

**JOINT FISCAL COMMITTEE**

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, May 15, 2015

**MEMBERS PRESENT:**

Rep. Neal Kurk, Chair

Rep. Lynne Ober

Rep. Daniel Eaton

Rep. Karen Umberger (Alt.)

Rep. Cindy Rosenwald (Alt.)

Sen. Jeanie Forrester

Sen. Jerry Little

Sen. Andy Sanborn

Sen. Lou D'Allesandro

Sen. David Boutin (Alt.)

(Meeting convened at 10:05 a.m.)

**(1) Acceptance of Minutes of the April 3, 2015 meeting.**

CHAIRMAN KURK: Good morning, everyone. The May 2015 meeting of the Fiscal Committee will come to order. First item on our agenda is the acceptance of the minutes of the April 3<sup>rd</sup>, 2015, meeting. Is there a motion?

**\*\*** REP. EATON: So move.

CHAIRMAN KURK: Moved by Representative Eaton.

REP. OBER: Second.

CHAIRMAN KURK: Seconded by Representative Ober. Discussion? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the minutes are accepted.

\*\*\* {MOTION ADOPTED}

SEN. BOUTIN: Mr. Chairman, I'd like to be noted as abstaining 'cause I wasn't here.

REP. UMBERGER: Yes, I --

CHAIRMAN KURK: Record will note that both Representative Umberger and Senator Boutin abstained as they were not here for that meeting. The record will also note that Representative Umberger is sitting in for Representative Weyler, and Representative Rosenwald is sitting in for Representative Wallner, and Senator Boutin is sitting in for Senator Morse.

(2) Old Business:

CHAIRMAN KURK: Now proceed -- there being no Old Business, we proceed to item number (3).

CONSENT CALENDAR

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

CHAIRMAN KURK: A Consent Calendar for transfers authorized under RSA 9:16-a. Is there a motion?

\*\* REP. EATON: Move approval for (3) and (4).

REP. OBER: Second.

CHAIRMAN KURK: Representative Eaton moves, Representative Ober seconds the adoption of the Consent Calendar under item number (3), including both Fiscal 15-070 and 15-071. Discussion? There being none, you ready for the question? All those in favor please indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN KURK: Agenda item number (4), Consent Calendar under RSA 14:30-a, VI, Approval Required for Acceptance and Expenditure of Funds Over \$100,000 From Any Non-State Source. There are two items.

\*\* REP. EATON: Move approval.

REP. KURK: Moved by Representative Eaton, seconded by Representative Ober that the Consent Calendar under number (4), including both items, be approved. Discussion? There being none -- there being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

\*\*\* {MOTION ADOPTED}

(5) RSA 14:30-a, VI Fiscal Committee Approval Required For Acceptance and Expenditure of Funds Over \$100,000 from any Non-State Source and Chapter 144:56, Laws of 2013, Department of Corrections; Transfers:

CHAIRMAN KURK: Item (5) on the agenda, Fiscal 15-074, a request from the Department of Corrections to transfer -- to budget and expend \$373,350 in prior year balance forward Federal funds through the end of this Fiscal Year and to transfer \$26,650 in Federal funds through June 30<sup>th</sup>, 2015.

\*\* REP. EATON: Move approval.

REP. OBER: Second.

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

\*\*\* {MOTION ADOPTED}

(6) RSA 216-A:3-g, Fees for Park System:

CHAIRMAN KURK: Item number (6) on the agenda, dealing with fees for the Parks System, Fiscal 15-085, a request from DRED for approval of rate increases or rate changes to the summer '15 and winter 15-16 products at Cannon Mountain Aerial Tramway and Ski Area in Franconia Notch State Park.

\*\* REP. EATON: Move approval.

CHAIRMAN KURK: Representative Eaton moves approval.

REP. OBER: Second.

CHAIRMAN KURK: Representative Ober seconds the motion. Discussion? There being none, you ready for the question? All those in favor please indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN KURK: Item number (7) on the agenda, Fiscal 15-075, a request from the Department of Health and Human Services, authorization to transfer

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\$4.8 million in General Funds and increase related Federal revenues in the amount of \$5.4 million and decrease other related revenues in the amount of \$96,811 through June 30<sup>th</sup>, 2015.

\*\* REP. EATON: Move approval.

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

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Under item number (7) we turn to Fiscal 15-086, another request from the Department of Health and Human Services for authorization to transfer 65,660 in General Funds and increase related Federal revenues in the amount of \$86,465 and decrease other related -- decrease related other revenues in the amount of \$928 through June of this year.

Representative Eaton moves approval, seconded by Representative Ober. Discussion? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN KURK: We turn now to Item (8) on the agenda, a request from -- Fiscal 15-087, a request from the Department of Administrative Services for authorization to transfer \$356,756 in and among

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accounting units through June 30<sup>th</sup> of this year.  
Representative Eaton moves approval?

REP. OBER: Second.

CHAIRMAN KURK: Representative Ober seconds. Any discussion? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN KURK: Isn't it nice when we do all our homework? Things go so quickly? Turning now to item number (9) in the agenda.

REP. OBER: You probably jinxed that, you know.

CHAIRMAN KURK: I was ahead of the game. I took advantage of it.

REP. OBER: You were. You were.

CHAIRMAN KURK: Item number (9) on the agenda, Fiscal 15-076 a request from the Department of Corrections for authorization to transfer \$5,326,576 within and among accounts to reallocate appropriations to cover budget shortfalls through June 30<sup>th</sup>, 2015. Representative Eaton moves approval.

REP. OBER: Second.

CHAIRMAN KURK: Second by Representative Ober. Discussion? Second call. Discussion? There being none, you ready for the question? All those in favor,

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please indicate by saying aye? Opposed? The ayes have it and the motion -- and the item is approved.

\*\*\* {MOTION ADOPTED}

(10) Chapter 144:95, Laws of 2013, Department of Transportation; Transfer of Funds:

CHAIRMAN KURK: We turn now to item number (10) on the agenda, request from the Department of Transportation, Fiscal 15-088 for authorization to transfer \$521,508 between various classes through June 30<sup>th</sup> of this year.

Representative Eaton moves, Representative Ober seconds that this item be approved. Discussion? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

(11) Chapter 144:117, Laws of 2013, Department of Information Technology; Transfers Among Accounts:

CHAIRMAN KURK: Agenda item number (11), a request from the Department of Information Technology, Fiscal 15-077, for authorization to transfer \$59,921 in Other Funds through June 30<sup>th</sup> of this year.

\*\* REP. EATON: Move.

CHAIRMAN KURK: Moved by Representative Eaton that we approve the item, seconded by Representative Ober. Discussion?

REP. OBER: I have a question of the Commissioner.

CHAIRMAN KURK: Is the Commissioner here?

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REP. EATON: There he is.

REP. OBER: He is.

CHAIRMAN KURK: Thank you for being here, and good morning.

DENIS GOULET, Commissioner, Department of Information Technology: Good morning. For the record, Commissioner Denis Goulet, Department of Information Technology.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you, Mr. Chairman. Commissioner, based on what you submitted, this looks like it will be an ongoing issue because there are some places in-state just as there are in private business that work longer than the normal business hours. Can we expect that you will be starting a policy of providing some regular coverage as opposed to using overtime for some of these people? I mean, liquor stores are open late, the State Hospital is open late. We don't all work and go home at 4:30. Can we do something with that?

MR. GOULET: We're looking into all options for that. Presently, as you know, based on this request, we don't have another option in place. And, typically, for these type of people, the type of skills that we're looking for that would support this type of stuff, it is difficult to get people to work on off-hours type shifts. It's very common to have, you know, Help Desk people or mainframes support people work in strange shifts. But the high-level system and work administrators are difficult to recruit for the off shifts. Not saying we couldn't do that. And, potentially, for managed services or something like that. So we are looking into that.

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This is -- these expenses are planned in the 16-17 biennium so that we shouldn't be, you know, we shouldn't be in the place where we are asking for transfers. But for the short-term anyway, we are in this position. In the long-term, we're looking at options to mitigate that.

REP. OBER: Thank you.

CHAIRMAN KURK: Further questions. Thank you, Commissioner.

MR. GOULET: All right. Thank you.

CHAIRMAN KURK: Further discussion? There being none, you ready for the question? The motion is to approve Fiscal 15-077. If you're in favor of that, please now indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

(12) Chapter 327:74, Laws of 2014, Adjutant General's Department; Transfers Authorized:

CHAIRMAN KURK: Agenda item number (12), a request from the Adjutant General Department, Fiscal 15-078 for authorization to transfer 34,000 in Federal and General Funds, 50,000 in General Funds, and 45,000 in General Funds through June 30<sup>th</sup>, 2015.

\*\* REP. EATON: Move.

CHAIRMAN KURK: Move --

REP. OBER: Second.

CHAIRMAN KURK: -- that we approve it by Representative Eaton, seconded by Representative Ober. Discussion? There being none, are you ready for the

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question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and motion is adopted. The item is approved.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN KURK: Turn now to item number (13) on the agenda, a request from the Administrative Office of the Courts, Fiscal 15-093 for authorization to transfer \$960,924 between expenditure classes through June 30<sup>th</sup>, 2015.

\*\* REP. EATON: Move.

CHAIRMAN KURK: Representative Eaton moves approval.

REP. OBER: Second.

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

\*\*\* {MOTION ADOPTED}

(14) Miscellaneous:

CHAIRMAN KURK: Chair recognizes Mr. Pattison to deal with a vacancy in the Office of the Legislative Budget Assistant.

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: Good morning. The Office has had another employee leave in the Audit Division so I'm coming in this morning to see if I can get authorization to fill one staff auditor position.

CHAIRMAN KURK: Representative --

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\*\* REP. EATON: Move approval.

CHAIRMAN KURK: Representative Eaton moves --

REP. OBER: Second.

CHAIRMAN KURK: -- that authorization be granted, seconded by Representative Ober. Discussion? Representative Eaton.

REP. EATON: Could you tell us what Commissioner post got filled?

MR. PATTISON: This individual has decided to leave the state.

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

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Chair apologizes to the Senate for his looking to the right all the time.

REP. EATON: It's a natural instinct for you.

SEN. BOUTIN: We've been known to be wrong in the past. Not often.

**(15) Informational Materials:**

CHAIRMAN KURK: We turn now to Informational items. The first one -- let's go through them in order because there are some questions. The first one is, unless someone has an earlier question, Fiscal 15-079, Administrative Services Report regarding self-funded health benefit programs. I have a question and if

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there's somebody from DAS who could answer that, appreciate it. Mr. Bouchard, good morning.

JOSEPH BOUCHARD, Assistant Commissioner, Department of Administrative Services: Good morning.

CATHERINE A. KEANE, Manager, Bureau of Risk & Benefit Management, Department of Administrative Services: Good morning.

CHAIRMAN KURK: Ms. Keane, good morning.

MR. BOUCHARD: For the record, Joe Bouchard from Administrative Services with Cathy Keane, our Risk Management Director.

CHAIRMAN KURK: Thank you for being here. The question is this. The Governor under her proposal to deal with prospective deficit for 2015 was going to reduce the percentage of reserves. And, as I recall, she was going to reduce it to 3%.

MR. BOUCHARD: That's correct.

CHAIRMAN KURK: As I read this item, it suggests that we're now down below that. We are at 2.1% or something like that. That's the expectation for the end of the Fiscal Year. Could you discuss what's happening on the reserve requirement?

MR. BOUCHARD: We can. If you go to Page 2, I think that's the best reference we can give you of the item. Cathy, would you like to explain IBNR and statutory reserves?

MS. KEANE: Sure. The Incurred But Not Reported and statutory reserves are amounts that are required by statute that are to address if there's an excess demand on the fund. Incurred But Not Reported is in the nature of if I stop the plan tomorrow how much money do I need

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to pay my bills. And statutory reserve is today required by law. It's a minimum of 5%, and it's to handle if your expenses are in excess than what you projected.

