

JOINT FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Monday, November 10, 2014

MEMBERS PRESENT:

Rep. Mary Jane Wallner, Chair

Rep. Ken Weyler

Rep. Peter Leishman

Rep. Bernard Benn

Rep. Dan Eaton

Sen. Jeanie Forrester

Sen. David Boutin

Sen. Sylvia Larsen

Sen. Jim Rausch (Alt.)

Sen. Jeb Bradley (Alt.)

(Convened at 10:17 a.m.)

(1) Acceptance of Minutes of the September 26, 2014 meeting.

CHAIRWOMAN WALLNER: Welcome to the November Fiscal Committee -- December -- I'm sorry, November Fiscal Committee meeting. Today, you are the recipients of our new microphone system. So, supposedly, in the back we now have a microphone that you will be able to hear. Is it better? Okay. Great. So this is our first -- yeah, we have a new speaker way up there in the --

REP. EATON: Actually, that's a camera.

CHAIRWOMAN WALLNER: I'm sorry, that's a camera. You're also on camera. Okay. Okay. So let's call the meeting to order, and our first order of business is the acceptance of the minutes of the September 26th meeting.

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

CHAIRWOMAN WALLNER: Representative Eaton moves approval.

SEN. FORRESTER: Second.

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: Senator Forrester seconds. All those in favor? Any opposed? None opposed.

*** {MOTION ADOPTED}

(2) Old Business:

CHAIRWOMAN WALLNER: Now we move into the Old Business. We have a number of items on the table. We have one, two, three items on the table. Anyone desire to move any of those off the table? Seeing no motion to have anything off the table, we'll leave those first three items on the table.

Now we are moving into Item 14-151 and the Department of Corrections has asked to have that item withdrawn. So that -- and now let's move into 14-153, which is the Department of Education. It is a Special Order. I have asked the Commissioner, Commissioner Barry, to come up and speak to us about that item. Thank you, Commissioner Barry. Nice to have you here.

VIRGINIA BARRY, Commissioner, Department of Education: Thank you, Madam Chair. I appreciate the opportunity to just give some brief comments about this position. This position, as you all know, is very critical to the Department. Having a Business Manager, the manager oversees the Adequacy Formula, the apportionment, and works very close with DRA. We have not had a person in this position for two years, and several other positions have been cut from the Business Department. Additionally, we are not asking for funds that are not in the budget. We are

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requesting a reclassification. The funds are available and the reclassification amounts to \$12,000. And I ask very, very seriously that you understand how critical this position is to the Department at this time. With our declining enrollments, and many, many School Districts looking for assistance relative to funding, we certainly could use that Business Manager. Thank you.

CHAIRWOMAN WALLNER: Thank you, Commissioner. Do we have questions? Any questions of the Commissioner?

** REP EATON: Move approval.

CHAIRWOMAN WALLNER: Representative Eaton moves approval.

REP. WEYLER: Do you have to vote to remove it from the table?

CHAIRWOMAN WALLNER: It's not on the table. It's a Special Order. So Representative Eaton moves, and Senator Forrester seconds the approval of this item. All in favor? Any opposed?

CHAIRMAN WEYLER: Opposed.

CHAIRWOMAN WALLNER: I will record one opposed.

REP. WEYLER: I can't even find it here.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Okay. Thank you very much.

MS. BARRY: Thank you so much.

CHAIRWOMAN WALLNER: It's approved.

MS. BARRY: Thank you so much all of you.

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REP. WEYLER: Eaton and who?

CHAIRWOMAN WALLNER: Eaton and Forrester. Senator Forrester.

REP. WEYLER: All right.

CHAIRWOMAN WALLNER: All set?

REP. WEYLER: Yes.

(3) RSA 9:16-c,I, Transfer of Federal Grant Funds:

CHAIRWOMAN WALLNER: Let's move on to Tab 3, which is a consent item, Department of Safety, is to transfer \$7,333.

** REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Representative Eaton moves approval.

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: Senator Forrester seconds. Any discussion? All in favor? Any opposed? Motion passes.

*** {MOTION ADOPTED}

(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:

CHAIRWOMAN WALLNER: Moving on to Tab 4. This is an item from the Department of Safety. It's also on Consent. It's the only item on that Consent Calendar.

** REP. EATON: Move approval.

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CHAIRWOMAN WALLNER: Representative Eaton moves approval.

SEN. LARSEN: Second.

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

*** {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:

CHAIRWOMAN WALLNER: Now we have Tab 5 which is several consent items. Are there any of those that you would like to remove from Consent Calendar? Seeing none.

** REP. EATON: Move approval of Consent Calendar.

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

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: And Senator Larsen seconds. All in favor? Any opposed? Consent Calendar passes.

*** {MOTION ADOPTED}

(6) 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 Restricted:

CHAIRWOMAN WALLNER: Tab 6 is further consent. We have two items on. Discussion of either of those two? Seeing none.

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** REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Representative Eaton moves approval of that Consent Calendar and --

SEN. LARSEN: I'll second.

CHAIRWOMAN WALLNER: -- Senator Larsen seconds. All in favor? Any opposed?

*** {MOTION ADOPTED}

(7) **RSA 228:12, Transfers from Highway Surplus Account:**

CHAIRWOMAN WALLNER: Our next item is Item 7 and this is transfer from the Highway Surplus Account.

** SEN. FORRESTER: Madam Chair.

CHAIRWOMAN WALLNER: Yes.

SEN. FORRESTER: I'd like to table this item, please.

SEN. BOUTIN: Second.

CHAIRWOMAN WALLNER: Senator Forrester moves to table --

SEN. BOUTIN: Second that.

CHAIRWOMAN WALLNER: -- the item and Senator Boutin seconds. All in favor of tabling? Opposed? I think let's call the roll on that, okay.

REP. EATON: It's a table motion, no debate.

CHAIRWOMAN WALLNER: No debate on a tabling motion as I learned.

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SEN. FORRESTER: Okay.

CHAIRWOMAN WALLNER: You want to call the roll?

REP. WEYLER: Want to be first on the list?
Representative Eaton.

REP. EATON: No.

REP. WEYLER: Representative Leishman.

REP. LEISHMAN: No.

REP. WEYLER: Representative Weyler votes yes.
Representative Benn.

REP. BENN: No.

REP. WEYLER: Senator Forrester.

SEN. FORRESTER: Yes.

REP. WEYLER: Senator Rausch.

SEN. RAUSCH: Yes.

REP. WEYLER: Senator Boutin.

SEN. BOUTIN: Yes.

REP. WEYLER: Senator Larsen.

SEN. LARSEN: No.

REP. WEYLER: Let's see. Representative Wallner.

CHAIRWOMAN WALLNER: No.

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REP. EATON: Five to four.

REP. WEYLER: Five to four.

*** {MOTION FAILS}

CHAIRWOMAN WALLNER: The vote is five no, four yes. So the motion does not pass.

REP. WEYLER: I guess it be four to five.

** REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Four to five. Representative Eaton moves approval of the item.

REP. BENN: I have a question --

CHAIRWOMAN WALLNER: Yes.

REP. BENN: -- of the Department.

CHAIRMAN WALLNER: Could we have a second on approval and then we'll have discussion?

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: And Senator Larsen seconds. And could the Department come up and talk to us, answer some questions? Good morning.

PATRICK MCKENNA, Deputy Commissioner, Department of Transportation: Good morning.

CHAIRWOMAN WALLNER: Good morning. Thank you.

MR. MCKENNA: Good morning. Patrick McKenna, Deputy Commissioner with DOT, and with me is Maureen Mullen, our Director of Finance.

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REP. EATON: Patrick, as good as the microphones are now, can you pull it in a little tighter.

MR. MCKENNA: Yes.

REP. EATON: Thank you.

CHAIRWOMAN WALLNER: Okay. Great. Do we have questions of the Department?

REP. BENN: Yes.

CHAIRWOMAN WALLNER: Yes, Representative Benn.

REP. BENN: Thank you. My understanding is that you're looking for this because of we need more trucks and time to deal with the expanded highway. I guess the question is if we -- you're not asking for any new positions. So does this mean that you're going to rely on more overtime?

MR. MCKENNA: Thank you for the question. I guess we are on there. Thank you for the question. Essentially, what we do in winter maintenance throughout the Department is we have a combination of our own forces, as well as we supplement that with rented equipment and drivers that operate that. And we can, on a statewide basis, actually have in the neighborhood of, in some storms, can be 60% of our workforce out there plowing snow might be private contractors. So the equipment itself that we are talking about specific to the I-93 widening, and we are actually even a little bit ahead of schedule opening quite a bit of that project up for the travelling public this month. We have already started shifting the barrels around so that northbound and southbound from Exit 3, South will be available at three lanes for the travelling public. And what we do have with the I-93 Project specifically is we have heavy degree of permitting in terms of the amount of chlorides that we can place down. So we need -- we need specialized equipment. We need it to be the newer equipment

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with calibrations of the -- of sophisticated spreader technology. And we typically rely on our own forces to do that. So we'll be shifting some of our own forces around from other areas, and we'll probably supplement those other areas with private contractors.

REP. BENN: Thank you.

CHAIRWOMAN WALLNER: Any other questions?

REP. EATON: Senator Boutin.

CHAIRWOMAN WALLNER: Oh, Senator Boutin.

SEN. BOUTIN: Thank you, Madam Chair. Thank you for your testimony today. My question I have for you is how much of this \$1.231 million is coming out of gas revenues, the Road Toll Tax?

MR. MCKENNA: In terms of the -- are you asking whether it comes out of the SB 367, the additional taxes or --

SEN. BOUTIN: No. I'm asking out of --

MR. MCKENNA: In general?

SEN. BOUTIN: You can't take it out of the new 4.2. How much are you taking out of the current road toll?

MR. MCKENNA: Thank you for the question, Senator. The way the Highway Fund works is the unrestricted revenue that goes into the Highway Fund is comprised primarily of three things. Number one is the Road Toll; number two is registration fees; and number three is court funds go into there. So those are the three primary sources of funds that are the revenue for that for the Highway Fund.

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The Legislature appropriates funds out of that for use of the Department of Transportation, as well as other agencies, Department of Safety. And so designating a single piece of this spending, we could say that all of this is road toll or we could say none of it is road toll because all three of those sources of revenue are what make up the unrestricted revenue in the Highway Fund. So the answer I know is not quite clear, but that's the way the Highway Fund is made up. So I would say that it is likely that a component of this is from Road Toll.

SEN. BOUTIN: The majority of it is.

MR. MCKENNA: Well, the Road Toll makes up most of the revenue in the Highway Fund, so yes.

SEN. BOUTIN: Madam Chair, follow-up question.

CHAIRWOMAN WALLNER: Yes.

SEN. BOUTIN: As you know, that is a major issue for a lot of folks. Our constituents back home are tired of seeing you take the gas toll money and using it for doing things like this. They don't mind paying the extra 4-cents, but they don't -- they want it to go to the roads and bridges. And we have a process, a funding process in place every two years to purchase to do these kind of things. So I object to the fact that you continue to, despite the rather vigorous debate we had over the last year on this whole issue, I'm disturbed that you want to take Road Toll money, which can only be used for roads and bridges and use it to buy equipment. We have a process for buying equipment and there's funding mechanism for it and shouldn't be taken out of the Road Tolls. Thank you, Madam Chair.

CHAIRWOMAN WALLNER: Thank you. Representative Eaton.

REP. EATON: Patrick, do we risk being subject to fines for not having the proper distribution rates on the

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chloride on I-93 if you don't get the additional funds to get the proper equipment to do gauging and spreading?

MR. MCKENNA: Well, we -- we have to comply with the environmental permits. And the water quality standards along that corridor, particularly in that southern tier right around Exit 3, are particularly sensitive. There are several areas that are very narrow. And what -- what we found is that much of the activity there is based on I-93 in that narrow segment. So it's quite important that -- that we do have the right equipment in place.

CHAIRWOMAN WALLNER: Yes, Senator Forrester.

SEN. FORRESTER: Go ahead.

CHAIRWOMAN WALLNER: Senator Rausch.

SEN. RAUSCH: Thank you, Madam Chair. Well, as you know, I support I-93, but in the request I -- you did not -- at least I didn't see it, but what is the surplus right now?

MR. MCKENNA: Well, we do have a projection of the surplus through September 30th. That is through Fiscal Year 15. The projection right now is just over \$16 million. At year end we're in unaudited figures here as the State audits aren't complete yet. At year end Fiscal Year 14, approximately \$33.2 million.

REP. LEISHMAN: I have a question.

CHAIRWOMAN WALLNER: You have a question.

REP. LEISHMAN: Madam Chair, a question of Senator Forrester.

SEN. FORRESTER: Yes.

CHAIRWOMAN WALLNER: Yes.

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REP. LEISHMAN: I was just curious, your reason for tabling the request?

SEN. FORRESTER: Thank you. Well, I -- as you all know, Senator Morse has a great interest in the Department of Transportation issues. And out of courtesy for him, I spoke to him this morning about it, and he hadn't seen this and really wanted to be able to look at it and maybe ask some questions and that was the reason for the tabling motion out of courtesy to him.

