

**JOINT LEGISLATIVE FISCAL COMMITTEE**

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, November 18, 2016

**MEMBERS PRESENT:**

Rep. Neal Kurk, Chair  
Rep. Ken Weyler  
Rep. Karen Umberger (Alt.)  
Rep. Mary Jane Wallner  
Rep. Dan Eaton  
Rep. Richard Barry (Alt.)  
Sen. Jeanie Forrester  
Sen. President Chuck Morse  
Sen. Lou D'Allesandro  
Sen. Andy Sanborn  
Sen. David Boutin (Alt.)

(Meeting convened at 10:11 a.m.)

**(1) Acceptance of Minutes of the October 14, 2016, meeting**

NEAL KURK, State Representative, Hillsborough County, District #02, Chairman: Good morning, everyone. Welcome to the November 18<sup>th</sup>, 2016, November meeting of the Fiscal Committee.

First item on our agenda is the acceptance of the minutes of the October 14<sup>th</sup> meeting.

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

CHAIRMAN KURK: Representative Eaton moves approval.  
Seconded by Senator --

LOU D'ALLESANDRO, State Senator, Senate District #20:  
D'Allesandro.

CHAIRMAN KURK: D'Allesandro. Thank you, Senator.

SEN. D'ALLESANDRO: You're welcome.

CHAIRMAN KURK: Discussion? Questions?

DAVID BOUTIN, State Senator, Senate District #16: Mr. Chairman, just note I wasn't here so I'm not voting on them.

CHAIRMAN KURK: Thank you. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the minutes are approved.

\*\*\* {MOTION ADOPTED}

(2) Old Business:

**FIS 16-087**

**FIS 16-098**

**FIS 16-099**

CHAIRMAN KURK: Old Business? Is there anyone who wishes to bring anything off the table? Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. I'd like to move FIS 16-087, 16-098, 16-099 from the table.

CHAIRMAN KURK: Is there a second?

REP. EATON: Second.

CHAIRMAN KURK: Second by Representative Eaton. This is not open to discussion as this is a motion to remove an item from the table. If you're in favor --

REP. EATON: Roll call, please.

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CHAIRMAN KURK: If you're in favor of the motion to remove these items from the table, you'll answer yes when the clerk calls your name. If you're opposed, you'll answer no. The clerk will now call the roll on the motion.

KENNETH WEYLER, State Representative, Rockingham County, District #13: Representative Weyler votes no. Representative Umberger.

KAREN UMBERGER, State Representative, Carroll County, District #02: No.

REP. WEYLER: Representative Wallner.

MARY JANE WALLNER, State Representative, Merrimack County, District #10: Yes.

REP. WEYLER: Representative Eaton.

REP. EATON: Yes.

REP. WEYLER: Senator Forrester.

JEANIE FORRESTER, State Senator, Senate District #02: Yes.

REP. WEYLER: Senator Boutin.

SEN. BOUTIN: No.

REP. WEYLER: President Morse.

CHUCK MORSE, State Senator and Senate President, Senate, District #22: No.

REP. WEYLER: Senator Sanborn.

ANDY SANBORN, State Senator, Senate District #09: No.

REP. WEYLER: Senator D'Allesandro.

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SEN. D'ALLESANDRO: Yes.

REP. WEYLER: Chairman Kurk.

CHAIRMAN KURK: No.

REP. WEYLER: The vote is six to four.

CHAIRMAN KURK: Four to six you meant.

REP. WEYLER: Four to six.

CHAIRMAN KURK: Thank you. Four having voted in favor, six in opposition, the motion fails.

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

CHAIRMAN KURK: Any other items to be removed from the table? Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chair. Just point of order. Everything that isn't taken care of at this meeting dies; is that correct?

CHAIRMAN KURK: That's correct, unless we have another meeting prior to December 7<sup>th</sup>.

SEN. D'ALLESANDRO: Okay. Thank you, Mr. Chairman.

#### CONSENT CALENDAR

- (3) RSA 9:16-c 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:

FIS 16-171

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CHAIRMAN KURK: We now turn to agenda item number three. On the Consent Calendar, Fiscal 16-171, request from the Department of Safety for authorization to transfer \$6,701 in Federal funds through June 30<sup>th</sup>, 2017, and accept and expend \$326,994 in Federal funds through the same date.

\*\* REP. EATON: Move approval.

SEN. FORRESTER: Second.

CHAIRMAN KURK: Approval of the item is moved by Representative Eaton, seconded by Senator Forrester. Are there any questions? I do have one. Good morning.

KYRA LEONARD, Administrator, Department of Safety: Good morning.

CHAIRMAN KURK: Could you identify yourself for the record, please?

MS. LEONARD: Yes. Kyra Leonard, Administrator of Department of Safety.

CHAIRMAN KURK: Thank you. Could you tell us why this isn't in the budget as it's an ongoing program?

MS. LEONARD: At the time, we didn't know about these funds so we were unable to budget them. But we have since added additional funds for the assistance of firefighter grants in the 18-19 budget.

CHAIRMAN KURK: So in the current budget you didn't know that this grant was available or you had applied for the grant but you didn't know the amount?

MS. LEONARD: Hum -- we hadn't applied for the grant. We didn't -- we knew it was available, but we hadn't applied for it.

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CHAIRMAN KURK: Thank you. Further questions? Thank you very much. Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it. The item is approved.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN KURK: Although item number four on the agenda is a Consent Calendar item, I think there are enough questions on each of these items that we're going to take them up individually, unless there is an objection. There being no objection, we'll take them up individually.

**FIS 16-163**

CHAIRMAN KURK: Fiscal 16-163, a request from the Department of Environmental Services for authorization to accept and expend \$1,496,886 in Federal funds through June 30<sup>th</sup>, 2017.

\*\* SEN. D'ALLESANDRO: Move approval.

CHAIRMAN KURK: Moved by Senator D'Allesandro. Seconded by?

SEN. FORRESTER: Second.

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

\*\*\* {MOTION ADOPTED}

**FIS 16-166**

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CHAIRMAN KURK: We turn now to Fiscal 16-166, a request from the Department of Health and Human Services for authorization to accept and expend \$324,997 in Federal funds through June 30<sup>th</sup>, 2017.

\*\* SEN. D'ALLESANDRO: Move approval.