So what -- what is happening on Page 2? If you look at the first line, we have a cash fund balance of \$41 million and it subtracts from that because we are trying to -- to look at how much money do we really have available. So it subtracts from that the Incurred But Not Reported and the statutory reserve, which together total 28 million. So when you go back to the first page where you said that our last sentence created confusion, and I'm sorry for that, about whether this relates to this 5%, it's unrelated. This -- what the last sentence is saying is that on an accrual basis, we have a balance. We have a surplus of 5.2 million. And if I looked at the number 5.2 million, what that amount represents is 2.1% of our estimated annual expenditures. By providing that figure of 2.1%, what we were intending to convey to you was that it's a very small percentage of what our annual estimated expenditures are. Does that --

MR. BOUCHARD: So I think the point of reference in the bill, House Bill 2 that's in play right now, Representative, to answer your question, is on Page 2. The lowering of our statutory reserve from 5 to 3% is in the \$29 million. So it's in that total. It's not related to the 5.2.

CHAIRMAN KURK: Thank you. That clarifies things immensely. So does the 28 million assume that the excess 2% or whatever it is is taken out or not? In other words --

MR. BOUCHARD: At this point in time it does not. We are holding at 5% right now.

CHAIRMAN KURK: Are you at all concerned that you ran a loss this year, \$12 million if I'm reading this

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correctly on the first page? Revenue less expenditures. You collected 183 million and you spent 196 million, which presumably affected the reserves in some way.

MR. BOUCHARD: The timing of the revenue, I think, is not a concern to us, but it does skew this report. We pull our revenue in based on payrolls and each month has a different fluctuation on the revenue versus expenditures. So we're not concerned at this juncture. We typically build toward our reserve with our rate changes from January forward. So it's a timing issue more than anything, I think, Representative.

CHAIRMAN KURK: Thank you. Are there further questions on this item? Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. Of the 28.9 million in the IBNR and the statutory reserve, how much of that is the IBNR for covering the tail and how much is that for the statutory reserve? Can you split that number for us?

MS. KEANE: Yes, I can. If you turn to the back page of your item, your spreadsheet, under the first block, you have -- you can see less IBNR. The IBNR is 13.3 million. And then the statutory reserve is -- it totals about 15.6. It's broken out into three buckets for you, because that's how we account for the funds; but it's 8.4 million for Active Employees, Troopers 3.4 and Retirees 3.6.

SEN. LITTLE: So total -- pardon me, further question?

CHAIRMAN KURK: Further question.

SEN. LITTLE: So a little less than half of it for the statutory reserve.

MR. BOUCHARD: A little bit more.

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MS. KEANE: A little bit more because it's 15.6 versus 13.3.

MR. BOUCHARD: So it would be the three -- the three negative numbers, Senator, 8.4, 3.4 and 3.6. This subtotal comes down from the 41 million. That's why it's not totaling properly for you.

SEN. LITTLE: 12.5 is your IBNR.

MR. BOUCHARD: That's correct.

SEN. LITTLE: Statutory reserve.

MR. BOUCHARD: 13.4 roughly is the IBNR. And then the balance of 8.4, 3.4 and 3.6 together get us to the 28, I believe.

SEN. LITTLE: So the IBNR is 13.3.

MS. KEANE: Correct.

MR. BOUCHARD: Yes, sir.

SEN. LITTLE: The statutory reserve is 12.5.

MR. BOUCHARD: No.

MS. KEANE: No, it totals approximately 15.6. It's -- so it -- it appears as a subtraction here; but if -- if I had to tell you what's my statutory reserve, from an accounting perspective it's 8.466 million for Actives -- Active Employees, pardon me; 3.4 million for Troopers, and 3.6 million for Retirees.

SEN. LITTLE: Thank you.

MS. KEANE: You're welcome.

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CHAIRMAN KURK: So what percent are the reserves at this point? 15.6 million.

MS. KEANE: Yes.

CHAIRMAN KURK: And that's a percentage of the  
190 --

MS. KEANE: So right now, I'm going to speak about Actives and Retirees. They are at 5% of our estimated annual expenditure. The Troopers is at a higher percentage and Sarah Trask, if I could call her up. They're at a higher percentage. And the reason they are is because they're a much smaller group. We have 300 Troopers and approximately 900 individuals with their family members on the Trooper plan -- on the Trooper plan. So that we, being fiscally prudent, reserved at a higher level for Troopers because with such a small group, one catastrophic illness or accident can, you know, alter your finances. So we reserved at a higher level for Troopers. And -- and, quite frankly, even when you change -- if you decide to change under House Bill 2, the statutory reserves from 5% to 3%, the recommended language is a minimum of 3%. And we would probably continue to reserve the Troopers at a higher level because of the same dynamic.

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

SEN. LITTLE: I'm sorry. The discussion that led us into this is the proposal to, at least, lower the reserve requirement from 5% to 3%. Just educated me that there are different groups within that and good rationale, I believe, for having a higher reserve for the Trooper base. However, all of the subgroups aside, where are we right now today statutory reserve, take out the IBNR, what percentage total are we at in the context of lowering the total for the program from 5% to 3% as a statutory reserve?

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MS. KEANE: Pardon. One second. I'm trying to understand the best way to answer your question. That's why I'm struggling.

MR. BOUCHARD: Well --

MS. KEANE: I think I need to start again, Senator, by explaining that the law today it says that we reserve at a minimum of 5%. Okay. So at -- for our actives and for our retirees we have reserved at 5%, the minimum required by the law today.

SEN. LITTLE: I'm looking at the numbers you're giving us today.

MS. KEANE: Yes.

SEN. LITTLE: Where is it regarding that statutory reserve at 5%?

SARAH TRASK, Administrator, Bureau of Risk and Benefit Management, Department of Administrative Services: So it would be a little bit higher than 5% because we have Troopers reserved at a 100%. So a little bit -- I don't have a calculator.

CHAIRMAN KURK: Maybe I can clarify this.

MS. KEANE: Sure.

CHAIRMAN KURK: I'm looking at the line that says Actives and 8.466 million.

MS. TRASK: That's 5%.

CHAIRMAN KURK: That represents 5%.

MS. KEANE: Correct.

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MS. TRASK: Yes.

CHAIRMAN KURK: So if that were to be lowered to 3%, then we would free up roughly \$3.3 million.

MR. BOUCHARD: That's accurate.

MS. TRASK: Yes, that's correct.

CHAIRMAN KURK: The same thing for Retirees, but Troopers will be different because as Ms. Keane has explained, you feel comfortable -- uncomfortable with keeping that to the minimum for the reasons stated and would have that as a higher number, even under the reduction plan.

MS. KEANE: Correct.

SEN. LITTLE: Very good. One more question, Mr. Chairman. Thank you. So what is the intended effect that you are reaching for by lowering -- by proposal to lower the reserve from 5 to 3?

MS. KEANE: I think the intended effect is to free up funds, including General Funds, based on our -- the history of our program and what we have learned over the last 12 years operating a self-funded health benefit plan. And it has literally been a year in, year out, learning experience. And so we've gotten to a level where we feel that it's -- we're comfortable with reducing a minimum of 5% to a minimum of 3%.

SEN. LITTLE: Thank you. Thank you, Mr. Chair.

CHAIRMAN KURK: Further discussion? Thank you.

MS. KEANE: Thank you.

CHAIRMAN KURK: Appreciate the input. The next item on which I know there's a question is 15-080, the New

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Hampshire Lottery Commission. Good morning, Mr. McIntyre.

CHARLES MCINTYRE, Executive Director, New Hampshire Lottery Commission: Good morning, Mr. Chairman, Members of the Committee.

CHAIRMAN KURK: This information item deals with the sales incentives to your people and the question turning to the second page is this. Excluding new hires, everybody not only got a bonus but got a double bonus.

MR. MCINTYRE: Correct.

CHAIRMAN KURK: So the question is are our goals -- do the goals need readjusting so that instead of a 3% for a bonus and a 4.8% for double bonus that should be raised to some higher level?

MR. MCINTYRE: Thank you for the question, Mr. Chairman. As far as this certain irony in over-performing and being called out, questioned for it, the bonus is set on what our growth needs to be for the year to reach plan. And this bonus program covers the instant ticket side of the portfolio, which is around 60% of our net profitability. Since this program has been in place we increased scratch ticket sales by approximately -- by the close of this Fiscal Year which is not over, about \$50 million gross. And our profitability has gone up by about 5 million net, which has been also dragged down by -- I'm getting to the question, I promise. We had an excellent quarter. Gas prices went down by a dollar a gallon. We had exceptional product mix in the field driven by an exceptional product development manager in the field and all the changes in the retail environment have worked. So that's why this quarter happened. It's the first time it's ever happened.

This bonus level represents the -- almost the entire bonus payments for last year inclusive and nobody

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this quarter is in bonus yet that I'm aware of in terms of level. So it was just perhaps an anomaly it happened one like that.

CHAIRMAN KURK: Could you provide for us in a spreadsheet the history of these changes in the bonus payments?

MR. MCINTYRE: Certainly.

CHAIRMAN KURK: Which would backup your statement.

MR. MCINTYRE: Certainly. I'll happily do -- it says in the beginning of the Fiscal Year by our Commission. It's based on what we perceive to be the growth factor and the profitability needs of the State in terms of the plan for Education Trust Fund.

CHAIRMAN KURK: So the 3% changes?

MR. MCINTYRE: Correct. The Commission, again, will reset. We'll meet in June. We will determine this and we'll reset the changes, Mr. Chairman.

CHAIRMAN KURK: Thank you. That was very helpful. Any other questions?

REP. OBER: No.

CHAIRMAN KURK: Thank you, sir.

MR. MCINTYRE: Thank you, Mr. Chairman. Thank you, Members of the Committee.

SEN. D'ALLESANDRO: Doing a good job. Commendable. A good job.

CHAIRMAN KURK: Yes. The question is whether or not these numbers suggested that their standards were too low.

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REP. OBER: They're doing such a good job you want them to do more, yes?

CHAIRMAN KURK: Or their performance was too high, and that bonus needed to be adjusted one way or the other. Are there any other questions on any of the other information materials?

Senator Sanborn, I understand and, Representative Rosenwald, I understand that you had questions on the Department of Health and Human Services --

SEN. SANBORN: Dashboard.

CHAIRMAN KURK: -- Dashboard.

SEN. SANBORN: Yes, sir.

CHAIRMAN KURK: Commissioner Toumpas. Besides the Dashboard, are there any other questions on any other information items? Okay. Good morning, Commissioner.

NICHOLAS TOUMPAS, Commissioner, Department of Health and Human Services: Good morning, Mr. Chair, Members of the Committee. For the record, Nick Toumpas, Commissioner of Health and Human Services.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Two lines of questioning, if I could? Commissioner, great seeing you. You look great today.

MR. TOUMPAS: Thank you.

SEN. SANBORN: So my two line of questions are going to be around the first one is the \$7 million change in -- I think it was the DD.

MR. TOUMPAS: Yes.

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SEN. SANBORN: I apologize, sir. I need to go back to it.

MR. TOUMPAS: Line 40.

SEN. SANBORN: Line 40, service utilization and after that I come back on uncompensated care issue. So I see a pretty big savings from one month to the next, a big jump. Trying to understand better what are you projecting out for the rest of the year because, obviously, that's going to have an impact on the potential budget discussions.