CHAIRWOMAN WALLNER: Further comment? Questions?

REP. EATON: Patrick, if this gets delayed a month, with the storms, what effect is that going to have on being able to accomplish the task in time for the winter and meet the requirements you have to meet for DES standards?

MR. MCKENNA: Well, thank you for the question. The lead time on this type of purchase for us is approximately a year. So we're talking about planning for Fiscal 15. Since the -- since the -- the increase in the Road Toll that was passed by SB 367, there are a significant amount of land miles that are going to be opening up on I-93 as we complete construction projects so we're trying to plan in advance. It takes a significant amount of time. We are trying to take advantage of pricing at this point and to go out through the RFP process takes a considerable amount of time. We go through the State process to do that and, really, this is -- this is about our ability to plow snow primarily.

CHAIRWOMAN WALLNER: Yes, Senator Larsen.

SEN. LARSEN: We have a Constitutional requirement to use Highway Fund monies for the highways, but hasn't equipment purchase and the need for road maintenance through equipment has always been an acceptable within

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Constitutional parameters of the Highway Fund to use for highway purposes. I know some of the objections have been when it gets farther afield, but this seems, to me, to be directly within Constitutional parameters; and, second, that it is for the purpose for which highway funds were allocated. Would you agree with that?

MR. MCKENNA: Completely. Thank you.

CHAIRWOMAN WALLNER: Representative Benn and then Senator Rausch.

REP. BENN: Patrick, doesn't make sense to me. If you said that it takes a year for the RFP to get all this equipment and so we're a year ahead anyway, what are you going to do for -- you also said that the highway is opening up this fall. What are you going to do for this year?

MR. MCKENNA: We are scrambling to be able to accommodate this year. We -- one of the things, and we actually may be a subject to conversation later in the meeting, we just went through a performance review of the equipment activity at the Department of Transportation from the Legislative Budget Assistant, and I think what you'll see from that is a confirmation of concerns that the Department has expressed for a number of years that we've not secured through the budget process significant enough resources to maintain the heavy equipment fleet at a workable level. And so we are -- we are trying to in the areas like this, trying to get ahead of that to some degree. We certainly have some budget requests coming forward in our current budget that we'll be debating for the 2016 and '17, but we do have to plan for these things sometime in advance. And it's not just -- I don't want to give you the impression that the procurement itself takes a full year. That's part of the process.

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One of the things we do with our Mechanical Services and what we found is very effective is we buy the chassis and the major components, the engines and the major components of the trucks and we actually, as you can see from this request, we are actually requesting some parts money as well. A lot of the hydraulic activity and the electrical and others are actually assembled by our mechanics at our Mechanical Services Bureau which gives us very, very well-functioning for our needs trucks and that takes about four months of the process as well, that buildup, the trucks themselves.

REP. BENN: Just one follow-up.

CHAIRWOMAN WALLNER: Yes.

REP. BENN: Do you anticipate any EPA violations due to the fact that you won't have these calibrated spreading machines?

MR. MCKENNA: Well, again, what we're going to have to do is we'll need to move pieces of equipment that were designated for other areas and try to bring that down to this -- to these locations in the southern tier of I-93 which will put us in a position to really reshuffle several of our sheds around for their maintenance responsibilities in the wintertime. We'll most likely have to augment with private contractors in other areas.

CHAIRWOMAN WALLNER: Senator Rausch.

SEN. RAUSCH: Thank you, Madam Chair. My objection was the balance sheet you gave us from March and when you request a surplus -- I guess transfer, I felt I needed -- plus the punch holes went right through the numbers. Unless I was going to hand calculate everything, I can't see what the numbers were because they were punched out. But now your answer gave me another question because just when I got here they gave me the September report, and this is kind of a bundle for me because I've worked with

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the Department to support it. You gave an answer of a surplus of a total of operating and capital. The 16 million is operating and capital. You're taking out of a surplus, but why did you use the total as opposed to the surplus in the operating?

MR. MCKENA: Uh -- this is virtually entirely the -- what you see here is the undesignated surplus. The only component of capital that's in this undesignated surplus is bond proceeds that -- for GARVEE bonds that have been authorized and not issued and for the State Aid Bridge and Highway which comes through the operating budget itself. Once you net out in GAAP adjustments the bond proceed piece, you are virtually left with total appropriations in the Highway Fund, State Aid Highway and Bridge, although they're capital activities, are appropriated on an annual basis by the Legislature. So they are not the restricted activities that you see coming through for, say, Federal funds, Betterment funds, or otherwise. What you are seeing is -- is the operating component and that's the piece.

If I might address the timing of the reporting. These are done on a quarterly basis, and I certainly understand the Senator's concern with the March reporting. When we prepared this request, it was prior to -- prior to well over a month ago, prior to when we had the figures on an unaudited basis, and we apologize that you didn't have that. Again, we have updated that for June on an unaudited basis and also updated the Fiscal Year 15 through September which includes warrants in there as well.

SEN. RAUSCH: Follow-up.

CHAIRWOMAN WALLNER: Yes.

SEN. RAUSCH: I'm still back to I always get concerned when on some reports we talk about operating and capital. Why -- not that it's -- to me it's maybe semantics, but not

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totally -- why didn't you report the total as fourteen million ninety-five as opposed to sixteen nineteen? Why are you putting the capital into the operating for the surplus?

MR. MCKENNA: It's the format of the reporting that we do. This is -- this is the undesignated surplus. So the undesignated surplus includes two minor capital items and those minor items are State Aid Bridge and Highway. Those are both appropriated on an annual basis and that's why that's reported as such. Certainly, prior to the transfer to cover any -- any under/over activity in those two accounts, you have approximately \$1.9 million difference from operating. We have it split out this way in detail. I think it creates an appropriate level. They are both on there. But if you're under the impression that -- that capital expenditures are part of this statement, that's not the case. It's just those two accounts, as well as the bond proceeds that have not -- that have been authorized but unissued.

SEN. RAUSCH: Okay. But it does lead to other concerns when you report because I thought we were trying to go down the road where we clearly delineated operating and capital as separate -- totally separate entities within your Department.

MR. MCKENNA: Thank you.

CHAIRWOMAN WALLNER: Senator Boutin.

SEN. BOUTIN: Thank you, Madam Chair. I would just like to follow-up in your response to Senator Larsen and ask you this question. What funds do you use -- what are the source of those funds to purchase dump trucks, plows, pickup trucks, other things along that line which are, by the way, are used on a daily basis for work on our roads and bridges? What funds do you use to fund those items?

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MR. MCKENNA: We use Highway funds and we use Turnpike funds depending on the -- depending on the activity itself. So for roadways that are Highway maintained, we use Highway funds. For Turnpike System activity, we use Turnpike funds. We do have components of the Turnpike System that are maintained by our Highway Maintenance Bureau, and then the Turnpike System pays for that activity. So there are some Highway funded equipment activities that perform services on the Turnpike Fund, but the Turnpike Fund reimburses the Highway System for that.

SEN. BOUTIN: Okay. Thank you, Madam Chair.

CHAIRWOMAN WALLNER: Further questions? Yes.

SEN. FORRESTER: Thank you, Madam Chair. Thank you for your testimony. In the document you say you're purchasing nine new trucks and seven material spreaders. That's for November 2015, the winter of 2015. And so for this year you're all set with your equipment?

MR. MCKENNA: Uh -- no, we're scrambling. We're shuffling things around. I think what you'll find is much of our -- much of our equipment we have approximately a third of our heavy equipment fleet and half of our other equipment is beyond its serviceable life so we spent a lot of time maintaining that and it's out of service frequently. So we are -- we are, as an organization, we are fairly well-stressed for getting the right equipment in the right place at the right time.

CHAIRWOMAN WALLNER: Yes.

SEN. FORRESTER: And for this request on the equipment you don't feel you can wait another month?

MR. MCKENNA: We certainly, to the extent that the Legislature has questions, we're happy to answer any further questions. We bring -- we bring these types of

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requests forward when we feel we need to. If it's not the desire of the Legislature to deal with this today, then we'll -- we'll certainly provide more information and deal with it again later.

REP. LEISHMAN: Madam Chair.

CHAIRWOMAN WALLNER: Representative Leishman.

REP. LEISHMAN: Thank you, Madam Chair. Just based on the testimony I've heard and as a courtesy to Senator Morse, I would support a tabling motion.

REP. EATON: Special order motion.

REP. LEISHMAN: Special order.

CHAIRWOMAN WALLNER: Well, I want to check with Mr. Pattison about tabling at this point. Everything that's on the table on December 3rd will die. So a tabling motion at this point means that the item will die on December 3rd. And I assume it would just -- they would have to resubmit it for further -- further Fiscal meetings in December.

MR. PATTISON: That is correct.

CHAIRWOMAN WALLNER: So a tabling motion means that the item will die at the end of this month.

REP. BENN: Special Order, too?

CHAIRWOMAN WALLNER: Special Order. Something new. Special orders, do those carryover into the next? Sorry to put you on the spot.

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: This is the first time the Fiscal Committee has ever used the expression Special Order. It appeared to us that the reason for that was that

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it did not require a motion to take the item from the table. The item would automatically come up at the next meeting. Having said that, usually the Special Order motion includes a Special Order to a certain date, which this Committee has not done with the actions that they have taken as well. I would treat Special Orders the same way I would treat tabled items. At the conclusion of the session and on December 3rd, those items will no longer appear on the agenda.

CHAIRWOMAN WALLNER: Thank you. I do have a motion on the table and motion is to pass the item. Representative Eaton moved and Senator Larsen seconded. Any further discussion about this item? I'm going to ask the clerk to call the roll.

SEN. LARSEN: And further clarification. Parliamentary inquiry. A yes vote is to approve the transfer?

REP. WEYLER: Correct.

CHAIRWOMAN WALLNER: Yes. The yes vote is to approve the transfer.

REP. WEYLER: Representative Eaton.

REP. EATON: Yes.

REP. WEYLER: Representative Leishman.

REP. LEISHMAN: No.

REP. WEYLER: Representative Weyler votes no.
Representative Benn.

REP. BENN: Yes.

REP. WEYLER: Senator Forrester.

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SEN. FORRESTER: No.

REP. WEYLER: Senator Rausch.

SEN. RAUSCH: Yes.

REP. WEYLER: Senator Boutin.

SEN. BOUTIN: No.

REP. WEYLER: Senator Larsen.

SEN. LARSEN: Yes.

REP. WEYLER: Representative Wallner.

CHAIRWOMAN WALLNER: Yes. The motion passes. Five yes and four no.

*** {MOTION ADOPTED}

(8) Chapter 3:7, II, Laws of 2014, Department of Health And Human Services; Contracting; Transfer Among Accounts:

CHAIRWOMAN WALLNER: Next item is Tab 8. Thank you. Thank you very much. Tab 8, and the first item that we deal with is 14-188, and this is from Health and Human Services, Division of Community-Based Services. Do I see a motion? Representative Eaton moves.

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: Senator Larsen seconds. Any questions on this item? Seeing none. All in favor? Any opposed? Item passes.

*** {MOTION ADOPTED}

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CHAIRWOMAN WALLNER: Moving now into Item 14-189.

** REP. EATON: Move it.

CHAIRWOMAN WALLNER: Representative Eaton moves. And Senator Larsen --

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: -- seconds. Discussion of this item? Seeing none. All in favor? Any opposed? Item passes.

*** {MOTION ADOPTED}

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

CHAIRWOMAN WALLNER: Now moving into Tab 9.

** REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Representative Eaton moves approval of Item 14-168, Department of Transportation, and Senator Forrester seconds. Yes, Representative Eaton.

REP. EATON: There's got to be a way that something for a thousand dollars doesn't have to come before us.

SEN. FORRESTER: Right.

REP. EATON: And I hope we can figure out a way to address that. I thought we had a way to address that. I thought anything under 25 we bypassed it.

CHAIRWOMAN WALLNER: I think it's something that people will probably have to take a look at and maybe suggest some legislation for it in the upcoming session. Any discussion on the item? Seeing none. All in favor? Any opposed?

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*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Moving on to Item 14-179. This is also Department of Transportation.

** REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Representative Eaton moves.

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: Senator Larsen seconds. Any discussion? All in favor? Any opposed? Item passes.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: One more from Department of Transportation, and this is Item 14-180.

** REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Representative Eaton moves and Senator Larsen seconds. Any discussion? All in favor? Any opposed? Motion passes.

*** {MOTION ADOPTED}

Late Items:

FIS 14-195

CHAIRWOMAN WALLNER: That is the end of our regular calendar, and let's move into -- where did Jeff go? Let's move into Late Items. And for Late Items let's take up first our Medicaid Waiver. Okay. And I'll ask Jeff Meyers to come up and join us, and the Commissioner, Commissioner Toumpas, if you would. Great. I think over the weekend everyone received the Waiver in final form. And I will send

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it over to you to talk to us about the Waiver and tell us what we have before us.

JEFF MEYERS, Assistant Commissioner and Director of Intergovernmental Affairs, Department of Health and Human Services: Thank you, Chairman Wallner, Members of the Committee. Good morning. I just wanted to acknowledge before I begin, obviously, accompanied this morning by Commissioner Toumpas from the Department of Health and Human Services. Also present is Commissioner Sevigny from the Department of Insurance and his staff, and the two departments worked very collaboratively together in order to develop this Waiver.

