

**JOINT LEGISLATIVE FISCAL COMMITTEE**

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, August 25, 2017

**MEMBERS PRESENT:**

Rep. Neal Kurk, Chairman

Rep. Ken Weyler

Rep. Lynne Ober

Rep. Marjorie Smith (Alt.)

Rep. Dan Eaton

Sen. Gary Daniels

Sen. President Chuck Morse

Sen. Dan Feltes (Alt.)

Sen. Andy Sanborn

Sen. John Reagan

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

**(1) Acceptance of Minutes of the June 16, 2017 meeting and further acceptance of the corrected May 12, 2017 minutes (page #1 only, first paragraph)**

NEAL KURK, State Representative, Hillsborough County, District #02 and Chairman: Good morning, everyone. I'd like to welcome you to the August 25<sup>th</sup>, 2017, Fiscal Committee meeting. The first item on our agenda is the acceptance of the minutes of the June 7 -- June 16, 2017, meeting. Is there a motion?

GARY DANIELS, State Senator, Senate District #11: So move.

CHAIRMAN KURK: Moved by Senator Daniels, seconded by Representative Eaton that the minutes be accepted. 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 those meetings are accepted.

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

CHAIRMAN KURK: There's a second issue about correcting the May 12<sup>th</sup> minutes on, I believe, a date. Is there a motion to accept the corrected minutes of May 12<sup>th</sup>?

\*\* KEN WEYLER, State Representative, Rockingham County, District #13: So move.

CHAIRMAN KURK: Moved by Representative Weyler.

JOHN REAGAN, State Senator, Senate District #17: Second.

CHAIRMAN KURK: Seconded by Senator Reagan. 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 those minutes corrected are approved.

\*\*\* {MOTION ADOPTED}

(2) Old Business:

#### CONSENT CALENDAR

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

CHAIRMAN KURK: There being no Old Business under Tab 2, we'll turn to agenda item number three, Fiscal 17-143, a request from the Department of Health and Human Services for authorization to transfer 7.7 million for Fiscal 18 and 7.7 million for Fiscal 19, retroactive to July 1<sup>st</sup>, 2017, through June 30<sup>th</sup>, 2019. Is there a motion? Senator Feltes.

\*\* DAN FELTES, State Senator, Senate District #15: Move to approve.

CHAIRMAN KURK: Is there a second? Seconded by Representative Weyler. 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 item is approved.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN KURK: We now turn to Fiscal 17-121, request from the Department of Safety for authorization to transfer \$36,635 in Federal funds through April 6, 2018, and accept and expend \$106,788 in Federal funds through April 6, 2018.

\*\* DANIEL EATON, State Representative, Cheshire County, District #03: Move approval.

CHAIRMAN KURK: Representative Eaton moves approval, seconded by Senator Reagan. Discussion? There being none, are you ready for the question? All those --

SEN. DANIELS: Question.

CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Yes, I had a question whether these funds are supplanting funds or is it a supplement to?

REP. EATON: I believe they're --

CHAIRMAN KURK: Is there somebody from the Department of Safety who can respond to the Senator's question? Good morning.

STEVE LAVOIE, Director, Division of Administration Department of Safety: Good morning. Steve Lavoie, Director of Administration for the Department of Safety. These are Federal funds. One of the uses -- allowed uses of these funds is to help us replace firefighting equipment that is at end of life. And so these funds are able to be used in a replacement capacity where most Federal funds are not.

SEN. DANIELS: Follow-up.

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CHAIRMAN KURK: Follow-up.

SEN. DANIELS: So if we use these Federal funds that means the Department will have money that we've already appropriated for that purpose as extra money?

MR. LAVOIE: In this particular case, no, because we already had planned to utilize these funds for our replacements. So this particular item won't result in an increase in any available appropriations.

SEN. DANIELS: Okay. Thank you.

CHAIRMAN KURK: Does that mean you're going to be buying more equipment than you otherwise would have but for the grant?

MR. LAVOIE: We -- it means we would have -- it means we would have increased our budget request in the next biennium -- in the current biennium had this grant not existed. So these are equipment replacements that are needed regardless of whether we use State funds or Federal funds. In this particular case, which is rare for Federal funds, we are able to utilize them in this replacement capacity. And so we plan to do that and incorporated that into our budget request.

CHAIRMAN KURK: Could you help me understand that, Representative Eaton?

REP. EATON: I understood it completely, and I applaud him for anticipating in knowing how to phrase that back.

LYNNE OBER, State Representative, Hillsborough County, District #37: Yes, but that wasn't clear was the question.

REP. EATON: Try one more time, Steve.

MR. LAVOIE: So I believe the question that you're asking is will this result in a current year's biennium reduction in our expenditures related to this type of equipment purchase and the answer is no, it will not. We planned to spend the appropriated

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equipment amounts within our operating budget. The reason why is that we planned our budgetary request assuming that these Federal funds would be available. If these funds were unavailable, we would have requested an increase, an additional appropriation amount through the budget process for this biennium.

CHAIRMAN KURK: So these funds are not supplanting General Funds. They're in addition to General Funds.

MR. LAVOIE: Correct.

CHAIRMAN KURK: Thank you.

SEN. DANIELS: One follow-up.

CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: When you talk about end of life, can you define what that is? 'Cause I've heard it defined in terms of that the equipment is no longer useable. I've also heard people say, you know, we expect this to last 15 years and, therefore, this is end of life, but it may still be useable. I'm just kind of curious what category this fits into.

MR. LAVOIE: So end of life it's no longer useable. It cannot be maintained or repaired sufficiently to allow use. A good example would be for fire hoses. Fire hoses at the Police Academy (sic) are used far more often than they are at a Fire Department. When they have a burn day, they'll be using a single hose several times that day, whereas a department might use the hose several times within a month. So for the Fire Academy by its nature uses their equipment that might be firehouses typically could be rated for ten, 15 years, Fire Academy might go through a hose within two or three years. So it's really based on the nature of the equipment and when it's safe or no longer safe to be used.

SEN. DANIELS: Okay. Thank you.

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CHAIRMAN KURK: We have a motion on this?

REP. EATON: Yes, me.

CHAIRMAN KURK: Further 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 item is approved. Thank you, Mr. Lavoie.

MR. LAVOIE: Thank you.

\*\*\* {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:

CHAIRMAN KURK: We turn now to Tab 5, agenda item number five. This is a Consent Calendar item that includes many individual items. I've had a request to remove Fiscal 17-138 from this. Are there any other items that folks wish to remove?

REP. OBER: Mr. Chair, I'd like to remove 142, please.

CHAIRMAN KURK: 142. Senator Sanborn.

ANDY SANBORN, State Senator, Senate District #09: 113, 117, 125.

CHAIRMAN KURK: 113, 117, and 125. Anything else? Then I'd like a motion to approve under the Consent Calendar number five items 17-107, 122, 123, 124, 126, 127.

\*\* SEN. REAGAN: So move.

CHAIRMAN KURK: Moved by Senator Reagan, seconded by Representative Weyler. If you're in favor of that motion, please indicate now by saying aye? Opposed? The ayes have it and those items are approved.

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\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: We now turn to the items that were removed from the Consent Calendar under Tab (5). The first one is 17-113, a request from the Department of Environmental Services for authorization to retroactively amend Fiscal 17-009 by extending the end date from June 30<sup>th</sup>, 2017, to December 31<sup>st</sup>, 2018. Senator Sanborn, I believe you have some questions.

SEN. SANBORN: I have questions.

CHAIRMAN KURK: Is there somebody from the Department who can answer these questions? Good morning.

SUSAN CARLSON, Chief Operations Officer, Department of Environmental Services: Good morning, Mr. Chair, Members of the Committee. For the record, my name is Susan Carlson with the Department of Environmental Services.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Susan, thanks so much for coming, I really appreciate it. So my question is this happened 11 years ago. This has been when the water got diverted from a flood in Suncook.

MS. CARLSON: Yes.

SEN. SANBORN: And it seems like once a year or so we come in and see requests for a million here and a million there, seems like we are spending money on trying to fix a problem that happened almost 11 years ago. So my question is when is the end date and when are we going to actually be done spending money on this?

MS. CARLSON: I knew I should have brought the engineer with me.

SEN. SANBORN: Sorry.

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MS. CARLSON: As far as I can tell this should be our last project on this evulsion. This fixes the cutback of the river, this protects the Route 4 bridge in Suncook, and I think this is our last piece of the project. I would prefer if I could just consult with my engineer and then present that, a full answer to you.

SEN. SANBORN: That would be awesome if you could. Just have them give me a call, that be great.

MS. CARLSON: Okay.

SEN. SANBORN: Thank you so much, ma'am.

CHAIRMAN KURK: Did you wish us to hold this until you get your answer or are you ready to go forward?

SEN. SANBORN: I'm willing to go forward. This is a retroactive approval. I just guess if we are going to have conversation about it that I implore the Committee to start showing some discretion, taking a closer look to repair projects that last over 11 years.

CHAIRMAN KURK: Would you care to make a motion?

SEN. SANBORN: No.

CHAIRMAN KURK: Representative Eaton, to approve Fiscal 113, 17-113.

\*\* REP. EATON: Okay.

CHAIRMAN KURK: Is there a second?

SEN. REAGAN: Second.

CHAIRMAN KURK: Second by Senator Reagan. Discussion? There being none, are you ready for the question? All those in favor approving Fiscal 17-113, please now indicate by saying aye? Opposed? The ayes have it and the item is approved.

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\*\*\* {MOTION ADOPTED}

CHAIRMAN KURK: We turn now to Fiscal 17-117, a request from the Department of the Health and Human Services for authorization to accept and expend \$70,069,998 in Federal funds through June 30<sup>th</sup>, 2019. Senator Sanborn has a question. Is there somebody from the Department of Health and Human Services available to answer? Good morning.

SHERI ROCKBURN, Chief Financial Officer, Department of Health and Human Services: Good morning.

SEN. SANBORN: Mr. Chair, if you allow, I have a string of questions on this one.

CHAIRMAN KURK: Sure.

SEN. SANBORN: I won't take forever but thank you, sir. Sheri.

MS. ROCKBURN: Good morning.

SEN. SANBORN: Thanks for coming in. All right. So, Sheri, so I remember like three years ago when this has come before the Legislature on a policy basis twice. If it is what I think that it is, I'm asking for some help here. When this thing first came in was a piece of legislation to say that even though people are getting Medicaid services at home, schools are looking to duplicate services so people didn't have to bring stuff from home to school. It was on a very, very small universe, and I raised real concerns about it then but the policy still passed. And then a year later they came back and dramatically expanded the policy.

So it essentially looks to a very large degree that we've got all these Medicaid services the State is providing and now we are looking to the schools to essentially provide in many cases the same policies and my concern then was two-fold; one, that this is going to end up being \$100 million or two or \$300 million expenditure. And not only am I concerned that we

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are duplicating what the State is spending, but there seem to be relative indifference from the Legislature, because they looked at it as it's 50% Federal money and 50% local money. So as long as it didn't affect the State Budget, no one seemed to care a whole lot about it, and I did. I'm being honest about it.

So here we are finally the cow finally comes home and we're looking at a -- is this a \$35 million spend for the people of New Hampshire or a \$70 million spend, because you're only looking at 35 million in Federal money and not the 35 million, 50% match that all of our communities are now going to have to pay a second time.

MS. ROCKBURN: So on the -- on the 35 million, it's 35 million about that community level per year. So this request of 70 is 35 million for the -- each year of the biennium.

SEN. SANBORN: Right, but is that only -- but that's only the 50% Federal match, and then the towns need to put another 35 million a year.

MS. ROCKBURN: Correct. So there's 35 at the Federal level, 35 at the local level each year.

SEN. SANBORN: In our first year of this, this is the first biennium of this, this is going to be \$140 million in new spend this money.

MS. ROCKBURN: So this is not new. We've had this exact program for several years. This is not new for this biennium. The reason it's showing up in front of Fiscal is that we had requested this -- and the Chairman knows where I'm heading with this -- we had requested this as part of our budget. It has always been in our operating budget as a line item.

During the Committee of Conference this year, it was removed out of our operating budget and we were asked to come to Fiscal to put it back in for the program. So this is not new. This program has existed every -- if you look back in our, you know, last ten years this program has always been there.

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SEN. SANBORN: So my two follow-ups to that are, one, what's going on with the spend of the program I just talked about?

MS. ROCKBURN: Yeah.

SEN. SANBORN: 'Cause that was new money, not something we'd previously done. And, two, so we're looking at an additional \$140 million in our budget that just happened to come to Fiscal.

MS. ROCKBURN: That is correct. In terms of the program that you referred to, I'd have to do a little more digging on types of the services. My understanding is these services are for children in the school system that have an IEP Plan that's Medicaid related, and it involves community services, transportation to those services. My understanding is not -- this is not duplicative. But I can find out a little bit more of some examples of the types of services. I can look into that because that I'm not as familiar with.

SEN. SANBORN: My final question, Mr. Chair. If you could, Sheri, 'cause I distinctly remember I raised a bunch of grief about this these two years, because it was specifically for the same piece you're talking about. So I guess I need to understand it better. We've been doing this for years, I don't know why we came in with two separate pieces of legislation to do it again. That make sense?

MS. ROCKBURN: Yes. I can look into that.

SEN. SANBORN: Thanks, Sheri, I appreciate it. Thank you, Mr. Chairman.

CHAIRMAN KURK: Representative Weyler and then Senator Morse.

REP. WEYLER: Thank you, Mr. Chairman. Thank you, Miss Rockburn. Referring to the -- what we used to call catastrophic aid, a school comes in for a specific student and say we spend X number of dollars, whether it's 3½ X or 10 X, it goes to that

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program. Are they also counting the Medicaid to Schools funds they expend, and have we ever been able to isolate that? So some of the money they're claiming to have spent on the child actually the State has spent so double dipping.

MS. ROCKBURN: To be honest, Representative, I'm not sure on the types of services or how the calculation works on a catastrophic aid. I have to really refer to someone at the Department of Education on that.

REP. WEYLER: I hope you can find an answer.

MS. ROCKBURN: Yeah, I can look into it. I'm not as familiar with that. I can look at that.

CHAIRMAN KURK: Senator Morse.

CHUCK MORSE, State Senator, Senate District #22, and Senate President: Yeah, I just want to make it clear. I believe two hundred nineteen or twenty million dollars that didn't go into the budget starting at the House phase, going through the Senate phase, it wasn't at the Committee of Conference and there was -- this is 70 million. That's the start of it. I believe there's another one in this document of Federal money that's not in the budget. And why the Department's coming in with all of it right now I'm not sure. But, I mean, reality is don't be surprised. This is all coming back. It's money that this -- we knew this was going to be spent. We had this discussion during the budget phase.

CHAIRMAN KURK: Would anyone care to make a motion?

\*\* SEN. FELTES: Move to approve.

CHAIRMAN KURK: Senator Feltes moves to approve. Is there a second?

SEN. REAGAN: Second.

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CHAIRMAN KURK: Second by Senator Reagan. Discussion?  
Further discussion?

SEN. DANIELS: Just one question.

CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Sheri, if I understand correctly in looking at the explanation, under New Hampshire Law public schools are required to provide medical services. So if we did not approve this would that whole amount be on the communities?