MR. TOUMPAS: So we, in terms of preparation for the end of the year, and so forth, and looking at our lapse estimates, we polled the Area Agencies through our Bureau and they came back and reported that as of the end of March that they were projecting that they would have a surplus, if you will, not spending close to \$7 million. We continue to work with them. There are a number of different factors that would contribute to that. Somebody may have a budget that is set up. They may use fewer dollars. For each one of the individuals that are being served, an individual budget for that individual gets set. Then the Area Agency either delivers those services directly or contracts those services out. So if somebody is having services that are being provided by somebody and that person leaves, for example, then some of those services may not be provided. So there are a range of different factors.

We are working with the Area Agencies in order to, frankly, tighten up the reporting to us on a month in and month out basis so that we can track this better. Concern, obviously, is that, A, if this is showing that some people may not be served, that's -- that's one -- that's one consideration and one issue. The other, if we budgeted this money and we're not spending it, that means over the course of the -- of the year

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that we made reductions and made decisions in other areas, and we were going to have a surplus here.

So I suspect and believe that this number will grow between now and the end of the Fiscal Year. I can't tell you what that number is going to be, but I do believe that surplus number will grow.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: Thank you, Mr. Chairman. Commissioner, thank you. When it jumped from one to seven to the \$6 million accumulated savings, is that a recognition over the past year or is that 'cause this is the first time you've done it and you found and you think that the potential savings could be equally as big in the next couple months?

MR. TOUMPAS: We have been monitoring, looking at it as \$1 million. But last year towards the end of the -- toward the end of the Fiscal Year, the -- we ended up lapsing about \$6 million out of that -- out of those particular lines. So we, in terms of working with cleaning up, looking at our lapse, and so forth, and the recognition of the importance of that and so forth, so we went back and we asked everybody to kind of scrub up those numbers and give us the latest estimates. And, again, as of the end of March this was the number that they gave us. We are going to continue working and drill down further on that. So it was at our request that we went back and we said are you still tracking for to spend the amount of money that was appropriated or is that going to be -- are we going to lapse additional dollars and that's when they came back and told us this.

SEN. SANBORN: Thank you. Sir, further question?

CHAIRMAN KURK: Further question.

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SEN. SANBORN: Any members have questions on this line item?

CHAIRMAN KURK: I think Representative Rosenwald has a question.

REP. ROSENWALD: I do. Mr. Chairman, I have a couple of questions on the same DD lines as Senator Sanborn.

When I look at the caseloads in the Fiscal Year to date versus last Fiscal Year same period, we have 349 additional people, which I think is probably what you were expecting to add, at the average cost per case that you've given us in the past of about \$45,000 a year total funds.

MR. TOUMPAS: Hm-hum.

REP. ROSENWALD: That should mean an extra cost of 7 million -- in fact, more than that in General Funds, not a \$7 million savings. So there's this 14 or \$15 million General Fund swing that I don't understand since the caseload's bigger. So that's one part of my question. The second part is --

MR. TOUMPAS: If I may, we are -- we're actively having the discussions right now with the Area Agencies to understand that as well. Because, again, each one of the individuals where there is -- where there is money in the budget, 'cause I think you -- just to reinforce for each one of the individuals that is being served, an individual budget is put together requested by the Area Agency, approved by the Department, and then given the authority to the Area Agency to basically follow through on that. There's any number of different factors; somebody leaving, somebody going into -- going into a hospital for some other type of service where they're not receiving those services. There may have been a

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change in the circumstance that required even more or less spending in that particular area. So these are the things that we are -- we are going back to probe because you're correct. You're looking at -- you look at the numbers. We were going to see an increase, we would have expected to see the dollars to be consistent with that and they weren't.

REP. ROSENWALD: Further question.

CHAIRMAN KURK: Further question.

REP. ROSENWALD: Thank you. Hum -- it's my understanding from the Area Agency community that maybe part of this lapse is individuals turning 21 and becoming eligible not on July 1<sup>st</sup>, but throughout the Fiscal Year. But our understanding in doing the budget is that the Department in its request knew when individuals were going to become eligible and actually didn't annualize the budget. So I'm confused as to whether part of the savings is because you looked at an annualized cost for every person who became eligible and, in fact, you're finding that they're not becoming eligible all on the first day of the Fiscal Year. That doesn't square up with what we were told when we were putting together the current budget.

And then my final question is, if there's all this extra money, why do we still have almost 100 people on a waiting list? We should have enough money to provide services to these people who are actually 90 days post-eligible, at least.

MR. TOUMPAS: Representative Rosenwald, we are asking ourselves the same questions. And we are, as I indicated, we are working with the Area Agencies to understand because all the variables that you've raised we've raised the same -- same variables and are having -- having those type of discussions. Clearly, as I'm going to be working with the Senate, we are going to

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need to do -- we are going to need to true up the numbers to make sure that we understand so that if we are looking at a General Fund surplus this year, how does -- how are we going to account for that as we move forward into the -- into '16 and '17.

So all the questions that you're asking I don't have the answers to those questions at this point in time. We're asking those questions. We're working with -- our teams are working with the Area Agencies in order to get the responses to that. And we will, again, as part of our discussions with the Senate and I'll be happy to provide some sort of an update to the Fiscal Committee on that as well.

REP. ROSENWALD: Thank you.

REP. KURK: Let me follow-up on Representative Rosenwald's question. I understand your answer to the first two of her questions, but I don't understand your answer with respect to the waiting list. I always thought people who were on a waiting list were getting some range of services.

MR. TOUMPAS: They are.

CHAIRMAN KURK: And the reason why they were getting a range of services and not the full level of services was there was inadequate funding. If there is extra money from those who are getting their necessary services, why would you not go back with that money, reopen the plans for those who are not getting the full complement of services because they were on the waiting list and provide the appropriate full complement of services for those people and only after that had been done could you come back and say, in fact, there is a surplus?

MR. TOUMPAS: That is the responsibility of the Area Agency to do that. So those are the type of questions

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that we're -- we're asking because the numbers as -- the numbers as they're presented and the numbers -- the relationships that you should see in terms of the number of people on the waiting list, the amount of dollars that are available, we should not be looking at this -- at this type of a situation; yet, we are, and that's why we are going back and asking the questions.

CHAIRMAN KURK: Are you telling us that the Area Agency if they find they have extra funds in certain parts of the budget can go back and reopen a person who's getting waiting list services and provide more services?

MR. TOUMPAS: With approval from the Department.

CHAIRMAN KURK: But they have to initiate that.

MR. TOUMPAS: They have to initiate it.

CHAIRMAN KURK: The Department does not.

MR. TOUMPAS: The Department does not. The Area Agencies are the ones that have the responsibility for assessing the needs of the individual. They come back with a budget for that in terms of the range of services that are going to be provided. There are different options that the family may use. So you may say we want to use -- here's the budget you're going to have. The family may say I want to go a different route in terms of how I'm going to be able to accomplish those particular needs, which could be at a lower -- a lower dollar amount. But, again, it, ultimately, is we approve the budget submitted to us by the Area Agency and any changes that they want to make have to be approved by the Department as well.

CHAIRMAN KURK: So the Area Agencies understand that if they have -- if a number of their clients are not spending the full allocated amounts, that the Area

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Agency understands and there's no pressure from the Department against this, that they can take that money, reopen some of the waiting list plans, and after Department approval spend that -- transfer those funds to those people and proceed to provide more services.

MR. TOUMPAS: I'm not going to give a blanket yes that's the way it's going to work, Representative Kurk. I will -- I will go back and I will look at that. But we -- we assign -- again, the dollars are assigned. It's not just a blanket -- an amount of money that they then can just move wherever they want. If the dollars are set up, but if they come back and say we have dollars here that we want to be able to provide services to additional people that comes back through the Department. And I know of no circumstances where we are going to say no, that we can't do that.

CHAIRMAN KURK: My recollection -- my recollection may be wrong, but I think this is the first time in years, in many budgets that I've heard of a surplus in the DD lines.

MR. TOUMPAS: DD -- DD lapsed \$6 million last Fiscal Year.

CHAIRMAN KURK: And before that?

MR. TOUMPAS: I can't say what happened before that. But last year -- last year there was \$6 million that was lapsed in those lines. And this year, again, we're at 7 million right now. I fully expect that that -- that's going to grow. It could be double what I'm talking about here.

REP. ROSENWALD: Last question.

CHAIRMAN KURK: Thank you, Representative Rosenwald.

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REP. ROSENWALD: Thank you. So to the extent that someone has self-directed services, can't find employees or providers to deliver the services now, and to the extent that's contributing to the lapse --

MR. TOUMPAS: I believe it is.

REP. ROSENWALD: -- what will happen when we move to Phase 2 of Managed Care and take another \$7 million in savings out of these lines, if that provision goes into effect, that provision of the House Budget?

MR. TOUMPAS: The -- the -- those are the -- that's -- we are having those discussions right now with the Senate with respect to that. That \$7 million that you are referring to applied both to the DD as well as to the elderly services.

REP. ROSENWALD: We'll look forward to that answer. Thank you. Thank you, Mr. Chairman.

CHAIRMAN KURK: You're welcome. Senator Sanborn has another aspect of the Dash Board that he'd like to discuss. Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. I appreciate it. Thank you, Nick. I hope this won't be just as confusing or complicated but it might be. Wanted to talk a little bit about Uncompensated Care. Recognizing you have a settlement but also recognizing that now we have stood up Medicaid Expansion for months, and implementation of the ACA with so many new people going onto it, by some reports I hear that, you know, 60, 65% of the people who are uninsured now are insured. So you think that would put some pressure to bring down the Uncompensated Care costs? I have heard some reports that it's going to be dramatically lower. But I want to hear your thoughts about conversations or calculations that the Department has been doing and working on from where

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we have been for uncomp care and where you think we are going to be in the next few years.

MR. TOUMPAS: I don't have the latest figures on uncompensated care, but what I can tell you is that absolutely Uncompensated Care will decline. We've seen a fairly significant decrease in the number -- in the E.R. utilization on the part of the uninsured. And we've also seen a decrease in certain type of inpatient procedures that would be done for the -- again, for uninsured. We are working with the Hospital Association and the hospitals in order to basically get -- get the amount of dollars with respect to Uncompensated Care. I do fully expect, Senator, that that number will go down. I can't tell you what that number is as we -- as we go through the year and working with the hospitals and others. We will -- we will have a better handle on that. But we have now over 39,000, we are almost at 40,000 people right now that are enrolled in the Health Protection Program. And, again, the -- from the standpoint of the payments that are being made to the hospitals, again, the -- you recall Senate Bill 413 required us to pay through the Managed Care Organizations, required us to pay for services that were benchmarked against what Medicare rates are.

SEN. SANBORN: Right.

MR. TOUMPAS: Which are significantly higher than what our Medicaid rates are. So that's one uptick that they will see. And then a second piece that will reduce Uncompensated Care and then also for those people who are coming in, those people are now insured. Again, we have made a pretty significant dent in the level of uninsured along with the work that's been done by the Federal Marketplace in terms of getting people who are above 138% of the poverty level.

SEN. SANBORN: And follow-up?

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VICE-CHAIRWOMAN FORRESTER: Yes.

SEN. SANBORN: Follow-up. Thank you, Madam Vice-Chair. Because, I mean, obviously, some number I'm going to be looking at carefully. We hear down 17% when you mentioned we are paying that 38 whatever thousand it is Medicare versus Medicaid. Knowing emergency room visits themselves are more expensive component of health care, knowing 50,000 people that were previously uninsured, although I guess some day we need to have that conversation, are now on the ACA.

MR. TOUMPAS: We will be at 40,000. If not today, then early next week, Senator.

SEN. SANBORN: So, I mean, I would expect that number would be a hair's breadth of what it used to be. I look forward to the analysis.

MR. TOUMPAS: All right.

SEN. SANBORN: Thank you, sir.

REP. KURK: That's it?

SEN. SANBORN: That's it.

CHAIRMAN KURK: Further questions for the Commissioner under the Dash Board? There being --

MR. TOUMPAS: If I may?