As you can see from the cover page of itself, it's submitted to the Committee pursuant to Senate Bill 413 on behalf of both departments because both departments have to work together to implement this program.

What we are presenting to you this morning is the proposed final application for a Section 1115 Medicaid Waiver to implement the Premium Assistance Program under the New Hampshire Health Protection Act. The purpose of this Premium Assistance Program, as established in the authorizing legislation, is to transition the new adult group to the Federal Exchange for coverage in private Qualified Health Plans beginning in 2016 that is paid for with 100% of Federal funding for benefits. That is exactly what this Waiver will do. The application requests CMS to approve the Waiver for a single calendar year, the calendar year 2016, in accordance with Senate Bill 413. Our two departments, Health and Human Services and Insurance, believe that in all respects this Waiver application reflects the requirements and the intent of Senate Bill 413.

I'd also like to, before summarizing very briefly the major features of the Waiver, in addition to recognizing obviously both departments, I'd also like to publicly

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acknowledge the role of our consultants, our respective consultants in developing this Waiver. We worked with them in that law firm and with the public consultant group. Both of those firms played very key roles in obtaining CMS approval for the Premium Assistance Waiver in the State of Arkansas last year, and they contributed immensely to our work here on this Waiver. The package that is in front of you contains several documents and I just very briefly want to identify them as we go through this.

First, obviously, in addition to the cover page, is a two and a half page summary of the major features of the Waiver and I'm going to be going through that. In addition, there's the application itself, a copy of the public notice that was issued by Department of Health and Human Services for the Waiver, as required by Federal regulation, the proposed standard co-payment plan, that is the proposal for co-payments by enrollees of this program, copies of all the written public comments that were received by the Department as part of the federally required notice and comment period, and lastly, at the very end, the Department's responses to all the comments that were received as we are required to do under Federal regulations to prepare responses to the comments. So that's all part of the package. So what I plan to do is just turning to the second page of your packet, which is entitled description of New Hampshire's Medicaid QHB Premium Assistance Waiver, I am briefly going to go through the major features of the Waiver just to highlight certain aspects of it. And at the end of that I'll stop and then, obviously, we'll -- both our departments can respond to any questions you may have about the Waiver.

At the top of the page, you'll see the timeline of some of the key Waiver activities. Just to point out for the public record, we were required to undertake a 30-day public notice. We did that beginning October 1st. We conducted a review of the Waiver proposal with certain members of legislative leadership on October 30th. The end

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of the public comment period was midnight of October 31st. We collected all of the written materials that were submitted to the Department, reviewed them internally, shared them with our consultants as well, and that review resulted in the responses that have been made part of this Waiver submission to the Fiscal Committee. We are, obviously, meeting with you today.

As you know, Senate Bill 413 requires that we submit the Waiver to CMS no later than December 1st of 2014. So we're hopeful after hearing us today and responding to your questions that you will take action on the Waiver. Again, under the bill if -- as long as CMS approves this Premium Assistance Waiver by March 31st of 2015, then the Bridge Program under which New Hampshire Health Protection enrollees are receiving benefits through Managed Care Organizations now will continue through December 31st of 2016. If this Waiver is approved both by this Committee and by CMS, then the Bridge participants, with a couple of minor exceptions which I'll highlight in a moment, will transition starting at the open enrollment period in October of 2015. They will pick a plan and they will transition to private Qualified Health Plans on the Exchange for coverage beginning 1/1/16. As you know, the Federal Government will pay 100% of all the costs of those benefits through Calendar Year 16. So that's the high level timeline.

I've already talked about the Waiver duration. We are only submitting a demonstration for one year. Should the next Legislature decide to extend the program, we authorize the program for an additional amount of time, then depending upon the terms of that reauthorization, the Departments would, obviously, consider going back to CMS to extend the demonstration period in accordance with the authorized -- re-authorizing legislation.

The population that we will transition to the Exchange population into which these folks will go into are the so-called new adults, parents with incomes between 47% and

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133% of the Federal poverty level and childless adults with incomes up to 133% of the Federal poverty level.

The two populations that will not enroll in the Premium Assistance Program will be those who are receiving coverage through their employer-sponsored insurance, the so-called health insurance premium program population. That program is up and running now, and there are individuals every month that are being qualified, determined cost-effective for participation in that program which is coverage through their existing employers through existing employer-sponsored insurance. So those folks will stay with existing employer-sponsored insurance.

In addition, the other group that will not go into the Premium Assistance Program are those that are identified as medically frail. Medical frailty is a term of art. It's defined under Federal law. It essentially describes those individuals with very complex medical conditions, with serious mental illness, with serious disabilities. It impacts their ability to perform daily tasks of living, and they will be excluded from our demonstration.

The benefits that will be received by this population are the -- essentially the ten essential health benefits as approved under our alternative benefit plan, the SPA that was brought to the Fiscal Committee back a number of months ago and which was approved by CMS. So they will receive all of the essential health benefits, including certain additional benefits that are required for individuals that are open to -- that are eligible -- excuse me -- for Medicaid. Those additional benefits are the vision, which are basically glasses and limited dental benefits that were included as part of our ABP. The limited dental benefits are emergency services. And as I said, the vision benefit that we are providing to the current population, and including the current Bridge population are eyeglasses, in addition to eye exams, and so those benefits will be made

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available to the new adults under the Premium Assistance Program.

Also, Medicaid Federal law requires that we provide so-called early periodic screening diagnosis and treatment services for 19 and 20-year olds and non-emergency medical transportation. Those benefits are being provided to the population now served by the Bridge Program, and we will carry that over into the Premium Assistance Program as required by Federal law. They'll be on a fee-for-service basis. These additional benefits are not part of the QHBS on the Exchange so they will be provided as a wrapped -- so-called wrapped benefit by the Department; but again, paid for in 2016 with 100% of Federal funds.

Beneficiaries will not be required to pay premiums or deductibles. Federal funds will cover the premiums and deductibles and will be paid directly to the carriers. That is in accordance with Federal law. We have though, in keeping with the personal responsibility requirements of Senate Bill 413, we have established a plan for co-payments that will be submitted to CMS and that has been attached to this Waiver application. It's a single sheet that appears after the actual Waiver application, and I'll tell you what page it's on.

REP. WEYLER: Thirty-eight.

MR. MEYERS: Thirty-eight. Thank you, sir.

REP. BENN: Took us awhile.

MR. MEYERS: Under the Bridge Program currently in effect, there is a limited co-payment that is asked of the Bridge recipients, and that is -- it's in the form of pharmaceutical co-pays. The Bridge recipients pay \$2 for generic drugs and \$4 for brand name prescription drugs.

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You will see on Page 38 that we are proposing a more significant co-pay program that is consistent with that in effect in commercial coverage and that will be part of the plans that will be offered to any marketplace participant with an income of 150% of the Federal Poverty Level and below that. So you will see we are establishing co-pays for specialty physicians, other medical professionals like physical therapists. The generic drug prescription will stay at two. The preferred and non-preferred brand prescription will be at six, and specialty drugs will be at six. We have established co-pays for inpatient admissions, both for regular inpatient admission to a hospital and also for behavioral health inpatient admission. That is \$50.

There are co-pays for imaging, kind of the specialty imaging services, such as MRIs or CT scans will be at \$50. There will be no co-pay though for a standard x-ray which is included in lab and radiology further down on the list. So, as I said, this schedule of co-payments was developed working with our consultants, working with our actuary, so that we would design a plan that we would feel would ensure that those subject to the co-pays and those that will be subject to the co-pays would be those individuals in the Premium Assistance Program that are at 100% or greater of the Federal Poverty Level. There will be no co-payments for those under 100% of the Federal Poverty Level as proposed in this application. And this was designed in a way so that those that are 100% and over who access services would not reach the five -- would not exceed the 5% of household annual income that will be tracked on a quarterly basis as part of the program.

Federal law requires that no co-payments and no other contributions by a Medicaid enrollee exceed the 5% of annual income threshold. CMS has never waived that to my knowledge certainly. So that's how this was developed.

In terms of the choice of Qualified Health Plans, as I said, those new adults with incomes under 100% of the

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Federal Poverty Level will enroll in plans that will -- are called 100% actuarial value, AV Silver Level Plans. They'll have no deductible, no premium, no co-payment. Those that are above -- that are at or above 100% of the Federal Poverty Level will be enrolled in 94% Silver Plans, and they will be subject to the co-payment schedule that I just described, assuming that it is approved by CMS.

Those new adults that offer to it that are now enrolled in Medicaid Managed plans in the Bridge Program, to the extent that their MCO has a Qualified Health plan that is available on the Exchange and that is cost-effective in 2016, those individuals will be automatically enrolled in that MCO's Qualified Health Plan with an opportunity to switch within a certain amount of time after enrollment. There is a freedom of choice requirement which we, obviously, will honor and must honor under Federal law and that is how we will honor it. They will be automatically enrolled in the MCO plan but given a choice to enroll in a different plan that they are eligible for.

If they -- if the Bridge Program MCO does not offer a Qualified Health Plan in their geographic region, the enrollee will be required to select and enroll in a QHB offered to them in the marketplace, obviously, for that geographic region and we'll auto assign any individual who does not select a plan offered in their geographic region.

Carriers will be required through certification criteria to accept Medicaid beneficiaries as enrollees. This is -- Medicaid eligibility as you may know is a so-called qualifying event under Federal law so that once a person is determined eligible no matter what time of year it is, even if it's outside the Federal enrollment period for the Exchange, can sign up and can be enrolled and will have time to select their Qualified Health Plan.

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We are proposing in this Waiver to cover someone's health care once they are determined eligible from the date of the initial application. Under current law and under our current Medicaid program, once a person is determined eligible, their coverage extends back 90 days retro-actively. We are not -- we are proposing to waive that 90-day requirement in this application. We are proposing to do so largely for the reason that a majority of individuals who will transition from the Bridge Program to the Qualified Health Plans on the Exchange would have been covered for at least 90 days under the Bridge Program.

As of -- today's Monday -- as of Friday there were approximately 23,000 individuals that were -- who enrolled in the program. We are adding to the program at a rate of somewhere between 100 and 200 persons a day. It varies week to week. But I think if the take-up rate, if that take-up rate continues at the same rate, I think by the end of Calendar Year 2014 we will have about 30,000 people in the program. And then given the effort the Federal Government and others will be rolling out soon in respect to the open enrollment period which begins on November 15th -- excuse me -- we believe more and more people who are eligible for this program will sign up for the program. So we believe a majority of people will have health coverage going into the Premium Assistance Program.

And also noted on the bottom of Page 2, under the enrollment process, we are going to leverage our current IT platforms in our systems to provide the enrollment and shopping function that is required of us. The Federal -- we have a Federal Exchange in New Hampshire. As you know, that Federal Exchange does not support shopping and enrollment for the Qualified Health Plans for this population. And so we will be using our State portal, the NH EASY portal, as the foundation. We are working now both internally and with our consultants to identify exactly what changes that we will need to implement in order to support that function. But an individual will be able to

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log onto NH EASY and shop for and enroll in plans and that's what our plan is.

Lastly, on Page 3, I just want to go through these quickly. These identify all of the individual requests for waivers that we are seeking from CMS. And some of them are very self-explanatory. For example, we are seeking -- we have to submit a Waiver because we are proposing to provide benefits to Medicaid eligible individuals in a different way for this particular population than we are for the rest of the Medicaid population. So, for example, we are seeking a Waiver of 1902(a)(17) because we are providing a different delivery system. They won't be in Managed Care. They won't be in standard Medicaid. They'll be in Qualified Health Plans on the Exchange receiving coverage from commercial carriers with certain wrapped benefits from Medicaid to the extent that those wrapped benefits apply.

We are seeking a Waiver 1902(a)(17) so that we can vary cost-sharing requirements. We'll be establishing cost-sharing for those individuals that are at 100% of FPL or above, but we will be exempting individuals below 100% of the Federal Poverty Level.

We are seeking a Waiver to make this program mandatory. So if -- so unless you are eligible for the Health Insurance Premium Program for employer-sponsored insurance or unless you are medically frail, if you want to seek coverage then you have to enroll -- and you're part of this new adult group, then you have to enroll in the Qualified Health Plans on the Exchange. You don't have another option for being covered.

We are providing, as I said, 1902(a)(34) coverage beginning on the application date. That effectively waives the 90-day prior coverage period, if that is -- if that is approved by CMS.

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Lastly, and I want to talk about this for just a moment because I actually, I think, contributed to some confusion about this last Friday when I met with some House Fiscal members and I want to clarify and make sure that everybody understands what we're doing with respect to prior authorization for pharmaceuticals. The Federal law requirement is a 24-hour period for prior authorizations for pharmaceuticals for Medicaid eligible individuals. We are proposing that that be extended to 72 hours rather than 24 hours consistent with what exists on the Exchange today. We will provide a 72-hour supply of drugs in the case of an emergency, so that any individual -- so that all individuals will receive the medications that they need if, in fact, they need medications for that 72-hour period.