MS. ROCKBURN: It would, because this is the only vehicle to be able to get the Federal match by going through the State Medicaid Office. So the school systems would not be able to directly bill the Federal Government for the match. So this is why this program is a pass-through from our Department to claim the Federal funds to be able to pass through 50% of that to the school system.

SEN. DANIELS: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. DANIELS: Just for clarification though, if we didn't get the match, the towns would still be responsible for carrying on the program.

MS. ROCKBURN: I believe so.

CHAIRMAN KURK: Further discussion? Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Mr. Chair, I'm going to try to say this without being disingenuous to any of the members who sit on this Committee; but, obviously, I'm a guy that really believes in transparency. And the fact that we pulled \$200 million out of our budget number only to approve it two months later, I guess the discussion I want to have is what can we do to prove to the people of New Hampshire that the budget is a real number, going forward when we make a new budget next year

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that we're going to include everything and try and truly be transparent? And other than 220 million, what else is coming? What's the real number?

CHAIRMAN KURK: Further discussion?

REP. EATON: That's a good answer.

CHAIRMAN KURK: 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: We turn now to --

SEN. DANIELS: Could I make one request of the Department?

MS. ROCKBURN: Sure.

SEN. DANIELS: Could you provide documentation to show the effectiveness of this program? Thank you.

CHAIRMAN KURK: We turn now to Fiscal 17-124, request from the Department -- sorry, 125. 124 has already been approved. 125, a request from the Department of Natural and Cultural Resources for authorization to retroactively extend the end date from June 30, '17 to June 30<sup>th</sup>, 2018, with no increase in funding for the acquisition of conservation easements originally approved on February 17, 2017. Senator Sanborn, you had a question?

SEN. SANBORN: I do, please.

CHAIRMAN KURK: Is there somebody from the Department who's in a position to answer a question? Good morning, gentlemen.

CHRISTOPER MARINO, Business Administrator, Department of Natural and Cultural Resources: Good morning.

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BRAD SIMPKINS, Director, Division of Forests and Lands, Department of Natural and Cultural Resources: Good morning, Mr. Chairman, Members of the Committee. For the record, my name is Brad Simpkins, Director of Division of Forests and Lands within the Department of Natural and Cultural Resources, and this is Chris Marino, the Department's Business Administrator.

CHAIRMAN KURK: Welcome, gentlemen. Senator Sanborn has a question.

SEN. SANBORN: Thank you, Mr. Chair. Thank you, Brad, thank you for coming in. Thanks for coming in, guys. You know that Ride the Wild Program is something that's very important to me in the North Country, and I believe very important to the North Country in general. With the acquisition of this easement for 23,000 acres, I didn't see anything in there relative to whether or not it's also going to be opened up for ATV use for Ride the Wild or not?

MR. SIMPKINS: Yes, in our easements that's left up to the landowner decision; and currently there are ATV trails on the larger of the parcels, the 16,000-acre, 15,000-acre parcel that is part of Ride the Wild and that would certainly be allowed under this easement.

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

MR. SIMPKINS: Thank you.

CHAIRMAN KURK: May I have -- Senator Daniels.

SEN. DANIELS: Just a question. Is this customary that we pay this kind of amount of money for easements? I know we have other land that people offer their land and allow the easement to go through and we are not spending billions of dollars doing that?

MR. SIMPKINS: Well, it varies depending that we do get an appraisal and it's up to this amount, it wouldn't be over. It may come in slightly less, but that's actually one of the things

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we are waiting on is a final appraisal. It is almost 24,000 acres and the State is purchasing -- it's going to stay in private ownership, but the State is purchasing the development rights, as well as the public access rights. So it's the fair market value of those -- of those rights on this property. It is a sizeable chunk, 24,000 acres.

SEN. SANBORN: \$240 an acre.

CHAIRMAN KURK: Is there a motion?

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

CHAIRMAN KURK: Representative Ober moves that we approve Fiscal 17-125. Is there a second?

REP. WEYLER: Second.

CHAIRMAN KURK: Second by Representative Weyler. Further discussion?

SEN. SANBORN: The only discussion, Mr. Chair, the \$240 an acre, Senator, if we tap that as a purchase for the State of New Hampshire I think you'd find that on the low end. Don't get me wrong, I always waffle when I see us spend money just for the right of development rights of something we will never, ever develop so there's a little shell going on there. But for \$240 an acre, it's not a lot of money.

CHAIRMAN KURK: Thank you, Senator. Further discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

SEN. DANIELS: No.

CHAIRMAN KURK: Show of hands, please. All those in favor? All those opposed?

(Senators Daniels and Sanborn were opposed.)

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CHAIRMAN KURK: Senator Morse, was your hand up?

SEN. PRESIDENT MORSE: I was in favor.

CHAIRMAN KURK: In favor. The vote is 8 to 2 and the item is approved. Thank you, gentlemen.

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

CHAIRMAN KURK: Fiscal 17-138, a request from the Department of Health and Human Services for authorization to retroactively accept and expend \$178,865 in Other Funds from July 3<sup>rd</sup>, 2017, through June 30<sup>th</sup>, 2018. Is there somebody from Health and Human Services who's in a position to answer questions about this program at the Sununu Center?

REP. OBER: Sheri wins the lottery.

CHAIRMAN KURK: The Director is not here?

MS. ROCKBURN: No, the Director is not here. I will try my best to answer the questions on the program.

CHAIRMAN KURK: Thank you. I appreciate that. Representative Smith, I believe you had some questions.

MARJORIE SMITH, State Representative, Strafford County, District #06: Yes, I did, Mr. Chairman. Thank you. I've tried to read through this material. Actually, I went through it twice and I'm a little confused, because it appears to me, I know it's retroactive, I understand that, asking for money for a program for the summer, which we all sadly acknowledge is about over, but when I looked at it, I saw that there were three years covered here in the history of this program. And from what I could discern, and I might be completely wrong, it appears that -- that the money hasn't been spent last year or the year before. And there's no indication if there was any program this year understanding that this would have funded it retroactively. So I need to know a little bit about --

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MS. ROCKBURN: Sure.

REP. SMITH: -- whether what we are doing here is building a kitty for some as yet identified expenditure or if, in fact, there have been programs carried out?

MS. ROCKBURN: Sure.

REP. SMITH: And we have been able to demonstrate the effects of those programs.

MS. ROCKBURN: Sure. Let me start with the current year. So this current summer that as you said is almost over, this program has been running each year for the last several years. What this program does is that the traditional teachers at SYSC generally work the school year. And then we contract out for additional teachers for a specialized summer school program, because those students, you know, or the clients at Sununu aren't in a traditional school program during the summertime. So this is to bring that summer program so that the kids there are in an educational environment during the months of July and August up until mid-September when the program for a traditional school starts again. So I do know the program isn't a new program. It is something that has run there.

In terms of this summer, we did not -- and usually it's funded from a grant from the Department of Education. We hadn't received back the approval of the grant for this summer, and it was not put in as an estimate in the budget process primarily because there was significant law changes that were being debated last session regarding the Sununu Youth Center. So we weren't sure how the facility was going to be operating come July 1 and so we were waiting to see how the legislation worked out.

We did at the very end of I want to say -- look at the date on this -- July 1<sup>st</sup> received the award from Department of Education to allow us to use funding from their grant to run the program. If we hadn't received that, it would have been 100% General Funds that would have paid for it. And it pays for

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supplies, it pays for actual salaries for teachers, it pays for any materials related to the programs, going into the community for any events so it does pay for that.

We had put in an estimated budget for \$112,000 for this summer of which DOE gave us a grant for 108. I don't have the exact spend as of today, but I can easily get that for you to see what we spent on the program for July and August to see how close it was to the 108 grant for just this year.

In terms of prior years, I think that the last year we had about a 74, almost \$75,000 grant from the Department of Education. And, once again, that came towards the end. So we have been playing a little catchup so it does look like we've had money left over each of the last few summers. So that definitely is apparent there that we have had carried forward. We can't spend it without DOE approval. So even though, you know, we received some extra funding, we would still ask them for approval before we spent it. So that's, you know, I guess I have to go back and look three years ago to see what happened with the program, why we had such a significant under spend. I don't know why that occurred. I do know that is valid that we had excess money in the last few years.

CHAIRMAN KURK: Follow-up.

REP. SMITH: I look at -- I think it's a little hard because all these pages aren't numbered. But -- and these questions I think do not apply to the Department of Education. I do see that the Commissioner is here but for the Department of Education. But the Department of Education is charged with providing the funds to the Sununu Center or to the Department that go to the Sununu Center. So the Department of Education seems to have done what it was supposed to have done. But I look at the page that says award ending 8/31/16 for the period from July 1, '15 to 8/31/16 which appears to me to take in two summers, and that award was 74,555 for two summers.

MS. ROCKBURN: Hm-hum.

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REP. SMITH: And your Department spent 4,336 of that, carrying over \$70,219 of a \$74,000 grant. Then the next award, which is for two summers again, which I don't understand, because that means according to this for the summer of '16 you were covered both for that first award and for the second and covered -- covering this one that's not quite expired, an additional \$108,000 for an available balance of 178,865, that should have taken you through until next Thursday. And I see no evidence here in any place of what, in fact, services was delivered, what your expenditures were, how did they conform with what you were supposed to be doing in terms of having appropriate educational resources available to the children who were in Sununu. So I'm kind of at a loss here. And I don't want to put you on the spot. I know that this isn't your direct responsibility. But I don't quite see how the Department of Education should be expected to keep -- continue to give the Department money -- hum -- to Sununu which isn't spent. And I don't know what happens to that money at the end. Does it go back to Education? Does it go back to the Feds?

Mr. Chair, would it be in order to ask that we table this until -- if the majority of the Committee agrees that there's some question, until we can get some accurate answers from those people directly charged with carrying out these programs? And, obviously, if the majority doesn't agree, I would -- I would respect the majority's view.

CHAIRMAN KURK: Miss Rockburn, if this were not approved today but held over to the next meeting, does that create complications?

MS. ROCKBURN: If it was held over to the next meeting and ultimately approved at that next meeting then no, we could live with that.

\*\* REP. EATON: Move to table.

REP. OBER: Second.

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CHAIRMAN KURK: Motion to table has been made by Representative Eaton, seconded by Representative Ober. If you're in favor of that motion, please now indicate by saying aye? Opposed? The ayes have it and the item is tabled. Thank you.

MS. ROCKBURN: Sure.

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

CHAIRMAN KURK: You understand the information that Representative Smith --

MS. ROCKBURN: Yes, I feel I can adequately address those.

CHAIRMAN KURK: Thank you. Moving on to agenda item number six, Fiscal 17 --

REP. OBER: No, we took 142 off the Consent.

CHAIRMAN KURK: I apologize. 142, the Adjutant General Department requests authorization -- this is Fiscal 17-142. The Adjutant General Department requests authorization to accept and expend \$839,412 in Federal funds through September 30<sup>th</sup>, 2017. Is there somebody from the Department who can answer questions?

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober. Good morning, sir.

MAJOR GENERAL WILLIAM REDDEL, The Adjutant General, Adjutant General Department: Good morning. I hope I can maybe answer those questions but we'll see.

CHAIRMAN KURK: Could you identify yourselves for the record?

MAJOR GENERAL REDDEL: Yes, sir. I'm Major General Bill Reddel, the Adjutant General for the State of New Hampshire.

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STEPHANIE MILENDER, Administrator, Adjutant General  
Department: Stephanie Milender, Administrator for the Adjutant  
General's Department.

CHAIRMAN KURK: Thank you. Good morning to both of you.  
Representative Ober.

REP. OBER: Thank you, Mr. Chairman. I removed this item so  
that the Committee could say thank you for your service and  
we'll miss you.

MAJOR GENERAL REDDEL: Thank you, ma'am.

\*\* REP. OBER: And I move to approve.

SEN. REAGAN: Second.

CHAIRMAN KURK: Discussion? Senator Daniels.

SEN. DANIELS: Thank you. Just a question as to why this  
didn't show up in the Capital Budget?

MAJOR GENERAL REDDEL: So, sir, this is end of year funding  
from the Federal Government. Towards the end of the year we go  
out with our hands extended saying, hey, are there any monies  
you would like to float to the State of New Hampshire. And this  
came up and so that's why we get caught in this all the time  
from between the State Budget and the Federal Budget. And that's  
why, also, the date is only until the 30<sup>th</sup> of September of this  
year.

SEN. DANIELS: So that's to say the Federal Government had  
left over money?

MAJOR GENERAL REDDEL: Yes, sir. Typically, what happens is  
when they put out projects there are some people that are not  
able to get through their projects or actually back out of their  
projects. So they're looking for a place to put the money so  
that they don't have to go back just like we don't like to go  
back here.

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REP KURK: As opposed having it go back to reduce the Federal deficit?

MAJOR GENERAL REDDEL: Well, sir, you know, everybody is graded on how well they do with their budget.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: I was going to suggest don't have extra money, they're just printing extra money. But, Major General, this is your last time in front of our Committee?

MAJOR GENERAL REDDEL: I believe so, sir.

SEN. SANBORN: Again, on behalf of Committee and Representative Ober, you've just been truly a pleasure to deal with all this time, and we are truly going to miss you.

MAJOR GENERAL REDDEL: Thank you, sir. Thank you, ma'am.

(A standing ovation was given.)

\*\* REP. OBER: Mr. Chairman, I move to approve.

CHAIRMAN KURK: Representative Ober moves to approve and I believe Senator Reagan second. Is there any further 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 item is approved.

\*\*\* {MOTION ADOPTED}

(6) RSA 124:15 Positions Authorized:

CHAIRMAN KURK: Now we turn to agenda item number six, Fiscal 17-118, request from the Department of Corrections for authorization to retroactively extend one temporary part-time Victim/Witness Specialist position for the period of July 1<sup>st</sup>, '17 through June 30<sup>th</sup>, '18. Is there a motion?

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SEN. SANBORN: I apologize, we at 118?

\*\* CHAIRMAN KURK: 118. Is there a motion to approve? So moved by Representative Kurk. Is there a second? By Representative Weyler. Is there a 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 item is approved.

\*\*\* {MOTION ADOPTED}

(7) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from Any Non-State Source and RSA 124:15 Positions Authorized:

CHAIRMAN KURK: Agenda item number seven is another Consent Calendar item. Representative Ober wishes to remove Item 114.

REP. WEYLER: Said no.

CHAIRMAN KURK: Changed your mind?

REP. OBER: Mr. Chairman, I think I was pretty clear with you that although I had questions, if I was the only one I did not think that this was worth discussion. So other House conferees did not seem to have questions.

SEN. SANBORN: I have. Mr. Chair, I take off 114, 129, ironically 140.

REP. OBER: If Senator Sanborn is going to remove both 140 and 114, I would suggest we discuss them together as they seem to be intermingled.

SEN. SANBORN: They seem to be. Part of my questions.

CHAIRMAN KURK: Is there any other item that anyone wishes to remove? So 114. What was --

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SEN. DANIELS: 141.

CHAIRMAN KURK: One -- what was your other one, Senator Sanborn?

SEN. SANBORN: So 114, 129.

CHAIRMAN KURK: Yep.

SEN. SANBORN: 140.

CHAIRMAN KURK: And Senator Daniels?

SEN. DANIELS: And 141.

CHAIRMAN KURK: We have decimated this item.

