms of that. We have a relatively low, relatively speaking, parity population. And I saw something on this on the news and without knowing the data I think we're one of the top five getting back less than we send. We get back less than we send, but you would expect that given our demographics.

REP. LEISHMAN: Thank you. Thank you, Madam Chair.

CHAIRWOMAN WALLNER: Thank you. Any other questions? Seeing none. I'll ask Representative Weyler to make a motion.

****** REP. WEYLER: Thank you, Madam Chair. I move we accept the report, place it on file, and release in the usual manner.

REP. OBER: Second.

CHAIRWOMAN WALLNER: Representative Weyler moved and Representative Ober seconded to place the audit on file. And all in favor? Any opposed? None opposed. Thank you very much. We are putting it on file.

***** {MOTION ADOPTED}**

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CHAIRWOMAN WALLNER: Great job. Full of information. And let's move now to the Management Letter.

MR. SMITH: Thank you, Madam Chair. As Karen mentioned, the next one is the Management Letter, so this is a byproduct of the CAFR audit. And joining me from KPMG is Jenn Renaud. She was the Manager for the CAFR audit. So she will present this along with Brock.

MR. ROMANO: No, I think Karen kind of framed it very well the relationship between the yellow book report that was in --

CHAIRWOMAN WALLNER: Speak into the microphone. Thank you.

MR. ROMANO: I'm sorry. Again, just for the record, Brock Romano. Karen Farrell did an excellent job, I think, framing the relationship between the report that we just went over and -- and the comments that we're going to cover. My general observation with the Management Letter, so these are -- these are items that are not required under our professional standards to be communicated in writing, meaning they're a lower level of severity in terms of -- in terms of either control observations and/or what we call process improvement. So these are kind of the value add that things we see during the course of our audit that we -- that don't -- that aren't -- aren't severe enough to be included in the other documents that was delivered to you. But as a matter of convenience we put them in writing. None of these should be of any grave concern -- excuse me -- to the Committee, but things that we saw during the course of the audit that we just want to highlight. Jenn will walk us through some of those categories and point out a few items. And, again, welcome the Committee to ask questions if there are particular comments that are of interest to you.

CHAIRWOMAN WALLNER: Thank you.

JENNIFER RENAUD, Senior Audit Manager, KPMG: Good morning. So just to add one piece further from what Brock said. These are

process level improvements where we think Management can make improvements either in their procedures or their control processes that are in place. By putting them in writing, we do expect or we have an expectation that Management will act on those. And so we meet with Charlie and Karen and her group regularly, and we provide a lot of process improvements or suggestions from what we see. But some of them are longer term or extremely minor and these are more of what we would see coming up in the next year for actionable items.

And, again, as Brock and Karen have both stated, these do not rise to the level of material weakness or significant deficiency. So these are just, you, know suggestions.

So within the letter, which I believe you all have, there were a total of six comments. The first four comments relate to process improvements over various financial statement items that were tested during the CAFR audit, and the last two comments relate to suggestions that came from our what we call GITC review or General Information Technology Control review that's tested as both the financial statement audit and the single audit.

I won't go over all of the comments in detail; but, again, I'll highlight a few and then open it up if you have any questions or want more detail.

The first item I would call your attention to is Observation 2 which relates to unreconciled variances between the two financial systems that are used to record the financial activity for the State Revolving Funds. The variance that we -- that we identified that's actually been in place for several years is about 1 million to \$1.1 million. And Management, DAS, and the actual Department, have been monitoring the variance for several years. We've noted that seems to have arisen when the State Revolving Fund was moved out of the General Fund. And our action item for DAS is it's been there for about four years now. So let's find it, resolve it, and move

forward. But the total -- the total variance is about a million dollars.

The second Observation that I'll call your attention to is Observation 3 which relates to the Economic Revitalization Zone Tax Credit Program. Fiscal 2018 was actually the second year that these types of tax programs, tax abatement programs were required to be reported in the State's financial statement. So this was a new disclosure that hits in 2017. So prior to this there was less of an audit emphasis, and so this was our second year looking at those.

The Observation notes that there were three instances which actually relates to two taxpayers who overclaimed tax credits under the program, which actually resulted in excess tax credits of about 45,000 being given to these -- these two taxpayers. So I think in the Observation it notes that there were about 51 credits given in total over the course of '18, and we noted three instances. So it's not -- it's not a lot of money that was over awarded, it's not a lot of taxpayers; but I think that the importance of this is that as that program grows and what we've communicated to DRA is, you know, take a look at what your instructions are to taxpayers, and then take a look at what your procedures are that would identify this.