There is an insurance statute which I reference here which is RSA 420-J:7-b, II. I brought a copy of it as well. I can give that to Mr. Pattison. That provides for a 48-hour prior authorization period, but that is only with respect to drugs that are not part of the formulary for the program. So off formulary drugs. So we must comply with that State law. So if somebody requests a drug that is off formulary that will be a 48-hour authorization period consistent with RSA 420-J:7. If they are requesting a drug under a formulary -- on formulary that is in place for the program, then it will be 72 hours, and we feel that we have designed this in a way to meet people's needs.

That is the information that I wish to present, at least initially, and I'll stop now. And we are happy to answer your questions.

CHAIRWOMAN WALLNER: Thank you, Mr. Meyers. I'm going to take a break right now, just a short one. And so everyone hold onto those questions, write them down, and when we come back we'll ask some questions and go into a vote. Okay. So we'll take a short break.

MR. MEYERS: Thank you very much.

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(A break was taken at 11:14 a.m.)

(Reconvened at 11:30 a.m.)

CHAIRWOMAN WALLNER: Okay. So call us back to order. And I hope everybody kept all their burning questions while we took our short break. And if Mr. Meyers and Commissioner are up to taking some questions.

MR. MEYERS: Yep, absolutely. We are prepared to.

CHAIRWOMAN WALLNER: I'm sure we'll have some for you. Okay. And Representative Leishman has a question.

REP. LEISHMAN: I guess I have two, Jeff. First of all, I wonder when you sleep, because there's just so much material here. It seems hard to believe that it was so well put together in just a short period of time. So thank you.

My question is if we don't approve this Waiver, there will be absolutely no cost-sharing; is that correct? On Page 38 you've got the cost-sharing formula, but will that not happen if we don't approve the Waiver? How does that work.

MR. MEYERS: Well, if the Committee were not to approve the Waiver, then there would be no Premium Assistance Program, unless a different Waiver was brought forward and approved by the Committee and submitted to CMS. We can't -- we would not be permitted to implement the Premium Assistance Program under the New Hampshire Health Protection Act without a Waiver from CMS for the reasons that I outlined at the end. We are proposing to treat a segment of the population differently, making it mandatory and so forth. So the first consequence is if the Committee didn't approve a Waiver, we could not go forward with any implementation of the Premium Assistance.

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The Bridge Program is only authorized through, at the latest -- at the latest through the end of '15. So it would effectively limit the State's provision of health coverage for this population. We can't submit this Waiver to CMS without this Committee's approval and that's very clear in Senate Bill 413. All waivers for programs under that authorizing statute have to be approved in advance by the Fiscal Committee.

REP. LEISHMAN: I guess just a follow-up then.

CHAIRWOMAN WALLNER: Yes.

REP. LEISHMAN: My specific question, you had outlined a number of different things within the Waiver which I thought went through and I just, again, was curious the co-pay provision is just one part of the Waiver.

MR. MEYERS: Correct. It is only one part of it. Exactly. There are other parts as well.

REP. LEISHMAN: All right. Thank you.

CHAIRWOMAN WALLNER: Representative Weyler.

REP. WEYLER: Thank you, Madam Chair. Jeff, on this -- this is very complicated and it was a lot to read. But one of the things I noted is anybody can designate themselves as medically frail. And it wasn't clear if they do so what program they do go into. Obviously, not in the Premium Assistance. So what are they saving themselves if somebody says, oh, you're going to have a \$50 co-pay for this. Well, I'm medically frail. Do they get themselves out of anything?

MR. MEYERS: Someone self-identifies as medically frail would be done in order that they could access additional services, including long-term services and supports through our current Medicaid program through Managed Care coverage

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in the current Medicaid program. So wouldn't be the Bridge Program, but it would be -- they would be -- they would continue to access Medicaid services through Managed Care under our current program. And that would enable them to access certain services that are not going to be part of the Premium Assistance Program.

REP. WEYLER: So to follow-up. Are they saving themselves co-pay?

MR. MEYERS: No, no. That's a very good question. CMS has been very clear with the State of New Hampshire that once the co-pay is established for this program, that is, those 100 and above will be subject to the co-pay. Those under 100 aren't. That those co-pays apply to everyone who is deemed eligible as part of this eligibility group, as part of the new adult group. So even a person who's medically frail, they would be still be subject to the co-pays if their income were 100% or greater of the Federal Poverty Level.

REP. WEYLER: Even on the MCO?

MR. MEYERS: Correct.

REP. WEYLER: Thank you.

CHAIRWOMAN WALLNER: Representative Boutin.

SEN. BOUTIN: I'll defer to Senator Forrester.

SEN. FORRESTER: Just follow-up to the Representative's questions. What is the vetting process for somebody who, as I understand it self-identifies medically frail, what is the vetting process?

MR. MEYERS: Thank you, Senator Forrester, for the question. There's a question on the application that we are using today with Bridge Program participants and will be

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used with the Premium Assistance applicants as well that attempts to elicit information about their medical condition so that they can understand the difference between going into the QHP and what their condition is that may -- may label them as medically frail. So it is basically the Department is asking them a question through the application process that attempts to get them to think about what services they are, in fact, going to need. But we don't -- but the process that's proposed for identification of medical frailty under this program is the same that it is today.

I want to point out that we haven't attempted to change it because number one, a very, very small percentage of people that are coming into the program today on the Bridge Program are self-identifying as medically frail.

Secondly, importantly, we are only proposing a one year demonstration here. And so we'd like to see how that is going to continue to work for this year of this demonstration. Obviously, if the program were to be continued, then we would see what the take-up rate for medical frailty was and then we could, if it was going to be extended beyond the year, then we could take another look at that at that time.

CHAIRWOMAN WALLNER: Senator Boutin.

SEN. BOUTIN: Thank you, Madam Chair. Thank you, Jeff, for your testimony.

MR. MEYERS: Sure, sure.

SEN. BOUTIN: The question I have, this goes to the heart of it, the central issue of the debate on Senate Bill 413 we've already passed and the concern that many of us had was how do we deflect the individuals who go to the emergency room where the care that they receive is much more costly than if they went to either a clinic or a

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primary care physician? So on your proposed chart of fees you have two categories. You have hospital outpatient visit. So I'm not sure exactly what that means. Then you have -- and they're both zero co-pay -- emergency room visit.

MR. MEYERS: Hm-hum.

SEN. BOUTIN: If a person walks in and it's deemed they're having an issue with high blood pressure or diabetes or something along that line, is that an emergency room visit or is that something that they should be going to a clinic or primary care physician for?

MR. MEYERS: Right.

SEN. BOUTIN: That's my only concern with this chart.

MR. MEYERS: Yes.

SEN. BOUTIN: How are we defining emergency room visit?

MR. MEYERS: Thank you very much for the question. I'm happy to address it. First of all, an outpatient visit is not intended to include emergency room access at all. Outpatient visit is I need to go have a procedure at -- because it's done in a hospital setting. So I show up. I go to the hospital as an outpatient type procedure.

SEN. BOUTIN: Like a colonoscopy, something like that.

MR. MEYERS: Yes, something like that. Those aren't always done in the hospital but anything -- that is not meant to include emergency room service at all.

There are two types of services that can be performed in an emergency room. There are truly those emergency services when someone has a condition that requires be

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addressed in an emergency room setting and for those legitimate, you know, emergency room services, under Medicaid a co-pay cannot be charged to a Medicaid enrollee, Medicaid beneficiary for legitimate emergency room service. I think the question you're getting at though is what happens when someone shows up in an emergency room with a complaint, after assessment which is a screening which is required to be done under Federal law, the emergency room staff determines that it's not an emergency at all, but the person still wants to be treated for whatever the issue is in the emergency room setting. So there's a couple things that can be said there.

First of all, non-emergency room services performed in an emergency room is not a covered benefit under the Essential Health Benefits. And so when this population transitions to the Federal Exchange, the Qualified Health Plans on the Exchange for coverage beginning 1/1/16, there is no coverage for that non-emergency service performed in the ER. If a hospital -- so hospital, you know, I show up at the Concord Emergency Room. I get screened. I'm told, you know, you have got this or that, but it's not an emergency and you don't have to be treated here, and I say, but I want to be treated here, and I really expect to be treated here, and so forth and so on. If they decide, if the hospital decides at that point to treat that person for the non-emergency condition, then the hospital can bill for that. If the hospital doesn't get paid, then the hospital will make a decision whether that's charity care or not charity care. But we are not on the hook for payment of those services under this program.

The other thing that I would point out to the Committee, and the Commissioner can address this as well, is the Commissioner, in particular, has been leading an effort, a discussion with the Hospital Association, with certain hospitals, we have got additional meetings that we are going to be pulling together very shortly with all, I think, 26 hospitals, to talk about how the Department

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through the Medicaid Program can work with all hospitals to share information and identify ways to reduce the incidents of people showing up in emergency rooms for care that's not appropriate for the emergency room, if you will. And we are engaged now in a very constructive dialogue with the hospitals and the Managed Care Organizations as well, absolutely, to work with the MCOs, work with the hospitals, to identify ways that data can be shared so that we can identify the people we need to focus on. You know, right now we're -- we don't have encounter data for our Managed Care Program. We will, I think, soon and once we have that data, I think we'll have a better ability to work on strategies for decreasing the use of emergency rooms for non-emergency purposes.

CHAIRWOMAN WALLNER: Further questions. Representative Benn.

REP. BENN: Thank you, Madam Chair. Could you discuss or, you know, let us know about the timing of this Waiver? Are there any consequences to the State if this were delayed? Are there any deadlines and, you know, do you perceive --

MR. MEYERS: There are two deadlines in the statute in Senate Bill 413. There's the deadline of December 1st which is the requirements to submit the Waiver to CMS no later than December 1st. There is no specific consequence identified in the statute; but, clearly, there's a statutory mandate for the Department to bring the Waiver forward and the Department to submit the Waiver by December 1st.

Secondly, if the Waiver -- and the reason that that was created is because the statute's very clear that if the Waiver is not granted by March 31st of 2015, then the Bridge Program would end 90 days after that date, the end of June of 2015. And so -- and that, therefore, coverage would end for what is now, you know, 23,000 or so folks. And that

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number, as I said, is growing every day. So in order for the Departments, both Insurance and HHS, to have the time that we feel we need with CMS in order to gain approval of this Waiver, we need to get it in before that deadline so that CMS will have the time and can issue an approval before March 31st.

REP. BENN: Thank you.

MR. MEYERS: Thank you.

SEN. FORRESTER: Further questions? All right.

SEN. FORRESTER: Can we recess for a minute? I'll go find the Chair.

MR. MEYERS: Sure.

(Recess at 11:44 a.m.)

(Reconvened at 11:44 a.m.)

CHAIRWOMAN WALLNER: I'm sorry, I had to leave the room. And I was told that there are no more questions. Is that --

REP. EATON: Right.

CHAIRWOMAN WALLNER: -- right? Okay. So I'm going to ask Representative Leishman, he has a small Amendment.

** REP. LEISHMAN: Thank you, Madam Chair. I would move the Committee amend and approve Item 14-195 by changing the statutory reference on the cover page from RSA 126-A:5, Roman numeral XXII through XXVI to RSA 125-A:5, Roman numeral XXIII through XXVI on Page 2 of the description. It refers to the list of services and associated co-pays, also on Page 4. This should read Page 38.

CHAIRWOMAN WALLNER: Thank you. Any --

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REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Eaton seconds the motion. Any discussion of this slight Amendment just so that it's -- the document is correct. All in favor? Any opposed? Just that slight little -

MR. MEYERS: Not a problem.

CHAIRWOMAN WALLNER: Just a few little tinkers.

***** {MOTION ADOPTED}**

MR. MEYERS: Yeah.

CHAIRWOMAN WALLNER: And now do I have a motion on the item?

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

CHAIRWOMAN WALLNER: Representative Eaton moves that we pass this item.

SEN. LARSEN: Second.

REP. BENN: Second.

CHAIRWOMAN WALLNER: And Senator Larsen seconds. Discussion? Yes, Senator Forrester.

SEN. FORRESTER: I'd like to make a comment. Commissioner, and Jeff, thank you so much. I know you've done a lot of work on this and I appreciate it, all the work that's gone into it. There's a little bit of a miscommunication, I guess, on our part. And I have gone through the document and I've got some questions and some concerns that we weren't able to get through this weekend. So I'm not going to support this, but I'm hoping that you and I can sit down --

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MR. MEYERS: Yes.

SEN. FORRESTER: -- and go through this so that I can be comfortable with this.

MR. MEYERS: I'm happy to do that and I apologize for the miscommunication.

CHAIRWOMAN WALLNER: Further comments? Questions? Okay. I will -- I'm going to ask the clerk to call the roll.

REP. WEYLER: Motion to approve. Representative Eaton.

REP. EATON: Yes.

REP. WEYLER: Representative Leishman.

REP. LEISHMAN: Yes.

REP. WEYLER: Representative Weyler votes no. Representative Benn.

REP. BENN: Yes.

REP. WEYLER: Senator Forrester.

SEN. FORRESTER: No.