REP. OBER: So we have two left, 130 and 128 still on.

CHAIRMAN KURK: Yes. I'd like a motion to approve items --

\*\* REP. EATON: Move.

CHAIRMAN KURK: 117 -- sorry -- 17-129 and --

REP. OBER: No, that was removed.

REP. EATON: 128 and --

CHAIRMAN KURK: Sorry, 128 and 130.

\*\* REP. EATON: Move.

SEN. REAGAN: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Senator Reagan. And this covers 128 and 130. Discussion? There being none, are 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 item -- the ayes have it and the items are approved.

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

CHAIRMAN KURK: We now turn to those four items removed from the Consent Calendar under Tab (7). First one is Fiscal 17-114, a request from the Department of Insurance for authorization to accept and expend five hundred thirty-six thousand --

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: I will in a minute -- 561 in Federal funds through October 30<sup>th</sup>, '18, and establish a Class 046 consultant position to enter into contracts for consulting services with various vendors through October 30<sup>th</sup>, 2018. At the same time, at the request of Representative Ober, we will be discussing Fiscal 140, a request from the Insurance Department for authorization to retroactively amend the Fiscal Committee item and extend the end date with no increase in funding and extend the end date for a particular position through October 30<sup>th</sup>, 2018. You're discussing both of those items.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I know we usually go in the order that the agenda is printed, but I believe that LBA numbers the items based on when they receive them. And I think 17-140 actually precedes slightly 17-114, although they are related. And I would suggest that we work in reverse order if that would be okay for those two items. At least, that's the way I read those. Perhaps Mr. Kane can say if that is correct or not.

MICHAEL KANE, Legislative Budget Assistant, Office of Legislative Budget Assistant: That is correct.

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CHAIRMAN KURK: We will be taking motions on these items separately later on; but for discussion purposes, they're both on the table. You can discuss them separately in any order you wish or you can discuss them together. Is there somebody from the Department of Insurance who can answer questions? Good morning gentlemen.

ALEX FELDVEBEL, Deputy Commissioner, Department of Insurance: Good morning, Mr. Chairman, Members of the Committee. My name is Alex Feldvebel. I'm the Deputy Commissioner at the Insurance Department, and with me is Al Couture. He's our Health Reform Coordinator and has done a fair amount of work on the projects being funded under this Federal grant.

CHAIRMAN KURK: Senator Sanborn, did you wish to begin?

SEN. SANBORN: Thank you, Mr. Chair. Alex, thanks for coming in. Guys, I appreciate it. You're probably anticipating a lot of my questions because you know how I think. I'm trying to understand that in the first case it is the role and obligation of the Department of Insurance for a plan compliance, something you guys have done for a hundred years, something you do every single year, even though, obviously, we know the dates have changed.

So I don't fully understand why you're asking for more money to do the same thing you've always done. And that kind of piggy-backs on the concept that if I remember correctly, about a year ago, Mr. Chair, we had a big review of all the insurance plans, and there was a fair amount of angst about it. And you came back and said the plans, by and large, were performing like you would want them to do.

MR. FELDVEBEL: Hm-hum.

SEN. SANBORN: So this implies to me that something that we either -- a different circumstance we're now capitalizing on it. So help me understand. This is what you always do. The review came back and showed that the insurance carriers were not performing like some were concerned that they were. And it

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should be status quo life as order. Now I see all this stuff coming in. What's changed?

MR. FELDVEBEL: Sure, that's a great question. A lot of this grant -- this is a Federal grant for about a million dollars that is focused on health insurance, consumer enforcement, and consumer protection, particularly under the Mental Health Care and Addiction Equity Act of 2008. So even before this grant became available, the Insurance Department under its response to the opioid epidemic was taking a look at the adequacy of coverage for SUD -- Substance Use Disorder services under health insurance policies in the state, and looking at it for compliance with the Federal parity requirements.

So we did Phase 1 of that Market Conduct Review of the major health carriers in the state and that's what you're referring to. And the usual funding mechanism for our market conduct exams is that we bill the carriers for the cost. We did find in that review of coverage for SUD that the carriers did what I would say is fairly well, particularly compared to other states or the way other states were performing maybe a few years back, because we conferred with other states to sort of compare the results.

There were a number of significant problems identified, mostly around the adequacy of the mental health or SUD provider networks, and the accessibility of those providers, and then we had some concerns around parity in terms of reimbursement for those SUD providers versus the equivalent skill level providers under medical/surgical side health care.

So all along -- well, midway through that exam, we had planned a Phase 2 where we would look more deeply, particularly using our all-payer claims database to dig deeper on these reimbursement issues and on the network issues, and to look more broadly at mental health parity in general and not just SUD.

When this grant became available, we saw the opportunity to do these exams without having to charge the carriers and impose

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that additional cost on, you know, the premiums. Ultimately, that cost shows up in premiums when we do a market conduct exam and charge the carriers for it. So we're hoping under Phase 2 with this grant funding to be able to do that work without charging the carriers.

SEN. SANBORN: May I?

CHAIRMAN KURK: Further question.

SEN. SANBORN: Thank you. Alex, thanks for the explanation, I appreciate it; and I'm trying to limit my questions because you're throwing so many questions at me, I think --

MR. FELDVEBEL: Too much information?

SEN. SANBORN: No, what you're saying is making me ask too many questions. Are you suggesting in your statements that part of this exam, because you keep talking about parity --

MR. FELDVEBEL: Hm-hum.

SEN. SANBORN: -- is that Department of Insurance is going to begin to enforce parity of all insurance claims and get away from the free market of their -- traditionally, insurance carrier comes in with a plan and you guys would approve it or not approve it based upon current law and what our requirements are for mandate coverages. But what I'm hearing you say is you're doing the review to ensure there's parity of all plans --

MR. FELDVEBEL: No.

SEN. SANBORN: -- I question is the role of the Department of Insurance.

MR. FELDVEBEL: No, no. I should have explained. I assumed familiarity with the concept of parity as it is laid out in the Mental Health Parity and Addiction Equity Act. What it means is simply health care is required to cover mental health and SUD services at the same level as they do medical and surgical

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services. So there are basically two categories of parity. One is the quantitative and those requirements specify that carriers have to charge the same co-pays for mental health as they do for medical/surgical. And then the other major category is what you call non-quantitative treatment limitations. And, again, those have to be the same. There has to be parity or fairness or equality in terms of how the carriers cover mental health services and how they cover medical/surgical services. So that's the only notion of parity that we're talking about.

SEN. SANBORN: So I apologize. I thought you were talking about parity in plan construct, not capacity. That's why you threw me for a loop.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I'm not sure why we didn't get all of these things in the budget item. And when you came to Division I, part of what we were told is that the Governor had asked you to stay within a 5% increase of your budget. You had done that, but you had to make some cuts. I don't think -- and then we did have the Budget Director in to converse with him because you left us with a plethora of other items you'd like to add back.

MR. FELDVEBEL: Hm-hum.

REP. OBER: I don't recall any conversation to then start bringing back all the things the Governor had cut or asked you to cut that you cut before you presented your budget to us back into the budget one at a time through Fiscal. So I was a little concerned when I read 114. When I got to 140 and it looked like it was actually a predecessor to 114 and married together, then I spoke to Mr. Kane. He said, well, that's how they came in to us. So that's how they got numbered. All right, I understand that. But I'm not sure why we are now seeing this and how much more we're going to see that was originally what the Governor had requested be cut from your budget in order to comply with the 5% increase that other agencies lived with.

MR. FELDVEBEL: Actually, this grant came in after our Governor's Budget was submitted. So it couldn't have been in the Governor's Budget. And that's why we started making inquiries after we knew we had this grant as to how it should come in our budget, and then we were advised by both of the legislative budget committees to bring it into Fiscal rather than make it a part of the budget that was being considered.

REP. OBER: Hum --

CHAIRMAN KURK: Representative Ober.

REP. OBER: I'd just like to bicker with that. We did not have that discussion in Division I.

MR. FELDVEBEL: Okay.

REP. OBER: We did not advise you in Division I to bring it back.

MR. FELDVEBEL: Yeah.

REP. OBER: We tried to put forward everything we knew. Senator Sanborn has already -- I know you've been sitting in the audience -- mentioned to us this morning about transparency in the budget, what's the real budget figure. We had tried to do that with what we passed out of Division I. I believe the other two House Finance Divisions did that as well, knowing the two chairs of them and knowing our own overall Chair in House Finance. I didn't get to every Senate Finance Committee hearing, but I also know how hard and diligently they were working. And I do know things change between the time it left the House and got to the Senate. So I knew there would be some differences that they would deal with that we hadn't dealt with. So we really didn't have that conversation.

MR. FELDVEBEL: Yeah, yeah, now you're --

REP. OBER: Get your budget through is what you needed. So that's why I was very confused by this.

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CHAIRMAN KURK: Mr. Feldvebel, can you explain the relationship between the two requests, 114 and 140?

MR. FELDVEBEL: Sure. The first one is when we got this grant back in.

CHAIRMAN KURK: First one is which?

MR. FELDVEBEL: Well, first one in my mind of -- yeah, the second item.

REP. OBER: 140.

MR. FELDVEBEL: Yeah, 140 has to do with that portion of it that was already let in by Fiscal on January -- January or February 21<sup>st</sup> of this year. In that request we only asked for through the end of 2017 Fiscal Year, and it wasn't all spent. So we are asking for an extension in that time period so it can basically rollover those funds into 2018.

CHAIRMAN KURK: Doing the same work?

MR. FELDVEBEL: Same grant, yeah.

CHAIRMAN KURK: And 114?

MR. FELDVEBEL: That's the portion that we anticipated from the beginning of when we got the grant that we knew we'd be spending in 2018.

CHAIRMAN KURK: Do you still believe that you're going to be able to spend that if both of these are approved?

MR. FELDVEBEL: Yes.

CHAIRMAN KURK: Without asking for further extension?

AL COUTURE, Health Reform Coordinator, Department of Insurance: We believe so. We have two contracts that have been

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approved just this past Wednesday for a total of about \$300,000. So we feel that we'll have plenty of time to spend the money. Again, if things change, we'll reconsider.

CHAIRMAN KURK: And a further question. Assuming this money is spent, what will the result be and how will it affect people in New Hampshire.

MR. FELDVEBEL: Yeah, yeah.

CHAIRMAN KURK: In other words, we just studying or we going to accomplish something?

MR. FELDVEBEL: When we find issues in a market conduct exam, we require corrective action and that's where we accomplish something for consumers. So, for example, we might accomplish a change in practices by the health care so that their provider directories are actually useable by consumers when it comes to looking for SUD treatment providers. So that's one example. The majority -- as I mentioned, the majority of this grant is going to these market conduct exams. So where the result we'll get there is better practices on the part of health carriers for health insurance to consumers.

The other portion is going to help us develop tools that will facilitate for our forms review to determine compliance with the requirements of parity and to do it more efficiently. So, eventually, if these tools are successful, we share them with carriers and the whole process of filing and review of forms becomes more expeditious. So those are the kinds of benefits that we'd expect to achieve with this grant.

CHAIRMAN KURK: Final question. Could you tell us what the hourly wage is that you're paying these consultants?

MR. FELDVEBEL: It varies depending on their expertise. Usually it's around 100 -- between 100 and \$150 an hour.

MR. COUTURE: And in some cases higher.

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CHAIRMAN KURK: \$150 an hour is 300,000 a year.

MR. FELDVEBEL: That's not how consulting works.

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

SEN. DANIELS: Thank you. What is broken with our current system?

MR. FELDVEBEL: I think our current system is -- in terms of services for mental health?

SEN. DANIELS: In terms of, I guess, requirements, I mean, are we looking at being fined because we're not doing something right or because our process is deficient?

MR. FELDVEBEL: Okay. Here we're talking about the adequacy of coverage for mental health and addiction services. And, typically, under these market conduct exams, the result focuses more on the corrective action plan than it does on a fine. Because we have found through the years on, you know, working and developing our market conduct approach that the most effective thing for the consumer is to focus on the corrective action and fines are only appropriate if you found a problem, asked for a corrective action, and then you come back a few years later and you find the exact same problem. That's more the circumstance where we end up using a fine as an enforcement tool.

SEN. DANIELS: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. DANIELS: So are you saying we don't have effective measurement tools to tell if we are being successful or not?

MR. FELDVEBEL: In mental health parity, New Hampshire just finished actually participating in a national parity academy, and we're finding that the tools -- because the law was only put

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in place in its current form in 2008 and only went into effect in 2015, the tools are being developed and New Hampshire's actually in the forefront because of the work we have done with our Phase I exam in the development of effective tools for monitoring compliance.

CHAIRMAN KURK: We have other -- is there further discussion on either 114 or 140? There being none, the Chair recognizes Senator Feltes for a motion.

\*\* SEN. FELTES: Thank you, Mr. Chairman. I'll move 114 and 140 for approval.

CHAIRMAN KURK: The motion is to approve items 114 and 140. Is there a second? Seconded by Representative Weyler. The question is divisible if Representative Ober or somebody else wants to do so. But if that's not the case, then we are voting on two items. Any further discussion? There being none, are you ready for the question? If you're in favor of approving 114 and 140, please now indicate by saying aye? Opposed?

SEN. SANBORN: Opposed.

REP. OBER: I'm opposed.

SEN. SANBORN: Roll call.

CHAIRMAN KURK: Roll call or show of hands?

SEN. SANBORN: Show of hands.

CHAIRMAN KURK: Show of hands. If you're in favor of approving these, please raise your hand. One, two, three, four, five. If you're opposed? One, two, three, four, five. We have a tie.

\*\* REP. EATON: Move to table.

SEN. SANBORN: Second.

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CHAIRMAN KURK: The motion is to table made by Representative Eaton, seconded by Senator Sanborn. If you're in favor of that motion, please now indicate by saying aye? Opposed?

SEN. FELTES: No.

CHAIRMAN KURK: The ayes have it and the item is tabled. Two items are tabled, 114 and 140. Thank you, gentlemen.

MR. FELDVEVEL: Thank you.

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

CHAIRMAN KURK: We turn now to agenda item number eight, Fiscal 17-137, request from the Office of Professional Licensure and Certification for authorization to retroactively amend the Fiscal Committee item to accept and approve \$222,821 --

REP. OBER: Mr. Chairman, I thought we took item 17-141 off the Consent? I didn't do it, but I thought --

CHAIRMAN KURK: I am so anxious to move on, Representative Ober, that I ignored those. Thank you so much.

REP. OBER: Okay. Wasn't my item so I guess I don't care.

MR. KANE: Mr. Chairman, 129 as well was taken off the table.

CHAIRMAN KURK: 129 was taken off and 141; is that correct?

MR. KANE: Yes, sir.

CHAIRMAN KURK: Let's turn now to Fiscal 17-129. I'm glad someone is paying attention, Representative Ober. A request from Safety for authorization to retroactively accept and expend \$221,747 in Other Funds from July 1<sup>st</sup>, 2017, through September 30<sup>th</sup>, 2017, and contingent upon that approval to continue one temporary part-time Informational Representative

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position for the period July 1<sup>st</sup>, '17 through September 30<sup>th</sup>, 2017.

\*\* REP. EATON: Move approval.

CHAIRMAN KURK: Is there discussion first?