CHAIRMAN KURK: Moved by Senator D'Allesandro.

SEN. BOUTIN: Second.

CHAIRMAN KURK: Seconded by Senator Boutin. Is there someone from the Department available to answer a question? Good morning, Commissioner.

JEFFREY MEYERS, Commissioner, Department of Health and Human Services: Good morning, Mr. Chairman. For the record, Jeff Meyers, Commissioner of Health and Human Services. Good morning.

CHAIRMAN KURK: Thank you for answering our questions. My question is why, again, is this not in the budget?

MR. MEYERS: This grant was applied for and issued by the Federal Government after the budget -- the grant was not awarded until September of last year. This is the second year of a multi-year grant to fund the continuation of the Drug Court Program at Hillsborough South in Nashua.

Hillsborough South had established a drug program with U.S. Department of Justice funds. Those ran out. And I worked with the Chief Justice of the Superior Court, Tina Nadeau, in applying for and getting this grant. It's a three-year grant and it was awarded after the budget was done.

CHAIRMAN KURK: Even though it's year two?

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MR. MEYERS: Yes. It came late last year. It was not awarded. We didn't get the award until -- it was late September.

CHAIRMAN KURK: Of '15?

MR. MEYERS: Yes.

CHAIRMAN KURK: And you didn't know that you -- I mean, you knew you applied for it?

MR. MEYERS: No, no, the Court didn't know. The Court came to us very late. The Court realized that the Bureau of Justice Assistance funds were running out, and they had never applied -- the Court had never applied previously for a SAMHSA grant. So they were very unfamiliar with how the process worked. We have and do all the time. So they came to us very late in the year and said would you help work with us to apply for this grant. We did so. It was awarded in September after the budget was done. So they got initial funding last year right away, and then this is the second year of a three-year cycle.

CHAIRMAN KURK: May I assume that the third year is in the 18-19 budget?

MR. MEYERS: It will be, yes.

CHAIRMAN KURK: Thank you. Thank you, Commissioner.

MR. MEYERS: Sure.

CHAIRMAN KURK: Further questions? There being none, thank you again. Are you ready for the issue -- for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it the item is approved.

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

**FIS 16-172**

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CHAIRMAN KURK: We turn now to Fiscal 16-172, a request from Department of Health and Human Services for authorization to accept and expend \$212,025 in Federal funds through the end of this Fiscal Year. Is there a motion?

\*\* SEN. D'ALLESANDRO: Move the item.

CHAIRMAN KURK: Moved by Senator D'Allesandro, seconded by Representative Eaton. Question? Is there someone from the Department available to answer a question?

MICHAEL DUMOND, Administrator, Division of Public Health, Department of Health and Human Services: Good morning. I'm Michael Dumond with the Department of Health and Human Services, Division of Public Health, here to answer your questions.

CHAIRMAN KURK: Thank you very much for being here. Does this program create a funded but vacant position?

MR. DUMOND: Yes. Could I give you more detail on that?

CHAIRMAN KURK: Please.

MR. DUMOND: This is a new area for us. Although we do do dairy inspections that's different than produce and farm inspections. So we're planning to hire a coordinator to coordinate this whole project and that person would have to either be or become the subject matter expert for our Food Safety Program in this area. And that is for the first phase of the project.

The second phase would be if we decide with input from Environment and Agriculture Committee for one to become inspectors for this project that would be part two and we would also receive funding from FDA for that.

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CHAIRMAN KURK: Understood. Thank you. Further questions? There being none, thank you again. Oh, Senator Forrester.

SEN. FORRESTER: One quick question. So this isn't a new -- new position. You're not hiring a new person. You're moving somebody from one level to another level.

MR. DUMOND: Yes, that's exactly what we're doing. I have a vacant position so we are just using these funds for that vacant position.

SEN. FORRESTER: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. FORRESTER: You intend to backfill the position that person is leaving to come up?

MR. DUMOND: I'm not sure I understand the question.

SEN. FORRESTER: So you're going to move somebody from one position up to supervisor position; correct?

MR. DUMOND: No. We have a vacancy that was the right labor grade. That position was -- the funding for that position went away. So we had -- still had the position within our Department. And it was at the right labor grade so we didn't have to do re-class or anything. Just made some changes to the language in the SJD.

CHAIRMAN KURK: Thank you, sir.

MR. DUMOND: Thank you.

CHAIRMAN KURK: Any further discussion? There being none, are you ready for the question? All those in favor, please indicate by say aye? Opposed? The ayes have it. The item is approved.

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\*\*\* {MOTION ADOPTED}

**FIS 16-173**

CHAIRMAN KURK: We turn now to Fiscal 16-173, a request from the Department of Justice for authorization to accept and expend \$6,966,979 in Federal funds through the end of the Fiscal Year.

\*\* REP. EATON: Move approval.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by?

(Senator Boutin raises his hand.)

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Senator Boutin. Is there someone from the Department available to answer a question?

JOSEPH FOSTER, Attorney General, Department of Justice: Good morning, Mr. Chairman. For the record, Attorney General Foster and with me is Kathy Carr.

CHAIRMAN KURK: Good morning to both of you. Thank you for being here. This is a major increase in the expenditure for an existing program, and the question is why was this not in the budget?

ATTORNEY GENERAL FOSTER: It wasn't in the budget because we didn't know this increase in grant funding was going to come through under the VOCA Program. As I understand it -- actually, Senators Ayotte and Shaheen and others in Congress became aware or knew that funds from fines and penalty assessments at the Federal level had been accumulating and wasn't being distributed out to the various states for the purposes of the VOCA Program and compelled the agency, I think it's the U.S. Department of Justice where it's housed, to do so, and they are now doing

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so. So you will see that in our -- the upcoming budget we had budgeted more funds, but we did not know there was going to be this kind of an increase coming.

CHAIRMAN KURK: So, in effect, you knew you were going to get some sort of a grant and you put in zero for that grant?

ATTORNEY GENERAL FOSTER: No.

CHAIRMAN KURK: Oh, you put in something?

ATTORNEY FOSTER: Oh, yeah.

MS. CARR: \$2.5 million.

ATTORNEY GENERAL FOSTER: Yeah, 2.5 million.

CHAIRMAN KURK: And it turned out to six or seven?

MS. CARR: Yeah.

ATTORNEY GENERAL FOSTER: It was much higher and we did not know the amounts that we were going to be getting.