CHAIRMAN KURK: Sure.

MR. TOUMPAS: I just want to point out something else. Something that on Line -- Line 33. This was the MAGI. This was the increase primarily in the caseloads as a result of the Modified Adjusted Gross Income, the manner in which eligibility was determined for a number of people. You will see that that number has gone down,

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the projected number. We are -- we will be working with the Senate in terms of how that translates to the projection that we made in the House Budget for what the MAGI -- MAGI cost was going to be for the population. But this is driven not so much by a reduction in terms of the number of people, but it's a difference in terms of the case mix. We have got fewer people in the -- overall, the numbers remaining about the same in terms of the numbers, children, the parent caregivers of their children and pregnant women. Pregnant women number that that's -- that's the piece that's gone down and gone down by several hundred. They're more expensive of the populations that we are serving under this.

CHAIRMAN KURK: Question.

SEN. SANBORN: Thank you, Commissioner. I appreciate that. We are still managing that new MAGI population through the MCOs, not fees-for-service or no?

MR. TOUMPAS: For the MAGI -- for MAGI population, those folks have once they are deemed eligible, they have 60 days in order to basically enroll into one of the two plans, and they must go into Managed Care.

SEN. SANBORN: Thank you, sir.

CHAIRMAN KURK: Further questions? Thank you, Commissioner.

Are there questions from the Committee on any of the other information items? I want to thank the Committee for questions on these information items because, otherwise, we would have had to wait until 10:30 before we could do the audits because we finished our earlier work so expeditiously.

AUDITS:

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CHAIRMAN KURK: At this time, I'd like to turn to the audits. First audit is the State of New Hampshire Single Audit of Federal Financial Assistance Program for Fiscal 14.

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, the Director of Audits for the Office of Legislative Budget Assistant. This particular audit is, as you know, is under contract with our office. So representing KPMG will be Jayme Silva, the Partner, and Karen Farrell, the Manager on the engagement. And I believe also Gerard Murphy, our State Comptroller, will also come to the table for questions as well.

CHAIRMAN KURK: Thank you, sir.

KAREN FARRELL, Manager, KPMG: Good morning.

CHAIRMAN KURK: Good morning, folks.

JAYME SILVA, Partner, KPMG: Good morning.

CHAIRMAN KURK: Would you introduce yourselves and proceed.

MR. SILVA: Yes. For the record, I'm Jayme Silva. I'm the audit partner on the State Single Audit.

MS. FARRELL: I'm Karen Farrell, the Manager with KPMG and I'm responsible for the day-to-day operations of the single audit.

GERARD MURPHY, State Comptroller, Department of Administrative Services: I'm Gerard Murphy with the Department of Administrative Services.

MR. SILVA: Thank you. So what we are going to go through today, this is the State Single Audit for the  
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year ended June 30<sup>th</sup>, 2014. Just going to hold up the -- I call it the blue book. I think it was green this year. I think it makes most sense since there's a lot of information, we are not going to touch on all the information, obviously, for the time frame that we have, but I'm going to cover some of the highlights of what's in here. And then Karen is going to talk a little bit about what we do and some of the findings, et cetera, from that standpoint.

So without further ado, if we turn to the book I'm going to summarize what some of the tabs mean and what's in the tabs.

So if you go to the first tab, which is the first tab is in the C series. What that is, that's the financial statement opinion for the financial statements. And also in there is the actual financial statements. So these were actually previously discussed by my other counterpart, Greg Driscoll, I believe in the January Fiscal Meeting so I'm not going to cover this. This has been previously covered in a prior meeting. So the reason this is in here though, just in case there's a question, is this actually gets -- this whole report gets filed with the Federal Government. So this was dated as of December 31<sup>st</sup>. Our actual report on compliance and internal control which is further back was dated March 27<sup>th</sup>, and then the entire report gets wrapped and filed with the Federal Government, and that was due by March 31<sup>st</sup>, 2015. So that was filed in accordance with the deadline.

So the State of New Hampshire is fully -- fully in compliance of the Federal Government of filing by the 31<sup>st</sup> of March. So this is the reason that that report gets put in there.

So if you go to D-1 in the D Series, which is the second tab, the first report which is D-1 and D-2 is also a KPMG report. That is the internal control of the

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financial reporting on the financial statement. So this report talks about controls and the control environment. Before that I call it the core of the State of New Hampshire Financial Statements. So, again, this report which is two pages, which is D-1 and D-2, was also previously discussed I believe in the last Fiscal Committee meeting, again, by Greg Driscoll. This is his opinion which is also dated December 31<sup>st</sup>. So that was previously covered so I'm not going to cover that either.

So moving to D-3, this is really the major report that gets put into the opinion or wrapped with the single audit. This is the single audit opinion. So there's three items in here that we talk about. One on D-3 is the report on compliance for each major Federal program that we audit. So this year we actually audited 32 programs. So we considered, and Karen will get into this a little bit, we audited 32 programs for the State of New Hampshire. Medicaid, SNAP, TANF, et cetera, et cetera. So we actually put in scope 32 that this is what the opinion covers. So that's the report on compliance.

If you turn the page, the second piece of the report is on the bottom of D-5, is the report on internal control over compliance. So the previous opinion that was listed on D-1 and D-2 that was the internal control financial statement. This internal control piece is for the compliance of Federal awards. So there's a difference, there's a very big difference there. This only covers the programs that we actually were under audit which is the 32. And then, finally, the last thing the opinion covers on D-6 is the report. I'm sorry, the report on the Schedule of Expenditures of Federal Awards. We call that the SEFA. So the SEFA actually covers all the awards that are in -- that have been expended for the year ended March 30<sup>th</sup> -- sorry -- June 30<sup>th</sup>, 2014, and that's \$1.76 billion which was the actual cash spend, you know, from the Federal Government

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to the State that was expended for the Fiscal Year from that standpoint. So that's our opinion.

Now, Karen in a little bit is going to cover specifics on the report but that's the core report. Again, which was -- it was opined on March 27<sup>th</sup>, 2015. That was the date that we opined on it.

So we move to E-1, which is the third tab. This is actually the actual SEFA of the Schedule of Expenditures of Federal Awards and it's by agency -- it's by State Agency, et cetera, so there's a lot of information there. But what I'll queue the Committee up to, if you turn to E-28, and I apologize for all the pages, but E-28 is the total of Federal spend, which is the \$1.76 billion for Fiscal Year 2014. So, again, we audited 32 programs that are sitting in the SEFA, but the total spend is 1.7 billion. That's also listed and gets lodged with the Federal Government.

The last two tabs, which is F-1 and G, the G series. I'll go to F-1 first. F-1 actually is a pretty good summary. If you look at F-1, F-2, F-3, and F-4, and F-5, that actually is the schedule of current year findings and questioned costs so it's a summary -- that's a fairly good summary of the opinions opined by KPMG. And I think, more importantly, if you go to F-2, these are the F-2, F-3 -- sorry -- and F-4, those are the programs that came under our audit. So previously I said in the second tab which was in the D series, that those are the 32 programs that were under our audit for this year. And, again, we use a risk-based approach to identify the program as we audit year on year, some of them -- some of them due to the size of how material they are. Medicaid -- Medicaid is a large sum of money, others that we rotated based on various risk factors. So those are the 32 programs we looked at for Fiscal 14.

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And then, finally, in the F series, I'm not going to get into this, but from F-7 all the way to F-112, those are our current year findings. And I'll just put a number on them. We had 44 findings for Fiscal 14. These are the current year findings that, you know, they could qualify the opinion. There could be other findings that we considered material. Some -- some rise to material weakness for internal controls and others reside in -- sorry -- come up to significant deficiencies. These are the actual findings that we had for the programs.

And then, finally, flipping to the last section, the G series, those are the prior year findings. So what that is, you know, we have the Fiscal 14 in the E, and the G are findings that we had previously reported on that we tell the reader and the Federal Government what happened to them. So there's two scenarios that happened for prior year findings. One is if we -- as part of our audit for the current Fiscal Year, we find that it's resolved, and you can see at the top G-1 is a good summary. So, for instance, finding 2013-003, that item is resolved. So that means that it drops out of the report for good.

Now if there's something that's unresolved, for instance, finding 2013-002, that was unresolved. That shows up as a finding for the current year. So it carries forward, and it's just not a carry forward. We actually did audit procedures to say that that was an unresolved finding that we have to move into the current year findings.

So before I let Karen get into some specifics, I'll pause for any questions. I guess from an overview exactly a summary of the actual report, because there's a lot of pages in here. I can appreciate this is a lot of work for the year, but I guess I'll pause just for a minute before we get into specifics.

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CHAIRMAN KURK: Thank you. Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. How do you choose which 32 -- how did you choose which 32 programs to audit?

MR. SILVA: So it's a risk-based approach. So if we go to pages -- bear with me for one minute. If you go to the F series, F-4, so you go to F-4, so what we first divide is a Type A and Type B program and it's a mathematical calculation, quantitative and qualitative risk factors but the mark is 5.3 million. So first we say there's Type A and Type B by number. Then we say we look at certain Type A programs based on risk assessment. Like I said earlier, some of it can be how material is it. Medicaid is a large spend. We also say -- we also look at prior year findings. Did we have comments in the prior year. Maybe we had something that qualified the report for a certain program. We had a material weakness. If that's the case, those tell us that that should be audited in the current year. So we use a variety of factors that get the programs in.

And so we are also looking for a certain threshold. So it's 50% for this year. We have to get 50% coverage out of the 1.7 billion. We have to make sure based on certain thresholds that we get 50% of the spend. So that means we actually audited over 850 million of the expenditures out of those 32 programs.

SEN. LITTLE: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. LITTLE: Would that imply then that you're trying to hit that mark that some of the smaller grants even though they be -- have some significant impact with certain smaller segments of the population are not going to get audited on a regular basis to make sure that they're being used properly?

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MR. SILVA: Well, certain programs if they fall under a threshold, there's a requirement that we don't have to audit. However, we look at from -- if there's -- let's say, there's a spend of \$3 million under the 5 million, what we do is every few years we look at those programs. Doesn't mean we'll audit, but we'll do a risk assessment to see if anything changed. Did Management change? Was there something inappropriate that happened? So we fill out -- there's a questionnaire that we look at for each of the programs to say should we look at something that's under the 5.2 million threshold to, you know; is there something -- is there a risk factor that says that should be under audit this year?

SEN. LITTLE: Thank you. One final.

REP. KURK: Follow-up.

SEN. LITTLE: Thank you, Mr. Chairman. So this -- the tab, I believe it's Tab E.

MR. SILVA: Okay.

SEN. LITTLE: Lists the schedule of all Federal grants that the State of New Hampshire has access to. I should be able to find every single Federal grant involving the State of New Hampshire in each Department within this list in Tab E.

MS. FARRELL: So it would be the Federal expenditures. So what they spent was Federally funded, not necessarily the award but yes.

MR. SILVA: Well, that's a good point. So something -- let's say there was a grant for Department of Transportation for \$10 million. So let's say the grant is 10 million over three years. This would only show what was spent in the Fiscal period. So if they spent the full 10 million, then the 10 million would

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show up in my example. If they spend it over three years, then let's say was 3 million, 3 million, 4 million. In the three Fiscal periods it would show up in those three next Fiscal periods. Does that help?

SEN. LITTLE: It does. And I guess I do have one more question, Mr. Chairman.

CHAIRMAN KURK: I don't think this applies, Senator. I think was an error.

SEN. LITTLE: So what I see then on these sheets are the agency, I don't know what CFDA number is, but I'm sure it's a tracking number of some sort, program title, the expenditure amount, ARRA funds, whether or not -- I assume that's just a box gets checked whether it's ARRA funds or other Federal funds.

MR. SILVA: Hm-hum.