REP. WEYLER: Senator Rausch.

SEN. RAUSCH: Yes.

REP. WEYLER: Senator Boutin.

SEN. BOUTIN: Yes.

REP. WEYLER: Senator Larsen.

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SEN. LARSEN: Yes.

CHAIRWOMAN WALLNER: I get to vote, too.

REP. WEYLER: Representative Wallner.

CHAIRWOMAN WALLNER: I'm not gone yet. Yes.

REP. WEYLER: Six to two.

CHAIRWOMAN WALLNER: The motion passes six to two.

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: Thank you, Commissioner. Yes.

MR. TOUMPAS: Madam Chair, if I may? I appreciate Senator Forrester's and Representative Leishman's comments. There's been a tremendous amount of work that's gone into this and it's really involved the organizations that Jeff had talked about with the consulting organizations, New Hampshire Insurance Department, the Governor's Office and so forth. But I will -- along with a number of people within the Department, but I will say it really could not have happened without Jeff Meyers really leading the effort. He did an extraordinary job in terms of taking all these different concepts and weaving them to the point where I can understand them.

So I think it's just an extraordinary effort and what this action really does right now is just puts us on the starting line because all we have done right now is we have a proposal that will go in front of the Federal Government. We still have several months' worth of discussion we need to have with them in order for them to basically be comfortable with this and approve it. And then we have the no small task in terms of the implementation of this so that it happens in the timeline and in the way in which the Legislature had -- had desired that.

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So, again, I just want -- I publicly acknowledge the leadership of Jeff Meyers in this effort. Along with this I could be here for another half an hour saying the names of others, but I just really want to put Jeff's name right out there. Thank you.

CHAIRWOMAN WALLNER: Thank you, Commissioner. And I would like to also say that Jeff Meyers and staff at Health and Human Services have been extremely helpful in getting us through this process and answering our questions, providing us with volumes of information and a job well done. We appreciate it. Thank you. And Representative Leishman, did you -- you do have another motion, right?

****** REP. LEISHMAN: Yes, thank you. I would further move the Department of Health and Human Services be authorized to make technical and administrative changes which are necessary to reflect the intent of this item as approved, and that the Department shall report back to the Fiscal Committee all changes made under this approval.

MR. MEYERS: Yes, yes.

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Leishman moves, Representative Eaton seconds that we may allow the Department to make the technical changes that need to be made. All in favor? Any opposed? Item passes.

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: Thank you.

MR. MEYERS: Thank you very much.

CHAIRWOMAN WALLNER: Thank you very much. And we did have another late item which at this point has been withdrawn and we will take it up -- it will come back to us

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probably at the next Fiscal Committee meeting. So we'll move on now, and I'd like to call Jeff Pattison up to talk to us a few minutes.

MR. PATTISON: I can really clear a room.

CHAIRWOMAN WALLNER: I'm sure they can't wait to hear what you're going to say.

MR. PATTISON: I'm coming before you this morning for two reasons. The first is something that we do usually every year in November leading up to the closing of the books and the issuance of a CAFR by December 30th, and I'm here to request authorization from the Committee to release publicly the following reports and statements. 2014 Comprehensive Annual Financial Report of the State of New Hampshire and the Lottery Commission, the 2014 Financial Statements of the Turnpike System, Liquor Commission, and Employee Benefit Risk Management Fund. And, finally, the 2014 Annual Reports of the Unique College Investing Plan and Fidelity Advisor 529 Plan as soon as they are available. These reports will be presented to the Committee at its January 2014 meeting if there is not in December.

** REP. EATON: So moved.

CHAIRWOMAN WALLNER: Representative Eaton moved and --

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: -- Senator Forrester second. Is there any discussion of this? All in favor? Any opposed? None opposed.

MR. PATTISON: Thank you.

CHAIRWOMAN WALLNER: I think you have a couple of other items you'd like to talk to us about.

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MR. PATTISON: Yes. Second reason this morning is that I'm coming here to ask the Committee's approval to fill two vacancies in the LBA Office. I'm asking to fill one staff auditor position and one assistant budget analyst position.

** REP. EATON: So move.

REP. BENN: So move.

CHAIRWOMAN WALLNER: Representative Eaton moves and Representative Benn seconds. Discussion? All in favor? Any opposed? Great. Thank you very much.

MR. PATTISON: Thank you.

*** {MOTION ADOPTED}

(10) Miscellaneous:

(11) Informational Materials:

CHAIRWOMAN WALLNER: Now we have many Informational items in front of us, and I would like to actually ask Steve Smith if he would come up and talk to us about informational item 14-193, which is our National Audit Association review and tell us a little bit about that one.

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Sure.

CHAIRWOMAN WALLNER: It was a very good one for the State.

MR. SMITH: Good morning, Madam Chair, and Members of the Committee. For the record, my name is Steve Smith. I'm the new Director of Audits for the Office of the Legislative Budget Assistant. And, yes, this is -- this is -- it's called a Peer Review where basically the

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auditors get audited. This happens on a three-year cycle and the National State Auditors Association sends in a team. They look at our overall quality control process, our procedures, policies, and actually get into the -- the minutia of our work papers. And they make an assessment to make sure that we are doing what we say we are doing in conformity with the Governing Auditing Standards. And they gave us their highest opinion, which passed, and so they were pleased in what they saw. And if I may, I would like to acknowledge Bill Mitchell. He's the Financial Audit Supervisor, and Stephen Fox, the Performance Audit Supervisor. They have many years of service and I think the results of this is a reflection of the work that they do. And on behalf of the entire Division just as they seek to do their audit work not only in conformity with the standards they need to abide by, but also with the public interest in mind. So I'd like to, as the newcomer here, just acknowledge the efforts of all their hard work.

REP. WEYLER: Congratulations.

CHAIRWOMAN WALLNER: Yes, thank you. And congratulations on such a good report. And I would like to say that knowing how dependent the Legislature is on these reports and how much we look to them for our guidance and our advice, it's really -- really wonderful that you have such a good report, and we can -- we can feel comfortable knowing that the office is doing such a great job. So thank you.

MR. SMITH: I just want to -- the team lead on the audit, just came, I started right at the tail end of the audit, he did make the comment that you're joining a good operation there. So it's very complimentary.

CHAIRWOMAN WALLNER: We are glad to hear that. Thank you.

AUDITS:

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CHAIRWOMAN WALLNER: Now we are going to move into the audits and our first audit is going to be the Department of Justice. And I will -- let's see, who's coming up here? Just introduce yourselves and proceed with the -- telling us about the audit.

MR. SMITH: For the record, I'm Steve Smith, Director of Audits for the Office of Legislative Budget Assistant. And joining me this morning is Christine Young. She's the Senior Audit Manager on this particular audit. She would be presenting it for us. Also joining me, I believe, is Attorney General Foster, Ann Rice, and Rose Faretra from the Department of Justice. So with that, I'll turn it over to Christine.

CHRISTINE YOUNG, Senior Audit Manager, Audit Division Office of Legislative Budget Assistant: Good morning, Madam Chair, and Members of the Committee. For the record, my name is Christine Young.

I would like to begin my presentation with the Table of Contents. You'll see this report includes 13 audit findings, none of which are material weaknesses. The Department fully concurs or concurs, in part, with all of the findings.

There are three findings on this page with an asterisk suggesting that legislative action may be required. And now I would like to turn directly to the Observations and Recommendations on Page 7.

Observation No. 1 discusses risk assessment, which is one of the five recognized components of internal control. The comment notes the Department does not have a formal risk assessment process, and we recommended the Department establish a formal process for recognizing and responding to risks.

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Observations 2 and 3 starting on Page 8 note weaknesses in the Department's Chart of Accounts and processing of certain transactions, the most significant of which include the processing of settlements received by the Department.

Paragraph one notes the Department held in the Consumer Protection Escrow Account \$5.5 million of settlement monies that were unrelated to the purpose of the account. We recommended the Department review its account structure, specifically the use of revolving accounts, and we suggested that revolving accounts not be used to time the recognition of agency income to budgeted expenditures. We further recommended that revenues lapse at the close of the Fiscal Year, unless there's a statutory basis for carrying the funds forward.

In paragraph two on Page 8 we noted the Department retained approximately \$1 million of unrestricted settlement funds in the Consumer Protection Escrow Account in error. The Department effectively lapsed these funds to the State's General Fund prior to the end of Fiscal Year 2014 after the auditors inquired about the balance.

Observation No. 3 on Page 10 also discusses the accounting for settlement and speaks to settlement funds held in non-lapsing revolving accounts for indefinite periods. We recommended the Department deposit settlement funds that are not subject to a specific plan as agency income revenue and lapse unencumbered balances to the State's General Fund at the close of the Fiscal Year.

On Page 11, Observation No. 4, we recommended the Department establish a documented supervisory review and approval control over the reconciliation of the Department's checking account.

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Observation No. 5 on Page 12 deals with the Department's efforts to promote compliance with the filing of statements of financial interest.

On Page 13, Observation No. 6 notes the Department was not current in processing charitable trust filings. During the audit period the Department had a five-month backlog for processing the filings which lessens the accuracy of the Department's Registry of Charitable Trust Organizations. We also noted refunds to charities that made duplicate payments were significantly delayed, including one charity that had not been refunded for more than a year. We recommended the Department review and resolve the cause of the processing delays, and issue timely refunds to organizations that made duplicate payments.

Observation No. 7 on Page 15 discusses the Department's determination of the percentage of debt collections that it keeps to fund its debt collection activities. The most recent calculation of the retention percentage was performed in 2010. We recommended the Department perform the calculation annually as directed by statute.

On Page 16 in Observation No. 8, we recommended the Department either implement controls to mitigate the risks of holding currency in evidence storage or develop a process that would allow for the deposit of the currency in an account pending final disposition.

Observations 9 and 10 starting on Page 18 address issues related to the Department's Assistant Deputy Medical Examiners or ADME's under contract with the Chief Medical Examiner's Office. In the numbered paragraphs on Page 18, we note the Department does not submit the Memorandums of Understanding or MOU's with ADME's to Governor and Council for approval and does not keep these MOU's current. We also note where a Department employee performs services as a contracted ADME during the lunch hour or upon using leave

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time from the state, and was compensated for that service under the MOU.

In paragraph number four on Page 18, we report the compensation for one ADME appears out of balance with its peers.

In Observation No. 10 on Pages 20 and 21, we recommended the Department improve controls over ADME payments and identify the reasons why ADME's are not invoicing for all services performed.

The State Compliance comments begin on Page 23. Observation No. 11 reports the Department has not adopted or kept current certain administrative rules required by statute.

Observation No. 12 discusses the Department's implementation of a fee waiver policy for the issuance of pre-cremation certificates for infants or persons involved in welfare cases. There does not appear to be a statutory provision for waiving the fee.

The final compliance comment is Observation No. 13 on Page 25 dealing with the untimely filing of certain reports required by statute. We recommended the Department comply with the statutes identified in the compliance comments or seek to amend or repeal the statutes, if appropriate.

On Page 27 is the opinion on the financial statement followed by the actual financial statement, note disclosures, and supplementary schedules. And on the last page of the report immediately behind the tab we have a summary of the current status of the Observations from our prior audit of the Department for the nine months ended March 31st, 2005. As you can see, there were 32 findings in that report and 29 of those prior findings are either fully or substantially resolved. We are happy to report this is a

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significant improvement over the prior audit. And that concludes my presentation.

I would like to thank the Department for their cooperation during the audit. And I would like to also wish all the best to Rosemary Faretra in her retirement. She was very helpful during the audit and quite a pleasure to work with. And I would be happy to answer any questions the Committee may have at this time.

CHAIRWOMAN WALLNER: Questions. Attorney General Foster, would you like to make a comment on the audit?

JOSEPH FOSTER, Attorney General, Department of Justice: This is, obviously, the first time I have participated in an audit. It was an informative process. The recommendations, I think, are on target. We plan to implement them. In our comments, if you look, we have put in deadlines for ourselves that we are going to utilize and meet. And it was a very informative process. We had a good discussion on the recommendations and I thank the LBA for their work.

MS. YOUNG: Thank you.

CHAIRWOMAN WALLNER: Senator Rausch.

SEN. RAUSCH: Thank you. On the no administrative rules on drug forfeiture, does that negate the use or collection of those funds?

ANN RICE, Deputy Attorney General, Department of Justice: There are rules on the administrative forfeiture. I think what the page says is that there are some that are not up-to-date, but we do have administrative rules.

SEN. RAUSCH: Okay.

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MS. RICE: Excuse me, guidelines. They're not administrative rules. Guidelines.

CHAIRWOMAN WALLNER: Representative Leishman.

REP. LEISHMAN: Thank you, Madam Chair. I'd just like to say it's not often when we see a repeat audit that the people coming back have nearly fully resolved the initial requests. It's just been brought to the Fiscal Committee in the past. I would commend you that you have almost reached the 100% which we have found is rare in most cases. So thank you.

ATTORNEY GENERAL FOSTER: Thank you.

REP. EATON: Madam Chair, just having been on Fiscal for a while, and seeing Rosemary come before the Committee on a regular basis and provide us with very pertinent information and being very forthcoming and very helpful to all the questions, I think would be appropriate to have the Committee thank Rosemary for her years of service and wish her well.