CHAIRMAN KURK: And who makes the policy decisions as to how this money is to be expended within the scope of the grant? For example, you have 1.6 million going to Legal Assistance. Why not 2.6 or .6?

ATTORNEY GENERAL FOSTER: I mean, our Grants Unit does it but based upon guidelines from the U.S. Department of Justice on how VOCA Grants are to be expended. For the increases they recommended that agencies who were well-established and had already been receiving funds get increased funds, which we did do. And, also, other categories of funding for victims and victims' rights were also recommended. We also for a portion of these funds are going to go out for an RFP for this increase so that agencies that are either already receiving funds or

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funds -- or agencies who are not can come in under the appropriate categories and request funding. And, of course, all these -- all the grants do ultimately go to Governor and Council for review.

CHAIRMAN KURK: Here's the problem that I'm trying to get at, and I don't know that there's a solution to it. If the Legislature understood that this kind of a grant were available at the time we were doing the budget, we might have made adjustments elsewhere in recognition of the amount of funding that was coming in for these particular programs. In the absence of this, we made decisions that may turn out to underfund certain areas and overfund other areas, based on our judgment as to the appropriate use of these funds. So it's extremely important that we have at least the best guess as to how much additional funds are coming in and where they might be going in the process of developing the budget, or we are going to have a skewed budget.

Now, that may be to the benefit of the particular organizations that get the extra money, but it's not necessarily to the benefit of the entire state. And so I would ask that you have any inkling in the future of larger grants, if you can't put it in a specific number, at least you let the various policy committees that are working on the budget know that you expect considerably more and it's likely to be given here and there.

ATTORNEY GENERAL FOSTER: Understood. And, you know, for the future budgets we do have a much larger number, \$8.6 million.

MS. CARR: 8.6 million.

ATTORNEY GENERAL FOSTER: So you will see that in the upcoming budget.

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CHAIRMAN KURK: Do you expect that to be all you're getting or do you expect another grant but you don't know the number?

MS. CARR: Right now that's what we are hearing.

ATTORNEY GENERAL FOSTER: That's what we anticipate is that number.

MS. CARR: But we don't know.

CHAIRMAN KURK: And you don't expect another supplemental grant to come. This was a one-off.

ATTORNEY GENERAL FOSTER: Well, no. What they did was they increased it and the expectation it will stay at this higher level into the foreseeable future.

CHAIRMAN KURK: And that's the level you're putting in the budget?

ATTORNEY GENERAL FOSTER: Correct.

CHAIRMAN KURK: Thank you. Further questions? There being none, thank you again.

ATTORNEY GENERAL FOSTER: Thank you.

CHAIRMAN KURK: Are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

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

**FIS 16-174**

CHAIRMAN KURK: We turn now to Fiscal 16-174, a request from the Department of Resources and Economic Development for authorization to accept and expend \$213,000 in Federal funds till the end of the Fiscal Year.

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\*\* SEN. D'ALLESANDRO: Move the item.

CHAIRMAN KURK: Senator D'Allesandro moves.  
Representative Wallner seconds that the item be approved.  
Are there any questions? There being none, are you ready  
for the question? All those in favor, please indicate by  
saying aye? Opposed? The ayes have it and the item is  
approved.

\*\*\* {MOTION ADOPTED}

**FIS 16-175**

CHAIRMAN KURK: We turn now to Fiscal 16-175, a request  
from the Department of Resources and Economic Development  
for authorization to budget and expend \$575,000 in other  
funds through June 30<sup>th</sup>, 2017, and accept and expend  
\$578,395 in Federal funds through the end of the Fiscal  
Year. Is there a motion?

\*\* SEN. D'ALLESANDRO: Move the item.

CHAIRMAN KURK: Senator D'Allesandro is carrying a  
great deal of load.

SEN. D'ALLESANDRO: It's a burden that I accept, Mr.  
Chairman. I've got broad shoulders.

CHAIRMAN KURK: Senator Boutin seconds.

SEN. SANBORN: I have a question.

CHAIRMAN KURK: Senator Sanborn has a question. Is  
there someone from the Department who would care to answer  
questions? Commissioner, good morning.

JEFFREY ROSE, Commissioner, Department of Resources  
and Economic Development: Good morning. Jeff Rose,  
Commissioner of the Department of Resources and Economic

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Development, and I'm joined by Phil Bryce who is our Director of Parks and Recreation.

CHAIRMAN KURK: Senator Sanborn is recognized for a question.

SEN. SANBORN: Gentlemen, thank you so much. It's a simple one. I don't know if I missed it somewhere. If we are giving a 50% contribution to the purchase, where's the other 50% coming from? I may have missed it. I looked for it.

MR. ROSE: Well, thank you for the question. We will be putting 50% through Parks Fund revenues and then the other 50% will be through a Land and Water Conservation Grant through the National Parks Service.

SEN. SANBORN: Great. Thank you very much. Thank you, Mr. Chair.

CHAIRMAN KURK: Thank you. Question. If we're taking money, this money out of the Parks and Rec Fund, what is it that we are not going to be doing that but for this expenditure we would be doing?

MR. ROSE: This will be coming out of our existing balance that we have within the Parks and Rec Fund.

CHAIRMAN KURK: Yes.

MR. ROSE: And so we will be utilizing this. It's consistent with our Parks statute to try to expand our parks and provide additional recreational opportunity so it's very consistent with the statute for the Park Fund.

CHAIRMAN KURK: Fair enough. But if you spend the money for acquisition of land, you can't spend it to restore restroom facilities. So what won't get done as a result of taking this money and buying land with it?

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MR. ROSE: It won't be coming out of an opportunity cost for something else at this time because it is in a fund that is -- that it's within the Parks Fund. So there's not another purpose for those dollars at this time. However, we will seek to try to utilize some of our balance to address some of our existing maintenance issues within the Parks System.

CHAIRMAN KURK: Help me out here. I thought this was the fund that was used both for operating and capital expenses? Is that not the case?

MR. ROSE: I'll look to Director Bryce.

PHIL BRYCE, Director of Parks, Department of Resources and Economic Development: Chairman Kurk, Members of the Committee, Phil Bryce, Director of Parks. We are using the -- we are using increasingly our operating funds and our operating surpluses to reinvest back into the Park System in order to supplement the capital appropriation that we get. The question you asked is a very good one which is finding that balance between dealing with our deferred maintenance today, which we have which thanks to the support of the Legislature we made tremendous progress on. We still have a lot of work to do in investing in the future.