SEN. LITTLE: Pass-through, the pass-through percent. I see 100%, 0%, 96%. Does that mean that we spent 96% of the available amount, there's 4% sitting someplace else?

MS. FARRELL: So the pass-through percentage is the amount that the agency for this award has actually passed through to a third party. Like someone who has maybe some programmatic responsibilities for that program. So it's funds that, you know, in this instance the State would be the primary recipient of the dollars and then they have pass-through to, you know, their agency.

SEN. LITTLE: Regional agencies.

MS. FARRELL: Regional, thank you.

SEN. LITTLE: Thank you. That was my last question for the moment, Mr. Chairman.

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CHAIRMAN KURK: Thank you, Senator. Senator Forrester has a question.

SEN. FORRESTER: Thank you for the presentation. I'm trying to find the program in here, and I don't see it. So my question is it's called Balancing Incentive Program, and I believe it is a Federal program with Health and Human Services.

MS. FARRELL: Health and Human Services.

SEN. FORRESTER: Balance Incentive Program.

AUDIENCE MEMBER: It's actually under Medicaid, Karen.

MS. FARRELL: Oh. And that number is 93. So sorry. Medicaid is 93. One of the programs in the Medicaid Class was 93.775. So I don't know. Jenna, do you know the CFDA number?

AUDIENCE MEMBER: It's actually reported under Medicaid. It does not have a separate CFDA.

SEN. FORRESTER: So it wouldn't show up there.

MS. FARRELL: Not separately, but it would be rolled into the Medicaid cluster amount, which would be --

SEN. FORRESTER: You wouldn't specifically audit something like that program?

MS. FARRELL: Yes, if we deem that that program was material to the Medicaid Program in total.

CHAIRMAN KURK: But in point of fact, there was no separate audit of that program this year.

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MS. FARRELL: Correct. The identifiers for separate audits are the CFDA numbers which stands for Catalog For Domestic Assistance which is designated by the Federal Government.

CHAIRMAN KURK: Is there a separate number for the BIP Program, a separate CFDA number?

MS. FARRELL: No, it's in the Medicaid. 93.775 I think it is.

CHAIRMAN KURK: Which is Medicaid fraud.

MS. FARRELL: So it's either -- sorry -- the Medicaid cluster which is on E-30 -- E-35 would probably be a good place to look for that. So I guess it would be 93.778. Sorry. The Medicaid Assistance Program.

SEN. LITTLE: Which of those three? 93.775, you said?

MS. FARRELL: I would think it would be 93.778. Sorry about that.

CHAIRMAN KURK: Further questions?

SEN. FORRESTER: No.

CHAIRMAN KURK: Please continue.

MS. FARRELL: Okay. Thank you. So I'll try not to have you flip around too much. I'm going to focus on our single audit opinion which is on D-3 through, I guess, D-6 or D-7. Just to go over this in a little bit more detail.

As Jayme said, really, this is kind of like the results of our audit of, you know, the 32 major programs. The Federal Government has designated 14 compliance requirements that may or may not be

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applicable to each program that we deem we need to audit. And so while those are contained in the Office of Management and Budget Circular A-133, also known as the Compliance Supplement, we also will audit against the specific grant awards. And, really, this part of -- we are kind of in part one, which is the report on compliance between the Federal program and really in our opinion here, it kind of answers the question, you know, did the State comply with these specific compliance requirements? And if you turn to D-4, you can see the table there, which lays out the actual findings and compliance requirements that the State did not comply with where we actually qualified our opinion. So for Fiscal 2014, there were ten findings that qualified 14 programs. There's a few findings that head across to more than one program. The findings numbers reference back to the F section where you can see the entire narrative for the finding.

Just to talk a little bit about what some of the compliance requirements mean that these programs were qualified for. There were eight programs that were qualified for allowable costs. So that's, essentially, other costs allowable in accordance with the circulars and are they properly supported. There were five that were qualified for sub recipient monitoring and this kind of goes to my answer for the pass-through percentages. It's really when the State passes through funds to another entity who has some operational responsibility of the program.

There was two programs that qualified for special test which is a test that the Federal Government designates as being specific for that program. And in this instance it was because not enough peer reviews were performed or the field audits weren't performed of the third party. Then there was one program that was actually qualified for both eligibility and reporting. And eligibility is just the individual receiving the

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service, eligible to receive the Federal funding, and reporting is other reports filed complete and accurate.

So they're pretty -- the number of qualifications from year to year, This year, Fiscal 14 to '13 were pretty consistent. As Jayme mentioned, we had -- although we had 44 findings this year, last year we actually had 57 findings and you'll see the big change when we get to the material weakness section. But on D-5 above, so these were the qualifications for these specific programs, but these programs also had other compliance requirements that they did meet and then there were also 18 other programs that had unmodified or clean opinions on them.

The other matters section is really where we have the list of findings where we actually also note other instances of non-compliance that aren't at the level where we would qualify the program, but they're important enough to mention to include in the Single Audit Report. And so here, actually, is the statistics that there was 29 significant non-compliance items this year compared with 41 in the prior year.

Okay. The second part of this report talks about our internal control over compliance. And I'm sure as you're aware, Management -- is really Management's responsibility for establishing and maintaining an internal control structure over compliance with these compliance requirements. But what we are required to do is go in and take a look at the structure and determine if it's designed properly and if it's operating effectively. So we then find instances where, you know, we'll always find some kind of exceptions or for the most part when you have this many programs that you're auditing. And what we do, and this is on Page D-6, talked about further, is then classify these findings into three categories; material weakness, significant deficiency, and then other. And I'm sure you've heard the material weakness, you know, definition before. But

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just to kind of refresh your memory, it's really when there's a reasonable possibility that material non-compliance in internal control over a Federal program will not be prevented or detected or corrected on a timely basis. So this year we identified 21 material weaknesses whereas last year we identified 34. So the trend is improving and do feel like some positions that were put in Department of Administrative Services has kind of helped to reduce the number of findings. We are seeing now the severity of the findings, as far as internal controls go.

The next bucket is the significant deficiency which isn't as severe as material weakness, but it also warrants your attention. And so these were pretty consistent from year to year with 20 this year and 21 in the prior year.

The other category isn't reported here because it's not required to be, so. It's more performance improvement observations that we note when we are auditing the programs and we'll just discuss these with Management as we are doing the audit.

And then the last report that we have included within this opinion is our report on the SEFA which is, again, a summary of the expenditures. And, basically, the SEFA is derived from underlying accounting records that are used to create the financial statement and are audited during the financial statement audit. So what we provide here is in relation to opinion where we can conclude that the SEFA was fairly stated in all material respects in relation to the basic financial statement. So, essentially, it's a clean opinion on the SEFA. So those are pretty much my comments on the opinion. Yes.

CHAIRMAN KURK: Very basic question. Is there anything that needs to be done by the Legislature as a result of your audit, taking into consideration Management's responses? In other words, this is an

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overwhelmingly complex document. Is there anything in your opinion that we need to do, because of some of the findings in here, or are you satisfied that Management's response, things that you expect to happen, mean that business as usual is the order of the day?

MS. FARRELL: One thing I'd like -- that we did note, and if I could be specific to an agency, especially this year with Health and Human Services, is that it seemed like there was an increase in the number of findings and I think a lot of it had to do with the staffing levels, if I could say that. So I think maybe it's an indirect of, you know, getting new positions to be filled being indirect role of the Legislature but just ensuring the budget is available to do so. Because we did note that there's probably an increase in turnover and open positions.

CHAIRMAN KURK: When you talk about positions, you mean accounting type positions, auditor type positions or you mean functional positions?

MS. FARRELL: I would say both.

MR. SILVA: I mean, other than that, I would agree that this report is cumbersome. It's a tedious report. It takes a lot of time to prepare. Other than that, that each of the findings of the 44 findings has a Management's response, right, and when it's going to be enacted and we feel comfortable that -- and we'll go back and audit and will be here, hopefully, next year and we'll report back to that. But Management's responses we deemed appropriate that it wouldn't do something, you know, that we would have to say more inside this report.

Now, in some instances, you know, there's some Management responses that they'll say it's already been done. We gave that to you and we put what we called the rejoinder which say we were never given the information.

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But that does not rise to the level of your question of saying do you need to do something out of this report that Management isn't considering or are they doing for the future case.

CHAIRMAN KURK: And I hear your comment about staffing at HHS.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I'm sorry, but your question was should we have more accounting positions, audit positions, or general positions and the answer was both. But you asked about three types. So which type do you have enough of?

MS. FARRELL: I see more of the program positions is with the single audit and accounting type is what my experience was.

REP. OBER: Thank you.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. An operational question, I guess. I need help understanding how to use this document. On Page D-6, you pointed out the lists of material, with instances of significant deficiencies and they're actually listed out there numerically 2014-03, 2014-05. How do I find 2014-03 and 2014-05 so I can read them?

MS. FARRELL: So they would be in the F section and I think that the current year findings start on F-15, and they're each numbered. Okay. So yes, 2014-003 would be on page -- give me a second. Whoops! I missed it. But F -- F-16.

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MR. SILVA: Each of the numbers refer to the actual finding for current year. So 2014-003 refers to the 003 finding, et cetera.

SEN. LITTLE: Okay. Get lost.

MS. FARRELL: Yes. Oh, sorry. I know, we are so used to seeing this thing, may not be that evident.

SEN. LITTLE: Thank you.

CHAIRMAN KURK: Mr. Murphy.

MR. MURPHY: Yes.

CHAIRMAN KURK: Did you wish to comment?

MR. MURPHY: Only to thank KPMG for their cooperation and professional attitude. It's a pleasure to work with them. They're very helpful. This audit is very helpful. I did want to actually quickly mention that some of you may recall that there was a new position created within the Department of Administrative Services specific -- specifically to sort of serve as a resource for agencies on their Federal programs and was about a year ago that this position was created. And I think that we've already begun to see the benefit of it in this reduction in the number of findings.

Unfortunately, the individual who has been in that position for about a year today is her last day. Cathy Ingall is leaving State service. And I did want to give her a big thank you, because she really played a crucial role in the positive trend that we see as a result of this audit, so. But that being said, while this is her last day, I did want to say that it is one of my top priorities to fill that position as quickly as possible in order to keep the ball moving forward.

CHAIRMAN KURK: Thank you. Senator D'Allesandro.

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SEN. D'ALLESANDRO: Thank you, Mr. Chairman. So on the positive side, in previous audits we recognized the problem. The State created a position to deal with that, and we found that there's been a success -- success related to that situation. So our challenge now is to refill that position so that the positive nature of the audits can continue. That's a very relevant point.

MR. SILVA: I would agree with that statement, yes.

SEN. D'ALLESANDRO: Because if we don't, then we go backwards rather than go forward.

MR. SILVA: Hm-hum, correct.

SEN. D'ALLESANDRO: Which I think is important. I've read a lot of these audits over the years, and we are improving, I think, and quite dramatically to be honest with you.

MR. SILVA: Correct.

SEN. D'ALLESANDRO: That's what I've seen. So just got to keep the ball rolling. So, Gerard, get busy.

CHAIRMAN KURK: There being no further questions, and your presentation having concluded, the Chair recognizes Representative Umberger for a motion.

\*\* REP. UMBERGER: Yes, I move to accept the report, place it on file, and release in the usual manner.

CHAIRMAN KURK: Seconded by Senator Forrester.

SEN. FORRESTER: Yes.

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

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\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Thank you very much.

MS. FARRELL: Thank you.

MR. SILVA: Thank you.

CHAIRMAN KURK: We now turn to the Department of Revenue Administration Financial Audit Report for the Fiscal Year ended June 30<sup>th</sup>, 2014. Mr. Smith.

MR. SMITH: Thank you, Commissioner -- excuse me -- Mr. Chairman.

