

**JOINT LEGISLATIVE FISCAL COMMITTEE**

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, July 25, 2014

**MEMBERS PRESENT:**

Rep. Mary Jane Wallner, Chair

Rep. Daniel Eaton

Rep. Bernard Benn (Alt.)

Rep. Katherine Rogers (Alt.)

Rep. Richard Barry (Alt.)

Sen. Jeanie Forrester

Sen. John Reagan (Alt.)

Sen. Chuck Morse

Sen. Sylvia Larsen

Sen. Andy Sanborn

(The meeting convened at 10:06 a.m.)

**(1) Acceptance of Minutes of the June 9, 2014 meeting**

CHAIRWOMAN WALLNER: I'll call the -- I'll call the meeting to order of the Fiscal Committee for August. We today have a number of subs -- substitutes joining us. Senator Reagan is sitting in for Senator Odell. Representative Barry is sitting in for Representative Weyler. Representative Bernie Benn is sitting in for Cindy Rosenwald, and Representative Kathy Rogers is sitting in for --

REP. EATON: Leishman.

CHAIRWOMAN WALLNER: Peter Leishman. Thank you. She's also sitting in as clerk for Representative Weyler. So I'll call the meeting to order, and the first item of business is the acceptance of the minutes of the June 9<sup>th</sup> meeting.

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

CHAIRWOMAN WALLNER: Representative Eaton moves approval.

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: And Senator Forrester seconds. Any discussion? All in favor? Any opposed? None opposed. The motion passes.

\*\*\* {MOTION ADOPTED}

(2) Old Business:

CHAIRWOMAN WALLNER: Next we have Old Business. Is there anything on the Old Business that anyone would like to remove? Seeing nothing to remove, we'll move on to the Consent Calendar.

CONSENT CALENDAR

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

CHAIRWOMAN WALLNER: And our first tab is Tab 3, and we have two items and do we have anyone who's interested -- Yes, Senator Sanborn, which item would you like to take off?

SEN. SANBORN: Thank you, Madam Chair, I appreciate it. 126 please, ma'am.

CHAIRWOMAN WALLNER: Senator Sanborn removes Item 126 which is Department of Environmental Services' item.

\*\* REP. EATON: Move approval of the rest.

CHAIRWOMAN WALLNER: Representative Eaton moves approval of the rest of the Consent Calendar.

SEN. REAGAN: Second.

CHAIRWOMAN WALLNER: Senator Reagan seconds and is there any discussion of that item? All in favor? Any opposed? Seeing no opposed, the item passes.

JOINT LEGISLATIVE FISCAL COMMITTEE

July 25, 2014

\*\*\* {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Now we have Item 14-126, and it's Environmental Services' item. Do we have someone who would like to come up? Thank you. Welcome.

SUSAN CARLSON, Chief Operations Officer, Department of Environmental Services: Good morning, Madam Chairman. For the record, my name is Susan Carlson with the Department of Environmental Services.

CHAIRWOMAN WALLNER: Thank you. Senator Sanborn has some questions, I think.

SEN. SANBORN: Thank you, Madam Chair. Susan, thanks so much for coming in today. I appreciate it. You know, this becomes kind of like a hairy question that there continues to be, obviously, some controversy around all of these settlements and the use of the money. Specifically on this, what I guess nets down to the mid \$80 million range trying to attack our environmental challenges, I've got a couple things that are concerning me I'd just love your input on, if I could.

One, \$2500 in there for cell phones, and I guess at one level my first -- my first reaction was aren't cell phones free for everybody today so why are we paying for them? But it kind of raised the larger question for me kind of similar to the issues, you know, we have been having with vehicles over the past two years. How many cell phones -- how many State cell phones do we have and what kind of money are we spending on them? Obviously, you can only talk about Environmental Services; but is this an ordinary course of business and prevalent? Does everyone have a company cell phone at this point?

MS. CARLSON: Excellent question. No. We don't distribute cell phones to everyone in the Department. I'm afraid I don't have a list of all -- with me right now of all the people. But the field staff that for MTBE who are going out, we're going to be issuing them State cell phones so that we maintain better

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

contact with our employees while they're out in the field doing sampling work. They're going to be able to use these cell phones to do GPS location on sites that we need that information on. Essentially, what it is is the State has a contract with U.S. Cellular. The phones aren't costing us anything. It's the plan that's costing us. And what we do is we try to pool our minute plans and then based on usage by the individuals in the Department we allocate that bill out.

SEN. SANBORN: Okay. Thank you. I appreciate that. Follow-up, if I may?

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: Actually, two quick ones. One, I guess I'd love to know, if you have the opportunity, how many cell phones we have? Just trying to understand, 600 employees, how many cell phones you guys have.