Franconia Notch State Park generates, in total, almost half of the revenue in the Park System. It is rated one of the premier parks in the nation. Photo editors like top five. It's been rated number two after a park in Alaska. It's been rated in the top 20. And so we find this is a unique opportunity to -- recognizing all our issues with deferred maintenance, we feel that this is a unique opportunity to invest in the future of that park.

We're increasing the size of the park by 6%. We are increasing the amount of level and rolling terrain that we can actually use for a park and for easier trails for families by 29%. There's just not a lot of flat ground left

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in that park in order for us to be able to able expand recreational opportunities as our statute provides. So we recognize this. We don't -- we don't put in our budget acquisition funds to go out and acquire more properties because of the issues we have with dealing with deferred maintenance and replacing and upgrading our schedules; but this was such a unique opportunity to invest in our -- well, a nationally premier park that we felt it was appropriate to work on bringing it forward for your consideration.

CHAIRMAN KURK: What you're telling us is on balance you'd rather defer some maintenance longer to acquire this because in the long-term that's a better use of funds?

MR. BRYCE: It will provide future revenue-generating opportunities into the Park System.

CHAIRMAN KURK: Thank you. Further questions? Thank you, gentlemen. Are you ready for the question?

SEN. D'ALLESANDRO: Yes.

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

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

**FIS 16-176**

CHAIRMAN KURK: We turn now to Fiscal 16-176, a request from the Department of Transportation for authorization to accept and expend \$3,096,000 in Federal funds through June 30<sup>th</sup>, 2017. Is there a motion?

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

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CHAIRMAN KURK: Moved by Senator D'Allesandro, and seconded by Senator Boutin. I'm sorry. Moved by Senator Boutin, seconded by Senator D'Allesandro.

SEN. BOUTIN: Mr. Chair, may I speak to my motion?

CHAIRMAN KURK: You may.

SEN. BOUTIN: Thank you, Mr. Chair. Mr. Chairman, we've had a -- over the last several years we've had an ongoing debate in this legislative body and about whether or not we need or should have commuter rail. And I -- I, for one, Mr. Chairman, have always felt that our bus system and an enhanced bus system that this particular item will permit is a much better way for the State of New Hampshire to address its passenger and traffic issues. So that's why I support this motion. I think it's good for our commuter system to do it through buses rather than through a very expensive cost of rail system.

CHAIRMAN KURK: Thank, you Senator. Is there someone here from the Department that could answer a question?

MARIE MULLEN, Director of Finance, Department of Transportation: Good morning. Marie Mullen, Director of Finance, from the Department of Transportation.

PATRICK HERLIHY, Director of Aeronautics Rail and Transit, Department of Transportation: Good morning, Mr. Chairman, Members of the Committee. Patrick Herlihy, Director of Aeronautics, Rail and Transit at the Department of Transportation.

CHAIRMAN KURK: Good morning to both of you. Would you confirm this understanding or correct it? The Federal Government pays for the buses. There is a contract with the operator between the State and the operator to run the buses.

MR. HERLIHY: Hm-hum.

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CHAIRMAN KURK: The operator is paid a management fee. And if the operator loses money, the State makes -- in the operations, not in the management part, the State makes up the difference.

MR. HERLIHY: That is correct.

CHAIRMAN KURK: So, in effect, while there's a private company managing it, this is basically a State operation that is a money loser.

MR. HERLIHY: That's one way to put it, yes. It is a State operation that came about as a commuter service that was part of the I-93 expansion mitigation process.

CHAIRMAN KURK: Are we obligated to do this under some sort of arrangement with the Federal Government for the expansion of 93?

MR. HERLIHY: Yes.

CHAIRMAN KURK: We don't have a choice?

MR. HERLIHY: That's correct.

CHAIRMAN KURK: Thank you very much. Further questions? Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. But I guess I'm hoping in my lifetime that I see Interstate 93 get finished, God willing and the creek don't rise.

MR. HERLIHY: Not in my Department, so.

SEN. SANBORN: Thank you for that pivot. I appreciate it. But when 93 is finished, then wouldn't we no longer be under the obligation of what I always understood was a compromise to provide busing based upon the lack of traffic flow that we had on the interstate?

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MR. HERLIHY: Yes, we would always be under some obligation for that. What we are looking to do is after the 93 Project is finished, which I think is anticipated for 2020 at this point, we are going to be putting out a Request For Proposal in the 2018 time frame to look at what that service level should be at that point and how do we fund that service level. So we are -- we are looking at what the system should look like in the future.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: Thank you for that answer. I appreciate it. So I don't see anything in here who gets to keep the money from the buses they sell. We are facing six buses that are costing nearly a half million dollars apiece. I assume there's some sort of a trade-in value and where is that money going?

MR. HERLIHY: The old buses are sold through the Department of Administrative Services through the State surplus system, the White Farm, so it will be auctioned out. That money will go back into the Transit account at the Bureau of Rail and Transit. Any money over \$5,000 we get for each bus would go to offset that operating subsidy that we provide to Boston Express before we draw down any other Federal funding.

CHAIRMAN KURK: Could you tell us the operating subsidy per passenger trip?

MR. HERLIHY: Per passenger trip? I don't have the operating. So the operating subsidy -- I can tell you -- I mean, I can't do the math right off the top of my head. But in State Fiscal Year 2016 we had 599,450 passengers that rode the bus and express service.

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CHAIRMAN KURK: That's -- that's single trips. If I went to Boston and came back that would be two trips.

MR. HERLIHY: That's correct. The operating subsidy in 2016 for both services, either both I-93 and the Everett was \$673,828.

CHAIRMAN KURK: About a dollar twelve. Thank you.

MR. HERLIHY: Hm-hum.

CHAIRMAN KURK: Further questions? Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you. Thank you, Mr. Chair. Just to clear it up. I think it's a great service that really New Hampshire needs. Those who are using it for the commuter situation take full advantage of it. I've ridden it both up -- up and down. It's as good as it can get in terms of the quality of the service, the maintenance of the facilities, as well as the buses themselves. And it is part of the mitigation plan, and I think it saves the environment, as well as providing an outstanding service for commuters. That's well -- well used by New Hampshire citizens who are looking for a way to get to Boston or some other places south in a more expeditious manner.