So I think DRA would say taxpayer non-compliance happens. There's a period where taxpayers can amend their returns. They have their internal processes of about three years where they can go back and audit, but I don't think anybody wants to see more credits being given than what are allowed under State Law. So I think this is an important area where Management can go in and look at how that's followed up on.

The last two Observations that I would call your attention to are 5 and 6 which, again, relate to our IT controls. One of the things that I would note to the Committee is that there's an increasing emphasis on the IT systems as part of the audit. As more and more items become automated, and there's less manual things happening, less manual controls and more things happening

within the system, our need to test those systems continues to increase. And these comments came out of that process. They were specifically related to the NHFirst and the New Heights System but they both -- they both relate to the general IT environments where we're looking at things like how to -- the IT Department ensure access controls and security controls and the integrity of the programs.

I will note on these items that they both -- they both came out as a result of work in the single audit programs. And in both of the instances there were mitigating controls that allowed us to kind of get past these items and to move forward and to still be able to work with the system and rely on the system. It takes a lot of effort to do that. So the IT environment is critical in order to be getting to any kind of reliance on the actual application controls. So these are items that we hope to see Management make some improvements in that will, I think, create efficiencies for them and for the audit process.

So that's kind of my high-level overview, but I'm happy to open it up to any specific questions or go into detail on more -- on any of the actual Observations.

CHAIRWOMAN WALLNER: Thank you. Are there questions?
Senator Watters.

SEN. WATTERS: Thank you. I had a question on your Page 3 about the Economic Revitalization Zone Tax Credit. I wonder if you might just clarify down there next to the last paragraph about the determining programming the forms for disallowing entry of an amount of greater than \$40,000 and determines not doable. I wondered if that referred to just doing it for this coming tax year or -- or if that it's not doable?

MS. RENAUD: I'm sorry, can you just tell me what paragraph? Okay. So in Department of Revenue Administration's response.

REP. DAVID HUOT, State Representative, Belknap County, District #03: Yes.

SEN. WATTERS: Yep.

MS. CALL: Appears to be for Tax Year 2018.

MS. RENAUD: Yeah.

MR. ROMANO: So, typically, the Management's response isn't subject to the audit process. So they might be in a better position to respond to that question than we would be.

SEN. WATTERS: All right.

CHAIRWOMAN WALLNER: Further questions?

MS. RENAUD: And just to add to that. One of the items to note about this particular footnote is the report that's used to gather this information kind of comes late in the process. So this is one of the later items that we do in our test work. So by the time we found this issue, it was close to halfway through Fiscal 19. Just to kind of put in perspective DRA's response to that if they are going to make any changes, you know, given the tax cycle, it would likely be another year before they could do that.

SEN. WATTERS: Thank you.

CHAIRWOMAN WALLNER: Further questions? Seeing no questions. Any further -- any further information from all of you? I ask Representative Weyler to make the motion.

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

REP. OBER: Second.

CHAIRWOMAN WALLNER: Representative Ober seconds. Any discussion of the Management Letter? All in favor of placing it on file? Any opposed? The letter will go on file.

***** {MOTION ADOPTED}**

MR. ROMANO: Thank you very much.

MS. RENAUD: Thank you.

CHAIRWOMAN WALLNER: I believe we are now at our final audit which is New Hampshire Adult Parole Board Performance Audit.

MR. SMITH: Thank you, Madam Chair. This Adult Parole Board is a performance audit performed by our office. And with me to present the audit is the Manager on this job, Vilay Skidds. She's our Senior Audit Manager with our office. Joining us from the Parole Board is Donna Sytek who's the current Board Chair and former Speaker. And with her is the Board Executive Assistant Ashlyn St. Germain. So turn it over to Vilay to present our work.

CHAIRWOMAN WALLNER: Thank you.

VILAY SKIDDS, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Madam Chair, and Members of the Committee. My name is Vilay Skidds, and this morning I'll be presenting the Adult Parole Board Performance Audit Report. The purpose of our audit was to determine whether the Board's operations were efficient and effective during Fiscal Years 2017 and 2018. Our Executive Summary starts on Page 1.