CHAIRMAN KURK: Commissioner Beardmore.

MR. SMITH: The next three audits were completed by our office. The first is the Department of Revenue Administration. It's a financial audit for the Fiscal Year ended June 30, '14, and the Manager on this job is Christine Young. She'll be presenting it. And also joining us is Commissioner Beardmore from Department of Revenue Administration.

CHAIRMAN KURK: Good morning, Miss Young.

CHRISTINE YOUNG, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, and Members of the Committee. For the record, my name is Christine Young, and I'm here to present our report on the financial audit of the Department of Revenue Administration for the Fiscal Year ended June 30, 2014.

This report includes eight audit findings, none of which are material weaknesses. The Department fully concurs with each finding and as identified on the *Table*

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of Contents, there are two findings that may require legislative action.

Pages 1 and 2 of the report describe the organization of the Department and its responsibilities. And at the bottom of Page 2 there is a summary of the Department's financial activity for the audit period.

The Observations and Recommendations begin with the Internal Control Comments on Page 6.

Observation No. 1 discusses risk assessment which is one of the five recognized components of internal control. The comment notes that although the Department does a number of things to address risk, the Department does not have a formal risk assessment process in place. We recommended the Department establish a formal risk assessment process and review for indicators of risk exposure.

In Observation No. 2, on Page 7, we observed the Department did not have current disaster recovery and business continuity plans in place during the audit period. We recommended the Department continue in its efforts to redraft and formalize updated plans and train employees on the plan implementation.

On Page 8 in Observation No. 3, we recommended the Department obtain and evaluate reports regarding the design and operation of controls over tax return filing and tax receipt collections services provided by its e-File and Tele-File service provider. These reports are commonly known as SOC reports or Service Organization Control reports and the reports are critical to an understanding of the controls and weaknesses in the service providers processing of tax returns and receipts on behalf of the Department.

Observation No. 4 on Page 9 deals with the Department's Tax Information Management System, also

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known as TIMS. The comment discusses reported limitations in TIMS that present risks to taxpayer data maintained by the Department. The Department relied upon TIMS to manage in a warehouse taxpayer data for taxes that generated \$1.7 billion of revenue in Fiscal Year 2014. TIMS was implemented in the early 1990's and has become outdated and inefficient for processing the State's tax information. We recommended the Department continue to build its case for implementing a new tax information system that would be adaptable to the Department's and the State's needs and more efficient for taxpayer interaction.

Observation No. 5 on Page 10 recommends the Department work with the Department of Administrative Services to set appropriate accounts payable policies and procedures that would ensure that expenditures are reported in the proper Fiscal Year.

Observation 6 is on Page 11 and discusses the untimely or non-filing of statements of financial interest by members of Administratively Attached Boards. We recommended the Department monitor the filing status of its Attached Board members to promote compliance with the mandatory filing requirement in statute.

On Page 12, Observation No. 7 recommends the Department take additional steps, if possible, to assist municipalities with the statutory requirement for filing annual city and town financial reports or seek to have the statute amended if the Department deems that compliance with the statute is unfeasible or unenforceable.

Observation No. 8 on Page 15 is the only compliance comment in the report, and it speaks to the need to adopt and update required administrative rules.

On Page 17 is the opinion on the financial statement followed by the financial statement, note

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disclosures, and supplementary schedules. And on the last few pages of the report, immediately behind the tabs, we've included a summary of the current status of the audit observations contained in the financial audit report of the Department for the Fiscal Year ended June 30, 2008, and the July 2013 Performance Audit Report on the collection of delinquent taxes.

As you can see, a majority of those prior audit findings are fully or substantially resolved; and that concludes my presentation.

I would like to thank the Department for their cooperation during the audit. They were very responsive and a pleasure to work with, and we'd be happy to answer questions.

CHAIRMAN KURK: Could that be because the Commissioner has audit experience?

MS. YOUNG: Perhaps.

REP. KURK: Representative Ober.

REP. OBER: Thank you. I have a question for the Commissioner. I believe, Commissioner, that you had put in or were requesting in the Capital Budget money to do what needs to be done to start the replacement of TIMS. Did that get approved?

JOHN BEARDMORE, Commissioner, Department of Revenue Administration: Hum -- so what we -- what we found was there was about \$200,000 remaining in a prior capital appropriation that's three or four bienniums old that we have asked to extend the lapse date for that appropriation. So rather than requesting a new appropriation, which, in fact, we did in our operating budget request to the Governor, during the Governor's process we realized that we had some capital funds left over, and we determined that planning for the

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replacement of TIMS, which will be probably most likely in excess of a \$10 million project, that it would be appropriate to use that remaining 200,000 to engage some professional services to help us plan and scope out that project. So the short answer to your question is we anticipate Capital Budget will pass with that lapse extension in it. The Senate has not taken any action to indicate otherwise and we have --

REP. OBER: Thank you.

MR. BEARDMORE: -- on the street right now an RFP to effectuate that service delivery. So we plan to be in front of the Legislature in 2017 requesting funds to replace this system that's long past due for replacement.

REP. OBER: Thank you, Commissioner.

CHAIRMAN KURK: Representative Umberger.

REP. UMBERGER: Yes, my question is dealing with the monitor compliance with filing of statements of financial interest, not to the Commissioner, but to the LBA. Is this something that is occurring across all areas? I mean, that people are just not filing their financial statements?

MS. YOUNG: This is a common finding that we have brought before you in the past. I think typically when we are testing this requirement we generally find at least a few instances of non-compliance.

CHAIRMAN KURK: If I can follow-up on that or expand on that. There was a report recently, and I don't remember whether it was with respect to New Hampshire or another state, where a member of some taxing board not only didn't file these kinds of statements but also didn't file his taxes. Is there any statutory provision or any Department policy to avoid that embarrassment?

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MR. BEARDMORE: I'm not aware of any statutory provision that requires DRA employees timely file tax returns, and we do not have a policy to that effect either. We do have an internal policy that requires annually that any appointed member of the DRA who is required to file a 15-A disclosure annually file it with my Administrative Assistant who ensures that they are going to be filed and she delivers them all to the Secretary of State's Office together because we want to make sure that myself, the Assistant Commissioner, the Division Directors are compliant.

The finding before you relates to members of Administratively Attached Boards and we got to a point of agreement with the auditors that we are comfortable taking steps to annually remind them. We will amend our own policy to require ourselves to annually remind the members of the Current Use Board and the Assessing Standards Board that they are required to file and provide them with a blank copy of the filing. But at the end of the day, we don't believe we have the authority to compel those members to file. They're appointed by the Governor and they do not report to me.

CHAIRMAN KURK: I understand. And there is no policy whereby the Department to avoid embarrassment makes sure that, for example, its Commissioner, if he's required to do so, has filed the appropriate tax returns or any of these Board Members? That's not something that's being done.

MR. BEARDMORE: Correct.

CHAIRMAN KURK: Further questions. Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. I think I heard you say that there were two findings that might require legislative response.

MS. YOUNG: Correct.

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SEN. LITTLE: And keeping an ear out for those, I think I found one on Pages 12 and 13 with Observation No. 7 relative to municipal reporting statutes.

MS. YOUNG: Right.

SEN. LITTLE: I don't think I heard a second. You may have said it and I might have missed it, but I'm looking for that second.

MS. YOUNG: On the *Table of Contents* there's a small asterisk next to Observation No. 7 and 8 so the second one deals with the adoption of administrative rules.

SEN. LITTLE: Yes.

MS. YOUNG: That is on Page 15. And that one just comes from, you know, if the Department determines that these particular rules are not necessary, that we suggested that they should seek to amend the statute.

SEN. LITTLE: Very good. Thank you.

MS. YOUNG: You're welcome.

CHAIRMAN KURK: Commissioner, did you wish to respond to the audit?

MR. BEARDMORE: Thank you, Mr. Chairman. Hum -- would certainly like to thank the auditors. We did have a very productive and cooperative process, and I think it went both ways. I'd like to thank them for their hard work. We plan to fully resolve all of these audit findings and those from prior audits that are still outstanding in the very near future. We are paid a visit by the auditors annually as it pertains to the State's CAFR audit. I think we'll be seeing LBA folks in the next couple months setting up shop in our second floor once again and we welcome that. \$1.7 billion is a

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lot of money and it ought to be audited, and we think it's very appropriate that our overall financial operation be audited every several years as they've done.

So I want to thank them for their hard work. We take it very seriously and would also like to thank Carol Guyer, our internal auditor, who was our liaison with the auditors for her hard work to make sure they got everything they needed in a timely manner. Thank you.

CHAIRMAN KURK: Thank you, Commissioner. Further questions? Chair recognizes Representative Ober for a motion.

REP. UMBERGER: That's me.

CHAIRMAN KURK: Excuse me, Umberger.

REP. OBER: I'll be happy to second, Mr. Chairman. She's got the paperwork to read it. I haven't memorized it.

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

REP. OBER: Second, Mr. Chairman.

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

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: And we now turn to the Statewide Recycling Audit. Mr. Smith.

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MR. SMITH: Thank you, Mr. Chairman. As you said, the next audit is with the Department of Administrative Services, the Statewide Recycling Program. This is a performance audit. And from my office is John Clinch to present the audit and also joining us is Mike Connor, the Deputy Commissioner for Administrative Services.

CHAIRMAN KURK: Good morning, gentlemen.

JOHN CLINCH, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning. Good morning, Mr. Chairman, Members of the Committee. My name is John Clinch. I'm a Senior Audit Manager with the Office of Legislative Budget Assistant. I'm here this morning to present the results of our performance audit on Statewide Recycling Program audited -- I'm sorry -- administered by the Department of Administrative Services. Our objective was to determine whether the Statewide Recycling Program was effective. Our Executive Summary is found on Page 1.

We found the Department of Administrative Services did not administer the Statewide Recycling Program effectively largely due to insufficient staffing. Instead of dedicated staff, the program relied on staff performing other primary duties. The program was chiefly operated by the State's Fleet Management Administrator, and was assisted by the Administrator of Merchant Card Processing Services. We also found the Department of Administrative Services could improve revenues by better monitoring prices received for its recyclables and may reduce costs by evaluating its contracts and ensuring the proper container size and pickup frequency.

Our Recommendation Summary can be found on Page 3. The Recommendation Summary shows our report contains eight Observations with Recommendations, which I will discuss in a few moments. The Department of Administrative Services concurred with only one of our Observations and concurred, in part, for

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the remaining seven Observations. Observation No. 1 may require legislative action.

Our background section begins on Page 5 and turning to Page 6, we provided a discussion of the State Recycling Fund. Its purpose is to pay for the Department of Administrative Services costs related to administering statewide recycling, provide State Agencies with needed recycling equipment or supplies, and offset recycling pickup costs. Revenues are earned from the sale of recyclables with the exception of the Liquor Commission sale of corrugated cardboard boxes.

Table 1 on Page 7 shows revenues for the fund consistently outpaced expenditures causing the fund balance to grow by 659%. Consequently, at the end of State Fiscal Year 2014, the fund had a balance of approximately \$592,000. Tables 2 and 3 on Pages 7 and 8 respectively show revenues and rebates earned by type of recycling material.

Table 4 on Page 8 shows revenues earned during the audit period by Agency. The Department of Transportation earned the most revenue from recycling with nearly 57% of all recycling revenue. The body of our report begins on Page 11.

State Agencies most commonly reported recycling paper, toner cartridges and corrugated cardboard. However, glass, plastic, and aluminum were recycled at a much lower rate. In fact, the State saw no revenue from single stream, which is a method of recycling that allows one to place glass, plastic, and aluminum into a single container which is subsequently separated at the recycling facility. This means there may be additional opportunities to earn revenue by recycling single stream materials for revenue. Likewise, 97% of the State Agencies responding to our survey reported recycling paper, but we found five agencies recycled it for rebates. They earned approximately \$15,000 over the

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two-year audit period. Again, there may be an opportunity to increase revenues earned.