SEN. SANBORN: Question.

CHAIRMAN KURK: Is there somebody from the Department of Safety can answer some questions? Good to see you back, sir.

MR. LAVOIE: Good morning. Steve Lavoie, Director of Administration for the Department of Safety.

CHAIRMAN KURK: Senator Sanborn has a question.

SEN. SANBORN: Thank you, Mr. Chair. Steve, thanks for taking my question, I appreciate it. So I see an item in here that you want to spend \$221,000 for a com person to create a message. Now, I'm not sure if I should turn to Senate President and ask him to transfer over our com person because she's amazing at it or if I should turn to him and ask him to give a raise of two hundred twenty grand a year. Just seems like a lot of money for message development.

MR. LAVOIE: So this item is -- it does a few things and this grant does a few things. One is it funds a part-time individual to help develop and place messages. But, primarily, the vast majority of that amount is in the purchase of those messages. So we have \$168,000 in media buy contracts. The write-up -- in the write-up itself the condense write-up says media person which is why I can see that would be confusing. The whole grant is not for a media person, it's for the individual and then also for those media buys.

SEN SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

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SEN. SANBORN: Thank you, Mr. Chair. What are we trying to tell people to do?

MR. LAVOIE: We're trying to -- this is really through the Office of Highway Safety. And so we're -- we're -- these are messages to encourage people not to drink and drive, to encourage people not to be on their cell phones, distracted driving issues, seat belt use. Encourage people to voluntarily use a seat belt in the State of New Hampshire. So all messaging really is to the Highway Safety activities.

SEN. SANBORN: Final. Do we pass laws that are so good we need to go spend money to market the law?

MR. LAVOIE: The --

CHAIRMAN KURK: I don't believe you need to answer that question.

SEN. SANBORN: Would you believe?

REP. WEYLER: Awareness.

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

\*\* REP. EATON: Move approval.

SEN. SANBORN: Thank you, Steve.

CHAIRMAN KURK: The motion to approve is made by Representative Eaton. Seconded by?

SEN. SANBORN: No, I'll vote against it.

CHAIRMAN KURK: Senator Feltes.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

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REP. OBER: I will be voting against this. I think if you don't know to wear your seat belt now, 221,000 isn't going to help.

CHAIRMAN KURK: Further discussion?

SEN. SANBORN: Mr. Chair, I'll be voting against this. If you also don't know it's against the law to use your cell phone, a bill that I voted against, I'm not sure we need to be spending money to join in these people who passed the law.

CHAIRMAN KURK: Further discussion? There being none, are you ready for the question? The motion is to approve Item 129. If you're in favor of that, please indicate by raising your hand? One, two, three, four. If you're opposed? One, two, three, four, five, six. The motion fails 4 to 6.

**\*\*\* {THE MOTION TO ADOPT FAILED}**

**\*\*** REP. EATON: Move to table.

CHAIRMAN KURK: Representative Eaton moves to table.

REP. OBER: Second.

CHAIRMAN KURK: Seconded by Representative Ober. All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is tabled.

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

CHAIRMAN KURK: Next item is Fiscal 17-141, a request from the Department of Health -- no.

REP. WEYLER: Yes, 141.

REP. EATON: Yes, you did 140 already.

CHAIRMAN KURK: We did that one already. Mr. Kane --

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MR. KANE: 141, you're correct.

SEN. SANBORN: Mr. Chair, if we can go back to this. If the motion failed, the item would be dead. So why did we table?

CHAIRMAN KURK: If the motion failed, we usually would have some sort of other disposition, such as to disapprove. But tabling is certainly legitimate and the motion was made, accepted, and voted on. So we are -- we will take further action on this if somebody proposes to remove it from the table. Otherwise, it will not go forward. It's not inconsistent.

REP. WEYLER: There's no dispositive motion.

SEN. SANBORN: There would be no dispositive motion.

REP. WEYLER: Unless you move to disapprove.

CHAIRMAN KURK: Fiscal 17-147.

REP. OBER: 141.

CHAIRMAN KURK: Sorry, 141, a request from the Department of Health and Human Services for authorization to accept and expend \$144,724 in Federal funds through June 30<sup>th</sup>, 2019, and contingent upon approval of that, further authorize the continuation of one full-time Systems Development Specialist III retroactive to July 1<sup>st</sup>, 2017 through June 30<sup>th</sup>, 2019. Senator Sanborn -- Senator Daniels has a question. Is there somebody from the Department who might be able to answer? Good morning to both of you.

LISA MORRIS, Director, Division of Public Health Services, Department of Health and Human Services: Good morning. Lisa Morris. I'm the Director of Division of Public Health Services for the Health and Human Services.

MS. ROCKBURN: Good morning. Sheri Rockburn, Chief Financial Officer.

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CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Thank you. Just a quick question. In the explanation it notes that this position is vacant.

MS. MORRIS: Correct.

SEN. DANIELS: My question is simply how long has it been vacant?

MS. MORRIS: Well, this is a new position. So we have not hired this position before. So it has been vacant because it has been posted -- approved and posted as a position, but it remains vacant until funding is secured.

SEN. DANIELS: So follow-up.

CHAIRMAN KURK: Follow-up.

SEN. DANIELS: So out of the 1156 vacant positions in the budget that are being funded, are any -- does this position match any of those that you currently have that you have not yet filled?

MS. MORRIS: Well, the position has already been created. So that has happened already. We have not -- we always look to see whether or not we can reclass an existing position, but we were unable to do so.

SEN. DANIELS: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. DANIELS: Looking for the name of this position.

MS. MORRIS: This is called a Systems Development Specialist.

SEN. DANIELS: Okay. So you're telling me that nowhere else in HHS's budget is there a systems development position

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available that you can put somebody into as opposed to creating a new position?

MS. MORRIS: That's correct. This is a very particular systems development position.

SEN. DANIELS: Thank you.

CHAIRMAN KURK: Further questions? Is there a motion?

\*\* SEN. FELTES: I'll move.

CHAIRMAN KURK: Senator Feltes moves approval of the item, seconded by Representative Eaton. Discussion? Further questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? Show of hand, please. All those in favor, please indicate by saying aye? Six. All those opposed? One two, three, four. The motion passes 6 to 4.

MS. MORRIS: Thank you.

CHAIRMAN KURK: Thank you, folks.

\*\*\* {MOTION ADOPTED}

(8) 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 156:137, Laws Of 2017, Contingent Appropriations, and RSA 124:15 Positions Authorized:

CHAIRMAN KURK: Now we can turn to agenda item eight, Fiscal 137, 17-137, a request from the Office of Professional Licensure and Certification for authorization to retroactively amend a prior Fiscal item to accept and expend \$221,821 in Other Funds through March 30<sup>th</sup>, 2018, and to budget and expend \$100,000 in General Funds through June 30<sup>th</sup>, 2019, and contingent on the request of the approval of request number one, retroactively; amend Fiscal 14-015 by extending the end date for one

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full-time -- temporary full-time administrator position from June 30<sup>th</sup>, '17 through March 31, '18. And, four, amend Fiscal 16-055 by extending the end date for one Administrative Assistant I position from June 30<sup>th</sup>, '17 to March 31, 2018, and finally, five, amend Fiscal 14-015 to establish a consultant position through March 30<sup>th</sup>, 2018. Is somebody here from the office who can respond to questions? Good morning, folks.

JOSEPH SHOEMAKER, Director, Division of Health Professionals, Office of Professional Licensure and Certification: Good morning.

MICHELLE RICCO-JONAS, Administrator, Division of Health Professionals, Office of Professional Licensure and Certification: Good morning.

CHAIRMAN KURK: Could you identify yourselves for the record?

MR. SHOEMAKER: Good morning. For the record, my name is Joe Shoemaker. I'm the Director of Division of Health Professions at the Office of Professional Licensure and Certification.

MS. RICCO JONAS: I'm Michelle Ricco Jonas. I'm the Program Manager for the Prescription Drug Monitoring Program.

CHAIRMAN KURK: On Page 2 and 3 of the item that you sent us there appears to be some sort of a budget.

MS. RICCO JONAS: Yes.

CHAIRMAN KURK: The budget appears to cover Fiscal 18.

MS. RICCO JONAS: Yes.

CHAIRMAN KURK: And totals \$416,000.

MS. RICCO JONAS: Yes.

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CHAIRMAN KURK: Is that the complete budget for the Prescription Drug Monitoring Program?

MS. JONAS RICCO: Right now we can only put in a Fiscal Year 18 budget as those are the funds that are currently available with the current funding with the rollover funds of our current grant and the funds that have been allocated by the Legislature. We have a -- we are awaiting a grant award through the Bureau of Justice Administration right now that is put forth through the Attorney General's Office. We expect that award to be -- notification to come in in September. And if we are awarded those funds, we will be coming back in front of you in a few short months to extend our budget period through the biennium.

CHAIRMAN KURK: I believe that that grant will be \$800,000?

MS. RICCO JONAS: It's 400,000.

CHAIRMAN KURK: Per year?

MS. RICCO JONAS: It's 400,000 for the period of two years. So it will go beyond the biennium into 2019, into the next biennium. So the Federal grant is over -- is a different time period than our State biennium, if that makes sense.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I hate to put AG MacDonald on the hot seat, because he wasn't here during the budget time.

MS. RICCO JONAS: Yes.

REP. OBER: But when the AG's Office, at that time AG Joe Foster was in the position came with their budget hearing to Division I.

MS. RICCO JONAS: Hm-hum.

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REP. OBER: They did have an item of \$900,000 grant in their budget that would be passed to the PDMP.

MS. RICCO JONAS: Oh, I apologize. Yes, let me make a correction.

REP. OBER: All right. Thank you.

MS. RICCO JONAS: Yes, sorry. So there were two -- there were two grants at the Attorney General's Office put forward on the behalf of PDMP. There's one that's \$400,000 which is the -- what I consider the operational budget of the Prescription Drug Monitoring Program. That was a Category 5 grant. The Category 6 grant is being put forward and that is to enhance our capacities to do analysis and evaluation and that is for the remaining amount of the 500,000 plus that you had mentioned. So we could -- we could have applied up to 600,000 and I can't remember the total amount because I don't have that figure in front of me and that -- that will allow us to bring on an analyst position on our staff. And that is a three-year grant and also to work in collaboration with the Institute of Health Policy and practice. So that will bring on our evaluation analysis capacity for the program. So I apologize. There were two grants that we put forward.

CHAIRMAN KURK: The problem that I'm having with this is that we don't have a complete budget for you folks.

MS. RICCO JONAS: Correct.

CHAIRMAN KURK: And you're asking us to spend \$100,000 that was appropriated because the Federal grant was supposed to be 900,000, but we learned that it was only going to be 800,000. I'm loathe to approve spending that money until we see the entire grant picture and your entire budget. From what you said, you're going to be coming back in September --

MS. RICCO JONAS: Right.

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CHAIRMAN KURK: -- perhaps October.

MS. RICCO JONAS: Yeah.

CHAIRMAN KURK: If we were to approve all of these items that you've requested, except number two, the \$100,000 --

MS. RICCO JONAS: Right.

CHAIRMAN KURK: -- you would have enough money to tide you over through that period of time, then we could see the entire budget and see things.

MS. RICCO JONAS: Yes.

CHAIRMAN KURK: My sense is that we are not -- I certainly am not ready to approve that expenditure until we have a more complete picture of what's going on.

MS. RICCO JONAS: I understand. I was told we could not put forward a full biennium budget because we didn't have the funds to put forward a full biennium budget. So I could only put together a Fiscal Year 18 budget for you, given the funds that we had in play. So I completely understand, you know, your request to withhold the General Funds at this time until we have a full picture.

With that said, though, if we do not get the award of the Federal grants, this would be the budget we would have for '18 and, hence, why we are working on a funding proposal. You know, obviously, we have to bring forward to the Legislature for November 1<sup>st</sup> as well.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Senator Daniels, do you mind going forward?

SEN. DANIELS: I have a question.

REP. OBER: Please go ahead because I have a couple questions but you may cover mine.

CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Thank you. Is there any plan that is supposed to have been filed that has not yet been done?

MS. RICCO JONAS: We are tasked to put a plan together for November 1<sup>st</sup>, and we are working with that. Our timeline is to present our final plan to the Board of Pharmacy at their September meeting. So we are working and have some draft options to bring forward to the Board on their September 15<sup>th</sup> -- I think it's September 19<sup>th</sup> meeting.

SEN. DANIELS: Thank you.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you. When we were doing the budget --

MS. RICCO JONAS: Yes.

REP. OBER: -- and, Michelle, you were there for the OPLC budget piece.

MS. RICCO JONAS: Yes.

REP. OBER: However, Division I had done the AG's budget first. We had the \$900,000 grant that we had passed through the AG's budget that was going to come to you. When we got to the OPLC budget, and we turned the page in the budget book, if you recall there were zeros, no expenditures planned for '18 or '19. And Division I was told that that was an oversight. You forgot to budget the budget. Okay. LBA Levinus was assigned to you to work on the weekend. She did. She came back with you guys on Monday to Division I, and you had a budget that matched the \$900,000 grant that was in the AG's budget at the time. So I'm still totally confused by your explanation of two grants. That isn't what we heard or how the budget got put together for the

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900,000 we thought you had, which was all we thought you had, and where we are now. So I guess my question is of these --

MS. RICCO JONAS: Hm-hum.

REP. OBER: -- which item is the minimum number that could be approved so you can go forward without spending anything else, not just Item two, but any of the others until we get a complete budget picture? And I would suggest you -- you come in the September meeting to talk the budget. I do believe in the PDMP and that it's an important tool so I don't want to see it shutdown.

MS. RICCO JONAS: Sure.

REP. OBER: But I think at this point we are in such a disarray here, I'd almost vote to table this, but I'm afraid that would shut down the PDMP which we desperately need in our communities to support our doctors who are working with a variety of people. So what's the bare minimum here of these items that would keep you going till you could get here in September with a full budget picture?

MS. RICCO JONAS: I think what Chairman Kurk proposed, if the group wanted to remove the general -- the 100,000 General Funds out of here and allow us to remain using the funds that have been appropriated so far with the existing Federal grant that we are using through the Attorney General's Office.

REP. OBER: But you have no budget approved.

MS. RICCO JONAS: Right. If you approved the budget without the hundred thousand dollars that would give us an operating budget.

REP. OBER: By September 30<sup>th</sup>, 2017, you will have spent \$416,000.

MS. RICCO JONAS: So that date of March 31<sup>st</sup>, 2018, is the date that the Federal Government allows us to spend their funds.

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REP. OBER: I'm not asking that. I'm asking what's the minimum amount of money you need between now and the 30<sup>th</sup> of September to have to keep the program going so that you can come back in September and we can look at this together?

MS. RICCO JONAS: I would have to go back and look at those numbers.

REP. OBER: I don't want to leave you where you're going to close down the program; but I do not believe you're going to spend \$400,000.

MS. RICCO JONAS: No, I mean I'd have to go back and get those exact numbers for you.

SEN. SANBORN: Mr. Chair.

CHAIRMAN KURK: If I may?

SEN. SANBORN: Please.

CHAIRMAN KURK: On that page there's something called a Current Authorized Budget which appears to be \$93,930.

MS. RICCO JONAS: Yes, that's minus salary and benefits.