Every year the Parole Board conducts about 2,000 hearings to determine whether inmates have earned the privilege of parole or whether those who have been released violated the conditions of their parole. Holding these two types of hearings was the Board's primary focus and supporting these activities utilized most of the staff's time.

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We found the Board did not administer itself as a State Agency and little time is dedicated to ensure it was functioning efficiently and effectively. The Board lacked formal processes, rules, policies, and procedures to guide its activities and was unaware of additional statutory requirements outside of its own statutes.

The lack of standardize policies and procedures, as well as limited access to some inmate information, resulted in inconsistencies on how Board Members made decisions to release inmates on parole. The Board also did not track whether its activities contributed to its overall goal and did not analyze data it did receive to determine whether criteria it used to make parole decisions were effective in protecting the public.

The Board has operated in this manner since at least 1992 when our prison expansion audit identified a similar lack of controls. Without adequate support in rulemaking, policy development, and program evaluation, the Board may have a difficult time implementing all of the recommendations in this report. Additionally, the Board will need to rely heavily on assistance from the Department of Corrections to resolve areas where both agencies have common responsibilities. Our Recommendation Summary starts on Page 3.

Our report contains 26 Observations and recommendations, 13 of which are aimed at both the Board and the DOC. The Board and DOC concurred or concurred in part with all 26 Observations, five of which may require legislative action. Our background starts on Page 11.

The Legislature created the Adult Parole Board in 1983 with five members. Since then, membership has increased to nine. The Board was created, in part, to establish a statewide system to supervise and rehabilitate inmates without continued incarceration, and to aid in the transition from prison back to society. The Legislature also emphasized the need to protect the public from criminal acts perpetrated by parolees.

Generally, the Board held seven days of hearings per month seeing on average 29 inmates each day. As shown in Table 1 on Page 12, the Board conducted over 3,800 hearings during Fiscal Years 2017 and 2018. To help it perform its functions, the Board had four full-time and one part-time staff.

Our first section consisting of four Observations starts on Page 19 and addresses the Board's access to inmate information. We found information the Board received when evaluating inmates for parole was not always complete and mental health and substance abuse information was not always accurate because neither Board Members nor staff had access to this information. Access to these records were restricted to DOC medical personnel, and there was no process to share substance abuse and mental health records which may be necessary to make parole decisions.

We also found there was no process to standardize the criteria used to make parole decisions leading to variations in how Board Members used and prioritized inmate information. The Board also did not have a process to review parolee records as required by law to determine whether supervision levels were appropriate or whether the parole -- the parolee should be brought back before the Board.

Our next section on medical parole starts on Page 35 and contains four Observations. The Board did not have comprehensive administrative rules outlining its process to review medical parole cases. As a result, we found medical parole criteria were inconsistently applied. Additionally, neither the Board nor the Field Services Division who's responsible for supervising parolees had a complete list of inmates on medical parole resulting in the inability to continually monitor whether medical parole was still relevant.

The Board also did not impose specific parole conditions on some medical parolees. Some conditions were not accurately reflected or were omitted from the parole certificate and some

conditions were changed without evidence of Board review or approval.

We also found minimal evidence the Board considered the probability an inmate would violate the law when considering whether to grant medical parole. Unlike regular parole release hearings, recordings of medical parole hearings revealed little discussion about the inmate's offense, criminal history, disciplinary history, and efforts the inmate has made to reduce the risk of recidivism.

Our next section on parole revocations starts on Page 49 and contains four Observations. In addition to releasing inmates on parole, the Board was also responsible for holding hearings to revoke parole and impose sanctions if a parolee was found to have violated the conditions of their release. Prior to bringing a parolee before the Board for revocation hearing, probation/parole officers or PPO's generally used alternative sanctions to address misconduct. However, with the exception of a seven-day intermediate sanction at a halfway house, the sanctions used did not appear to be authorized.

We also found the Board imposed sanctions shorter than those required by statute for some parole violators, even though they may not have met statutory requirements for shorter sanction. Additionally, the Board did not properly document the requirement to have an attorney present at revocation hearings. The role of that attorney was not clearly defined and the DOC did not have a program to re-engage parole violators in their parole plan as required by law.

Our next section addressing reduction of maximum sentences starts on Page 57 and contains two Observations. State Law allowed the Board to grant a reduction to a parolee's maximum sentence if they met certain conditions. We found the Board did not have a process for handling these petitions. Petitions were reviewed without a hearing and neither the parolee nor the PPO were present when they were reviewed. Additionally, Board

Members applied their own criteria when considering some petitions.