CHAIRWOMAN WALLNER: Yes.

(Applause.)

CHAIRWOMAN WALLNER: Yes, thank you. I've seen you here for many years.

ROSEMARY FARETRA, Department of Justice: Many years.

CHAIRWOMAN WALLNER: Many, many years. And, actually, other departments and I'm sure that you are going to be missed.

ATTORNEY GENERAL FOSTER: She'll be a huge miss, yes.

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CHAIRWOMAN WALLNER: Thank you very much. Representative Weyler, would you like to make your statement.

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

REP. EATON: Second.

CHAIRWOMAN WALLNER: All in favor? Any opposed? None opposed. The item passes. Thank you very much.

MS. RICE: Thank you.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Let's move on to our next audit, which is of the Department of Transportation, and this is the Fleet Management Audit.

MR. SMITH: Yes, Madam Chair. To present that I'll turn it over to Steve Fox.

CHAIRWOMAN WALLNER: Great. Thank you.

STEPHEN FOX, Performance Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Good afternoon, Madam Chairman, Members of the Committee. For the record, my name is Stephen Fox. I'm the Performance Audit Supervisor for the LBA Audit Division. The performance audit in front of you is our review of the Department of Transportation Fleet Management. To my left is Vilay Sihabouth who was the auditor in charge. To her left is Patrick McKenna from the Department, the Deputy Commissioner, and Bill Janelle who's the Director of Operations. With your permission, I'd like to turn it over to Vilay for the presentation.

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CHAIRWOMAN WALLNER: Thank you.

VILAY SIHABOUTH, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good afternoon, Madam Chair, Members of the Committee. Again, my name is Vilay Sihabout, and this morning I'll be presenting the Department of Transportation Fleet Management Performance Audit.

The purpose of our audit was to determine whether the DOT managed its fleet of vehicles and equipment effectively and efficiently. Although the DOT had a multitude of vehicles and equipment, we focused our efforts on passenger vehicles and equipment which was self-propelled and licensed to be driven on the roadway. Therefore, we excluded towable and trailer-mounted equipment, detachable snowplows, message boards and other similar equipment from our analysis.

Our Executive Summary can be found on Page 1. In general, we found the DOT effectively managed and utilized its fleet with a few exceptions. We found variations in utilization for heavy trucks, one-ton trucks, and pickup trucks, indicating an opportunity may exist to better cost utilize them. The DOT's fleet has remained relatively flat from Fiscal Years 2015 to 2014 -- 2005 to 2014, excuse me, with increases in only a few categories. While the DOT fleet appeared to be adequate to fulfill its mission, personnel expressed concern about the reliability of the aging fleet. We found the average age of equipment increased by one and a half years. However, the percent of equipment at or beyond the Department's established age for replacement increased more significantly. At the end of Fiscal Year 2014, approximately one-third of the State's 6-wheeled trucks used primarily for plowing were at or beyond the age established for replacement. Our Recommendation Summary starts on Page 3.

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Our report contains five observations, all of which the DOT concurred with. Observation No. 2 may require some legislative action. Our background starts on Page 5.

The DOT is responsible for planning, developing, and maintaining the State's approximately 9,300 lane miles of roadway. The State's Highway System consisting of primary and secondary highways, as well as boat access and other recreational roads, is funded primarily from gas tax, vehicle registration, motor vehicle fines, and Federal funds.

The Turnpike System consisting of the Spaulding, Blue Star, and F.E. Everett Turnpike is a separate enterprise fund. The majority of its revenues come from toll collection. State laws require tolls collected to be used exclusively for the Turnpike System.

The DOT's 1,179 vehicles and pieces of equipment were disbursed among four divisions with the majority assigned to the Division of Operations which houses the Bureaus of Highway Maintenance, Turnpikes, Bridge Maintenance, Traffic, and Mechanical Services.

Our Table 1 on Page 10 shows the DOT's inventory, its average age, and the average meter reading at the end of Fiscal Year 2014. Our first section which addresses inventory and age starts on Page 13. We found the DOT's fleet was relatively stable from Fiscal Years 2005 to 2014 with the most notable increases occurring as a result of DOT's leasing and purchasing some equipment it used to rent. We found the DOT relied heavily on rented and leased equipment, including snowplows and drivers. Contracted plows accounted for half of the DOT winter maintenance fleet in Fiscal Year 2014.

Table 2 on Page 14 shows the DOT's inventory at the end of each of the Fiscal Years we reviewed. As shown, the DOT's equipment fleet grew by 135 pieces. However, leasing

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and purchasing backhoes, mowers, and rollers instead of continuing to rent them accounted for the vast majority of this increase. Table 2 also shows a slight decrease in the DOT's passenger vehicle fleet.

We also found the average age of the fleet has been increasing slightly from Fiscal Years 2005 to 2014. However, we found the number of equipment at or beyond the age DOT established to replace them has increased significantly. For example, in Fiscal Year 2005, 14% of the State's 6-wheeled trucks were ten years or older. By 2014, this had increased to 36%.

Our first Observation starting on Page 17 discusses the need to periodically review whether changes to the Department's responsibilities or the State's Transportation System would necessitate an adjustment to the fleet size and composition. The last time any Bureau conducted an analysis was in 2007.

Observation 2 on Page 19 discusses standardizing controls over fleet purchases. As shown in Table 4 on Page 19, different controls apply to fleet purchases depending on the type of equipment bought or the Bureau purchasing it.

Our next section discusses utilization and begins on Page 21. In general, the DOT used its equipment effectively taking advantage of opportunities to share equipment when practical. However, we found statutes regarding funding significantly hindered sharing equipment between the Turnpikes and the rest of the DOT. Additionally, we found the DOT had not established annual utilization guidelines nor did it analyze usage on an agency-wide basis.

So Observation No. 3 on Page 22 discusses the need for establishing guidelines and to review actual utilization against them. As shown on Table 5 on Page 23, we found

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some large variations in usage of some vehicles and equipment.

Observation 4 on Page 25 discusses the need to track the number and usage of rented equipment. While the DOT recorded the hours it used for rented equipment, it did not track how many pieces of equipment it rented to supplement the fleet.

Our last Observation on Page 26 discusses the need to consistently report non-business miles. While the DOT and Department of Administrative Services has guidelines for reporting commuting miles, DOT bureaus were not always consistent in applying these guidelines. Additionally, we found the DAS's requirement to report travel for some field base personnel may actually inflate the number of miles -- the number of miles reported as commuting.

On Page 31, we address one other issue and concern regarding the purchase of trucks to operate the Motorist Service Patrol, whether it's an effective use of the Department's funds. The remainder of this report contains our scope objectives and methodology, and this concludes my presentation.

I'd like to thank the DOT staff for their cooperation during the audit, and we'd be happy to answer any questions you may have.

CHAIRWOMAN WALLNER: Thank you. Do we have questions?

REP. WEYLER: I have a question for the DOT.

CHAIRWOMAN WALLNER: Okay. Representative Weyler has a question for Mr. McKenna.

REP. WEYLER: Thank you, Director McKenna or Commissioner McKenna. Excuse me. Through the decades of purchasing personal vehicles, I found that there's

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improvements in how many miles they can go, things like synthetic oil and so on and more frequent oil changes, and I'm getting more mileage out of vehicles than I did in previous decades. Is any of this taken into account in the DOT vehicle maintenance? Do you do more frequent oil changes? One of the things I found were transmissions, if you change the transmission fluid more frequently, then you didn't need an overhaul if the transmission goes. Are any of these things being involved? Do you find greater life span as you buy new vehicles?

MR. MCKENNA: Representative Weyler, thank you. I think what we found, and I'll defer to Bill Janelle, our Director of Operations, but our Mechanical Services, mechanics have been masters at extending the life of the equipment fleet here for the State of New Hampshire for the DOT. I believe they're utilizing all of those types of techniques and are really also working, I think, hand-in-hand with our Environmental Services Department when we look at maintaining, making sure that all the tires are inflated at certain amounts so we can -- we maximize the fuel efficiency. But regular service maintenance is certainly one of the areas that extends the life of the fleet itself.

REP. WEYLER: Follow-up.

CHAIRWOMAN WALLNER: Yes.

REP. WEYLER: So have we changed through the years what we predict for a maximum life on a heavy vehicle?

MR. MCKENNA: I believe what we've found is that I don't believe those numbers have changed dramatically, although what we have found is that the average age has gone up primarily because of the ability or the lack of ability to secure the budget resources to have a normal utilization based replacement process. We -- I would say

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that -- that, again, the efforts of our mechanics has, in fact, extended how long we've utilized vehicles.

REP. WEYLER: Thank you.

CHAIRWOMAN WALLNER: Representative Benn.

REP. BENN: Thank you, Madam Chair. One of the things that leaped out at me, and I don't know, maybe you can explain it, you have 303 6-wheeled vehicles, average age, I think, seven years. But these vehicles are only used approximately 30 hours a year.

MR. MCKENNA: Actually, Representative Benn, that was a notation that the utilization has gone down slightly by 30 hours in some cases.

REP. BENN: Oh, I see, it has gone down. Okay. Thank you. I was going to say, boy, they're sitting around a lot.

MR. MCKENNA: I believe LBA would have had a whole different set of findings if that were the case.

REP. BENN: Thank you.

CHAIRWOMAN WALLNER: Representative Leishman.

REP. LEISHMAN: Thank you. Mr. McKenna, one of the things that actually stood out, and I saw there was a footnote on it, you were renting like backhoes and you went to a lease of -- I think it showed 58 leases. But I do recall during the budget process, and I'm very foggy on the DOT, it's not one of my areas that I deal with, at least in Finance, but there was a reduction in the number of sheds, I think. But I see 58 and I was thinking, gee, number of sheds, each shed should have a backhoe; but 58, it just seems kind of excessive the number of backhoes.

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MR. MCKENNA: Thank you for the question. Actually, the number was 50 in terms of the backhoes that we lease. We have 87 sheds now. They're used to be 94. We have had a reduction of seven in the past couple years. We do -- we do feel that there should be a backhoe at every shed. These are the pieces of equipment that actually load our trucks with the salt and the sand in the wintertime. So we can and we do cross utilize. But what we find is that geographic spread, if we were to -- if we were to load one up during a storm, load our plow trucks with the commodities they need to do the job, and then have to move that vehicle somewhere else, it's not quite efficient. So the feeling is that we should have one of those at each of the sheds that has heavy winter maintenance responsibilities.

REP. LEISHMAN: Follow-up, I guess.

CHAIRWOMAN WALLNER: Yes.

MR. LEISHMAN: So are you calling a backhoe like a front-end loader in here? Because I know that, for instance, some of the sheds I'm familiar with have a front-end loader which is not a backhoe with a loading apparatus in the front and digging device in the back. Is that how this is being described as a loader/backhoe?

MR. JANELLE: If I could try to answer that question. Bill Janelle, Director of Operations. What we're talking about is the loader-backup. So it has got a backhoe attachment on the back. So this is -- it's a rubber-tired machine. It's not a full-size loader that wouldn't have a backhoe on the back. It's a loader-backup basically. So that's the piece of equipment we're talking about.

If I could just elaborate a little bit. This lease purchase replaced the rental of those machines, which we had done in the past with individual rental agreements. The lease purchase was found to be -- I shouldn't say lease purchase. The lease, this is a four-year lease, which it's

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cheaper to enter this lease than it was to enter individual rental contracts for 50 of these machines which we had done for years and years. So that's one of the reasons we moved towards the lease. We also got a better piece of equipment.

REP. LEISHMAN: I guess a follow-up for that.

CHAIRWOMAN WALLNER: Yes.

REP. LEISHMAN: These are not like a lease purchase. At the end of the lease, they return to the vendor?

MR. JANELLE: That's right. It's a four-year lease.

REP. LEISHMAN: Thank you, Madam Chair.

CHAIRWOMAN WALLNER: Yes, Senator Larsen.

SEN. LARSEN: On the back of your report, the audit report, it mentions the service, the mower service program. Is that a program which you intend to have -- it's sponsored. So is that a program that will continue and try to have most of the sponsorship money cover its operation or does there still continue to be some money from Turnpike that supports it?

MR. JANELLE: It's not -- it's not fully supported by sponsorships. We try to get as much as we can through the sponsors and that's what we've done here. This has been a competitive bid that's gone out and -- but it's not completely supported by sponsors, no.

SEN. LARSEN: I just -- I think it's a very valuable program and one which is new to our state. But, obviously, if we can get more sponsorship, I think we, obviously, see that --

MR. JANELLE: If I can add. We've tried where we can to get sponsors. And through Travelers, the sponsorship

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that we have, I believe is one of the highest paid sponsorships in the country, actually, for the number of vehicles that we have. So it is a very valuable program. It operates on our -- what we call Tier 1 roads which are high-speed, high-volume. And the intent is to get those folks that are broken down on the side of the road either out of the way or off the road, one of the two. It's a very dangerous place to be.