CHAIRMAN KURK: That is not sufficient to continue running the program through September 30<sup>th</sup>?

MS. RICCO JONAS: Correct.

CHAIRMAN KURK: Thank you.

REP. OBER: Wait. Of how much?

CHAIRMAN KURK: Representative Ober.

REP. OBER: Could you ask how much they spend in salary in a month?

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CHAIRMAN KURK: Why don't you.

SEN. SANBORN: There you go.

REP. OBER: You know how we are, Michelle.

MS. RICCO JONAS: No, I know. I don't -- I don't have those numbers. I mean, I could get those very quickly.

REP. OBER: Could we delay this and let them get the numbers and move on and come back to this item this morning?

SEN. SANBORN: Or come back, Mr. Chair, maybe can Michelle last 30 days and come back next Fiscal Committee with a more complete package?

CHAIRMAN KURK: I think I'm hearing from you folks that you cannot continue for one month unless some of this is approved.

MS. RICCO JONAS: Right. The only thing we're missing is salary and benefits, the existing approved budget.

REP. EATON: Representative Smith has a question.

CHAIRMAN KURK: That's what you have in your budget or that's what you're missing?

MS. RICCO JONAS: The current authorized budget that you're looking at the only thing that doesn't exist in that budget that was approved previously is salary and benefits. We couldn't get salary and benefits approved. That's why we are here before you. We were asked to complete a budget that included salary and benefits.

CHAIRMAN KURK: Even for one month approved for the next month you don't have enough money to operate unless we do something today?

MS. RICCO JONAS: As long as we can still operate without salary and benefits, yes.

CHAIRMAN KURK: We expect salaries and benefits to be paid.

REP. EATON: Margie has a question before it goes on the table. Margie has a question.

CHAIRMAN KURK: Representative Smith.

REP. SMITH: We are trying to thread the needle to indicate support for the program.

MS. RICCO JONAS: Sure.

REP. SMITH: Commitment to what you're doing but trying to figure out what one does without a budget and that's the problem. Could I ask -- you referred to DOJ and I wasn't clear whether you meant Federal or State. Does the State Department of Justice have in its coffers the funds that are supposed to go to you if things were to work the way they're supposed to work, or are they waiting for the funds from the Federal Government?

MS. RICCO JONAS: Right, so the Department of Justice is the grantee of the Bureau of Justice Administration funds. They sub grant those funds to the Office of Professional Licensure and Certification. So the \$222,821 that remains in our current grant is what we are asking for in this amended budget, with -- with the inclusion of the hundred thousand in General Funds. So --

REP. SMITH: Would I be very rude if I just interrupted you?

MS. RICCO JONAS: No, that's fine.

REP. SMITH: That 221,000, are you saying that it's sitting across the street?

MS. RICCO JONAS: Yes.

REP. SMITH: Rather than down the road?

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MS. RICCO JONAS: Yes.

MR. SHOEMAKER: That's correct.

REP. SMITH: Thank you.

MS. RICCO JONAS: Those funds we -- when we came before you a month or so ago, we put it into some line items with the exception of salary and benefits. That's why we needed to come before Fiscal in order to do that this month. And so that's the only thing lacking in our budget right now is salary and benefits with those Federal dollars. And then the dollars that the Department of -- the New Hampshire Department of Justice put into their biennium budget is inclusive of those pending awards. We can't necessarily accept those because the Department of Justice hasn't awarded those yet to the Office of Professional Licensure and Certification so we can't create a budget.

REP. SMITH: The State Department of Justice.

MS. RICCO JONAS: Yes, I'm sorry, the State Department of Justice. So we can't quite create a budget with those yet because they haven't been awarded to us yet.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: So retroactively you wish to have item number one on your memo approved which gives you 221 --

MS. RICCO JONAS: 222.

REP. OBER: \$222,821 which would seem to me would cover your --

MS. RICCO JONAS: Yes.

REP. OBER: -- salaries and benefits through September and probably beyond. So my original question was what was the minimum we could approve to keep you going? Sounds like item one could be approved.

MS. RICCO JONAS: Yes.

REP. OBER: Then you could come back in September and we could work out the rest. Are we in agreement on that now?

MS. RICCO JONAS: Yes.

REP. OBER: Because I don't want to shut you down.

MS. RICCO JONAS: Yes.

CHAIRMAN KURK: If we do that and we do not approve three, four and five, will those folks still be working?

MS. RICCO JONAS: No.

CHAIRMAN KURK: So you'll have money to pay people who aren't working.

MS. RICCO JONAS: You need to approve one, three, four and five and not two.

CHAIRMAN KURK: Thank you. Further discussion or questions?

SEN. SANBORN: Yep.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Hi, guys. Thank you for coming in. Michelle, great seeing you. The PDMP Program I think is one of the most powerful tools we have, and we've talked about it, in the opioid crisis this state is having today. And I remember when this thing first kicked off of the first two quarters I got all and they were different and pretty sophisticated reports which I thought were very important for

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the legislators to look at. How many Schedule II, III, IV drugs had been dispensed by pill, by region, by doctor class, by nurse. I haven't seen anything in like three years.

MS. RICCO JONAS: Hm-hum.

SEN. SANBORN: Is it possible for this Committee and the Committee Chairs of the appropriate committees to start getting reports again?

MS. RICCO JONAS: We are -- we are working on our Annual Report. And so, by statute, we are putting out an Annual Report. We are also working on a policy and procedure manual that will put out more data on a regular basis. And to be honest, I think part of the issue that we have been dealing with is the fact that we have not had the capacity. As you know, for the first two years it was just moi. We did add one more staff person and the reason why we put forward the request for more funding is to build that analytic capacity. It's been sorely missing. To run this program the way we need to do, our concentration has been primarily pushed towards getting the licensees registered and actively using the program. Dispensers, register, and actively putting the data in. Without the data going in and use of the program we don't have the data to put o there. So that's been really the focus over the last two years.

Over the last several months, I don't know if all of you know this, but we have migrated over to a new program. So as of July 26<sup>th</sup> we have gone from the Rx Sentry Program to Appriss AWARE Program. So we have been technically starting a whole new program all over again. So that's been our focus pretty much for the last six months or so is actually starting the program over again.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: And I appreciate all that.

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MS. RICCO JONAS: Yes.

SEN. SANBORN: Obviously, for us to make decisions to support the program takes some level of information for us to look and see if the program is worthy.

MS. RICCO JONAS: Absolutely.

SEN. SANBORN: So knowing that when it was just you and you were doing an amazing job all by yourself, I was able to see reports every quarter. Can we get back to the point we can see reports every quarter? I can't even tell you today, maybe you can tell the Committee, what is compliance today in the medical field in the PDMP? I think that's an important metrics for us.

MS. RICCO JONAS: I agree.

SEN. SANBORN: So can we start getting this quarterly from you again starting with like the June 30<sup>th</sup> quarter; is that possible?

MS. RICCO JONAS: If I can? We are literally working on the Annual Report which is due in September, October. So that's what we are working on. I can certainly bring a quarterly report to this Committee. It will be part of our Annual Report. If that is the request of this Committee, I will get our analysts to work on that if that will be helpful.

CHAIRMAN KURK: I think we can accept the Annual Report in the next couple of months. You're obviously stretched so let's not try to stretch you further.

MS. RICCO JONAS: Okay.

CHAIRMAN KURK: Senator Feltes had a question.

SEN. FELTES: Actually, going to make a motion. But Representative Ober has a question.

CHAIRMAN KURK: Representative Ober.

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REP. OBER: I do have a question. Michelle, I'm on Pages 2 and 3 what you presented to us.

MS. RICCO JONAS: Two and three?

REP. OBER: Two and three. At the bottom is the table that starts Class, Description, Current Authorized and it goes to the top of Page 3. That's why I'm on both pages.

MS. RICCO JONAS: Okay.

REP. OBER: If I go to the bottom of that table which is on Page 3, your current budget, current authorized budget says it's at \$93,930 --

MS. RICCO JONAS: Hm-hum.

REP. OBER: -- for Fiscal Year 18; correct?

MS. RICCO JONAS: Correct.

REP. OBER: You're requesting an action of \$322,821 to get you through Fiscal Year 18. That's your total budget for Fiscal Year 18.

MS. RICCO JONAS: Correct.

REP. OBER: For revised authorized of 416,751 for the entire Fiscal Year 18; is that correct?

MS. RICCO JONAS: Yes.

MR. SHOEMAKER: Correct.

REP. OBER: So can you explain to me why if we only approve item one, which is \$222,821 on top of your already authorized ninety -- almost \$94,000, why you cannot get through one more month and fully pay all of your staff if this is your total Fiscal Year 18 budget on Page 3? That's what I can't understand.

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I can see you have separate positions in three, and four, and five, but that should be included already in your total budget that you're requesting here. And we are looking to go one month, making sure you have your people, if you can get through till June 30<sup>th</sup>, 2018, with \$416,000 paying your people doing everything, then getting an additional 222,000 to get you through September 30<sup>th</sup>, which is 53 -- gives you 53% of your total budget for the year. I don't understand why you won't have these people paid.

MS. RICCO JONAS: So your question is whether or not you need to approve 3, 4 and 5?

REP. OBER: My question is trying to put together the numbers you've given us to understand, because I asked you what is the minimum amount of money you need?

MS. RICCO JONAS: Okay.

REP. OBER: That might be item one gives you 222,000.

MS. RICCO JONAS: Correct.

REP. OBER: I don't want to shorten you and I don't want the program to stop to get you through September 30<sup>th</sup> so we can look at the whole budget. When I look at the numbers you've given me, the time frame you've given me, I don't understand why you said the people identified in item three, four and five wouldn't be working for one more month if you got 222,000.

MS. RICCO JONAS: Because if you don't approve those positions to move forward, then three, four, and five allow those positions to move forward.

REP. OBER: So you have additional positions above and beyond what you put in your budget?

MS. RICCO JONAS: No, these are the positions that you're approving. Because they're temporary positions, you have to approve the positions.

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REP. OBER: They should have been in the budget Class 59 and Class 46?

REP. SMITH: But they weren't.

MS. RICCO JONAS: I was told we had to separate these out this way. So my understanding is --

REP. OBER: By whom?

MS. RICCO JONAS: Our guidance over at LBA.

CHAIRMAN KURK: Mr. Kane, could you help us out?

MR. KANE: Absolutely.

REP. OBER: We're struggling.

MR. KANE: Number one is the funding. If the Committee approves number one, they have the funding. What they don't have is any authorization to pay those positions. And so that's why they're coming forward under three, four and five under RSA-124:15 to receive that authorization from the Committee. If the Committee does approve one, three, four and five, then those funds would be appropriately budgeted under the classes for salary and benefits. But there's two steps. One is yes, they can have the money. The second is we are going to authorize you to fill the three positions because right now as we stand here they don't have the authorization.

REP. OBER: Because they didn't do a budget for this program.

MR. KANE: Because it's not in the budget, that's correct. That's correct.

REP. OBER: Which means the agency wants the program to end. I don't know. I couldn't figure out why the budget is empty.

MS. RICCO JONAS: My understanding historically whenever we come to Fiscal, our Fiscal and G&Cs have always looked like this. The approval of those positions have always --

REP. OBER: I'm talking about the budget book we got in February with no budget.

CHAIRMAN KURK: Representative Smith is recognized for a motion.

\*\* REP. SMITH: Thank you. Mr. Chair, I would like to move acceptance of one -- of component one, three, four and five of Fiscal 17-137.

CHAIRMAN KURK: Is there a second?

SEN. REAGAN: Second.

CHAIRMAN KURK: Seconded by Senator Reagan. Discussion on the motion? Senator Feltes, did you wish to speak to it?

SEN. FELTES: No. I was just going to make the same motion Representative Smith made. So I support the motion.

REP. OBER: I guess I'll speak to this.

CHAIRMAN KURK: Representative Ober.

REP. OBER: If we approve this, two years from now will we see that you have corrected your mistake and you have budgeted correctly when the budget comes to House Finance, because if the answer is no, I'm not going to do that, then I'm not going to support this, because there's no sense going through this every two years.

MR. SHOEMAKER: Certainly, Representative. We apologize for the misunderstanding.

CHAIRMAN KURK: Further discussion?

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SEN. SANBORN: Yes.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Likewise, knowing what an amazing tool this would be for the Attorney General, I believe one of the most capable people we have here, as well as the Legislature, I believe personally it needs to be of the absolute highest priority to provide us the information by which to justify --

MS. RICCO JONAS: Absolutely.

SEN. SANBORN: -- the agency itself and not the least of which would be the program. So I implore on you that if we did have a report for the last quarter, even though I know the Chair's looking at September this to me, you know, say 93% of all the opioids in America starts with prescription drugs, and after two years we haven't seen a single report. We got to have it. So I implore you guys to with all this wonderful staff that Representative Ober is giving you for a couple of months get us some information, it be great.

MS. RICCO JONAS: It is the top of our strategic plan.

SEN. SANBORN: That be great. Thank you.

CHAIRMAN KURK: Further discussion? There being none, are you ready for the question? All those in favor of Representative Smith's motion, please now indicate by saying aye? Opposed? The ayes have it and the item is approved in accordance with the motion.

MS. RICCO JONAS: Thank you very much.

CHAIRMAN KURK: Thank you, folks.

\*\*\* {MOTION ADOPTED}

(9) RSA 7:6-f, Disposition of Consumer Protection Settlement Funds:

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CHAIRMAN KURK: We turn now to agenda item number nine, Fiscal 17-132, a request from the Department of Justice to expend and budget settlement -- sorry. This has been withdrawn.

MR. KANE: Withdrawn, that's correct.

REP. OBER: This has been withdrawn.

**(10) RSA 227-G:5, I(b) Forest Funds:**

CHAIRMAN KURK: We turn to item number ten, Fiscal 17- 131, a request from Department of Natural and Cultural Resources for authorization to budget and expend \$34,000 in Other Funds through June 30<sup>th</sup>, 2018. Is there a motion?

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

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

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

**(11) RSA 363:28, III Office of the Consumer Advocated:**

CHAIRMAN KURK: Agenda item number eleven, Fiscal 17-116, a request from the Office of Consumer Advocate for authorization to increase the contract amount of by \$90,000 from the most recent approved amount of \$97,900 to 187,900 in other funds and extend the end date with Strategen Consulting to provide expert services to support participation in Net Metering proceeding before the New Hampshire Public Utilities Commission. Is there a motion?

Senator Feltes moves approval, seconded by Representative Weyler. Discussion? Questions? There being none, are you ready

for the question? All those in favor, please indicate by saying aye? Opposed?

SEN. SANBORN: Opposed.

CHAIRMAN KURK: The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

(12) Chapter 156:89, Laws of 2017, Appropriation:

CHAIRMAN KURK: Agenda item twelve, Fiscal 17-136, request from the Department of Justice for acceptance of expenditure plans for the New Hampshire Internet Crimes Against Children Task Force. Is there somebody from the Department of Justice or the Task Force who could address questions? Good morning, gentlemen.

THOMAS A. GRELLA, Detective Sergeant, ICAC Commander, Portsmouth Police Department: Good morning.

CHAIRMAN KURK: Identify yourselves for the record.

GORDON J. MACDONALD, ATTORNEY GENERAL, Department of Justice: Good morning, Mr. Chairman. I'm Gordon MacDonald. I'm the Attorney General.