MS. CARLSON: Okay. I can get that -- I can get back to you on that.

SEN. SANBORN: Thank you. I appreciate it. And the second half, another Senator had raised, you know, the challenge, again, the continual trying to understand the length and gravity of this type of this program, the MTBE that we've all kind of been under the impression that it's been a temporary program to kind of deal with a problem; but if we are at the point where we are buying office furniture and cars, it would lead me to believe it's going to be a much more long-term program. And if we are using money that's supposed to be -- to remediate environmental challenges our State's facing, how are people going to feel, i.e., the courts involved, that we are actually using it to buy furniture and phones and cars?

MS. CARLSON: We actually consulted with the Department of Justice before we made these budget adjustments so that we made sure that they were all right with our use of the settlement. With these current settlement funds we are looking at six years. So for the use of cars six -- it was actually more cost

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

effective for us to purchase cars than to lease them or to pay mileage which is the IRS rate is more than double what we would cost the mileage usage if we bought vehicles.

SEN. SANBORN: Thank you very much, ma'am. I appreciate it. Madam Chair, thank you.

CHAIRWOMAN WALLNER: Further questions. Yes, Senator Morse.

SEN. MORSE: The 80,000 that you're taking now that's out of the money we've already -- we took some 20 million I thought and put it into the Department. You're just re-allocating money within that 20 million --

MS. CARLSON: Yes.

SEN. MORSE: -- or you taking more?

MS. CARLSON: Yes, we are. We are just re-allocating the money within the existing budget you approved.

\*\* REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Further discussion? Representative Eaton moves approval.

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: Senator Larsen seconds. Any further discussion? All in favor? Any opposed? Seeing no opposed the item passes.

\*\*\* {MOTION ADOPTED}

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

CHAIRWOMAN WALLNER: Now we'll move to Tab 4 which is a tab concerning Department of Education. Do we -- it's a consent item. Does anyone have questions around it? Yes, Senator Sanborn

JOINT LEGISLATIVE FISCAL COMMITTEE

July 25, 2014

has some questions. Could someone from the Department of Education please come up? Thank you.

SUSAN FOLSOM, Business Administrator II, Department of Education: Good morning, Madam Chairman. Susan Folsom, Department of Education, Business Finance.

PATRICIA EDES, Administrative Assistant, Division of Higher Education, Department of Education: And Patricia Edes, Division of Higher Ed, Assistant to Director.

CHAIRWOMAN WALLNER: Thank you. Thank you for coming up. Senator Sanborn, you had a question, I assume.

SEN. SANBORN: Thank you, Madam Chair. I appreciate it. Ladies, thanks so much for coming in today. Thanks for taking my question. You know I always ask a lot of questions. I see that this request is an "add to staff".

MS. FOLSOM: Hm-hum.

SEN. SANBORN: Although we all know the Governor has put an Executive Order in halting employee hires, that's just in the General Fund, and I acknowledge this was a non-General Fund issue, and I fully understand that this -- and the narrative goes back from 2011 where you didn't have as much staff as you had requested. But it makes me uncomfortable, makes me feel that we are kind of on the cusp of trying to open the budget 'cause this wasn't approved in the last budget. And so coming in after the Legislature's already said no, all due respect, it's hard for me to try to find a way to support something that the Legislature's made a position on it. Can you talk a little bit about what your justification is to essentially open the budget up and start making "adds to staff"?

MS. FOLSOM: Well, part of the issue is the ongoing need and support that the Division is mandated to fulfill under the RSA for this program which deals extensively with financial aid programs. And the Department has recently lost the one staff person that we did have that was fulfilling a lot of those

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

responsibilities under the College Access Challenge Grant. That grant expires next August. So we will no longer and currently don't have a person and there won't be funding to support a person to fulfill the needs that we have for Higher Ed. data gathering and reporting back as mandated under the guide.

Along with that, we also have a large pool of uncollected debt from the former Work Incentive Program that operated under the Postsecondary Education Commission. And because of disarray of the files, it's taken quite a bit of time to get them back in order so that the collection process of those outstanding debts can be re-collected and paid back to the State. So those are some of the other factors along with overall support of the different bureaus within Higher Ed. Division that this staff person will be able to fulfill for us to meet those mandates.

SEN. SANBORN: Follow-up.

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: Thank you very much. I appreciate that. You said we have someone that a grant that's funded until next August, not like two days from now or three days from now but through next year?

MS. FOLSOM: Correct. Yes.

SEN. SANBORN: Thank you, ma'am.

CHAIRWOMAN WALLNER: Further question? Yes, Senator Morse.