Finally, these petitions, which contained only information reviewed by the Board in making these decisions, did not always contain complete or accurate information.

Our section on the Board's administrative functions begins on Page 63 and contains 12 Observations.

For any agency to be effective and efficient, it must establish an internal control system to reasonably ensure its objectives are met. We found the Board did not establish administrative rules for some of its processes and imposed additional requirements which were not formally adopted. It also did not have policies and procedures for operational tasks leading to heavy reliance on institutional knowledge to carry out operations. This resulted in non-compliance with some of its own rules and statutes, including the Right-To-Know Law.

Additionally, the Board did not always document whether notices of hearing were issued or ensure all notices were compliant with statute. It did not -- it also did not have a process to waive supervision fees, have a records retention policy, or a process to record Board Member votes during hearings.

Finally, we found the Board did not have a process to collect data or evaluate whether it's activities contributed to its overall mission of protecting public safety.

On Page 99, we present one other issue and concern regarding establishing some Board Members' qualifications in statute. And the remainder of our report contains our scope, objectives, and methodology, the Board's response to the audit, some potential performance measures the Board reviewed to analyze its effectiveness, and the status of five Observations related the Board from prior DOC audits.

This concludes my presentation. We'd be happy to answer any questions you may have.

CHAIRWOMAN WALLNER: Thank you. Do we have questions?

REP. OBER: I have a question for Commissioner Hanks.

CHAIRWOMAN WALLNER: Let's -- okay. Let's invite Helen Hanks to come up to the table.

REP. OBER: Madam Chairman, I have three questions.

CHAIRWOMAN WALLNER: Okay. I'll allow three questions. Thank you.

REP. OBER: Commissioner, one of the Observations was that the Parole Board didn't have access to mental health and addiction. How does that interface with the HIPAA laws which require things to be private and not given out? Are we saying the Board followed HIPAA laws and, therefore, didn't have? Can you clarify that for me?

MS. HANKS: Representative Ober, that's an excellent question. I'm not just saying that to get on your good side. It's an excellent question. That has been a struggle. Not only just the HIPAA law, but also federal CFR 42 is specific to substance use disorders in addition to the complications. And so as much as the Parole Board would like that information, and the Chairwoman and I have talked about it, it is up to the individual to give that release of that information. It is a privilege that they have to surrender to the Parole Board to access it.

What we've tried to do in the past is give the minimally necessary information so that we wouldn't be in violation of HIPAA; but we have not been able to overcome the Federal Law regarding substance use disorders. Up until February of this year working in collaboration in trying to meet the needs of the Parole Board as expressed by the Chairwoman, we created a

release that we are calling a Criminal Justice Release we deployed in February. It's still up to the individual to grant their permission to release that information, but it helps remove that barrier that simply HIPAA and CFR 42 put out there for us. And when they choose not to, because parole is a privilege, as well as some other opportunities, that's a choice that they're making that will inhibit information available to the Parole Board while they make their decision. And so the Parole Board may decide not to absent access to the information or may decide obviously to grant. But I think that's a wonderful question.

REP. OBER: Thank you.

MS. SYTEK: May I add something?

REP. OBER: Absolutely.

MS. SYTEK: So the release form has been promulgated. Inmates are given the opportunity to sign a release so that we can get their substance abuse and mental health records. So we have the release. We get the substance abuse records. We still do not get the mental health records. We would love to have a discharge summary. We don't get it. And we have to ask them. This is -- we conduct our hearings in public, even though the Right-To-Know Law says that our hearings can be conducted in non-public session. We have to ask them are you on any mental health medications. It's a very unsatisfactory situation. If we could get their discharge summary, we would have it on paper. We wouldn't have to say it in public; but we're not getting it. The inmate has given us permission, but the Department does not provide it to us.

MS. HANKS: I can follow-up on that.

CHAIRWOMAN WALLNER: Representative Ober has further question.

MS. HANKS: So we moved this in February. We're working on doing just what she asked. We have an electronic health record that wasn't developed with the concept of a Parole Board. So we're working to -- with our vendor to actually create that document so it can be easily shared.

REP. OBER: There were two Observations that you concurred in part. Observation No. 9 and Observation No. 12. And I just wondered if you would talk to us about the partial concurrence and what you saw with those two Observations? I know there were two questions married into one.

CHAIRWOMAN WALLNER: Thank you.