Turning to Page 12. Observation No. 1 deals with the need for sufficient staffing. As noted earlier, the program lacked dedicated staff to operate the program efficiently and effectively. We recommend the Department of Administrative Services continue seeking sufficient personnel to improve the efficiency and effectiveness of the Statewide Recycling Program.

In Observation No. 2 at the bottom of Page 13, we found Department of Administrative Services did not receive documentation of the market price paid for scrap metal on the day of pickup. The scrap metal recycling contract requires the contractor to document the market price on the day of the pickup to support the transaction value. Without documentation, the Department could not determine whether it was receiving the agreed upon market price for its scrap metal. We recommend the Department of Administrative Services ensure contractors provide documentation to validate the price paid.

In Observation No. 3 on Page 14, we found recycling container pickups may have occurred too frequently in some locations. We recommend the Department of Administrative Services regularly review pickup frequencies for State recycling containers.

Observation No. 4, at the top of Page 15, discusses the lack of policies and procedures regarding safeguarding, handling, and disposition of the State's recyclable assets. We observed at one location scrap metal was left unsecured beside a building. We also observed State Agencies with unsecured recycling containers allowing for possible unauthorized dumping of household waste or theft of recyclables. We recommend the Department of Administrative Services develop and adopt written policies and procedures governing recycling and scrap -- and safeguarding scrap materials.

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Observation No. 5 on Page 16 discusses the need to revise the State's annual recycling waste report form used by State Agencies to report materials recycled. We also recommended changing the way single stream recyclables are reported to avoid a level of detail that provides little benefit to the State.

In Observation No. 6 on Page 17 and Observation No.7 on Page 18 we found the State may have opportunities to restructure the terms of some of their recycling contracts to reduce costs and increase revenue to the State. As noted earlier under current single stream contracts, the State pays to have containers hauled but receives no rebates or revenue for the recyclables within the container. We found one municipality that successfully negotiated a single stream contract that eliminated pickup fees and also shared revenue between the contractor and the municipality when the market rate went above a certain threshold. We recommend the Department of Administrative Services evaluates its contracts for potential savings.

Our last Observation No. 8 is on Page 19. We recommend the Liquor Commission coordinate with the Department of Administrative Services to ensure recycling contractors send invoices and remit revenue directly to the Liquor Commission as required by law. We also recommend the Liquor Commission explore contracting opportunities with their transportation and warehouse provider to save money on pickup fees and container rentals while potentially earning increased revenue.

On Page 23, we present our other issues and concerns section. We found approximately two-thirds of the State Agencies required to submit recycling reports to the Department of Administrative Services actually did so. Some of the non-reporting agencies disagreed they were subject to the recycling requirements because they were independent authorities or colleges. The Legislature may wish to consider clarifying RSA 9-C to

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specifically include independent authorities, the University System, if that is the intent of the Chapter.

I would also like to call your attention to the three appendices contained in the back of the report. Appendix A is our Objectives, Scope, and Methodology, Appendix B is the Department of Administrative Services Agency's Response, and Appendix C is the Agency Survey.

Mr. Chairman, this concludes my prepared remarks. I'd be happy to answer any questions.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you, Mr. Chairman.

CHAIRMAN KURK: Thank you, sir.

REP. OBER: I actually have several questions. Mike, hindsight is such a wonderful thing. I wish I had this document when the DAS budget was in front of Division I, because I think we would have taken a slightly different action. As I recall, you have one part-time person to be paid from this fund in the budget. Am I correct; right?

MICHAEL CONNOR, Deputy Commissioner, Department of Administrative Services: Yes, that is correct.

REP. OBER: But, in actuality, reading the audit, which is where the hindsight comes in, you have enough money in this fund to actually fund a full-time person; is that correct?

MR. CONNOR: Yes, that's correct.

REP. OBER: Finance Madam Chairman, I hope you will think about that because I think that would alleviate the ability to answer several things. Great. She and I are on the same line.

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So I want to go to Page 16, if I could, of your report, and it's talking about the reports. Is any of that computerized or is that a hand calculation for every agency?

MR. CLINCH: That is a form that's available on the website, on the Department of Administrative Services website that's completed by hand and manually calculated.

REP. OBER: Okay. Thank you. If I could have another follow-up question if I may?

CHAIRMAN KURK: You may.

REP. OBER: On Page 17, in the middle of the second paragraph, the State paid a fixed price to have containers picked up but received no rebates for the recyclables within the container. Is that normal? Because I believe Hudson gets some rebates with our single stream recycling?

MR. CLINCH: I think based on the experience of one of the State's municipalities that there could be some revenue that could be generated from single stream recyclables.

REP. OBER: Okay. Thank you. And further down, if I could, in Observation 6. Two State Liquor Stores located on I-93, however, receive no rebate from the cardboard and two 42-cubic yard containers and pay a 75 per month container rental fee, plus \$130 for each haul. Is that normal for the other cardboard recycling that we do?

MR. CLINCH: I don't believe it is. The other cardboard recycling, in some instances the cardboard is given a rebate by the recycler and the hauling fees are generally included in that or offset by the recycling rebate.

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REP. OBER: If I could continue, Mr. Chairman?

CHAIRMAN KURK: Another question.

REP. OBER: Do we need legislative action on the Liquor issues? Because this comes up not only here but on Page 19 in Observation 9 where the Liquor Commission is not -- their Observation 8, not in concurrence; and yet, we thought the Liquor Commission was supposed to be paying 100% of their own expenses. Does that require legislative action to change, Mike, do you think?

MR. CONNOR: I don't believe it requires any legislative action. We interpreted and so did Liquor that the funds would come out of the recycling fund to pay for that. And as part of the audit we were corrected that the legislation was clear that Liquor was to pay for that. So we'll be in the process of having them pay by July 1<sup>st</sup> for those services. I think it may be beneficial because I think they'll have a more vested interest if they are paying for it as opposed to recycling fund. So it's really misinterpretation on our part so we concur with that finding.

REP. OBER: Okay. And, finally, I know we're a small Branch and the Executive Branch is a small branch, but I look at that Table 4, is the Leg. Branch and the Executive Branch recycling? There's a whole bunch under Other in Table 4 which is on Page 8.

MR. CLINCH: The Legislative Branch is not included in Table 4. Because the LBA is part of the Legislative Branch, we chose not to examine what the Legislative Branch did with their recycling due to independence issues. I could tell you that the other category there reflects the Adjutant General's Department, the Department of Environmental Services and Fish and Game.

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REP. OBER: So could I ask one last question of Mr. Pattison?

CHAIRMAN KURK: Sure.

REP. OBER: Mr. Pattison, just for the Committee, would you find out? I know we recycle at least bottles and cans. Will you find out where that revenue goes just out of curiosity for us? It is not part of this audit but --

MR. PATTISON: I will do that.

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

CHAIRMAN KURK: You'll include paper in that, also?

MR. PATTISON: I will.

CHAIRMAN KURK: Thank you. I do have a question. There are Tables 1 through 5 on Pages 7 through 9. The first question is in Table 2 -- sorry -- Table 4, Administrative Services accounts for 5.6% of the revenue that goes into the recycling fund, I guess. And then on Table 5 it gets 44.4% of the rebates. Why is there -- why are they such a small portion of the revenues and such a large portion of the rebates? Do they know something that other Agencies don't know?

MR. CLINCH: I think that's a function of what type of material is being recycled. In Table 4 we talk about revenues. So that -- that's things like scrap metal, electronic waste, oil, those types of things. And the administrative -- Department of Administrative Services recycles relatively little amount of that compared to the paper that's shown in Table 5. Rebates are generated from the recycling of paper and the Department of Administrative Services handles a lot of that for other State Agencies.

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CHAIRMAN KURK: That perhaps leads to the answer to my next question. Why is the fund building up if, in fact, rebates are being given to the Agencies based on some action on their part?

MR. CONNOR: The rebates should be coming to the fund. They shouldn't be going to the Agency. By law, any rebates should be going back to this recycling fund.

CHAIRMAN KURK: I'm sorry, then I misunderstood that. What is purpose of the fund?

MR. CONNOR: Purpose of the fund is to encourage recycling and to use those funds to encourage more recycling activities throughout the state.

CHAIRMAN KURK: Then why is there money in the fund?

MR. CONNOR: There's money in the fund because the income is -- well, we have been wise in using money. But our income has exceeded our expenses to put that process in place.

CHAIRMAN KURK: But if the purpose of the fund is to, in effect, regenerate more recycling --

MR. CONNOR: Sure.

CHAIRMAN KURK: -- shouldn't you have your expenditures increase more significantly?

MR. CONNOR: No, just the opposite. I would hope as we get better we'll have better -- we'll be more efficient and more rebates and be more profitable.

REP. OBER: I would look at the other way maybe we need some Leg. action to take when it gets to a certain point and give that to the General Fund.

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CHAIRMAN KURK: Would you not copy -- consider copying the Lottery and providing an incentive to Agencies to recycle by sharing the profits, if that's the right word, from the fund with the Agencies in proportion to their contribution to the fund?

MR. CONNOR: We do provide somewhat of an incentive now. Basically, we pay through this revolving account for any recycling. But any costs to -- to go to the landfill for trash we require the State Agencies to pay for. So we encourage them to recycle. Hence, we'll provide them with containers. We'll pay to recycle. But if they choose to go to the trash, it's on them. So there is some type of incentive now for them to do that. If we were able to have a position we could be a little more proactive, work with the Agencies and do a little marketing per se, which is what we'd like to do. So we do believe there is an incentive currently.

CHAIRMAN KURK: I think, Representative Ober, you're correct. This needs some legislative attention. Senator Forrester.

SEN. FORRESTER: Thank you for the presentation. On Table 1, Page 7, it looks like the expenditures are going up and the revenues are going down. Why is there such a jump in expenditures?

MR. CONNOR: The expenditures are going up because we're -- as we expand throughout the state and expand the program, we're able to take -- help more Agencies. We were -- since the beginning we were able to put a couple processes in place at the Sununu Center. We have a recycling program there now that we partially help pay for. At the New Hampshire Hospital we do a lot of recycling there, too. So we are paying for that now which is reflected in expenses. As we expand throughout the state -- when we first started this, it was only Concord area and it was tough to get companies in order to provide that service. As we pushed out throughout the

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state, which is our goal, we expect the expenditures to go up as we expand recycling wherever we can.

CHAIRMAN KURK: Follow-up.

SEN. FORRESTER: And then the explanation for why the revenues look like they're trending down.

MR. CONNOR: Well, the revenues are -- basically come from any types of recyclables that we're able to do. I don't know why it's trending down. It basically depends on some of the Agencies in particular. I think 90% of our income comes from DOT and the guardrail that we recycle. So a lot depends on that. I'd be venturing a guess as to why that may be going down.

CHAIRMAN KURK: I can share a little bit. Our town does recycling and our fellow who manages that is telling us that he's getting almost nothing for cardboard and paper. In other words, the prices fluctuate. So even though your expenditures are going up because the program is expanding, your revenue could simultaneously be dropping if prices for scrap and other recyclables was also going down.

MR. CONNOR: That's true. We are very dependent on the market. China has been a major driver so that affects what we get for revenues, too.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. Is there -- is it possible to have an efficiency rating on a Department's recycling activity? And, if so, do we have one? Do we know which departments are doing the best job? There are going to be variations Department to Department. For instance, one that creates a lot of scrap metal and the higher value could appear from a dollar value only be doing a better job where, in fact, an agency that simply has a culture of recycling, strong

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culture of recycling might have a higher efficiency overall. So is it possible to have an efficiency rating and do we have it?