MR. GRELLA: Good morning, and I'm Detective Tom Grella of Portsmouth Police. I'm the Commander of New Hampshire Internet Crimes Against Children Task Force.

CHAIRMAN KURK: Thank you both. I read the -- or the abstract and the project narrative for your funding grant. This is dated 5-11-17, and I'm very concerned that there's some sort of misunderstanding as to what a performance measure is.

The purpose of a Task Force is to achieve some result. It's not to achieve more arrests. It's not to increase percentage -- the percentage -- excuse me -- the percentage increase in investments. It's not the percentage increase in

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prosecutions. It's not the percentage increase in computer forensic examinations, and it's not the number of community presentations made regarding dangers of Internet Crimes Against Children. I assume the purpose is to reduce victimization, and you folks say as much in your -- in your report.

So I think the performance measures that you need here are things such as you say we will reduce the victimization. That's the purpose of the education component. The question is not how many seminars you give, the question is not how many people attend, the question is not whether the folks like it, the question is what's the result? We want to reduce victimization. So I think -- I think that this report doesn't recognize what the performance measure is which is the reduction in victimization and needs to be rewritten so that criteria related to that are what's being measured and not the intermediate steps of how we get there.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I would go one step farther. AG MacDonald, you weren't here before, and I had this conversation with AG Foster; but this is brand new money, half a million dollars. How much of this was accomplished whatever your performance measure is in '14, how much in '15, how much in '16, and then what's the jump that \$500,000 extra in money gave you in '17? It's not just a flat figure for '17. It's got to be more than what the 500,000 was. We are trying to measure whether the 500,000 made a positive difference or whether it was still just business as usual without the increase in funding.

So you weren't here for the budget cycle. You weren't here for all these conversations, which I'm just trying to catch you up-to-date. So I agree with the Chairman when you redo this, and I think it clearly needs to be done so we know what we're trying to measure. But you also compare it to an increase from of X percent from the previous year. What did we get for half a million dollars? If we just get business as usual, then you

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already had funding. You don't need this half a million. This half a million could go to domestic abuse, alcohol prevention. I mean, there's always a need. More disability services. Payment for our in-home providers. I mean, if I got HHS up here they could give me a list of at least 30 places that they need more funding without even batting an eye. So that's what we're trying to do.

CHAIRMAN KURK: Also, if I may? I assume there's other money besides the State's \$500,000.

SERGEANT GRELLA: Yes, that's correct, sir. The Task Force has been in existence for 19 years and federally funded through the Department of Justice. Currently this year we received approximately \$264,000. So we have been an established program providing performance measures for those years. This money, to move forward to answer some of the concerns that have been presented, would increase our proactive efforts. That has been our -- one of the cornerstones of this proposal, increase our proactive efforts, and also to increase our community outreach. We have not been able to do that where our hands have been tied with the monies we have been receiving.

So then, in that case, this could address some of the victimization. However, I would caution that that is a very -- going to be a very tough number to quantify because in the internet crimes images are continued victimization. And so we may identify one particular person, but yet that wouldn't show that the victimization has stopped. So that is truly a belief that we have in law enforcement that it's a continued victimization. So that number would not necessarily be an easily one to quantify.

CHAIRMAN KURK: I'm quoting you on your Sergeant Thomas A. Grella Abstract. By educating community members, we hope to lower the victimization rate while increasing the number of bona fide police reports.

SERGEANT GRELLA: That's true. That would be if we can offer some prevention through this community outreach, then maybe we

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could. We could say that 500 people we reached out to one presentation, but we'd not necessarily know how many of those we do. We hope to decrease that by them listening to our presentation.

CHAIRMAN KURK: I'm not suggesting this is the only thing. I'm suggesting that we don't want to spend \$500,000 to have more arrests. That's not the purpose of the program. That may be an intermediate step to achieve the purpose, but we need a measurement of what your outcome is going to be.

Secondly, could we have a copy of your current budget and then the budget that you're proposing which shows how you're going to spend the \$500,000. I have something in here, but I'm confused and perhaps I just didn't understand it, whether this is just our \$500,000 or whether --

SERGEANT GRELLA: Yes.

CHAIRMAN KURK: I'd like to see the entire operation's budget. And then as a portion of that for '17 and '18 or '18 and '19, what you're going to do with the additional money. And, also, if people are being hired or people are being volunteered from their departments, I'd like to see that, also. For example, if your salary is being paid by the Portsmouth Police Department, and is not being attributed to the Task Force, I think that should be made clear. There may be other organizations who are volunteering people without getting additional compensation. I saw that there were people here who get paid overtime for their efforts, but there may be other people involved. For example, there was an administrative assistant whose salary is not being charged to the \$500,000 apparently, but is being charged somewhere else. I assume the Portsmouth Police Department.

SERGEANT GRELLA: That's correct.

CHAIRMAN KURK: We really need to see all of that so that we have a complete picture of the operation. And I think Mr. Kane in the Legislative Budget Assistant's Office can help you with

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the format in terms of what we are used to getting so that whatever you folks do in Portsmouth for your budget process, which we may not understand, can be translated into language that we will be able to deal with.

SERGEANT GRELLA: Okay.

CHAIRMAN KURK: Representative Smith.

REP. SMITH: Thank you very much. I -- I -- following up on the Chairman's comments. As I looked through this documentation, I had difficulty following the dollars in the sense that I'm curious as to whether when you list a local police department, other than Portsmouth, does -- do these figures indicate that, for example, for one particular detective that that money will go to -- that's listed here would go to the detective or would go to his police department as to reimburse them for his expenditures?

SERGEANT GRELLA: (Nodding) right.

REP. SMITH: I also don't -- thank you for nodding in agreement. I don't understand -- I've become confused because of the existence of Portsmouth as an intermediary and what does Portsmouth get to keep in terms of the expense of organizing all of this, and why is it important for it to be in Portsmouth rather than in, for example, the Department of Safety?

SERGEANT GRELLA: Right. Well, I guess backup to the fact that for 19 years the Portsmouth Police Department has managed the Federal grant running the Task Force. So we already have this program established, if you will. So, therefore, Portsmouth being here is speaking, if you will, the expert in running this Task Force. We've achieved that so that's why. And just to confirm rather than a nod, you're right, it is a reimbursement to those agencies. That's how that was written out in the budget.

REP. SMITH: Hum -- then how much -- if I could just follow-up on that?

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CHAIRMAN KURK: Yes.

REP. SMITH: How much does Portsmouth Police Department get from this grant to meet the cost of operating the grant?

SERGEANT GRELLA: We won't. There's nothing in this budget reflects anything with Portsmouth Police. The Federal Government grant, excuse me, the Federal grant is what is my salary and benefits and what we operate on now. This \$500,000 is in addition to provide our, as I say, the proactive efforts and all that.

Now if we talk about some of the breakdowns in equipment, the equipment will be treated just as the Federal equipment. It belongs to the Task Force. If the Task Force were to go away, where would that equipment go? Fortunately, we never had that happen or we're not concerned with that happening.

REP. SMITH: Thank you.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chairman. Gentleman, even though, obviously, there's some concerns about the financing here, I don't want it to overshadow the fact that I know New Hampshire is a safer place today and our kids are in a safer place today. Specifically, what you have done in this Task Force, and I know the work that that man will do as well, and I'm sure I'm joined by all the members of the Committee in saying, you know, look, I don't think we could ever determine how many people are being abused or not; but you're making that number less every day and we do appreciate everything you guys do.

SERGEANT GRELLA: Thank you.

SEN. SANBORN: Although I still want to see the numbers.

SERGEANT GRELLA: Thank you.

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CHAIRMAN KURK: Mr. Kane, and gentlemen, could you be ready with the additional information by for our next meeting?

SERGEANT GRELLA: Most certainly. The current budget is already done. Just a matter of submitting that.

\*\* REP. OBER: I move to table.

CHAIRMAN KURK: Okay.

MR. KANE: You may want to ask the impact of tabling may have on that. Will it delay the program or is it going to stop it?

CHAIRMAN KURK: Would you care to discuss the effect of one month delay in the program?

SERGEANT GRELLA: From my perspective, we are still under way. I mean, we received our Federal grant or, excuse me, we submitted our Federal grant proposal and we hope to receive those funds by September. But that doesn't affect myself in the efforts that under the Task Force. As I say, we have been in existence. What it does hamper is moving forward. We have the school year coming up. We have a lot of things we would like to do; but we are waiting for this to happen, as far as the community outreach.

SEN. SANBORN: Mr. Chair, if I could interrupt?

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Before somebody seconds the motion to table and with respect to the Representative --

CHAIRMAN KURK: The motion has not yet been accepted.

SEN. SANBORN: That's what I'm saying, before someone seconds it, I'd like to speak. As opposed to tabling it, would it be more appropriate for us to approve it and look for

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follow-up information for more detail information for the next meeting?

REP. OBER: No. May I speak to this?

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you. Again, you weren't here, I know that, AG MacDonald. This came to Division I. This is going to be the second time this morning I am going to say that something that was said at that table was not said during budget hearings. Nothing – nothing was said during budget deliberations about any of this money going to community outreach. So this is a brand new surprise that was not said during Division I budget hearings.

I know that there had been, obviously, other meetings with the Governor, because this never would have gotten in the budget without the Governor having some meetings.

There was no reporting requirement at the time. We wrote the reporting requirement. And, in fact, we not only wrote the reporting requirement when the funding passed out of the House to the House floor where it didn't pass, we had reduced the money for the first year from \$250,000 to 75,000 based on the fact that we were told how long it would take to write an adequate report to give us performance measures.

So I'm really not surprised to see that we don't have an adequate report because even when AG Foster was here, they -- his statement was I think that will take more than one month or after the budget passed to get that together, and we lowered the amount of funding.

The Senate in their wisdom put it up to \$250,000. During the Committee of Conference we ultimately agreed to that. But at this point in time I believe that tabling is the correct way to go. I'm going to make the motion again despite my esteemed colleague. And I think you can, you hear what we want, you can turn this around in a month. And I don't think a delay will be

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that big of a thing, especially since we had not been discussing any kind of community outreach at all to use this money. We really wanted to stop the crime portion. Thank you, Mr. Chairman.

CHAIRMAN KURK: We will stand in recess. Representative Smith.

REP. SMITH: Hum -- if I could? I'm wondering -- I personally would like to hear from the Attorney General about this since --

REP. OBER: He joined the game in progress.

REP. SMITH: Well, he joined the game in progress; but this is under the rubric of the Department of Justice. And, General MacDonald, you might state that this is just not something that you can respond to now, and every one of us would understand that and respect that. But I think you've gotten a sense of what some of the concerns are, including looking at a performance measurement that talks about inputs, not outputs. And so I guess I'd like to have a sense of what your view is, if that would be okay with the -- well, with those of us who stay here, because it might influence what we might discuss during recess.

REP. OBER: Or we could take a recess with the Senate and he could formulate that until we come back and have a few seconds.

CHAIRMAN KURK: Please respond, sir.

ATTORNEY GENERAL MACDONALD: Thank you, Representative. The history that Representative Ober just laid out is new to me. I'm hearing that in real-time.

REP. OBER: I know it is.

ATTORNEY GENERAL MACDONALD: I will say, though, that our state should be proud of the work that the Portsmouth Police Department has done since 1998 in protecting children. It was

one of the first ten, I believe, ICAC programs in the United States. This is very important work.

I, Mr. Chairman, with respect, I'm concerned about how we quantify effects on victimization. I understand -- I understand the Chair's perspective on that; but those data are very elusive. These images are out there. They percolate throughout the Internet. And how we -- how we literally boil that down into a metric that's going to be acceptable to this Committee, I don't know. I defer to the Detective Sergeant on that, if he has further ideas. But sitting here today, hearing this in real-time, I must say I'm concerned. I would really respectfully urge the Committee to move forward with this item. This work is vitally important in protecting our children.

CHAIRMAN KURK: Thank you, sir. We'll stand in recess till one -- till five minutes past 12.

(Recess taken at 11:58 a.m.)

(Reconvened at 12:06 a.m.)

CHAIRMAN KURK: Committee will come out of recess. Chair recognizes Senator Sanborn for a motion.

\*\* SEN. SANBORN: Mr. Chair, I would make a motion that we approve whatever Fiscal item we're on, I think 17-136, with the requirement that the gentlemen come back within 30 days maybe a bit more input, more detailed plan for us to consider.

CHAIRMAN KURK: Is there a second?

SEN. DANIELS: Second.

CHAIRMAN KURK: Second by Senator Daniels. Discussion?

SEN. SANBORN: In discussion I completely respect my wonderful colleague, Representative Ober. A better plan, more information is very, very important; but at this point, I think we need to move it forward and we would expect that you guys

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would come back with some information to help fill in the holes for us.

CHAIRMAN KURK: Representative Eaton.

REP. EATON: I would just like to afford the -- either the gentleman from Portsmouth or the Attorney General to state the case that they had followed all the guidelines that had been presented by the Feds, were performing according to what they thought the rules were and had done the best job available to them under the guidelines they had available to them.

CHAIRMAN KURK: Further discussion? There being none, are you ready for the question?

REP. WEYLER: Wants them to reply.

CHAIRMAN KURK: I'm sorry.

REP. EATON: I thought they might want to take that up and respond.

SERGEANT GRELLA: Thank you, sir. Yes, that is correct. Throughout this entire process, I have listened to everything that everyone has requested of us to produce and I can respect all the suggestions. One of those particular suggestions was to give any if any State money was to be approved, what would they like to see is an increase in community outreach and prevention. That's why that was broken out and that's why it's described in the abstract that that's what we would do. So we respected that piece. So that was guidance that we took.

In addition, as far as the budget was concerned, a budget proposal or process was submitted and all these funding options were submitted in our current budget that ended -- will end the end of September. But the budget was laid out through June 30<sup>th</sup> of 2017. So all of those things had been submitted already to get us to where we're at.

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ATTORNEY MACDONALD: May I add, Mr. Chairman, to Representative Eaton's question? The funds that have been flowing to the City of Portsmouth Police Department in support of ICAC have come directly from the Federal Government. The performance metrics that were set forth -- that are set forth in the plan before the Committee are those metrics that are required by the Federal Government in support of their grant.

REP. OBER: Mr. Chair.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you, Mr. Chairman. I do need to clear the record. Number one, no budget was presented on how the money was going to be spent to House Finance. Number two. This was not in HB 1. This was in HB 2, which were two sections, and no money is ever budgeted in HB 2. HB 2 is known as the trailer bill and the budget dollars are presented in HB 1. So saying that a full budget was presented during budget time is totally incorrect. Whether the gentleman provided budgeting conversations with the Governor behind closed doors, I don't know. But I want the record to state that during budget deliberations in House Finance no budget was presented, and it was not in the budget bill of HB 1. It was in sections of HB 2. And I would suggest that AG MacDonald work with the former Budget Director who's currently the DAS Commissioner and you can see that documentation yourself. Because I recognize you're joining the game that's well beyond progress and you're playing catchup and I appreciate it. But I do want the record to be accurate and thank you, Mr. Chairman.

CHAIRMAN KURK: I take it that if this motion passes, we will get the information that we sought. That is to say, the complete budget and a revised performance metrics.

(Sergeant Thomas and Attorney General MacDonald are nodding their heads.)