MS. HANKS: So on 9 we concurred, in part, because we agree that we need to examine the criminal code procedures to make sure that it is as we intended. But we do not feel that we violated any law or any of those things as far as what's responded to there. So the use of alternative sanctions is legal, and this is why we believe it's legal. And so the concurrent part is that we will make sure that it is legal; and if it's not, then we'll seek adjustments. And then the second section was --

REP. OBER: Was 12. You concurred, in part, there as well.

MS. HANKS: Very robust document. Yeah, we concurred, in part, because we do offer programming. And what we aren't able to do is to offer specific "parole violator only" programming. And the idea that we would potentially separate people who have not had the privilege of parole and parole violators who have the same need into two separate programs means I would have to really budget for two separate staff to perform the same function that we believe we can do currently now. And that was our comment there. The 90 days has been a concern in some instances because we haven't had enough time to engage the person in their treatment plan. We could not fully concur with the recommendation because we do offer programming. We just do not offer it specifically for just that parole violator group.

REP. OBER: Thank you.

MS. HANKS: Thank you.

CHAIRWOMAN WALLNER: Thank you. I just want to ask Miss Sytek if she has -- would like to comment on this. We jumped right to questions before I gave you a chance.

MS. SYTEK: Thank you, Madam Chairman, and Members of the Committee. I want to note the presence of the entire Parole Board. They are sitting here. Our Board includes two former State Troopers, one of whom is also a former legislator, former Representative Tholl. We have a former captain from the San Quentin Prison. He was 25 years there, a valuable member of our Committee. We have a former police officer, former NCIS, a member of our Board. We have two attorneys who are from Concord. And we have a former State Senator, Bob Flanders. And the heart and soul and engine of the Parole Board is our Executive Assistant who is Ashlyn St. Germain who has taken on the responsibility of running of the office and trying to respond to all these audit observations.

The Board is doing the best it can with what it has. A lot of the Observations relate to documentation. We've been doing the job. We have the hearings. We have the revocations. We -- those are our core functions. Do we have time to document everything? Not so much.

When I came on, one of my -- as Chairman, one of my first goals was to update our administrative rules, the rules that had been in place for many years and have complied with all the requirements for rulemaking in our parole chapter. Because we didn't have any support from people who are used to doing administrative rules, the former Executive Assistant and I spent two years just updating existing rules. And when they were finally adopted, Senator Feltes was there on JLCAR, we felt like the Members of the House Finance Committee must have felt

yesterday when your budget finally passed. "Whew!" We've done our rules. We're all set.

Then the auditors come in and say, oh, but wait, you ought to make rules about this, that, and the other thing. We haven't the staff, the time, or the expertise to do it. I compare our situation to having to cook Thanksgiving dinner every week. Okay. I know what Thanksgiving dinner -- I know what the menu is. The auditors say, okay, you got to write down the menu. We have the capacity to write down what we need to do. They say, okay, now you got to list the recipe for each of the ingredients. Okay. We can probably do that. But meanwhile the number of attendees at Thanksgiving is growing, and we're trying like crazy to peel potatoes; but you want us to write down, okay, write down the recipe. Okay. I guess we could do that.

They want us to weigh the turkey and make sure that the supermarket didn't charge us for a different weight. If they charged us for a 19-pound turkey when it was really 18½ pounds. They want us to go through the parole officer's records and see if everything they tell us is right. We don't have the time. We don't have the staff. We don't have the access. So -- but wait, there's more.

They say in addition to all that, we would like you to do the nutritional composition of every element on the menu. We don't know how to do administrative rules, any more than we know how to do nutritional composition. So if you want us to do all this, we are going to need more staff.

The budget has moved to the Senate, and I will be coming and begging the Senate Finance Committee for the additional positions or consultants that we are going to need if you want us to do everything that is in this.

Meanwhile, we will continue to have our hearings. Our members work very hard. You've heard that we had 3,000 hearings during the audit period. To prepare for those hearings it takes me 12 to 15 hours to read through all the material prior to

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spending a day in hearings. And you have Members who are being paid -- I won't get much sympathy from this group -- but they get paid \$100 a day. I liked it when I went there. I used to get paid a hundred dollars a year. Now I get \$100 a day. But it's still a lot of work. The Board is working very hard. The staff is overwhelmed. So if you want us to do this, we are going to need some more people. So if there are questions.