So I've made the trip. I've seen the trip. And I inspected the facilities which, as I say, extremely well maintained. Cleanliness is perfect. The one problem we have is Manchester and I apologize for that, but we have to work at it.

MR. HERLIHY: Thank you, Senator, and a lot of that goes to our operating -- the agency that operates that system for us; but that management fee keeps those terminals in great condition and keeps the service going.

SEN. D'ALLESANDRO: Does a great job.

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CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. To follow-up, respectfully, on the other side of my fine colleague from Manchester, that by the time we add a dollar twelve per trip, plus we're spending a dollar each for each one of the buses we are buying every single day and the cost it took us to build and maintain these things, I support the concept of alternative transportation, but I don't understand why on God's green earth we are using people's tax dollars to get other people a ride on a brand new interstate we spent \$300 million for. I think, and I'm saying respectfully, I'm going to be voting against it because I think it's an absolute waste of taxpayer money. If it's such a big deal, let a private company do it.

CHAIRMAN KURK: Further discussion? Senator Sanborn or Senator D'Allesandro.

SEN. D'ALLESANDRO: I certainly respect the respect. Thank you very much.

CHAIRMAN KURK: Further discussion? There being none, are you ready for the question? All those in favor of approving Fiscal 16-176, please now indicate by saying aye? Opposed?

SEN. SANBORN: Opposed.

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

\*\*\* {MOTION ADOPTED}

MR. HERLIHY: Thank you.

MS. MULLEN: Thank you.

**FIS 16-177**

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CHAIRMAN KURK: Thank you. We now turn to Fiscal 16-177, a request to spend -- request from the Department of Transportation for authorization to accept and expend \$6 million in Federal funds till the end of the Fiscal Year. Is there a motion? Representative Eaton moves, Senator D'Allesandro seconds. Discussion?

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

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

**FIS 16-184**

CHAIRMAN KURK: We turn now to Fiscal 16-184, a request from the Department of Labor for authorization to budget and expend \$300,000 in other funds through the end of the Fiscal Year. Is there a motion?

\*\* SEN. D'ALLESANDRO: Move the item.

CHAIRMAN KURK: Senator D'Allesandro moves the item.

REP. EATON: (Nodding head).

CHAIRMAN KURK: Seconded by Representative Eaton. Question? Good morning, Commissioner.

JAMES CRAIG, Commissioner, Department of Labor: Good morning, Representative Kurk.

CHAIRMAN KURK: Would you identify yourselves for the record?

MR. CRAIG: My name is Jim Craig. I'm the Commissioner of Labor and I have Deputy Commissioner Kathryn Barger with me.

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CHAIRMAN KURK: Welcome. The attorneys who are now going to be getting 400 a day on this proposal and the other members who are getting, I believe, \$250 a day, how many hours do they typically work in a day? Is this just for a one hour meeting or is this for a full day's effort?

MR. CRAIG: Typical hearing could be an hour, it could be -- some of them are a couple days we schedule. But usually we schedule them in two-hour blocks, I think. And then there's paid per diem. And, you know, then somebody's got to write the opinion and motions to reconsider and all those kind of things. So it's a regular court proceeding without the court.

CHAIRMAN KURK: But you attempt to provide a full day's worth of work for each of these people, rather than just a single one hour case and then rest of the day off.

MS. BARGER: No.

MR. CRAIG: No. It's by hearing. They're paid by the hearing. Whatever it takes -- whatever amount of time it takes to do a hearing, that's their --

CHAIRMAN KURK: Right. But you schedule enough hearings to keep them or do you schedule enough hearings to keep them gainfully employed, so to speak, for a full eight-hour day?

MR. CRAIG: No. These are not full-time jobs. So it's always been in the statute that they're paid per diem amount for the -- for a hearing, per hearing.

CHAIRMAN KURK: So, typically, how many hours would a person work in a particular hearing in a particular day?

KATHRYN BARGER, Deputy Commissioner, Department of Labor: It would be -- they could work one hour, two hours, three hours. When they do their decision writing, we do make them do time sheets. So once it hits seven and a half

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hours, then they get paid that per diem for off-site work. But if they come in for a meeting any day, they get the per diem amount.

CHAIRMAN KURK: If we ask would you be able to come up with numbers as to how many hours over a course of a year each of these people is putting in and how much money they're receiving?

MS. BARGER: It would take some work, but we could get it.

CHAIRMAN KURK: I don't want you to spend any more money getting the answer to that question.

MS. BARGER: It won't be them. It will be our staff. They're administratively attached.

MR. CRAIG: To keep the amount of attorneys we need and people interested we have -- they haven't had a raise since the statute -- the system was put in place in the early nineties. And so to attract the attorneys we got to pay them -- we have to pay them that.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Commissioner, ma'am, thank you so much for coming in.

So I'm struggling here. So I recognize the fact that this comes from a piece of legislation, and my struggle continues to be this gives a real impression that the business community does not have the same value as an attorney does. I hear a lot of conversation everyday about equal pay for equal work. So if I'm a business owner and end up on this, I'm not going to get paid equally to what the attorney is. And I think it's exaggerated by the fact that if a female business owner was on there she, too, would not be getting paid to do the same work that someone else that's a man. I honestly and respectfully don't

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understand how this Legislature and this body that continues to advocate for equal pay, and continues to advocate for equal recognition, and continues to advocate that men and women should make the same amount of money, we are sitting here considering something that specifically -- specifically doesn't do that. How do we justify that? I would love to hear your comments.

MR. CRAIG: My only response, Senator, is we pay for legal expertise at each hearing. There was a -- there was an employer representative and there was an employee representative at each hearing but they are not attorneys. The amount -- you want a justification, it's a legislative decision, but rules of evidence and those kind of legal -- an understanding of the legal precedence involved, et cetera, although lay people have an understanding of that, but the lawyer is charged with understanding the legal principles and usually they write the decisions and they make the evidentiary decisions that are required throughout a hearing. So that's the justification.

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

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: Thanks for your answer. I appreciate it. At the end of the day their vote has equal weight?