CHAIRMAN KURK: The motion before us is as stated by --

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REP. SMITH: Wait, wait, wait.

CHAIRMAN KURK: Representative Smith.

REP. SMITH: I'm sorry for interrupting you, Mr. Chair, but I think we have to make clear that it is not necessarily revised metrics. That the metrics required by the Feds have to be maintained. But, in addition, the State -- the Fiscal Committee is looking at it not from the point of view of the Federal Law, but the State meeting safety.

CHAIRMAN KURK: Thank you for clarifying that. I appreciate that. Further discussion? There being none, are you ready for the question? The question's on Senator Sanborn's motion. If you're in favor of that, please now indicate by saying aye? Opposed?

REP. OBER: No.

REP. WEYLER: No.

CHAIRMAN KURK: The ayes have it and the motion passes.

\*\*\* {MOTION ADOPTED}

(13) Chapter 156:183, Laws of 2017, Department of Health  
And Human Services; Unfunded Positions;  
Authorization:

CHAIRMAN KURK: We turn now to agenda item number thirteen, Fiscal 17-136, a request from the Department of Health and Human Services for authorization to retroactively fill 36 unfunded positions, and further fill 24 unfunded positions effective on Fiscal Committee approval through June 30<sup>th</sup>, 2019. I think there may be one or two questions about this.

LORI SHIBINETTE, Deputy Commissioner, Department of Health and Human Services: Good afternoon. Lori Shibinette, Deputy Commissioner of the Department.

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CHAIRMAN KURK: And?

MS. ROCKBURN: Sheri Rockburn, Chief Financial Officer for the Department.

CHAIRMAN KURK: Good morning again. Or good afternoon, I guess. We are -- or some of us are confused by the format in which this is presented, and I wonder if you could give us a very fast, high-level summary of what you're doing.

MS. SHIBINETTE: Sure. The Department had 119 positions unfunded in the Governor's phase of the budget. Three additional ones were unfunded in the House and carried over into the Senate into the budget. That equals 122. The left-hand column of your spread sheets, the one on legal size paper shows the positions that were unfunded.

In previous years, the Department had the ability to swap out positions, unfunded and funded positions. This year we did not have that flexibility. We have to come to Fiscal to swap out the positions, the unfunded positions. So the column on your right-hand side is our swap outs. The ones that are shaded are the swap-out positions. So the column on the right-hand side will be the new list of unfunded positions going forward. This position list is retroactive to July 1 of this year.

CHAIRMAN KURK: Which on the right-hand side, the shaded?

MS. SHIBINETTE: The shaded.

CHAIRMAN KURK: Or the unshaded?

MS. SHIBINETTE: The shaded are the replacement positions.

CHAIRMAN KURK: Could you explain what a replacement position is?

MS. SHIBINETTE: Sure. So if you look at the very first position, it is a CPSW. That position number was slated to be unfunded in this budget. We wished to fund that position because

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it is filled. So instead of unfunding that CPSW we are going to unfund the Employment Counselor Specialist position.

REP. SMITH: Mr. Chairman.

REP. OBER: Representative Smith has a question.

CHAIRMAN KURK: The dollar amounts are different. So I take it we're talking not position for position but total for total.

MS. SHIBINETTE: So if you look at the bottom of the spreadsheet, you will see that the dollar amount is there. There's about a \$300,000 difference. If you assume that our positions are approximately 50/50, that's about 150,000 of General Funds. But of note is in addition to this 122 positions, we had an additional hundred positions that are -- that are also vacant. The financial implications are fine. We are going to meet the savings that were projected for this project.

CHAIRMAN KURK: And assuming that this is approved, will you be able to meet your lapse requirement?

MS. SHIBINETTE: It's very early on to make that statement that we could meet our lapse requirement. There's a lot of assumptions in the budget and I think we have to see how the year -- the biennium plays out before I can make a statement that we are definitely going to meet our lapse. But we have every intention of meeting our lapse, yes.

CHAIRMAN KURK: Will this adversely affect your ability -- approval of this adversely affect your ability to meet your lapse?

MS. SHIBINETTE: It should not, no.

CHAIRMAN KURK: So filling some positions which but for approval would have to stay open seems to me the answer is obviously yes. If we don't approve this, we have much greater chance of meeting our lapses, because we still are not going to

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fill the Employment Counselor Specialist position. You've already told us that's not as necessary as something else.

MS. SHIBINETTE: For this month. So the intent is each month we will come back with replacement positions. We have about 270 positions that are unfunded. We will always keep 122 positions unfunded throughout the year. That will meet the \$5 million.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Let me ask you a question. Just for clarification to get us through this month because I think there needs to be work done on how we are going to go forward with this. If we don't approve this document, then 40 people are in positions that they can't get paid.

MS. SHIBINETTE: Correct.

SEN. PRESIDENT MORSE: That's all this means right now.

MS. SHIBINETTE: Yes.

SEN. PRESIDENT MORSE: So you have accounted for the financial part of it. They're just getting paid in a different job.

MS. SHIBINETTE: If this doesn't get approved, those people, their positions would be in jeopardy. We would have to lay them off. Some of these positions have, you know, we gave this list of positions in the Governor's phase of the budget which was January of '17. We continue to recruit, for example, CPSWs and nurses for obvious reasons. So some of those positions are filled.

SEN. PRESIDENT MORSE: And --

CHAIRMAN KURK: Follow-up.

SEN. PRESIDENT MORSE: Follow-up. You have 230 or 40 vacant positions included in total.

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MS. SHIBINETTE: Correct. As of last week we had 272 vacant positions in the Department. This is 122 of those.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, sir. And with 270 positions presently vacant today, as part of the budget process just so we have clarity, there's imposition that there'll always be 124 vacancies. So long as you stay within that 124 then you're complying with what the budget would request.

REP. OBER: No.

MS. SHIBINETTE: The budget has asked us to unfund 122 positions.

SEN. SANBORN: 122.

MS. SHIBINETTE: Right. So we will always maintain 122 unfunded positions.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Smith, then Representative Ober.

REP. SMITH: Thank you very much. Sometimes the choice of words presents confusion. And I do want to go back to the use of the word replacement. As a layperson, I would have assumed and did, in fact, assume that that shaded position was to replace someone in the left-hand column. What you're now telling me is replacement refers not to a filled job but it applies to the unfunded list.

MS. SHIBINETTE: That is correct. It is a replacement of the position on the unfunded list.

REP. SMITH: If I could just suggest it might be helpful if this was labeled --

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REP. OBER: Correctly.

REP. SMITH: -- the unfunded list.

MS. SHIBINETTE: Okay.

REP. SMITH: And then we could understand or in the alternative a word other than replacement which would help those of us who are trying to sort through this very complicated --

MS. SHIBINETTE: It is very complicated. I agree with you. And I will certainly make the adjustments on the list so that it's labeled more appropriately.

REP. SMITH: Thank you.

MS. SHIBINETTE: You're welcome.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Deputy Commissioner, I believe you just said something similar to the budget required us to unfund 122 positions. Did I hear you accurately?

MS. SHIBINETTE: 122 positions were unfunded in the budget, yes.

REP. OBER: Okay. That isn't what the budget required you to do. The budget required you to unfund and not fund \$9,710,118 worth of personnel costs.

MS. SHIBINETTE: That is correct, yes.

REP. OBER: Whether that's 130 positions to make that 9,710,000 or whatever. I think what you're currently proposing is while you're saying I still have 122 positions unfunded, you're now 300,000 -- spending 300,000 more than what you were required to unfund. And, again, I'm trying to -- and I ask you

to do this so, of course, I get documents this morning and now I have more questions so bear with me.

MS. SHIBINETTE: The -- the -

REP. OBER: But as far as I can tell from these you have now spent 300 -- nearly as you worded 300,000 -- nearly 300,000, it's actually \$297,526.58 more than what you were asked to leave unfunded because I don't really care about a position count. We care about how much money you're spending which is why the question about the lapse. And, Sheri, am I reading the spreadsheet correctly for that one item?

MS. ROCKBURN: I would clarify just two things. One is that the budget in addition to the value of that 9 million, 9.7 million, the budget did specifically identify position numbers so it really does do both. It just doesn't do a dollar amount. It also said these are the positions that now have a zero budget associated with them.

REP. OBER: But to meet your lapse, which is what the Chairman started with, the budget required, one, that you leave this amount unfunded plus your lapse. And so now you're \$300,000 into your lapse basically.

MS. ROCKBURN: So as Deputy Commissioner Shibonette had mentioned, of the 297 only 50% of that is General Funds. So as of this month we are tapping into 150,000 of General Funds that would impact the lapse. However, what's not shown on here is the remaining 150 plus vacant positions that we have that are funded but currently not filled, just through normal churn, vacancy, retirement, et cetera, that happens. So that alone will more than cover the 150,000 that's showing up on this sheet.

REP. OBER: Mr. Chairman, if I could just one last. So, Sheri, I ask you to do this and talk about how we do this every month, maybe it would be helpful if you could give us where you are with your lapse every month, vis-a-vis this one line item.

MS. ROCKBURN: Sure. We would expect on this list that some months, depending on which position is showing up, that we are going to hold. Some months this number may be short and other months the position value may be higher than the replacements that we're doing.

REP. OBER: If you show all your other positions, then it wouldn't be short, which is what you just pointed out to me; isn't that correct?

MS. ROCKBURN: Yes.

REP. OBER: Thank you.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: The -- and this is why I think we need to get together outside of here. I mean, I guess I philosophically if I were the Governor I would not expect the Legislature to be tracking the lapse in a Department. I just don't -- I think that's the Governor's responsibility.

I just want to point out why we're here. Because I certainly was part of it because this 119 pulling of positions when it was in the Senate phase of the budget it was specific. And we were concerned in the Senate that they weren't going to be able to work under that situation. Under the last budget, not this one, filling unfunded positions authorization, notwithstanding any other position provisions of the law, the head of the state agency or Department may fill unfunded positions during the biennium, and this was 2017, provided that the total expenditure of such positions shall not exceed the amount appropriated for personnel services. We took that away from everybody but HHS in this budget. And all we did in the Senate phase of it was said we'll let you have this, but you got to come to Fiscal.

So here we are today. They're presenting 40 positions that need to be funded. I heard about all these different changes in this report and everything. I think we need to meet with the

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House and talk about this. We're making -- pulling of 119 positions was the Governor's idea. That money was spent. The Governor used that 9.7 or \$10 million for pay raises to other organizations. I mean, to other -- to lift up people's, you know, pays along the way. The whole thing is getting mixed with apples and oranges. I'm just concerned about that. I think all we're talking about this month they have been advised. They can't pay these people right now. We are here to tell them go ahead and keep these positions and pay them. That's what we're here for.

CHAIRMAN KURK: Thank you, Senator. Any other questions? Thank you.

REP. OBER: I would just -- I don't think we are arguing that. I think we are trying to -- when you get this paperwork in your lap and, unfortunately, I didn't see this paperwork till this morning.

SEN. PRESIDENT MORSE: No, no, I agree.

REP. OBER: Because Sheri saying and we were like, okay, I don't understand for sure. Am I reading this right? Am I not reading this right? I think Representative Smith indicated most of our confusion when we were together trying to read the spreadsheet.

MS. SHIBINETTE: I think that we acknowledge it's very complicated. We'd like to work with you so it's a more understandable format for you so your questions are answered as soon as you see it.

CHAIRMAN KURK: May I have a motion, Senator Morse, on 17-146?

\*\* SEN. PRESIDENT MORSE: So move.

SEN. SANBORN: Second.

CHAIRMAN KURK: Moved by Senator Morse, second by Senator Sanborn the item be approved. Discussion? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it. The item is approved. Thank you, folks.

\*\*\* {MOTION ADOPTED}

(14) Chapter 156:209, Laws of 2017, Department of Education; Chartered Public School Program Officer And RSA 9:16-a, Transfers Authorized:

CHAIRMAN KURK: We turn now to agenda item number fourteen, Fiscal 17-139, a request from the Department of Education for authorization to transfer \$425,500 in General Funds in and among accounting units through June 30<sup>th</sup>, 2019. Is there a motion?

\*\* SEN. REAGAN: Move approval.

SEN. SANBORN: Second.

REP WEYLER: Second.

CHAIRMAN KURK: Moved by Senator Reagan, seconded by Representative Weyler. Discussion? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

REP. OBER: See what happens when you can read the paperwork.

(15) Miscellaneous:

(16) Informational Materials:

CHAIRMAN KURK: We do have some information items and there's a question I have on Fiscal 17-145, the Operating

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Dashboard. I wonder if somebody from Health and Human Services could respond?

MS. ROCKBURN: Sheri Rockburn for the record.

REP. OBER: Sheri, how did you win this lottery today?

MS. ROCKBURN: I was not as lucky as the woman from Massachusetts, I can tell you that.

CHAIRMAN KURK: Good afternoon and thank you, Miss Rockburn.

On the first page of the item there's a chart that shows caseload trends. And I'm looking at standard Medicaid which shows that for the month of July the figure went down by .57%, six-tenths of a percent. If you annualize that through the year, it's much more than the 2% decline that's stated in the budget. And the paragraph at the bottom of the page says the '18 budget assumes the caseloads would drop by 2%. Thus far, as of July, caseloads have not dropped as the Legislature has budgeted. I don't understand that statement.

MS. ROCKBURN: Sure. So what the -- what we had anticipated in the budget was that we have about a half a percent drop for the entire Fiscal Year 18. As the budget progressed through the different stages, it was then projected that we have a full 2% drop effective on July 1 and that 2% would then be sustained for the whole year. And then we would pay MCOs the per member per month based off of a 2% caseload drop on day one. We don't expect, and I think, Representative, what you were alluding to was that we would see a .5% each month going for the whole Fiscal Year and that, obviously, would be greater than 2%; but we very rarely see a drop of that magnitude every single month.

So if you, you know, over the entire year of '17, June and July of that entire Fiscal Year we saw a 3% drop. It has stabilized the last few months. So we are only seeing about a half a percent drop. We don't expect to see that every month for all of '18.

CHAIRMAN KURK: So you projected a half a percent for the year. You got your half a percent in the first month and you think nothing else will change?

MS. ROCKBURN: Well, I think that it may change. We don't expect it to change by the full 2%. The other thing I would point out is the MCO payments have a three-month lag. So we won't even be paying off of that half a percent drop until October.

CHAIRMAN KURK: Thank you. I appreciate the explanation.

MS. ROCKBURN: Sure.

CHAIRMAN KURK: Are there any further questions about any of the other agenda items? There being none, then we will move to the performance audit of the Community College System. Thank you, Miss Rockburn.

#### **Audits:**

CHAIRMAN KURK: Are there any other questions on informational items? Good afternoon and welcome.

JAY HENRY, Supervisor, Performance Audits, Audit Division, Office of Legislative Budget Assistant: Good afternoon.

CHAIRMAN KURK: This is an unusual audit in the sense it covers a much longer period than traditional performance audits do. So we are looking forward to hearing all about it.

MR. HENRY: Good afternoon, Mr. Chairman. My name -- for the record, my name is Jay Henry, and I am the supervisor of the performance audits with the LBA Audit Division.