CHAIRWOMAN WALLNER: I do have -- I have a question. I wondered what was in your budget request. It's already left the House, but I wondered what was in your budget request? Did you request the additional resources?

MS. SYTEK: No, we didn't, because we were not consulted on our budget. Our budget was submitted without our input or knowledge.

CHAIRWOMAN WALLNER: Thank you. And I hope that you will go to the Senate --

MS. SYTEK: Oh, you bet.

CHAIRWOMAN WALLNER: -- and I'm sorry that we did not -- we were not able to take a closer look at it when it came to us.

MS. SYTEK: We didn't know exactly how much until the audit was complete. We knew that they're probably going to recommend more than we had the capacity to do.

CHAIRWOMAN WALLNER: Thank you.

MS. SYTEK: But now we know.

CHAIRWOMAN WALLNER: I do apologize for not having taken a closer look ourselves. Senator Watters.

SEN. WATTERS: Thank you very much, Madam Chair. Thank you for being here and all you do. And, you know, your last comment really speaks to the very last appendix here, Status of Prior

Audit Findings, which identifies DOC-Parole Board cooperation as undefined relationship between the Board and DOC led to communication and cooperation problems about each entity's roles and responsibilities. I guess that was identified in '92, and 2010, and here we are again. So I just want to comment before I really turn to the question. But there's so much in this audit, it's somewhat overwhelming and there are certain legislative roles that are suggested that we need to do. But I really wonder whether you do things that there's going to be the capacity to implement the changes of management of the Board, of updating the IT so your records can be available, and so on and so forth. I just wonder what -- how you see a way forward?

MS. SYTEK: In a perfect world with sufficient staff it could be done; but if we're going to have the resources -- we're going to need the resources to be able to do it.

SEN. WATTERS: Madam Chair, if I may ask?

CHAIRWOMAN WALLNER: Yes.

SEN. WATTERS: If the Commissioner could also speak to the issue that report previous audit ongoing cooperation and communication issues.

MS. HANKS: Yes, and I would say that we did ask through e-mail for feedback on their budget. And I think the report says it well that we could have done better in asking them to come over when they didn't respond with any significant adjustments to their budget. But we did reach out and I have spoken to staff since that when you don't get an answer don't just leave the e-mail.

With that said, I fully support that the Parole Board needs additional resources. This audit was undergoing when we were working on the budget. We didn't know what the outcome was going to be. I support that the Board in themselves do a yeomen's work without sufficient resources and our IT staff have incorporated some of the things over time that aren't reflected in this

audit. For example, even the consultant's worksheet was incorporated into a document that they use. It's just not as effective as it could be for them as a tool. So we're committed to partnering with them to provide the IT resources and get the data we have and streamline things.

MS. SYTEK: The IT system is not set up to meet our needs. It is set up for maybe it's a try to be one size fits all and it certainly doesn't fit our needs.

CHAIRWOMAN WALLNER: Representative Leishman.

REP. LEISHMAN: Thank you. Thank you, Madam Chair. First, I'd like to say I think it's one of the best audits I've seen in my many years sitting here in the past and more recently. But I just want to compliment the LBA because this audit is different. Because this agency, the Adult Parole Board, affects public safety, and I think the areas that have been addressed by the LBA should be addressed and the public needs to know that we do have deficiencies.

I am encouraged, Madam Chair, that we have a new Commissioner who has at least shown Division I in Finance that we have a very good new Commissioner for the Department of Corrections. And I hope in knowing Speaker Sytek as I do, I say candidly that if you weren't Chair I'd be even more concerned with the results of this audit. I'm serious in that. I think this audit it kept me up to read the whole thing in one sitting versus putting it down and going back. But a question I had, one of the items I saw addressed that there have been Federal funds as late as, I think, 2015 for policy and procedures. Has any attempt been made to get any additional funding to help, because that's clearly a problem, policy and procedures, and how things are documented. Is there anything Commissioner or Speaker Sytek that you're aware of that we can get additional funding because, clearly, 4.5 people, if you will, cannot administer what we have to do.

MS. SYTEK: I'm not aware of any Federal funds. We did have a grant from the Pew Trust, I believe, through the Justice Center for a consultant to come in and help us develop parole guidelines, but it kind of ran out of gas when we couldn't get the IT support for the guidelines.

MS. HANKS: There are a handful of grants that we're looking at through the Attorney General's Office. Literally, just surfaced this week, and I haven't had a chance to share that information. Some may be appropriate for this so I will reach out to you and we'll work on a collaboration; and then if it doesn't, then we'll set a plan.