REP. EATON: Just a comment. That as former chair of the Fleet Commission and the author of the language that allows lease and lease purchase, I want to commend the Department. They have been the gold standard for the State of setting up the computer system that tracks every single vehicle, the maintenance right to the hilt, and keeps them on track for the maintenance and, hopefully, that will be expanded to all State Agencies, by building their trucks themselves, building them to a higher standard than what the industry norm is, that has enabled them not always to where they want to be, but to enable the shelf life of the vehicle to be sustained at a safer level for a longer period of time. And I hope that your example and your computer system will expand out to the rest of the state so that we get the same results.

CHAIRWOMAN WALLNER: Thank you.

MR. MCKENNA: Thank you very much. I would like to add, I'd like to thank right from the top down Jeff Pattison, who actually in an interim period stepped in and provided guidance to us all in this process, and for the work of the LBA auditors who I thought did a very nice job over the course of the summer. They got to get out and see our operations in a way that probably they don't get to see frequently when the reviews are financial only in nature. So we appreciate their work that they did. We support the findings that they -- that they had here. There are a few areas of, you know, room for improvement as there always are. We are looking forward to working on those items.

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CHAIRWOMAN WALLNER: Thank you, Mr. McKenna.
Representative Weyler, you have a motion?

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

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Weyler moves and Representative Eaton second that we release the report. All in favor? Any opposed?

*** {**MOTION ADOPTED**}

CHAIRWOMAN WALLNER: Item will be released.

MR. FOX: Thank you.

CHAIRWOMAN WALLNER: Thank you. Now we'll move into our next Department of Safety audit, interoperability.

MR. SMITH: The final audit this morning. Again, for the record, my name is Steve Smith. Joining me at the table is Steven Grady. He's the Senior Audit Manager on this particular audit, performance audit for the Department of Safety. And also joining me is Commissioner Barthelmes and Colonel Quinn from the Department of Safety. I'll turn it over to Steve.

STEVEN GRADY, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good afternoon. For the record, I am Steve Grady. I was the in-charge auditor for the radio interoperability performance audit. The audit was to determine how efficient and effective the Department of Safety was in achieving radio interoperability among New Hampshire's public safety agencies, including local and county governments as of State Fiscal Year 2014.

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During my presentation today, I'll be summarizing most of the 20 Observations, focusing only on a few key findings.

Of the 20 Observations and Recommendations, the Department concurred with 14, concurred, in part, with five, and did not concur with one. Three may require legislative action.

The section on statewide radio interoperability starts on Page 13.

Interoperability permits public safety officials, such as fire, law enforcement, and emergency medical responders to easily communicate across jurisdictions and disciplines. It is integral to a functional incident command system and it underpins the State Homeland Security Strategy.

Effective interoperable communications consists of five elements: Governance, standard operating procedures, technology, training and exercises, and usage.

Our discussion on governance begins on Page 14.

A governance system can help decision-makers communicate with stakeholders, meet stakeholder requirements, make informed decisions, obtain consensus, plan, and coordinate. We found statewide interoperability governance was at a level of early implementation as we depict in Table 3.

In Observation No. 1 starting on Page 15, we detailed the lack of a formal inter-agency governing structure responsible for establishing efficient and effective interoperable communications statewide. Neither the Department of Safety, nor any other entity, was charged with coordinating or developing a formal governance system. The Department assumed a leadership role in the early

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2000's but was unsuccessful in establishing effective governance. A patchwork of formal and informal governance efforts persisted and interoperability was solved or was being solved in several jurisdictions but only for those jurisdictions.

Our recommendations include the Legislature consider creating a statewide inter-jurisdictional, inter-disciplinary governance body. The body should consist of key stakeholders, including each county sheriff's office, each fire mutual aid district, and police, fire, and emergency medical services associations. The governance body should have appropriate oversight responsibility and authority.

In Observation No. 2 starting on Page 20, we discuss statewide strategic planning, another element of governance. The State lacked the functional strategic planning guiding statewide interoperable communication decisions and investments. One document resembling a strategic plan was drafted in 2007 to meet a Federal grant requirement, but it never got its statewide interoperability investments or plan. Of the 26 relevant goals included in the plan, only one was achieved.

Stable and secure funding is essential in sustaining interoperability. However, the State lacked consistent interoperability funding. An ad hoc mix of Federal grants and state, county, and local funds was substituted. This included State Capital funds allocated in 2013 for three state agency specific radio networks without any direct improving either state agency or statewide interoperability and envisionments.

Our recommendations include the statewide governance body create a strategic statewide interoperable communications plan. The plan should include a vision, goals, the means to achieve desired ends, performance

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measures, and methods to prioritize projects and resources. Our discussion on SOPs begins on Page 25.

Effective interoperability depends on SOPs to formalize procedures and practices. We found statewide interoperability SOPs remained at a level of early implementation as we depict in Table 4 on Page 26.

In Observation No. 3, also starting on Page 26, we detailed lack of effective policies and procedures governing the use, management and deployment of Department controlled interoperability resources. We also illustrate the lack of required administrative rules implementing a statewide incident command system.

Our recommendations include the Department adopt a statewide incident command system administrative rule that contains interoperable communications requirements and SOPs. Our discussion of technology begins on Page 29.

Technology encompasses the equipment and related systems that enable emergency responders to communicate efficiently and effectively. We found statewide technology interoperability had matured to a level of intermediate implementation as we depict on Table 5 -- in Table 5 on Page 30.

In Observation No. 4 we illustrate the lack of a statewide interoperable radio network or a unified system of local and regional radio networks statewide. Also, there was no formal statewide plan or vision for developing or integrating radio networks.

Table 6 on Page 32 provides some details on the 104 state, county, fire mutual aid districts and local radio networks and 102 dispatch centers we identified in New Hampshire. These networks constitute a patchwork of overlapping, unintegrated, and at times redundant and

incompatible state, regional, and local communication solutions.

Since 2002, State law has required the Department to evaluate statewide emergency communications and consider supplementing or integrating them into a comprehensive system. The Department has never conducted this evaluation. Consolidating radio operations into a shared architecture can improve efficiency, standardization, and service quality, and can simplify maintenance, training, and interoperability. On Page 33, we framed three possible options the State has for developing a statewide radio system.

We recommend the Legislature consider amending State Law to, one, require the Department of Safety to report the results of its analysis, communications capability, and assets to the statewide governance body, and the appropriate legislative oversight committee.

Two, provide a specific date by when the analysis must be completed.

Three, require the report be made public.

And four, require the statewide governance body to seek legislative approval for a statewide strategy.

We also recommend the Department of Management comply with State Law and evaluate statewide communications resources. Finally, we recommend the statewide governance body establish a clear vision for the development and integration of radio networks and seek legislative approval to pursue the vision and strategy.

In Observation No. 5 starting on Page 35, we detail how State Agencies also lacked a cohesive strategic approach to radio operations. This has led to the proliferation of radio networks in State Government and

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resulted in duplicative networks, functions, and potentially costs. Over one dozen State Agencies licensed at least one radio network, and we examined nine agency radio operations. We found they operated 17 distinct but generally not interoperable radio networks. They operated 20 dispatch centers, and also had eight in-house radio maintenance operations. Data from seven agencies indicated the total value of their radio networks was over \$16.6 million, and over \$520,000 was expended annually on maintenance, excluding personnel costs.

Again, consolidating radio operations into a shared architecture can improve efficiency and provide other benefits. State Law requires the Department of Safety adopt comprehensive and uniform standards and procedures for State Agency telecommunications. Telecommunications generally includes radio. However, the Department reported never interpreting this statute to provide authority over anything other than telephone communications or was the statute intended to do so.

We recommend the Department adopt comprehensive and uniform standards and practices for State Agency radio operations, consolidate State radio resources and seek clarification regarding its authority. If clarification does not leave the Department with authority to regulate State Agency radio operations, we recommend the Legislature consider assigning such responsibility to a suitable State Agency to achieve consolidation.

Our discussion on training exercises and usage begins on Page 38. Preparedness is achieved and maintained, in part, through a continuous cycle of training, exercises, evaluation, and taking corrective action. We found a lack of comprehensive and systematic training in exercise programs and only limited use of Department of Safety controlled interoperability resources. As of June 2014, statewide interoperability training and exercises had matured to a level of intermediate implementation, as we

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depict in Table 7 on Page 39. And statewide usage of interoperability resources remained at a level of early implementation as we depict in Table 8 on Page 45.

Our recommendations include the Department develop cohesive and systematic interoperability training and exercise programs, and the Department adopt incident command system administrative rules containing policies and procedures governing other agency use of interoperability resources. The section entitled Department of Safety Management Control starts on Page 51.

Observations No. 9 through 20 detail numerous issues with Department of Safety management control related to its radio operations and interoperability. Our recommendations include the Department improve planning, personnel management, risk management, information management, and fiscal management. Formalize organization structures. Consolidate radio and related dispatch and maintenance operations. Improve information technology controls and information security and improve property accountability.

We also make several recommendations related to statutory compliance in the areas of records management, delegations of authority, administrative rules, Right-to-Know, and financial interest statements.

Finally, we re-examine issues related to nine Observations from our 2010 Division of State Police Field Operations Bureau Performance Audit and were related to the current audit's topic. We found two Observations remaining unresolved, six were partially resolved, and one was no longer applicable. We reissued relevant elements of prior audit observations throughout this report.

This concludes my remarks. I would like to thank the Department and its staff for their assistance during this audit. I would also like to thank those members of the various responder communities who provided us assistance as

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well. I would be happy to entertain any questions you might have.

CHAIRWOMAN WALLNER: Yes, Senator Rausch.

SEN. RAUSCH: Thank you, Madam Chair. Thank you. I guess I would just like to make a comment that having read this I was extremely disappointed as a member of Public Works and Highways in the House and part of Capital Budget. At that time, we funded money for this program. And, certainly, as a Capital Budget member in the Senate, this is public service. I -- there was never an indication that the Department needed legislative changes to implement this.

As a voting member, I thought we had funded it adequately. And I guess I am extremely disappointed since it is public service that the goal was to get a multitude of agencies and departments to be able to communicate together. And to see this audit, I'm really disappointed. And being a person who is retiring and not coming back, I hope that those members who are will do whatever is necessary legislatively to ensure that this gets done. I don't know what the total dollars are we have put into this, but I know that we have made an effort legislatively to get this for public safety reasons, and I am very disappointed that we are not there. Thank you.

CHAIRWOMAN WALLNER: Representative Eaton.

REP. EATON: I would just comment that I don't think, and I concur with Senator Rausch, that work needs to be done. But my understanding is that this is a report that could be replicated in all 50 states. And that all 50 states are currently going through the exact same process and trying to get everything up to par and following the recommendations of the 9/11 Commission which is attempting to do this nationwide. So that I -- while we see deficiencies, I think we are not seeing the improvements or

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reading the improvement that have been made over the last ten years. And we are probably as much at fault as anyone that we have had such a long-term span of being dependent upon Federal funding to accomplish the goals we needed and we have not necessarily ponied up what is needed on the State level to allow the different departments to interact and do exactly what needs to be done. But the Department did have a session during the last month with all those that need to be involved to put a whole new plan together to update from 2007-2014 the interoperability, what is needed, what needs to be done, and it is an ongoing process and that is working in conjunction with the Feds.

CHAIRWOMAN WALLNER: Representative Benn.

REP. BENN: Thank you, Madam Chair. I, too, concur with Senator Rausch. I also am not going to be back next year. And I'd just like to ask the Commissioner that what can you tell us that would give us assurance, based on the last audit and the four years since that, that very few items here have been fully resolved, none of them have been fully resolved, What kind of assurance can you give us that this audit will be worked on and resolve the issue?

JOHN BARTHELMES, Commissioner, Department of Safety: Thank you. Good morning, Madam Chair, Committee Members.

CHAIRWOMAN WALLNER: Good morning. Thank you.

MR. BARTHELMES: I'm going to -- I'm going to let Colonel Quinn, in just a minute, speak to the prior audit of State Police management. We can spend the afternoon talking about this. This is a very complex issue. But I think based on -- I'd like to spend a little bit of time providing some context, if I may?

CHAIRWOMAN WALLNER: Yes, thank you.

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MR. BARTHELMES: Right at the beginning of the audit, I think Page 5, is really something that we all need to pay attention to, because that really is the road map to get us to where we need and Steve Grady mentioned that. That comes out of Department of Homeland -- actually, that and it's also the same one in a little bit more detail on Page 13. It's a framework that is used nationally. It's the framework that we are using as we move forward. So that really frames what the problem is and how do you move through that continuum to get to where you need.

The second thing I'd like to mention is that Steve also talked, and this is really important, we talk about radio interoperability, we're talking about interoperability among State Agencies. We are talking about radio interoperability between state, county, and local law enforcement. I think the wording that -- well, I know the wording that was used, the Department of Safety assumed responsibility for that. I would submit we don't have the authority, not only to bring together any type of legislative authority to mandate on a local level. For instance, our two biggest cities operate on a different frequency, Manchester and Nashua. We have bridges that tie us together as best we can. But I, as Commissioner, have no authority to go into the City of Manchester or Nashua and to tell them, you know, you're going to not use that frequency. You're going to use the frequency the rest of the state. So we assumed responsibility and I'd like to talk about how that came to be.