MR. CRAIG: Yes, yes. And that's the only difference between. I understand what you're saying, but that's the only difference. There isn't a need for -- these used to be heard at the Superior Court level, and they were so backed up with them that they switched to this system. So it's a quasi-judicial hearing that we are giving to employers and employees so it makes sense to have an attorney with the knowledge of the legal background in the cases and precedence involved, as well as the evidentiary rulings at these hearings.

SEN. SANBORN: Thank you, sir.

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CHAIRMAN KURK: Thank you. Discussion? You both may return to your seats. This is now a time for us to discuss this among ourselves. Thank you for the information. Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. I mean, Mr. Chair, I think my points are very clear. And for the record, I had the same conversation when this legislation came to the Senate floor as my colleagues might remember. That for this state, our Legislature, for this body, to advocate paying people differently for doing the same job with the same ultimate responsibility, and then paying them differently that could be predicated gender kind of goes against everything we have been talking about for the past three or four years about ensuring that we have pay equity. In fact, for the record, pay equity came to the Commerce Committee when I was Chair in 2014, and I ended up drafting the amendment. Senator Larsen introduced it. I drafted the -- we replaced all amendments to ensure that we have equal pay for equal work in this state. I think this repayment scheme cuts across the grain.

CHAIRMAN KURK: Senator, I hear what you're saying and even if I agreed with you and thought that the Legislature had made a mistake, I don't believe it's the function of the Fiscal Committee to reverse a legislative decision. And even if I had voted against it, and I don't remember, even if I voted against it, the issue before us now is to implement the law. And from my point of view those arguments might have been effective at the time the bill was made, but they apparently weren't persuasive and the bill passed. It's our job to implement it. So I'm going to be voting in favor of this.

SEN. SANBORN: Thank you, Mr. Chair. If I may ask a question of the Chair?

CHAIRMAN KURK: Sure.

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SEN. SANBORN: So what is then, therefore, the intent of the Fiscal Committee as to whether or not to approve the resources to implement the policy or not, that be my understanding. So if we believe that it's either fiscally imprudent or bad policy for the State, or maybe we don't have enough information, and let me remind the Chair that you voted against the Gateway to Work Program because you had concerns about the policy, wouldn't we therefore vote no to encourage the Legislature to go back and reconsider the premise?

CHAIRMAN KURK: Respectfully, I disagree. The Gateway to Work issues and the whole reason for my voting against it was that it hadn't been considered by the Legislature. It was a Department policy. Oh, God, now we're going to have Senator D'Allesandro's opening. I fell into that trap.

SEN. D'ALLESANDRO: Let's talk specifically about if I might, Mr. Chair.

CHAIRMAN KURK: Yes.

SEN. D'ALLESANDRO: Specifically, about the issue before us.

CHAIRMAN KURK: Please.

SEN. D'ALLESANDRO: I concur with your sentiments. The Legislature has taken action. It's been approved by the House, been by the Senate, signed by the Governor. Our job at Fiscal Committee is to implement it. That's a process. We are going to do that process.

With regard to the Gateway to Work, that's another situation which we can discuss in its entirety at a later date.

CHAIRMAN KURK: Thank you, sir.

SEN. D'ALLESANDRO: You're welcome.

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CHAIRMAN KURK: There are reasons why I think it's legitimate on this Committee to vote against it. As you said, for example, if you didn't have enough information or you thought there was insufficient money in the fund to make the transfer, things like that. But from my perspective, our job is not to rewrite legislative policy even if we were on the losing end of it.

SEN. SANBORN: Agreed.

CHAIRMAN KURK: Further discussion. There being none, are you ready for the question? The motion is to approve the item.

SEN. SANBORN: Roll call.

CHAIRMAN KURK: If you're in favor of that, you'll answer yes when the clerk calls your name. If you're opposed, you'll answer no. The Clerk will now call the roll.

SEN. BOUTIN: Mr. Chairman, we need to get our member.

CHAIRMAN KURK: Are we ready? The question before us is to approve Fiscal --

REP. WEYLER: 184.

CHAIRMAN KURK: Fiscal 16-184, a request from the Department of Labor for authorization to budget and expend \$300,000 in other funds. A roll call has been requested. If you're in favor of approving this item, you'll answer yes when the Clerk calls your name. If you're opposed, you'll answer -- you'll answer no. The Clerk will now call the roll on Fiscal 16-184.

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

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REP. UMBERGER: Yes.

REP. WEYLER: Representative Wallner.

CHAIRWOMAN WALLNER: Yes.

REP. WEYLER: Representative Eaton.

REP. EATON: Yes.

REP. WEYLER: Senator Forrester.

SEN. FORRESTER: No.

REP. WEYLER: Senator Boutin.

SEN. BOUTIN: No.

REP. WEYLER: President Morse.

SEN. PRESIDENT MORSE: No.

REP. WEYLER: Senator Sanborn.

SEN. SANBORN: No.

REP. WEYLER: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yes.

REP. WEYLER: Chairman Kurk.

CHAIRMAN KURK: Yes.

REP. WEYLER: Six yes, four no.

CHAIRMAN KURK: Six having voted in the affirmative, four in opposition, the motion passes and the item is approved.

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\*\*\* {MOTION ADOPTED}

**FIS 16-185**

CHAIRMAN KURK: We turn now to Fiscal 16-185, a request from the Department of Education for authorization to amend Fiscal 15-263, approved on December 18, 2015, by reallocating \$25,000 in Federal funds through the end of the Fiscal Year. Is there a motion?

\*\* SEN. FORRESTER: So move.

CHAIRMAN KURK: Moved by Senator Forrester, seconded by Representative Eaton. Question for the Department of Education. Senator Boutin, I apologize for not recognizing you. With Representative Eaton's approval, you are now on record as seconding the motion.

SEN. BOUTIN: Thank you, Mr. Chairman.

CHAIRMAN KURK: Good morning, folks.

TAMMY VAILLANCOURT, Executive Project Manager, Department of Education: Tammy Vaillancourt, Department of Education.

PETER DURSO, Education Consultant I, Department of Education: Peter Durso, Department of Ed., Education Consultant and guarding drafter for the E3 Fatherhood Program.

CHAIRMAN KURK: Thank you.

MR. DURSO: Before we get started, part of the mission of the program is the distribution of materials for educational purposes. I do have E3 tool kits if you can allow me to pass them out.