MR. CONNOR: It would be possible. Again, the lack of resources, it's pretty difficult to be able to put those metrics in place, and it's tough, in order to actually get the information from vendors. A lot of these vendors, they don't weigh. They do what's basically called a milk run. They go from location to location. So they're not weighing each location. So we have to get approximate weights and we have to depend on the Agencies to provide us that information. So it's only as accurate as the effort that they put into that and having a person to follow-up, see if they get those metrics. Yes, we could certainly do that and that is something we'd like to be able to do.

CHAIRMAN KURK: Is it your intention to stop the program if it turns out its uneconomic?

MR. CONNOR: No. I mean, we have to stay -- we have to be self-sufficient. So I would look to find other efficiencies. I don't see that as happening. I think needs to be more aggressive. I think there's a lot more potential. I think there's a lot more room for us to gain efficiency, especially if we have staff that will receive that program and be proactive instead of reactive. But I don't see this -- I see this as expanding it. In the area of construction debris recycling, we are close to 99%. We made some major advancements here in the last seven years. I'm very proud of what we have been able to accomplish, and the hard work that our folks have done, especially where we have no dedicated resources to this program. I think, you know, there's a lot more potential as we go forward.

CHAIRMAN KURK: Thank you. Further questions? There being none, Chair recognizes Representative Umberger for a motion.

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\*\* REP. UMBERGER: Yes. I move that we accept the report on the recycling program, that we place it on file and release it in the usual manner.

REP. OBER: Second.

CHAIRMAN KURK: Senator Little seconds the motion.

SEN. LITTLE: Yes. Discussion? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: We now turn to the last audit, Board of Pharmacy. Mr. Smith. Gentlemen, thank you.

MR. SMITH: Thank you, Mr. Chairman. Our last audit for this morning is inspections by the Board of Pharmacy. Presenting the audit for our office will be Jay Henry. And also joining us from the Board is Helen Pervanas, as well as Margaret Clifford.

HELEN PERVANAS, Board Member, Secretary, Board of Pharmacy: Good afternoon.

CHAIRMAN KURK: Good afternoon.

JAY HENRY, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good afternoon. For the record, my name is Jay Henry, and I'm a Senior Audit Manager with the LBA Audit Division. I'm presenting our performance audit of Board of Pharmacy Inspections for State Fiscal Years 2013 and '14.

The purpose of our audit was to determine if the Board was efficiently and effectively inspecting facilities and practitioners.

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Page 1 contains our Executive Summary and Page 3 contains our Recommendation Summary. Our ability to assess the efficiency and effectiveness of the inspections was hampered by the Board's inadequate Management controls and unreliable data, which is documented in our ten Observations. The Board fully concurs with nine recommendations and partly concurs with another, which may require legislative action.

Starting on Page 5, we provide background on the Board and its inspections. Figure 1 on Page 6 shows the staffing as of July 2014. The Board lost one part-time and one full-time inspector position in State Fiscal Year 2012 which was subsequently added back in January 2014. As a result, the Board had historically low number of inspectors and conducted fewer inspections during our audit period. In addition, the Executive Secretary position has been vacant for over a year and has recently been revised to become responsible for all of the Board operations, including inspections.

Table 1 on Page 7 shows the Board has -- had licensed 7,745 professionals and facilities. Table 2 on Page 9 shows the number and types of inspections conducted during the audit period. The Board inspects in-state facilities, such as retail pharmacies, health clinics, and hospital pharmacies. In addition, State Law requires the Board to inspect certain occupations, such as doctors, dentists, and veterinarians.

On Page 11 we discuss the risk posed by inadequate inspections of small-scale drug compounding facilities and the 60 deaths caused by a Massachusetts compound facility in 2012. In response, New Hampshire Board of Pharmacy reevaluated its inspection practices and inspection procedures for sterile and non-sterile compounding facilities. And our first five Observations deal with the Board's policies, procedures, and rules.

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Starting on Page 13 in our first Observation, we recommend the Board adopt similar kinds of procedure rules for each type of inspection.

In Observation No. 2 on Page 15, we found inspectors used an outdated policy manual which lacked comprehensive policies and procedures for conducting inspections, issuing violations, and identifying potential conflicts of interest.

Starting on Page 17, in Observations 3 and 4, we found the Board's inspection forms did not reflect all required laws and rules and that its violation notice should be established in rule.

In Observation No. 5 on Page 21, we found the Board collected over 1.2 million in excess revenue over the past five State Fiscal Years as shown in Table 5 on Page 22. The Legislature requires the Board to collect at least 125% of its direct costs based on a footnote in its budget -- in its operating budget. We do acknowledge that the budget reductions can be ordered as part of the budget process or after the budget has been approved. Fees, however, are established in rule, thereby making it more difficult to change because of the rulemaking process.

The Board also mentions that Executive Orders have frozen the Board's ability to spend funds, thereby increasing excess revenue. We recommend the Board periodically review and adjust its fee and to ensure that it's charging a fair amount to administer the Board.

Board Operations is the focus of the last five Observations. Starting on Page 23 with Observation No. 6, we found the Board needs to establish performance goals and measurements to support the Board's mission to protect the public.

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In Observation No. 7 on Page 24, we found the ACCESS databases used to track inspections are not accurate and, therefore, not reliable. This is an Observation similar to one we made in our 2008 financial audit. Additionally, the Board needs a better system to identify and track practitioners licensed by other boards which it is required to inspect.

Starting on Page 26 in Observation No. 8, we recommend the Board develop procedures to better track violations related to individual pharmacists, inspections focused on pharmacies and typically only hold the pharmacist in-charge responsible for violations.

Starting on Page 27 in Observation No. 9, we found the Board did not have a process to ensure its 1,900 out-of-state licensees received similar inspections to those conducted on New Hampshire-based entities. There is some question whether out-of-state licensees are within the jurisdiction of the Board inspection requirements based on statutory language and interpretation by the Joint Legislative Committee on Administrative Rules.

In our last Observation on Page 30, we recommend the Board consider developing an inspection schedule that is based on findings from prior inspections that indicate risk.

Appendix A provides details on our methodology. Appendix B is the Board's letter to the Fiscal Committee. And Appendix C presents the status of our prior 2008 financial audit related to this audit. And, lastly, I'd like to thank the Board and the inspectors for their cooperation through the whole audit process and be happy to answer any questions the Committee has at this time.

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CHAIRMAN KURK: I have one but it's not of you. It's of the Board Member. So, perhaps, we can hear their comments or remarks and then ask questions afterwards.

HELEN PERVANAS, Commissioner, Board of Pharmacy: Absolutely. Thank you very much. My name is Helen Pervanas, Commissioner. I do want to thank the auditors for all of their hard work. I know they spent a great deal of time and I think they were very thorough and really pointed out some areas that we really do need to work on and improve.

I also want to extend my thanks to the Compliance Department. Peg has done an enormous amount of work, especially with the fact that, you know, we were really short on our Compliance Department and has really done an incredible amount of work, and I know that she will going forward will definitely work on all of these deficiencies and bring us up to par.

One of the things I want to note is that we have been struggling quite a bit as a Board being without an Executive Secretary for about a year and a half. And we have, as a Board, and all the employees at the Board have picked up a lot of that work, more than probably a Board Member or Board Members would because of that deficiency. So I think that once we do have that person on Board, which we are in the hiring process right now, that will bring us up to par. And I think we'll work more efficiently as a Board. Thank you.

CHAIRMAN KURK: Thank you. I'd like to refer you to Appendix C, which shows the status of prior audit findings, the prior audit having been done in 2008.

MS. PERVANAS: Hm-hum.

CHAIRMAN KURK: Item 7 and 8 are still totally unresolved. And as we just heard, similar findings were made in this audit. Can you assure us by the end of next

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year, in other words, by July 1<sup>st</sup>, 2016, that 7 and 8 will be resolved? If there were to be another audit at that time, there would be three black dots rather than three white dots --

MS. PERVANAS: Hm-hum.

CHAIRMAN KURK: -- after each of those items. You folks have an extraordinarily important responsibility to assure safety in the state for pharmacies and people who use them, forgetting about compounding pharmacies, and this is not a situation that should continue unabated. Inspecting pharmacies, doing it on risk-based approach, et cetera, is essential. And, frankly, although I'm sure in the budget process other issues will arise, you're collecting more in revenue than is necessary to meet the 125% test. So that there is money in your organization to pay for whatever is necessary in terms of personnel, consultants, whatever it is to get this job done. Can you give us an assurance that this will be accomplished over the next year and that we are not going to see these three white dots on 7 and 8 -- items number 7 and 8 in the future?

MS. PERVANAS: Yes, I'll let Peg speak on that.

MARGARET CLIFFORD, Chief Compliance Investigator, Board of Pharmacy: We did actually take some effort to resolve some of these, but in particular with item number eight, at the time of the fiscal audit, financial audit, we were getting ready to move to an on-line licensing system and that on-line licensing system was going to incorporate a new inspection database. We had difficulties with the system and we backed out of that system. And so we -- we had switched over to a new system that was more reliable, but we have reverted back to our old inspection database. And the problem with that is it's an ACCESS database which is no longer supported by DoIT. So when we have trouble if there isn't somebody that can help us fix it so we're relying

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on in-house staff who know very little about technology to do that. We are scheduled to go back on to an on-line licensing system, and I'm sure you're probably all aware of the merger if the Governor's Budget passes, all of the individual boards, the staff will be united into one group. We'll become as of July 1<sup>st</sup> the Office of Professional Licensing. And so we'll be moving into a new system and as being a whole one Department the -- some of the data that we're lacking on licensees will all be in one Department so I think we'll see some help there.

And as far as the scope for the inspectional efforts, we as a result of the financial audit, there were some questions as to how we were billing the other departments that we were conducting inspections for, and we didn't have at that time MOU's with those departments. After the audit, we did establish MOU's with each of the departments; but then in the budget cuts for 2012, the other departments stopped paying us. And I believe we were here -- somebody was here after that and there was a change to the RSA that they no longer pay us for those services. So I don't know how that works, but I think with the merger and being, you know, a larger department, I believe that we will have all of these issues resolved. And I do know that we will be audited in '17 because that's when the Prescription Drug Monitoring Program is scheduled for an audit. So we will definitely make sure that we have those statuses done in anticipation of that audit.

CHAIRMAN KURK: Thank you very much. That's good to hear.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: The American philosopher who said even if you're on the right track you'll get run over if you

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just sit there. On Page 9 of this audit their ACCESS database was made in 1998. Microsoft no longer supports that version of the software. It's not just a matter of our IT Department. You have to do upgrades to stay semi-current which clearly didn't get done, so. And you are part of the new Joint Board, aren't you?

MS. CLIFFORD: Yes.

CHAIRMAN KURK: Further questions? There being none, Chair recognizes Representative Umberger for a motion.

REP. OBER: And I'll second it when she reads it.

CHAIRMAN KURK: Unless Senator Little --

SEN. LITTLE: I'd love to second it.

\*\* REP. UMBERGER: Thank you, Mr. Chairman. I move that we accept the report, place on file and release in the usual manner the audit of the Board of Pharmacy.

SEN. LITTLE: I second that.

CHAIRMAN KURK: It's been moved and seconded that the report be so treated. Discussion? There being none, you ready for the question? All those in favor indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: Thank you all very much. We appreciate this.

MS. PERVANAS: Thank you.

MR. HENRY: Thank you.

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MR. SMITH: Thank you.

CHAIRMAN KURK: The next meeting of the Fiscal Committee will be June 26<sup>th</sup>, that's a Friday, 2015, at 10 o'clock in this room. Mr. Pattison, is there any other business to come before us?

MR. MEYERS: Nothing that I'm aware of.

CHAIRMAN KURK: That being the case, we stand adjourned.

(Adjourned at 12:14 p.m.)

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## CERTIFICATION

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

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