REP. LEISHMAN: Thank you, Madam Chair. Thank you for your response.

CHAIRWOMAN WALLNER: Representative Ober.

REP. OBER: Thank you, Madam Chair. The Board also concurred, in part. They concurred, in part, on five separate Observations, 4, 16, 18, 19 and 21, and I would like the Chairman of the Board to kind of walk us through your concurrence just to give us a better understanding of how you felt about that and why you went with a partial concurrence. It helps us, I think, if we know where the differences really are.

MS. SYTEK: Okay. Observation 4 about reviewing parole records every 36 months. The probation/parole officers, there are nine of them throughout the state, they're required to review them annually. The Chief goes through them. We don't see any need for us to do duplicate their effort to go through them every 36 months, nor do we have the time or the staff to do it.

REP. OBER: And is that in State Law, Madam Chair?

MS. SYTEK: Yes.

REP. OBER: So that's something the Legislature could help and fix that.

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MS. SYTEK: I've already talked to Representative Cushing.

REP. OBER: Okay, good. Can we continue with the others so we have a good understanding, because I think there are Representatives around this Board who can also help with things like that? So we have 16, 18, 19, and 21.

MS. SYTEK: Sixteen. Oh, Right-to-Know requirements, they're a real problem. Our rules say that anybody can request an audio copy of a public hearing. The Right-To-Know Law says that our hearings will be conducted in non-public session and that our files will be confidential.

I came on the Board from the Legislature and I'm looking at the Right-To-Know Law. We're a public body. Anybody can get a recording of it. We'll let the public in. Well, then we run into the problem of, okay, Public, you can be here, but you can't see any of the material that we have.

REP. HUOT: And you can't listen to anything we say.

MS. SYTEK: And it's supposed to be non-public session, but especially for confidential medical stuff. It's been a problem. We at one point met with three lawyers in the Attorney General's Office and decided we would do all our stuff in non-public session. Before the end of the day, they reversed themselves. So we're still going the way we've always -- we've operated since I've been there, which is since 2011. We do it in public, but it's very unsatisfactory, because the Board can't share. When the public asks for an explanation about why you did something, well, there may be something in our written material that we can't share with them.

REP. OBER: Madam Chairman.

MS. SYTEK: So it's very --

REP. OBER: A follow-up to that. You started with the rules say this and the law says that. Wouldn't that be an easy fix to fix the rules to say relative to what is allowable? Because I think we all know about HIPAA today. So that -- there are things like that that are really out in the public that I think your administrative rule could address.

MS. SYTEK: Yeah, changing administrative rules isn't as easy as I had hoped. When we needed to just update our rules, they gave us the rulemaking manual. It's like this thick and nobody to help us do it. It took us two years.

CHAIRWOMAN WALLNER: Any questions?

REP. OBER: Please continue. I mean, there are three other Observations.

CHAIRWOMAN WALLNER: I'm sorry, yes.

MS. SYTEK: Okay.

REP. OBER: You did 16.

MS. SYTEK: Nineteen. You looking for 19? Clarify whether --

ERIN HENNESSEY, State Representative, Grafton County, District #01: Eighteen.

CHAIRWOMAN WALLNER: Eighteen also is in part.

REP. OBER: You concurred in 4, 16, 18, 19, and 21.

MS. SYTEK: So 19. This is public or non-public session. We're still working with the attorney who is assigned to us from the Attorney General's Office, and we will have a briefing on the Right-To-Know Law. They would like us to treat every parole hearing as a meeting under the Right-To-Know Law and have

motions on our votes, but our rules require our votes to be secret. So how can you do that? I mean -

REP. OBER: Well, you change your rules.

MS. SYTEK: I guess we could.

REP. OBER: Yeah.

MS. SYTEK: So when we get some help with our rulemaking we could. That would be one thing that we could do.

REP. OBER: Twenty-one was about posting notices of hearings. That one seemed very strange to me that you would only partially comply because posting notice of a hearing is, I mean, from the Legislature you know you had to post in the calendar. You know you have to do this. That was just kind of ingrained in us.

MS. SYTEK: We always provide them to the DOC to post it on their website and to the -- Doug Dolcino, operations person. They're posted in the elevator. This is the -- that's the public notice of meetings. The audit says we should keep copies of notices to inmates. So notice to inmate. You're going to have a hearing for your parole next Thursday and here are your rights. We don't keep -- we send them the notice, but we don't keep copies of the notice, and there's never been a complaint that people weren't notified of their hearing. So we just -- we just can't make copies of that.