\*\* SEN. MORSE: Until we understand -- to me this is a challenge to the budget that we've already built. I move to table.

SEN. SANBORN: I second.

CHAIRWOMAN WALLNER: Senator Morse moves to table the item and Senator Sanborn seconds. Any --

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

REP. EATON: Non-debatable.

CHAIRWOMAN WALLNER: It's non-debatable. All in favor? Any opposed?

REP. BENN: No.

REP. EATON: Opposed.

CHAIRWOMAN WALLNER: No. Let's do a show of hands. All in favor of tabling the item? One, two, three, four, five. And all opposed? One, two, three, four, five. The motion -- the motion fails.

**\*\*\* {MOTION FAILS}**

SEN. LARSEN: Can I continue to ask a question, if I could?

CHAIRWOMAN WALLNER: Yes, please do.

SEN. LARSEN: Did I hear that the Work Incentive -- that backtracking and collecting of data from the Work Incentive Program could result in revenue to the State if we can finish collecting that data and proceed? Can you give a little more definition to what that means?

MS. FOLSOM: Yes. Under the Work Incentive Program that operated under the Postsecondary Education Commission there were scholarships granted to students enrolled in nursing and teaching programs. And if they worked for one year within the State of New Hampshire, those scholarship debts were forgiven. If they did not, they were then responsible to repay the State for the scholarships granted under the program. So because there was a disarray of the files and accuracy of what debts were still owed, we've just gotten to a point where the balances owed on the outstanding recipients is able to be moved forward so that we can start the collection process. We are talking somewhere in the vicinity of 15 to \$20,000 overall from the records that we have at this point.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

CHAIRWOMAN WALLNER: Further question? Yes, Representative Eaton.

REP. EATON: By not adopting this are we leaving you in a situation where you are stuck involuntarily not adhering to the statute?

MS. EDES: In our statute it does address financial aid support. We are down to the wire. I mean, we are -- we have a lot of Federal programs, a couple Federal programs that they are coming to us to ask us to run, and there's just not enough staff to go around to do it.

CHAIRWOMAN WALLNER: Yes, Senator Forrester.

SEN. FORRESTER: Thank you. Thank you. You said that the files were in disarray. I'm curious why -- why were they in disarray? Did we not have anyone managing the files?

MS. FOLSOM: I really can't speak to the specifics of the staff that no longer are employed that handled those under the Postsecondary Education Commission, but there was a lot of misfiled data. The records weren't accurate and up-to-date with revenues that had been collected and not collected. So, you know, I really can't address the issues of what the staff's procedures were at the time. They weren't -- it took a lot of time to put them in order so that we felt we had valid information to move forward with the collection process at this point.

SEN. FORRESTER: Follow-up.

CHAIRWOMAN WALLNER: Yes.

SEN. FORRESTER: How much money did you say is outstanding that you thought you could collect?

MS. FOLSOM: Somewhere in the vicinity of 15 to \$20,000.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

SEN. FORRESTER: So 15 to \$20,000 for a \$50,000 job essentially?

MS. FOLSOM: (Nodding head.)

CHAIRWOMAN WALLNER: Any further questions?

\*\* REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Representative Eaton moves approval. Do I have a second?

REP. BENN: Second.

CHAIRWOMAN WALLNER: Representative Benn seconds. All in favor? I think we better do a show of hands. Five. All opposed? Five. Well, my goodness. Motion fails.

\*\*\* {MOTION FAILS}

\*\* SEN. SANBORN: Move to table again, ma'am.

CHAIRWOMAN WALLNER: And Senator Sanborn again moves to table.

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: And Senator Forrester seconds. All in favor of tabling? I think we need to do show of hands again. Five. All opposed? Five. Okay. Well, this is an interesting little situation here.

\*\*\* {MOTION FAILS}

\*\* SEN. SANBORN: Madam Chair, I move to special order to the next Fiscal Committee.

REP. EATON: Second.

JOINT LEGISLATIVE FISCAL COMMITTEE

July 25, 2014

CHAIRWOMAN WALLNER: Okay. I'll take that. We'll move to special order this item to the next Fiscal Committee. All in favor? Aye. All opposed? Any opposed? The item will be put on the next Fiscal Committee agenda.

\*\*\* {MOTION ADOPTED}

CHAIRWOMAN WALLNER: So we'll see you again in September.

MS. FOLSOM: Thank you very much.

MS. EDES: Thank you.

CHAIRWOMAN WALLNER: Thank you very much. Thank you for figuring out how to get past that one. Thank you very much.