CHAIRMAN KURK: You certainly may if you give them to Ms. Ellis, but the issue is not specifically on that.

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Could you tell me whether this program works? And by work I mean has it increased a teen father's interaction with their children such that the children are better off than they would have been had the program not been in existence? But over the long-term what results are we getting? I'm not looking for customer satisfaction. I'm looking for changes to the children of these teen fathers or a decrease in -- how is it gently put here? A decrease in multiple partner fertility rates.

MR. DURSO: Sure. Currently -- currently, the grant that was awarded by the U.S. Department of Education is an exploratory grant and is a pilot program. If you look at the unique means of teen fathers in the State of New Hampshire, one of the key components of the grant is to work with teen fathers and to increase their parenting skills. And as a result of increasing parenting skills, thus increasing those skills of newborns and the fathers that are under the age of five. So, again, part of the -- the program is a collaboration that we have of existing State Agencies around the state to collaborate with one another to support teen dads with resources of parenting, employment, and engagement.

CHAIRMAN KURK: That's a noble sentiment and a noble objective. My question has nothing to do with that. Does this program work?

MR. DURSO: We believe it does work. Based on the research with this grant three factors that make this program work is the employment, the education, and the engagement. Those three best research practices have had great results and increasing the efficacy of teen parents and their children. So the program does work.

It's too early to tell what our outcomes are. The program has only been in existence for the last seven months actively recruiting teen dads. We do have an outside evaluator that evaluates the outcomes of the program. But

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we have seen our dads return back to school and working on their high school diplomas. And we have seen our dads go back to parenting classes as well based on this program.

CHAIRMAN KURK: I think what you told me was this program works based on outcomes in other comparable programs. Would you make sure that we have copies of those studies so that we can understand that?

MR. DURSO: Hm-hum.

CHAIRMAN KURK: And, also, would you send us copies of the criteria that your evaluator will be using to determine effectiveness? If you're -- there are some people think it's effective if simply more people attend an education session. But that, in my mind, is not what the purpose of the program is to get you to actually attend sessions. It's to have an effect on somebody which we can demonstrate by looking at it a control group as it were.

MR. DURSO: That's correct.

CHAIRMAN KURK: So I would appreciate those.

MR. DURSO: Very well.

CHAIRMAN KURK: Further questions? There being none. Thank you both very much.

Are you ready for the question? Further discussion? There being none, are you ready for the question? If you're in favor of approving this item, please now indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

**FIS 16-189**

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CHAIRMAN KURK: We turn now to Fiscal 16-189, a request from the Department of Environmental Services for authorization to accept and expend \$1 million in Federal funds through April 30<sup>th</sup>, 2017. Senator Boutin, did you care to make a motion on this?

\*\* SEN. BOUTIN: Yes, I'll move.

CHAIRMAN KURK: Moved by Senator Boutin, seconded by Representative Umberger.

SEN. BOUTIN: Got to lighten the load, Mr. Chairman, on my good friend from District 20.

SEN. SANBORN: While he can handle it, it's always nice to share.

SEN. BOUTIN: And I respect him, too.

SEN. D'ALLESANDRO: I've been so blessed. Thank you.

CHAIRMAN KURK: There is a motion to approve this item. Is there any discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

**(5) RSA 124:15 Positions Authorized:**

CHAIRMAN KURK: We turn now to item number five on the agenda, Fiscal 16-186, a request from the Department of Safety for authorization to retroactively extend the end date for one temporary full-time program assistant position and create a temporary part-time cash operator terminal position for the period of October 1<sup>st</sup>, 2016, through the end of the Fiscal Year.

\*\* REP. EATON: Move approval.

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CHAIRMAN KURK: Moved by Representative Eaton.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Seconded by Senator D'Allesandro.

REP. EATON: The team is back.

CHAIRMAN KURK: Discussion? Representative -- Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. I appreciate it. You know, I remember a couple years ago about this point when we saw a plethora, damn near a plethora, of requests for new FTEs of which, if my memory serves, you and the Senate President and the Chair of Finance's opinion was that there are going to be new hires that we would table those and consider them in the new budget. Is it your intent to do the same thing here?

CHAIRMAN KURK: I hadn't thought about that. If somebody makes a tabling motion, I will vote on it.

\*\* SEN. SANBORN: I move to table.

SEN. FORRESTER: Second.

CHAIRMAN KURK: Before you do that.

SEN. SANBORN: I withdraw my motion.

CHAIRMAN KURK: Thank you. Is there any other discussion?

REP. EATON: Can we have someone from the Department discuss the need and what this will do if they don't?

CHAIRMAN KURK: Yes. Good morning and welcome to both of you, again.

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MS. LEONARD: I'm Kyra Leonard. I'm an Administrator at the Department of Safety.

BILL JOSEPH, Deputy Director, Division of Motor Vehicles, Department of Safety: I'm Bill Joseph. I'm the Deputy Director of the DMV.

MS. LEONARD: And to speak to the question of the impact if we weren't able to continue this position --

CHAIRMAN KURK: Why don't we let Senator Sanborn ask his question. Sorry. Senator -- Representative Eaton, who had the question?

REP. EATON: Whichever one you want to call.

CHAIRMAN KURK: Representative Eaton.

REP. EATON: Kyra, just layout what the ramifications are if we don't approve this today and why it is what it is versus in the budget?

MS. LEONARD: So I will say that this has been budgeted in the 18-19 budget. But as for the ramifications, Deputy Director will answer it.

MR. JOSEPH: So this additional position which Senator Sanborn referenced is we're -- we have currently a hundred -- 1,118 devices out there and there are many violations. The person that's running this program spends all their time working with the Bureau of Hearings and with these device companies that report the violations. And there are almost a thousand violations over the year. But we -- we need somebody to take over that person's position so that they can maintain the statistics. And the person that is the lead to get out to the police departments and to educate them on these devices and get around and so that we can -- they can -- law enforcement can better understand what we're doing and why we do what we do.

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REP. EATON: So the follow-up would be if -- one, there's obviously somebody in the position now.

MR. JOSEPH: That is correct.

REP. EATON: So if these funds don't go through somebody's out of a job.

MR. JOSEPH: That is correct.

REP. EATON: Secondly, if I may?

CHAIRMAN KURK: Could you follow-up on that? I thought this was an additional position.