REP. OBER: Can I ask the Commissioner?

MS. SYTEK: We can, but where would we store them? What would be the point?

REP. OBER: Could I ask the Commissioner a follow-up?

CHAIRWOMAN WALLNER: Yes, follow-up.

REP. OBER: Commissioner Hanks, isn't that something that notice to the inmate gets sent over there, but you keep the inmate's files. Couldn't that be put in the inmate's files that you keep?

MS. HANKS: Yes, we could -- we have gone to -- we're moving almost the whole organization to a product called FileHold so they're electronic file cabinets, if you will. We could incorporate that parole notice as part of that client record file. We just have to be provided it.

REP. OBER: And can you provide -- further question -- or can you ask your IT people if you could provide the admin for the Parole Board with the access to pop those into the file so you wouldn't even have to do that duplicate thing and that could get done all at once.

MS. HANKS: Yes, we could do that.

MS. SYTEK: Our staff has something to say.

CHAIRWOMAN WALLNER: Yes.

ASHLYN ST. GERMAINE, Executive Assistant, Adult Parole Board: We would be happy to keep electronic filing copies of all of the notices that we send. We currently are one of the offices that don't have the technologically -- the equipment or the training yet on the FileHold system, so.

MS. HANKS: So I did personally participate in orienting on FileHold I think when I was the Assistant Commissioner. So we'd be happy to re-engage that training process again with you and again create the efficiencies that we can and understand the things we can't, and then what resources we need in order to overcome those barriers.

CHAIRWOMAN WALLNER: I would just like to make a comment that sounds like everybody's trying to work together and move forward here, and a lot of -- there's obviously a lot of work to

do for everybody, a few resources at this point. And Senator Feltes and I spoke that maybe we could ask you to come back in maybe four months, give you some time to really work on some of these things that you can get started on, and you can give us a preliminary report of how you're doing. If that would meet with everyone, that would be --

REP. OBER: That would be excellent.

MS. SYTEK: Sure.

CHAIRWOMAN WALLNER: Would that work for you?

MS. HANKS: Yes, I think that makes a lot of sense.

CHAIRWOMAN WALLNER: Because I think that we're very concerned and we would like this to move forward and be a good solution. So if I can ask you to do that. I think we'll wait until after the budget passes. How's that? Okay.

MS. HANKS: Sounds great.

CHAIRWOMAN WALLNER: We'll wait until after June 30th but sometime in the late summer or early fall we'll invite you back.

MS. HANKS: Okay.

CHAIRWOMAN WALLNER: And we can have a discussion about how you're moving forward.

MS. SYTEK: Actually, the Board has moved forward with a lot of the recommendations. We're meeting downstairs this morning to adopt -- to move forward with adopting some of the policies and procedures that already exist but had never been reduced to paper, writing down the menu, writing down the recipe.

CHAIRWOMAN WALLNER: Thank you. And thank you for being here.

MS. HANKS: Thank you.

CHAIRWOMAN WALLNER: And I'm going to ask Representative Weyler to make a motion.

REP. WEYLER: Thank you, Madam Chair. First, I'd like to make a comment. Vilay, I appreciate your usual thorough work.

MS. SKIDDS: Thank you.

REP. WEYLER: There's a couple things in here that have been missing in some of the past like the table of abbreviations, bring that back in. And also I noted something new here where we see timeline for remediation. That's a new thing.

MS. SYTEK: That's from our staff.

MS. SKIDDS: That's actually part of their response.

****** REP. WEYLER: That's a great addition. So I move we accept the report, place it on file, and release in the usual manner.

REP. OBER: Second.

CHAIRWOMAN WALLNER: Representative Weyler moved that we place this on file, and Representative Ober seconds. Is there discussion of that motion? Further discussion? Seeing none, all in favor? Any opposed?

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: Item passes and will be put on file. Thank you. And we'll see you again soon. Everybody working together, I'm sure.

MS. SYTEK: After the budget which will include people.

CHAIRWOMAN WALLNER: After the budget. Let's do something after the budget. Unless there's other business to come before

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us today, our next meeting is May 10th, Friday, May 10th. We'll start at 10. And Fiscal Committee is adjourned.

(Adjourned at 11:41 a.m.)

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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