(5) RSA 21-I:56, II, Reclassification of Positions or Increases:

CHAIRWOMAN WALLNER: And Tab 5. Tab 5 is Department of Health and Human Services. Any questions about this item?

\*\* REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Representative Eaton moves approval.

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: And Senator Larsen seconds. All in favor? Any discussion of the item? All in favor? Any opposed?

SEN. FORRESTER: No.

SEN. SANBORN: No.

CHAIRWOMAN WALLNER: Yes, two opposed. So the item passes. The item passes eight to two.

\*\*\* {MOTION ADOPTED}

JOINT LEGISLATIVE FISCAL COMMITTEE

July 25, 2014

**(6) RSA 162-H:21, III, Fund Established; Funding Plan:**

CHAIRWOMAN WALLNER: Now we'll move to Tab 6.

\*\* SEN. SANBORN: Move approval.

CHAIRWOMAN WALLNER: Which -- thank you. Okay. Senator Sanborn moves approval.

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Eaton seconds. Any discussion of this item? All in favor? Any opposed? Item passes.

\*\*\* {MOTION ADOPTED}

CHAIRWOMAN WALLNER: And I believe that is the end of the regular calendar.

**(7) Miscellaneous:****(8) Informational Materials:**

CHAIRWOMAN WALLNER: We do have a late item. I hope you all -- do you all have it in front of you? Representative Barry, did you get a copy of the late item?

REP. BARRY: Yes, ma'am. Thank you.

CHAIRWOMAN WALLNER: Great. So it's an item from Health and Human Services. I am going to ask the Commissioner to join us to -- to review the item with us. Thank you.

NICHOLAS TOUMPAS, Commissioner, Department of Health and Human Services: Good morning, Madam Chair. For the record, Nick Toumpas, Commissioner of Health and Human Services. The item that we have is a late item for request for two actions for State Plan Amendments; one having to do with adding a hearing aid benefit to the Alternative Benefit Package for the newly

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

eligible population under the New Hampshire Health Protection Program, and the second item is basically removing from the Alternative Benefit Package the payment for non-emergency use of emergency rooms. That issue came up in a discussion back in May and the Department committed to bring forward a State Plan Amendment for the Fiscal Committee's consideration before we submit anything to the Federal Government.

So, if I may, on the first item, which is on the hearing aid, we currently have a hearing aid benefit within the existing Medicaid Program. What this item seeks to do is to add that to the Alternative Benefit Plan for the, again, newly eligible population, the 19 to 64 years old. That cost of that is we have built that into the capitated rate for the -- for the program. If we were not to pass this we would need to go back and make an Amendment to pull those costs out of there. The cost to the existing Medicaid Program is roughly \$50,000 a year. So any -- before I get into the other one, let me see if we can deal with that piece of it first if there are any questions on that.

CHAIRWOMAN WALLNER: Any questions on that? Yes, Senator Sanborn.

SEN. SANBORN: Thank you, Madam Chair. Commissioner, thanks for coming in, I appreciate it, and thanks for explaining it. So as you and I know, we have got 46 essential service mandates today as mandated by the Department of Insurance in health care. And what I don't know is are all of the State's service mandates also service mandates on all of the services we provide the existing Medicaid population? I guess where my concern is, is I think about mandates and putting benefits into packages, that's the purview of the Legislature. And after we, obviously, approved Medicaid Expansion, then we -- then I see a dental benefit for pregnant women that kind of came in. That wasn't voted on. Now I see a hearing aid issue that wasn't voted on. And so I got this conflict, you know what I'm saying, that -- that if it's in there anyway, we shouldn't have to add it, and because we're adding it would imply to me that we need to look at all 46 mandates, and the Legislature should be

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

weighing in on this for it to come in like this. Just makes me nervous, Nick.

MR. TOUMPAS: There's two parts, I think, to what you're saying. One is for the current Medicaid benefit where the hearing aid benefit already exists that would have been approved by the Legislature. That's in our State Plan and has been for a number of years, I believe. So that's one piece of it. And the states have a fair amount of latitude in terms of adding additional benefits into the -- into the existing Medicaid Program. There's a series of mandatory services that are stipulated by the Federal Government to be -- to have a Medicaid Program. But then they also give states the ability to basically add optional -- additional optional services as well as additional populations that a state may want to serve. And, again, that -- that is different from state to state so there isn't any standard across the board.

There is a set of standard services that are required in the existing Medicaid Program. I don't have that list in front of me, but then it is at State option in terms if they want to add additional ones. So I'm not talking about the current Medicaid population. What I am talking about is for the newly eligible population and adding that to the Alternative Benefit Plan and adding that hearing aid -- hearing aid benefit into that.