Back when I came on the job as a Trooper up in the North County, we had a very antiquated, and I say this in the context that interoperability is alive and well. I agree where we are on the continuum, the operational continuum. We need to do a whole lot of things and we agree in the majority of the report. But let's not lose sight of the investments and we are, quite honestly, compared to a lot of other states, our state of interoperability is better than a lot and maybe most. I

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can't speak to that definitely, but we are in a pretty -- because of the work and efforts of people before I came back.

Let's go back into the '70s. State Police had a very antiquated radio system. When I was a Trooper up in Coos County I went a whole summer with half of my patrol with no radio coverage. It was broken. It was antiquated. As Steve alludes to back in the '70s we began the Astro Project. That was a \$6 million investment by the State of New Hampshire with State Capital dollars for the State Police. At that time there was no discussion of interoperability. It was to improve the State Police radio communications system.

I became a Colonel. That was back in 19 -- I'm sorry -- 1996. I became Colonel and that project was completed at that time, and it dramatically improves operability for the State Police. There was also discussions at that time is the recognition we need to do a better job of communicating with one another.

Also, I was Colonel when we had the Drega incident where we had problems communicating not only among state, local law enforcement, in that particular case we had trouble communicating with our border communities in Vermont. So that was the investment from the State at that time, \$6 million in my career up until that point. I left and 9/11 happened and that was a game changer. And it was a game changer as far as Federal grant dollars. Federal grant dollars to the states increased dramatically. New Hampshire was getting right after 9/11, I think they maxed out at somewhere between 20 and \$30 million of Homeland dollars which a piece of that through the foresight of individuals that came before me, recognized communication as the foundation of the public safety and emergency response.

A lot of those dollars was targeted to radio communication, and at that point State Police and

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Department of Safety assumed responsibility -- assumed responsibility to make sure that the equipment that was bought by State, county and local, public safety, both police and fire, that that equipment was compatible. We had no authority, but we did have the ability because we were the caretaker for that grant to make sure that the radio equipment was compatible. And there was a lot of progress that was made beginning after 9/11 in 2001. What's happened now -- so we assumed responsibility.

As far as this being a problem, I also would like to mention there's something that I address every time I come forward with my budget. I pulled out just before I came, I'm not going to read the whole thing, but this came from preparing for the 12-13 budget. And I said I would be also remiss if I did not mention that over the next few years there's going to be a need for some serious, long-term planning for the state radio communication equipment and infrastructure, not just for State Police, but for local police, fire, and EMS. Some of this equipment is at end of life and because of laws being supplanting of Federal funds, thought must be given to how to replace this aging equipment and infrastructure sooner rather than later. So that is something that I continue to recognize. Because since 9/11 that equipment that was purchased has already -- a lot of it has gone beyond end of life or will be going beyond end of life shortly. As I said here, supplanting doesn't allow us to buy dollars with Federal equipment -- Federal equipment with Federal dollars, and then replace it with Federal dollars.

Janet Napolitano allowed us a one-time opportunity and we spent \$4.4 million approximately two years ago to replace the aging portable equipment. But as far as the state, so we have somewhere in the vicinity of \$50 million that's been committed of Federal dollars. State dollars the initial 6 million back in 19 -- 1996 when I was Colonel, and the \$2 million Capital Project, which was to -- we'd gone into that and we asked for \$5 million. We got the 2

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million. It's going to give us a start. We were able to do a propagation study with those dollars and we are going to be able to begin to work on the State Police gaps in their system. The coverage is not what it needs to be. Make no mistake, this technology is very expensive. The investments, even with the Federal dollars, hasn't been enough to do everything that needs to be done. The -- the piece that we are trying to do now which is to get 95% coverage of mobiles, those are your vehicles, not portables but mobiles, to have 90% which is the industry standard, 95% coverage in 95% of the state. The part for the State Police to be able to do that is \$7 million total.

If we are to make that interoperable with other communities, what we are going to need is we are going to need a minimum of \$12 million and that's approximately. That's an approximate dollar. Because what we will need is we need money to upgrade our bay stations which are in our dispatch centers. And also the other part of that, along with the bay stations, would be the embassy switch, which is really the traffic-control to allow us to be interoperable with county and local law enforcement.

So I wanted to just give some context. But at the end of the day, the LBA audit is going to be very helpful. We have made a lot of progress. We were the last state in the country to have a statewide interoperability coordinator. We looked for two years. With what we were paying we couldn't attract anybody. We now have a part-time SWIK who's doing the work of two people. We are very, very fortunate. We are starting to get organized. We are starting to do training and exercise. We don't need authority for that. But if we're going to do more than assume responsibility, because right now we have no Federal dollars, it's all dried up. The State's getting about \$3 million a year from Homeland Security. Eighty percent of that goes to local and county law enforcement. We are going to need help if we are going to do more than just assume responsibility.

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CHAIRWOMAN WALLNER: Thank you, Commissioner.
Questions? Questions? Further comment? Colonel Quinn.
Yes.

REP. BENN: I would ask in this budget round, are you going to be putting in a request into the Capital Budget for what's needed to upgrade this system?

MR. BARTHELMES: I wasn't planning on it. We still have -- we are working on the \$2 million piece and it's really the message was complete what you have and then come back. And we're still in the process of completing that \$2 million project. I mean, ideally, the next time I'd come in and I'd ask for the remaining \$10 million. That's a big number. But to truly deal with interoperability, to get that embassy switch, which is not operational barely and it's not being used, as Steve knows, because it needs to be IP based. The technology has moved on. We need to get us to where we need to and to allow county dispatch centers and local to be able to work with our system. We need to get that embassy switch replaced, and we are going to need to make that investment.

REP. BENN: Thank you.

CHAIRWOMAN WALLNER: Yes. Did you -- yes.

MR. BARTHELMES: Oh, the second part on the --

CHAIRWOMAN WALLNER: The second part.

COLONEL ROBERT QUINN, Director, Division of State Police, Department of Safety: Good afternoon, Madam Chair. In regards to the 2010 State Police Performance Audit, I just have a couple comments.

I did go through the audit with the LBA, with Mr. Grady, and I hope that you'll know there were many

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Observations in there. What I can tell you is some of the things that we have put quite a bunch -- quite a -- we have a significant investment in, and I'm proud to say we have implemented our records management system we have up and running, nearly complete. We have done all of the Troopers and now we are looking at getting the Detectives. We have brought the E-ticketing to a platform now that's solid and now we are working with the courts to expand that.

We have got a crash records management system in place, which now allows the Troopers to cover these crashes. It gives them their location by GPS and they can transmit it. Our platform with the air cards for transmitting all this data is solid. When we went through this 2010 audit as the LBA brought to our attention, we had Troopers doing their time cards, dropping them off, getting them relayed. Everything was paper and pencil. We have made some significant improvements in those areas. Are there other areas that we can continue to improve on? Yes. And as -- in this audit, as they pointed out to those nine Observations, actually, which came down to eight, during this process, we did submit to the LBA what we have done in those areas, which I thought, quite frankly, might have been adequate. However, in meeting with Mr. Grady, and I requested a meeting after the exit interview, he was kind enough to come to my office and meet with members of my staff. I said I don't understand what I need to do in these areas. Can you give me a path to getting these boxes all filled in, and he did. And I think what I would like to report is if you look at the two that are completely not shaded in, number 5 and number 15, what can I do as opposed to just hiring out a risk management process. He explained to me, you know, risk management can be a policy. You have got to roll it out. Explain to everyone in your staff what risk management is. There's a way to document and bring forward risk, which now I understand.

Continuity of operations planning, that is completely blank. We do have plans for all the divisions which we have

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in binders and CD. However, we can do more. We need to distribute those to the Troopers. We need to regularly train with them. So those are the areas. And, again, these others with his help and guidance, I think that I can continue to report more improvements in these areas as they are relevant to the latter audit on interoperability.

So I just -- I hope you trust when I say we take these audits serious. We have made great improvements in the 2010 from their guidance, but there is more to be done. And I think I'm in a good position now with their coaching to get it there.

CHAIRWOMAN WALLNER: Thank you for bringing us up-to-date on that. Any further questions? Yes, Peter.

REP. LEISHMAN: Thank you, Madam Chair. I guess I'll be one of those legislators coming back, although I'll be in the minority, but we are hoping our Republican colleagues aren't too bad to us.

REP. WEYLER: File a bill. I'll co-sponsor.

REP. LEISHMAN: There you go. Commitment already.

REP. WEYLER: You should be the prime.

REP. LEISHMAN: I think it's disturbing to me that there's a Trooper out there that doesn't have the best technology available and wherever that Trooper is he should be able to get in touch with somebody. So whatever that takes, I think there are a number of us that will be coming back that will support some sort of legislation to provide the funding necessary to get us up to where we should be.

MR. BARTHELMES: Thank you. But I want to be real clear and that is really important. We haven't -- the investments need to improve. We need -- we are going -- but that's not all and the audit does -- goes in a lot of detail. Department of Safety, we're not organized for success. We

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are -- our radio communications is fragmented. That -- you can be sure that is we work with DMV for three years, State Police. We have really brought technology in. The next phase is that we have started that we will be coming forward with a reorganization related to communications. So we have things to do there. Training and exercise, very, very important, and we are working with county and local law enforcement and fire to put on training and exercise with interoperability communication, which is going to be a really important critical piece.

So we have things that we need to do. But the funding, that technology, it just -- it ages out very, very quickly and we don't have a funding stream that allows us to do that. Never mind -- just for us, never mind for county and local. So it's a -- it's a problem that all the public safety is facing keeping up with this technology.

CHAIRWOMAN WALLNER: Yes.

REP. EATON: Commissioner, there's a lot of stuff here that I think is going to take some time. There may be some fixes that can be done readily legislatively or partially done legislatively and including authority. If you and the Colonel would take a little bit of time during the next few weeks to find out what you think could be accomplished legislatively, theoretically, we have three members of the Finance Committee here who I think would be co-sponsors immediately to draft legislation for you.

MR. BARTHELMES: Well, thank you. And I think -- I mean, that is -- that is a -- that is a policy -- that is a policy decision. And, quite honestly, I think there are two. One is assuming, you know, having given us legislative authority for all radio interoperability across the state that's nothing that I have ever asked for. It's a huge job. But that's a policy decision. And then as the LBA knows, that we are State Government has different networks. I -- the telecommunication statute, and we did respectfully

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disagree with one another, we took -- when we took control of VoIP -- the VoIP telephone telepathy for the State, we came and took that over from Admin Services running the State telephone system, we took that language that was in the statute and we brought it over to Safety for the sole purpose of telephones. Never did we envision that that would give us authority and responsibility for all State Government radio interoperability. But, again, that's a policy decision. Whether that's something that the Legislature would envision us being responsible for, and we look forward to working with you, providing whatever information we can to help you come to those -- make those decisions.

CHAIRWOMAN WALLNER: Senator Rausch.

SEN. RAUSCH: Thank you. Just a comment to Representative Leishman. I totally concur about the Troopers, but the Commissioner just adequately, I think, verbalized that this is the interoperability. It is to get all of our departments so that --

REP. EATON: Right, exactly.

SEN. RAUSCH: -- the State has a safety net that they can all communicate. So whatever legislation comes up, please keep in mind it's interoperability that we get all of these necessary safety department so that when they get on whatever they're using --

REP. EATON: Exactly.

SEN. RAUSCH: -- and they need help, they can talk to the other departments and get whatever is necessary.

MR. BARTHELMES: Again, I hope that I did leave you with the technology, the investments that have been made since 9/11 has dramatically improved interoperability in this state.

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REP. EATON: Sure has.

MR. BARTHELMES: But, again, we have a ways to go in all these areas of training and exercise, policies and protocols. They all need to be improved.

CHAIRWOMAN WALLNER: Representative Benn.

REP. BENN: Thank you, Madam Chairman. I'd just like to quickly go back to the notion of the Capital Budget. We all know that when someone submits a request in the Capital Budget, often it takes several years. I would suggest that along with the policy that Representative Eaton was just talking about developing what's needed legislatively, I would also try to submit something to the Capital Budget this year to give a scope of what is anticipated for. I know you have the \$2 million, but it's a lot more than that and it may take a few years to get it. The earlier you get the scope into the Capital Budget, the request, the better chance you'll have of accomplishing the task.

MR. BARTHELMES: I'd be more than happy to do that.

CHAIRWOMAN WALLNER: Thank you. Further?
Representative Weyler.

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

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Weyler moves we place the report on file, and Representative Eaton seconds. All in favor? Any opposed?

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CHAIRWOMAN WALLNER: Seeing none, we'll place it on file and release it to the public. Thank you.

MR. BARTHELMES: Thank you.

CHAIRWOMAN WALLNER: Thank you very much. We probably will need an additional meeting in November, but at this point we don't -- at this point we don't have the exact date pinned down. So stay tuned. Okay. Keep your calendars open. Okay.

REP. EATON: Don't go too far on Thanksgiving.

CHAIRWOMAN WALLNER: Yes, don't go too far. Meeting adjourned.

(Adjourned at 1:04 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, CRR
State of New Hampshire
License No. 47