With me is John Clinch who's a Senior Audit Manager who will be presenting the report. We also have Dr. Ross Gittell, the Chancellor of the Community College System of New Hampshire. And we have Jeremy Hitchcock who's a member of the Board of Trustees of the system. We have a -- John has an eight-minute

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overview of the audit. If that sounds too long he can cut that in half. So it's really up to you.

CHAIRMAN KURK: Half is always better than a whole when it comes to audits.

MR. HENRY: All right.

REP. WEYLER: This is a year's work.

JOHN CLINCH, Senior Audit Manager, Audit Division, Office of the Legislative Budget Assistant: Good morning, Mr. Chairman, Members of the Committee. My name is John Clinch. I was the auditor in charge for the Community College System of New Hampshire Performance Audit. Our objective was to determine whether the Community College System, CCSNH, were they managed efficiently and effectively during State Fiscal Years 2012 through 2016, with our focus largely on the administrative and executive areas. Our scope did not include assessing academic outcomes.

We identified several areas in need of improvement, including administration, financial operations, information technology, and the relationship between CCSNH and the CCSNH Foundation. While the transition from State Agency to a separate legal entity provided CCSNH more flexibility to manage its operation, it left a considerable void in its control environment which we found was not adequately replaced.

We found CCSNH lacked comprehensive policies and procedures in key business areas and we also identified instances of bartering, conflicts of interest, and questionable spending, which illustrated how insufficient controls can negatively impact an organization.

Our Recommendation Summary can be found on Page 3. The Recommendation Summary shows our report contains 29 Observations with recommendations. The CCSNH fully concurred with 22 Observations, concurred in part with six, and did not concur with one Observation. None of the Observations require legislative action.

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Mr. Chairman, that completes my presentation, my abbreviated presentation. I'd be happy to answer any questions. I'd like to thank the Community College System for helping us with the audit.

CHAIRMAN KURK: Could you very briefly go through the in part concurrences and the non-concurrence with the Foundation. In other words, what are the remaining areas of controversy? I assume as with other audits if there's concurrence over time the problem will be resolved because the auditee and the auditors are agreed. But where there's a concurrence in part, are there things that we should be aware of that you would like to bring to our attention? If something is relatively insignificant, please feel free to skip it.

MR. CLINCH: Okay. We noted friction between the Foundation and the CCSNH. The Foundation is an independent 501(c)(3) organization. And the in part was -- the friction was caused by lack of a Memorandum of Agreement between the two parties. And we questioned the operational independence of the Foundation given that CCSNH staffs the organization and controls the Board due to its composition.

CHAIRMAN KURK: Is that not true in almost all of these organizations? The organization is really a nominee for -- the Foundation is a nominee for the System. And that one way or another, whether it's done formally or informally throughout the country, these foundations operate in that fashion. This is perhaps more overt than some, but staffing provided by the System is not unusual.

MR. CLINCH: No. I think you hit the nail on the head with what you said. The -- a lot of foundations are staffed by the universities and colleges across the country. In this case the staffing was directly provided rather than a grant was issued. A lot of times grants are issued to the foundation board to staff the organization. So it's a matter of operational control from our perspective.

CHAIRMAN KURK: But regardless of how it's done, at the end of the day, Ross Gittell controls the Foundation, as a practical matter.

MR. CLINCH: That's our belief.

CHAIRMAN KURK: And that would be true throughout the country. The chancellor of the various systems controls the foundation, directly or indirectly.

MR. CLINCH: I'm not certain of that.

CHAIRMAN KURK: Oh, okay.

MR. HENRY: We have a board -- I mean all the foundations have a board, and the members of the board are really responsible for the operations of the foundation. And what we looked at when we looked at this foundation, you know, there would seem to be quite a few members who were part of also the trustees and of the college system.

Really, in this Observation, we just sort of -- we recommended that the -- everyone sort of look at, evaluate the situation, which they did in their answers that you can see. They looked at it and they both -- both the Foundation and the System said we think we're okay. We looked at it and thought, you know, all right, we see their point. We still have an issue with it. It's more out there just for other people to look at and decide, especially the Legislature. You know, we're not saying that this is wrong the way it's set up, that we're right and they're wrong. It's just it still has some problems to it, or at least concerns that we have.

CHAIRMAN KURK: Thank you. Representative Weyler.

REP. WEYLER: Just to bring information from another source. Monday we met with the 529 Advisory Commission where I see the Community College is one of the major beneficiaries of the funds coming from that group, \$2½ million dollars for the current year.

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Now that -- what that requires is this money goes into your endowment fund and gets matched so that the individual students, which could be in the thousands, have a little bit more money added from the endowment fund to the fees coming from the 529 Advisory Commission, which would seem to me would be a huge task for anybody managing the endowment fund, which probably the Foundation doesn't have a staff to accomplish.

So I see you moved the endowment fund out. To my mind, that's why you did it, because you got a lot of work to do matching all these scholarships that accounted for the 529 Program. It made logical sense to me if the Foundation is supposed to be raising funds, then you've got to be doing all this work with the endowment fund and the scholarship funds.

CHAIRMAN KURK: Did the auditors have any problem with that, moving of that money from the Foundation to the System?

MR. CLINCH: No.

CHAIRMAN KURK: May we hear from the System?

REP. EATON: Mr. Chair.

CHAIRMAN KURK: Representative Smith.

REP. SMITH: Could you help me clarify something? When I read this, perhaps I put my own conclusions on, and they might not have been what the Auditor's conclusions are. My conclusions were if you didn't have the Community College System, there would be no reason to have and there would not exist a Foundation. And so the center of this operation is the System. And that if any changes had to be made, it would be to make more clear that, in fact, the System is in charge, so to speak, of the Foundation. I mean, that's the way I read your -- your comments, not the other way around.

MR. CLINCH: We -- we believed that usually there is a very close tie between the Foundation and the University or College

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that it supports. We looked at some guidance from the Attorney General's Office, the Charitable Trust Unit, and that seemed to indicate to us that boards such as this 501(c)(3) organization needed to be independent of the parent organization. That's why we drew the conclusion we did in the report that there needed to be more separation between the two.

JEREMY HITCHCOCK, Trustee Member, CCSNH Foundation: I guess just to add from the System's perspective, there are two recommendations or two observations from the audit team. One is about the relationship between the two, the System and the Foundation. And then the second is about the overall governance. You know, this is one of the areas in which the self-governance process that we are still working on and the way in which they were put in together I think that we wish we got there faster, especially in this area. Because we feel that there is goodwill in the community to be able to do fund raising outside in the community, in addition to the Unique dollars and properly administrating them.

I do also want to point to the Observation prior, 28 and 29. We think that the canvassing other systems really the Foundation, the CCSNH Foundation is to primarily serve students of the System. And like other systems and other universities in other states and in this state, there is this nexus of government -- governance between the two organizations. I think from the way that the governance is laid out and the direction that we want to go in is sound. It gives proper independence. It has to be an independent 501(c)(3) organization and has to go through its rigors of independence that way. And I think with a proper MOU and some operation background it will be a lot more clear about how those two organizations work together and that's something that we're working on addressing right now.

REP. SMITH: Thank you. When you use the word we, you mean the System?

MR. HITCHCOCK: The System, correct.

DR. ROSS GITTELL, Chancellor, Community College System of New Hampshire: It's a Memorandum of Understanding between the System and Foundation that's signed and is in place. And on the two Observations related to the Foundation, the System and the Foundation both agreed, the first one being that we concur and that we have a Memorandum of Understanding in place. And it wasn't in place prior during part of the period. So we concurred with that. And the second finding related to an issue that the Chair, Representative Kurk mentioned, and we have looked at practices of system in relation to their foundation out across the country. We are very consistent with that. And that our counsel had already worked with the AG's Office and others about this issue. We'd be more than happy to share the information we have and have our counsel meet with any members of the Legislature if that would be helpful.

CHAIRMAN KURK: Would you care to respond to the audit at this point in general terms?

DR. GITTELL: I'll start with Jeremy.

MR. HITCHCOCK: Yes, I mean just briefly, by way of background, been a Trustee for nine years now. And so joined as the System's going through its process of independence and seeing everything from Treasury, risk management, you know, a lot of the systems that require to go through self-governance. And, you know, through that process we have multiple stakeholders in looking at our performance and effective performance, whether it's NEASC which independently accredits our seven campuses, or our fiscal audit that we go through, and also through the process of our relationship with the State.

So I think from a high-level standpoint, we certainly appreciate any time to further both of our performance, look at how we can continue our mission of being accessible and affordable in terms of our educational system in developing workforce.

As was mentioned, we concur with -- in full with, first of all, most of the Recommendations or Observations that are in

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there. The ones that we partially concur we're working on. I think the spirit of what those Observations are, and you can certainly read detail. We can go into certain any more specifics on that, but we take these very seriously. It's our first one. So we're learning and excited to go through the process and have gone through the process of to learn and make the organization stronger.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. Mr. Hitchcock, being involved in the process years ago when it was removed as a government agency and allowed to stand on its own, my assumption, and I believe most of us was that it would be parallel to the University System. And I see all these things where it says, oh, you should have policies and procedures written for this and that. Did you at that time since you were involved as well, did you look at what the University System has or am I likely to find we ever did a performance audit of the university, also a great lack of policies and procedures as well.

SEN. REAGAN: I'll answer shortly and I'll turn it over to Ross. I mean, obviously, we look very much at how they operate and what they look like, their policies and procedures, all the way from finance to their board policies. In fact, the System Trustees have -- Community College Trustees and University Trustees have on several occasions the last few years have gotten together to share best practices. We've had some joint dinners between our Board Chair, Chancellor and their Board Chair and Chancellor. So we have looked at them. I would say with the very strict Observation that our missions are slightly different, and the types of students that we serve are slightly different. But, certainly, you know, you can see that in some of the services that we share between the two systems where they -- where, you know, there's certain back office things we look to collaborate on. Certainly as a destination for some of our students we also think about how to make those gateways much stronger. So I'll let Ross --

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DR. GITTELL: I pretty much agree with what Jeremy said. We do work and learn from the University System as appropriate. We are two different systems with different missions. Community Colleges operate differently than a university or flagship institution within a University System. So we try to take from them what we think is appropriate and learn from them.

There is also a national network of community college systems that we learn from their best practices. Some systems have been in place much longer. As you all are aware, the higher-ed. marketplace, if we could use that term, is very dynamic. There's a lot of changing. There's a lot of institutional pressures so we're always learning and as we are going to learn from this audit. So I would like to thank, you know, the audit team. We're going to use this as formatively as possible. Our Presidents, the System, the Board of Trustees is committed to work on the issues that we need to improve upon. So we're going to use the different Observations. And you see our responses and we're committed to following up on those responses in a time frame, and we specified in our responses those time frames.

So we're going to use this to improve and we are looking forward to working with the LBA and informing the Legislature as we communicate our progress more broadly.

CHAIRMAN KURK: Senator Feltes.

SEN. FELTES: Thank you, Mr. Chairman. Thank you. The -- and I've certainly talked with the Chancellor about this, but this crosscuts a few -- some of the items in the audit. What steps is the Board of Trustees and management undertaking or have undertaken in terms of meaningfully involving faculty input and dialogue into the decisions of the Community College System?

MR. HITCHCOCK: I'll start with the Trustee section and can talk about the -- what the rollout of the staff and faculty looks like. So this is at the very early phases of being rolled out as a public document. I think it becomes -- it's public now.

DR. GITTELL: Upon acceptance.

MR. HITCHCOCK: Upon acceptance. So under -- there's a conference call meeting a week ago Monday where basically a summary of the Observations was gone through and that was System staff that went through those Observations, looked at. These are the ones that we either completely resolved, these are the ones that are basically resolved, and this is our go-forward plan on virtually everything. So I think the System governance has largely been involved, and I think there's a good plan for the staff component to that. I'll let Ross talk to that.

DR. GITTELL: You know, Senator Feltes, it's the two main levels. One's a college level where the Presidents are engaging with the faculty and staff at their colleges on a broad range of issues. And then it's the Chancellor's with the Chancellor's Office level over the course of the last -- a little more than two years we've put in place a Chancellor's Faculty Academic Advisory Council. It's outside the Collective Bargaining Agreement and there's two reps from each college, faculty representatives who meet with me on a regular basis. And I don't set the agenda. They set the agenda for those meetings. So we have conversations. They're on a range of issues related to the academic programs and priorities of the institutions. And Jeremy and another Board Member is at that meeting. And we also, you know, appreciate that perspective from the staff level. We have a similar body for the staff representation, a Chancellor's staff counsel. So we are trying to improve upon that and we have an employee representative now on our Board, and that individual has been quite active on that Board. And her input has been highly valued and respected, and I encourage you to speak with her.

CHAIRMAN KURK: One of the problems with these audits is -- my view -- is that they sometimes talk about a lot of important minutia but not about the overall importance of the institution. So, for example, one thing that this audit doesn't do, and I assume it was outside the scope, is to say whether the system is -- is effective, more effective than it had been in the past when it was a State Agency in doing whatever it is we expect it

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to do. Graduating an increasing number of well-prepared students who work in New Hampshire. That to me is one of the main functions of that organization, and it hasn't dealt with the other major issue that's faced the institution, the decision by the Chancellor and the administration for valid financial reasons to reduce the number of full-time employees and substitute adjunct or part-time employees.

So while there's a lot of interesting internal information here about how the organization is run, some of the larger issues are just not part of this. And, to me, that's always been a frustration. It's not unique to this audit. It's the fact of the way we do performance auditing here. I hope to make some suggestions as to how it can be changed; not with you folks but with others. Are there any other discussion or questions? Representative Smith.

REP. SMITH: Just to follow-up on that point. My understanding is that, you know, suggestions come to the Performance Audit Committee, and the Performance Audit Committee discusses these with the advice with counsel of the Division of LBA, and then those -- that recommendation of what an audit should cover comes to Fiscal and Fiscal approves or doesn't approve the audit. And, therefore, I would think that we've met the enemy and we're the enemy if, in fact, the structure of the -- of the performance audit isn't meeting more specifically what we think our needs are.

CHAIRMAN KURK: I appreciate that, and I'll talk to you about it later. I only point out that when a performance audit recommendation comes to Fiscal, we can reject it only by a unanimous vote. So Fiscal input over that is nil. Representative Weyler is recognized for a motion.

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

REP. EATON: Second.

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CHAIRMAN KURK: Seconded by Representative Eaton.  
Discussion? Questions? All those in favor, please indicate by  
saying aye? Opposed? The ayes have it and the motion passes.

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

CHAIRMAN KURK: Thank you very much. We appreciate this.  
This is a strenuous audit. A lot went into this.

MR. CLINCH: Thank you.

REP. WEYLER: Could I get six more copies for Division II?

CHAIRMAN KURK: Is there any other business to come before  
us? Our next meeting, give folks time, should be on Friday,  
September 29<sup>th</sup>. Is that a problem for anyone?

REP. EATON: That's Yom Kippur.

CHAIRMAN KURK: That starts in the evening.

REP. OBER: What starts in the evening?

REP. WEYLER: Yom Kippur. All right. Sounds good. Fiscal  
on the 29<sup>th</sup>.

CHAIRMAN KURK: There being no other business to come before  
us, we stand adjourned. Thank you all.

(The meeting adjourned at 12:53 p.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  
Cecelia A. Trask, LSR, RMR, CRK  
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