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

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: Commissioner, thanks. I appreciate that. I guess that's the part that I have some level of uncomfort -- a discomfort with when you talk about the states have latitude to make additional benefits. Isn't that the purview what the Legislature should be doing and not the agency itself making decisions, because it's going to cost money? Granted, it's \$50,000, but taxpayer to pay for benefits, shouldn't the Legislature being the one weighing in on it?

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

MR. TOUMPAS: My understanding is that any changes that we need to do to the benefit package or the eligibility it requires the approval of the Fiscal Committee.

SEN. SANBORN: Okay. Thank you, sir.

CHAIRWOMAN WALLNER: Yes, Senator Morse.

SEN. MORSE: Thank you. Nick, I guess this all goes to process for me, because there's two parts to this document.

MR. TOUMPAS: Yes.

SEN. MORSE: We are talking about the hearing aid part now. I came up here yesterday and asked that we delay the question about the other part of it which brought us back to the hearing aid part of it. And I met with you this morning and the Finance Chair because I'm more concerned about the other part in some sense. But this is what's starting to drive me crazy about where we're headed right now. I mean, the hearing aid part you're basically saying in your statement that it's already in the rates. It's going to happen. And if we don't bless it, I'm not sure what happens. Yet, the part that I think is more important is that we control emergency room usage.

This document is useless right now to that end because of everything I read behind it. We are going to go to the Federal Government. We are going to ask them for something that they're going to come back and say we have to stand up another service seven days a week, 24 hours a day to let people come in. I'm -- I'm not comfortable with what's going on where at the last minute I'm making decisions and I wanted this to tighten up in the State of New Hampshire. I didn't want people walking into the emergency rooms. We gave you 60 days to get there. I got it Wednesday night. The hospitals are definitely saying they can't implement it under the law.

And then on the hearing aid part, it's already in the rates and it's going forward one way or another probably. This isn't a good way. We should be in on these discussions and they

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

shouldn't be coming to us like this. This is, in my opinion, this document needs to be tabled anyways, because it's not going to work. But the -- I just don't like what's going on.

MR. TOUMPAS: As far as the dollars that are in the cap rate, if this is not -- not acted on, then we would simply make a change to those rates. They would decrease the rates. Wouldn't be all that significant; but nevertheless, we would decrease the cap rates for the -- for the newly eligible population.

I can't speak to the -- to the other part of the process, Senator, in terms of we committed that we would get it within -- within 60 days. And, clearly, it's -- that was the 20 -- 22<sup>nd</sup> of May and now the 25<sup>th</sup> of July. But, again, if it is the -- if it is the desire of -- of the Committee to table this, I would have no objection to that.

CHAIRWOMAN WALLNER: Yes, Representative Benn.

REP. BENN: Commissioner, if we do table this, would it -- would you think that you might come back with a future proposal for the hearing aid inclusion?

MR. TOUMPAS: Well, the -- what we have is -- what we provided is a definition and as I spoke with the Senator and the Finance Chair, Senate Finance Chair earlier this morning, that we used language that was for describing what is non-emergency use of the emergency room and the criteria and so forth. And that was language that has been used by CMS and approved by CMS in other states. And so we worked with CMS in order to get that. What Senator -- Senator Morse was referring to was that, and it's not in the body of the letter, is that in our discussions with CMS, and there have been several other states that have attempted to implement this, only one has been able to implement it and that is State of Arkansas to my knowledge. I'll need to go back and look, and that's something that in the interim I can go back and take a look at that.

But the provision that Senator Morse is talking about is that CMS as part of any approval that they would do with this is

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

that they would require the emergency room of the hospitals to set up a 24 by 7 referral network. So if Nick Toumpas went into the emergency room thinking he was having a heart attack, and it turned out not to be -- not to be a heart attack, and they said it's indigestion or some other type of thing like that, they would need the ability to basically refer me to some other -- some other facility that would be able to deal with that outside of an emergency room environment.

The issue with that is that -- that is -- as Senator Morse rightly points out, it's a new service that needs to be put into place by the hospitals. And it's also an added responsibility on the Department of Health and Human Services in that we would need to monitor that.

CHAIRWOMAN WALLNER: Follow-up.

REP. BENN: If I could just follow-up?

CHAIRWOMAN WALLNER: Yes.

REP. BENN: I recognize the problems with the emergency room as Senator Morse, you know, expressed. But the question of the hearing aids that the fact that they're both in this proposal, and it could be separated, hearing aids strikes me as something that is more reasonable. I don't hear objections about it. It's been priced in. And the fact that it's a -- it's a benefit that exists for the existing population, probably fair to have it for the expanded population. So my question really is how could we get the hearing aids product moving ahead and would you submit a new proposal to CMS just for the hearing aids?

MR. TOUMPAS: Well, if one were approved and the other one were not, then we would go forward with the modified State Plan Amendment that would include the hearing aid but not the other one. If both of them were approved, I would move forward with. If both of them are not approved, then I won't move forward with either one. And with the hearing aid piece of it we would need to, as I indicated earlier, we would need to make modification to the actuarial tables to remove them.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

REP. BENN: So, Madam Chair, in that sense --

SEN. SANBORN: Follow-up question.

CHAIRWOMAN WALLNER: Representative Benn, I recognize Senator Sanborn.

REP. BENN: Okay. Thank you.

SEN. SANBORN: Thank you, sir, I appreciate it. Thank you so much. I appreciate it. For the record, I second Senator Morse's motion for tabling.

And, Nick, you mentioned the fact that you have some level of comfort with it. I understand you are in a real pickle here. You talked about the fact that the hospitals have been struggling with trying to find a way to cut down emergency room use and we talked about doing a small co-pay and the hospitals know that's financially not capable. But seems like the only alternative is the Feds are going to require 24/7 care, which is going to dramatically increase their costs on the other side and, ultimately, Uncompensated Care is going to be our cost, because we think that most of that population is not going to have the capacity. So kind of damned if we do and damned if we don't on that side.

MR. TOUMPAS: And if I may? Again, this population will be in the Managed Care Program. And so because we are paying a capitated rate to the two Managed Care Organizations, they bear the risk if there is an inappropriate and high utilization of the emergency room on an inappropriate basis by anybody within their particular plan. And so now that -- so they're -- so they -- we have reached out to them and say what do you do. They have -- they have programs. They have algorithms, capabilities that some of which we don't have that they're able to monitor and see how many times somebody's gone into an emergency room over -- over a certain period of time, and then what type of procedures, what type of things were done. And if that's inappropriate, and they're ended up having to pay that higher cost, they're going to take the action in terms of educating the

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

client and doing -- doing what they need to do in order to stop that type of a behavior.

So right now until at some point where -- where we do have a -- we as a state have a certain level of cost, obviously there's a cost to all of us because it's being funded by the Federal Government, which we pay for. But the -- but right now it would be the risk -- with or without this, the risk is borne by the Managed Care Organizations if somebody is inappropriately using the E.R.

SEN. SANBORN: So if I get -- sorry, Madam Chair. Follow-up -- quick one -- if I can get two things from you if this thing is successfully tabled at this point. One, if I could get or the Committee could get some sort of analysis, understanding the MCOs are paying for it and it's their financial risk, but there's a cost to the hospitals that are going to have to set up some sort of a 24/7 program, so it's like some sort of understanding of what that potential cost --

MR. TOUMPAS: What that cost is.

SEN. SANBORN: -- for the hospitals and potentially Uncompensated Care. The second part is on the hearing aid part. Again, I guess I'm kind of in between or betwixt here that on one hand you're suggesting it's already baked into the MCO rate and it's already funded, but you're here asking for approval to do it. I guess I'd like clarification on that and then some sort of a comparison of the other 46 service mandates and what the Medicaid Expansion population is or isn't getting that the State has in its mandates now. I guess anticipating what's the next thing you're going to come for, how many other mandates are there that you haven't asked for in that population so we have kind of a holistic picture of it. Thank you, sir.

CHAIRWOMAN WALLNER: I just want to be clear that I did not accept a motion from Senator Morse to table. If we had -- if we had a motion we wouldn't have been having discussion, so.

SEN. SANBORN: That's right. I apologize.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

CHAIRWOMAN WALLNER: Yes, I'm learning that. So, see, I would have -- I would have -- I wouldn't have allowed further discussion.

SEN. SANBORN: So I'll make the motion. I make a motion to table.

CHAIRWOMAN WALLNER: Right now I'm going to ask Representative Benn because he's had his hand up for a long time. Representative Benn.

REP. BENN: Thank you. What I want to know is the procedure. Do we have the capability of dividing this item and dealing with the emergency rooms and the hearing aids separately?

CHAIRWOMAN WALLNER: I believe we do have the ability to divide this. I'm looking over to the LBA to be sure that they agree so that it could be taken as two -- as two separate votes. So Senator Morse actually is next in line.

SEN. MORSE: Yeah, and just as a clarification of procedure. I -- the way we have always done it in the Senate is you have to announce you're tabling and not speak so I would have not spoken.

There's two things going on here, and I guess it's missing my whole point. One, I think LBA can clarify why this document is late. The request for hearing aids wasn't in the original document and they sent it back to get the document to show two requests.

Two, the -- if you read the letters in the back, other states are saving 10% on emergency room services which it was the whole intent of what we were trying to accomplish and we have done not a damn thing, not a damn thing and here we are in the middle of July with wasting my day here. That's what's bothering me. I'm not going to support either subject, because the -- it just doesn't make sense to me that it's already in the rates and go ahead and bless it, you know. It's like, sure, we'll add another position to the Department of Education when I

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

already said no once. No, this isn't how government should work and I do -- I would like to see the 10% savings. And if I have to go to Washington State to study it, fine. That's where we should have been -- what we should have been doing three weeks before this, if that's what the hospitals are suggesting. The -- there's a way to do it and we are not doing it. That's my whole point and I won't support anything but tabling the whole document, and I would hope that's what we do.

CHAIRWOMAN WALLNER: Representative Eaton.

\*\* REP. EATON: Madam Chair, I move to divide the question and to adopt Item 2.

CHAIRWOMAN WALLNER: Representative Eaton moves to divide the question and adopt the hearing aid. Are you talking about the hearing aid portion, the item before us?

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: Senator Larsen seconds. Further discussion? All in favor? I think we need a show of hands. All in favor? All opposed? Item fails.

\*\*\* {MOTION FAILS}

CHAIRWOMAN WALLNER: Do I see a further motion? Senator Sanborn.

\*\* SEN. SANBORN: Thank you, Madam Chair. I make a motion to table.

CHAIRWOMAN WALLNER: Senator Sanborn moves to table --

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: -- the entire item. And Senator Forrester seconds. All in favor? Any opposed?

CHAIRWOMAN WALLNER: The motion passes to table.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

\*\*\* {MOTION ADOPTED}

CHAIRWOMAN WALLNER: We have moved to table the entire item. Thank you.

Now we can move into -- we do have a number of items for Informational Items. And I would like to know if there are any of them that people would like more information about? Have someone come up and speak to them. Yes? No?

SEN. SANBORN: Yes, Madam Chair, number 118.

CHAIRWOMAN WALLNER: Number 118.

SEN. SANBORN: For Commissioner Hodgdon.

CHAIRWOMAN WALLNER: Thank you. Thank you. Hi.

JOSEPH BOUCHARD, Assistant Commissioner, Department of Administrative Services: Good morning. For the record, I'm Joe Bouchard, Assistant Commissioner for the Department of Administrative Services. And with me is Cassie Keane, the Director of the Risk Management Unit which manages our employee health insurance program.

CHAIRWOMAN WALLNER: Thank you. I think we have some questions about the State Employee Health Insurance Report. Senator Sanborn.

SEN. SANBORN: Thanks for coming in today and thank you so much for taking my question. I appreciate it.

Globally, back in January, we made a pretty structural change to employee benefit plan and how it operated. So I'm curious if you've done any analytics to see if it's saving taxpayers' money? Is it costing more, where utilization is? We know we are spending a lot of money in this line item and is it doing what you thought it would do?

MR. BOUCHARD: Cassie.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

CATHERINE KEANE, Manager, Risk Management Unit, Department of Administrative Services: I'm actually in the process right now of working with our medical benefits third-party administrator Anthem to do those analytics. We did have some implementation issues where I needed them to correct some systems programming and so that's why I'm here in this part of the year. I'm saying okay, now I need the data. But what my item does tell you is that we did reduce our working rates to take into account the savings that the program produced, and we are moving along according to expectations.

SEN. SANBORN: Thank you very much.

CHAIRWOMAN WALLNER: Thank you. Any further questions? Thank you very much for coming in. Thank you for including the item.

MS. KEANE: Thank you.

CHAIRWOMAN WALLNER: Any other items in the Informational Materials that people have questions about? Seeing none.

**Audits:**

CHAIRWOMAN WALLNER: Let's move into the audits. And I think we only have one audit today and it's an audit of the Department of Education, Chartered Public School Approval Process. Good morning. Thank you --

DR. STEPHEN FOX, Performance Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Good morning, Madam Chairman.

CHAIRWOMAN WALLNER: -- for joining us.

DR. FOX: For the record, my name is Stephen Fox. I'm the Performance Audit Supervisor for the LBA Audit Division. With me at the table is John Clinch who's the Senior Audit Manager on this audit. Also, Deputy Commissioner Paul Leather for the Department of Education, and the Department of Education

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

Internal Auditor, Caitlin Davis. With your permission, I'd like to turn over the presentation to John.

JOHN CLINCH, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Thank you. Can everyone hear me all right?

CHAIRWOMAN WALLNER: Yes, thank you.

MR. CLINCH: Good morning, Madam Chair, Members of the Committee. My name is John Clinch, I'm the Senior Audit Manager for the Office of Legislative Budget Assistant. I'm here this morning to present the results of our performance audit on Chartered Public School Approval Process administered by the Department of Education. Our objective was to determine whether the Chartered Public School Approval Process was efficient and effective.

Our Executive Summary is found on Page 1. We found the State Board of Education application approvals during the audit period were based on statutorily established criteria. Each chartered public school application approved during the audit period substantially complied with the required element stated in RSA 194-B, Section 3-a, and each application appeared complete when approved.

Our Recommendation Summary can be found on Page 3. Our report contains five Observations with Recommendations. The Department of Education concurred with all five Observations. Only one, Observation No. 4, may need legislative action. Our background begins on Page 5.

Chartered public schools are free public schools that operate autonomously from many regulations that apply to traditional public schools. Chartered public schools are managed by a Board of Trustees under a charter granted by the State Board of Education. The application and approval process is described on Page 6. A diagram of the process can be found in Figure 1 on Page 7.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

In Observation No. 1 on Page 11, we found there were no administrative rules governing the chartered public school approval process. The only rules governing the approval process were related to a pilot program which ended in 2011. We recommend the Department of Education update and adopt administrative rules.

In Observation No. 2 on Page 12, we found the Department of Education's website described a robust internal review process before the application is sent to the State Board of Education for its review; but this process differs from the review process described in administrative rules. We also found the rating system used to review applications strayed from statutory criteria by adding additional requirements than those appearing in statute without adopting the requirements in administrative rules. We recommend the Department of Education describe its complete review process in administrative rules.

In Observation No. 3 on Page 13, we found the Application Form used by the Department of Education was not consistent with administrative rules used at the time. We recommend the Department of Education redraft its application forms to be consistent with its updated administrative rules.

Observation No. 4 on Page 14 discusses the amount of time it took four chartered public school applications to receive approval. On average it found it took 462 days from the date of initial application to final approval by the State Board of Education. Approximately two-thirds of this time was the result of the moratorium on application approvals. Excluding the 302-day delay due to the moratorium, it took three applications approximately 206 days on average for an application to receive approval. A fourth application was ready for approval after 86 days. The Legislature may wish to consider establishing an explicit statutory timeline for the State Board of Education to approve or deny chartered public school applications.

We also recommend the Department of Education examine the efficiency of its review process to improve the timeliness of the process and recommend the Department work with proposed

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

chartered school applicants to ensure a quality application is initially filed.

Observation No. 5 on Page 15 concerns the appeals filed by chartered public school applicants following the State Board of Education's moratorium. We found four applicants filed written letters of appeal, but neither the State Board of Education nor the Department of Education took any steps to -- took any actions on the requests. We recommend the State Board of Education and the Department of Education adopt procedures to ensure appeals are managed in compliance with its approval process in statute.

Madam Chair, this concludes my prepared remarks. I'd like to thank the Department of Education for their assistance during the audit. I'd be happy to answer any questions.

CHAIRWOMAN WALLNER: Thank you. Do we have questions concerning the audit? Yes, Representative Barry.

REP. BARRY: Thank you. And thank you, Madam Chair. And concerning the review process itself, you indicated it's a very robust process. How is that compared with a review process for a regular public school?

MR. CLINCH: I'm afraid I didn't look at what the review process was for a regular public school so I can't compare that for you.

REP. BARRY: Thank you.

CHAIRWOMAN WALLNER: Thank you. Further questions? Yes, Representative Eaton.

REP. EATON: At the time of final motion, I would request that a copy of this report be given to each member of Division II and an additional five to the ad hoc members since we have an ongoing Chartered School Study Committee.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

**July 25, 2014**

CHAIRWOMAN WALLNER: Okay. Yes, we will be sure that -- we'll be sure that Division II and the ad hoc committee get copies of this report. Yes.

\*\* REP. EATON: I move the report be accepted, placed on file, and released in the usual manner.

CHAIRWOMAN WALLNER: Thank you, Representative Eaton. All in favor? Any opposed? Seeing none opposed, thank you, and thank you for your work.

DR. FOX: Thank you.

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

CHAIRWOMAN WALLNER: I think that's the end of our work for today. And Senator Forrester and I have talked about a date and we have put on September 26<sup>th</sup>. It's a Friday. And seeing -- does that seem to work for people? You have plenty of time to get it in your calendar. Great. Okay. So our next meeting will be September 26<sup>th</sup>, and I call this meeting adjourned. Thank you.

(Meeting adjourned at 10:54 a.m.)

CERTIFICATION

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

Cecelia A. Trask  
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