MR. JOSEPH: There is a current position and then we want to add a part-time position within which is part of this grant.

CHAIRMAN KURK: But you said that the position would be eliminated. The person who is in the position would be out of a job if this were not approved?

MR. JOSEPH: This position would have to be absorbed by the DMV budget if this grant was not approved.

CHAIRMAN KURK: Senator Forrester.

SEN. FORRESTER: Thank you. Thank you for coming in. Can you tell me why this didn't go through the budget process, the regular budget process?

MR. JOSEPH: Because initially when Highway Safety funded this position it was a three-year program. And we didn't anticipate that they were going to renew after the three years. So that's kind of where we're at with that. And then we were able to apply and they approved this position and the additional position.

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SEN. FORRESTER: Senator Boutin.

CHAIRMAN KURK: Senator Boutin.

SEN. BOUTIN: Thank you. Mr. Chairman, perhaps you could answer this. I'm trying to understand where the money is coming from. At Page 2 it says at the time the State of New Hampshire Fiscal Year 2016 does not anticipate the State would receive funding for this grant. So is this a Federal grant or these monies running around in the Department?

MS. LEONARD: So it's a pass-through grant. So the Office of Highway Safety awarded the grant to the Department of Safety.

CHAIRMAN KURK: Senator Boutin.

SEN. BOUTIN: May I follow-up?

CHAIRMAN KURK: Yes.

SEN. BOUTIN: Is it the Federal Office of Highway Safety or the State office?

MS. LEONARD: No, the State Office of Highway Safety.

CHAIRMAN KURK: Follow-up.

SEN. BOUTIN: So that money that you're passing through is money that's come from the Federal Government.

MS. LEONARD: Yes. From new -- the National Highway Traffic Safety Administration.

SEN. BOUTIN: And this is being passed through to the Department of Safety so that we can appropriately operate the Interlock Ignition Program.

MS. LEONARD: Yes.

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MR. JOSEPH: That's correct.

SEN. BOUTIN: Thank you. Thank you, Mr. Chairman, for your indulgence. I wasn't sure where the money was coming from.

CHAIRMAN KURK: Senator D'Allesandro is recognized for a question.

SEN. D'ALLESANDRO: Just I think Safety might help out all of the Senators and Representatives understand. When the entity was absorbed into the Department of Safety, this is the old situation with Peter Dunn. When you took it into the Department of Safety that's when the transfer of funds became apparent, and that's when you -- when you looked at this you say agency income. It's within the agency. It's not -- it's not any different. The only thing is what used to be outside of the agency coming in now is within the agency transfer.

MS. LEONARD: So when -- when they were the Highway Safety Agency --

SEN. D'ALLESANDRO: When Highway Safety was a separate entity, they would make the grant to Safety. You have now absorbed Highway Safety into the Department of Safety so it's an internal transfer.

MS. LEONARD: Yes. We do now process it as an internal transfer.

SEN. D'ALLESANDRO: But I think it's confusing because in the old days it used to be a grant from the Highway Safety Agency to the Department of Safety. Now it's within the Department of Safety so it's called agency income.

MS. LEONARD: It was called agency income before then because the Federal funds went into the office or the Highway Safety Agency at the time and we received it. It was agency income. But now, yes, it is even more confusing

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because now we have the Highway Safety Office within us. So, yeah.

CHAIRMAN KURK: Help me understand the positions. Right now there is one person doing this job.

MS. LEONARD: Yes.

MR. JOSEPH: That's correct.

CHAIRMAN KURK: That person is paid by grant money?

MS. LEONARD: Yes.

CHAIRMAN KURK: Okay. And since you didn't know that you were going to get this grant, may I assume that you believed this position would terminate at some point during the Fiscal Year?

MR. JOSEPH: We would not be able to fund it through the grant. Obviously, we would have to absorb it or let the person go.

CHAIRMAN KURK: Okay. Had you intended to absorb it or had you intended to let the person go?

MS. LEONARD: Or reduced hours.

MR. JOSEPH: Reduced hours was probably the way we were going to approach it.

CHAIRMAN KURK: Keep the person but fewer hours.

MR. JOSEPH: Yes.

CHAIRMAN KURK: So if this is not approved that would be what happens.

MR. JOSEPH: That is correct.

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CHAIRMAN KURK: As I read this, you're asking to continue that existing person for the same number of hours, because it says continue one temporary full-time position.

MR. JOSEPH: Correct.

CHAIRMAN KURK: But then it says create one temporary part-time position.

MR. JOSEPH: Yes, sir.

CHAIRMAN KURK: Which is not filled now; is that correct?

MR. JOSEPH: That is correct.

CHAIRMAN KURK: So if this is approved, we will continue that current person at the current number of hours and have an additional part-time person.

MS. LEONARD: Yes.

CHAIRMAN KURK: And if we turn this down, we will continue to have one part-time -- one full-time person but with reduced hours.

MS. LEONARD: Far, far reduced hours.

MR. JOSEPH: Far reduced.

CHAIRMAN KURK: Fifty percent?

MR. JOSEPH: Yes.

CHAIRMAN KURK: Okay. Thank you for answering that question. Are there other questions? There being none, thank you both very much. Discussion?

SEN. SANBORN: I'd like to make my motion. Happy to discuss before I make a motion.

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CHAIRMAN KURK: Is there any further discussion before Senator Sanborn moves to table?

SEN. BOUTIN: Mr. Chairman.

CHAIRMAN KURK: Senator Boutin.

SEN. BOUTIN: So, Mr. Chairman, and Members of the Committee, let's just take a look in our history books for a moment. A few years ago this Legislature worked very hard to get some -- and I was serving on Senate Transportation at the time -- and the Legislature agreed that we had a serious issue out there in our communities with driving while intoxicated. And we implemented this program with the interlock ignition and we came back and we amended the following year. This is a very good program. And it's very good from the standpoint of Safety because now people while the initial, the early units you could get around, as someone who wanted to get in the car again drunk could get around it, they advanced it now so you can't. And so it benefits our society, in general, that we are not letting these drunk drivers. We only have to look at the news almost every single weekend where there's people that are being killed on our highways from drunk drivers. If we can keep these people off the road, that's great. That's a benefit to the entire society of the State of New Hampshire. If -- if we have these devices, by the way, people who have made a mistake, legitimate mistake, this gives them an opportunity to be able to go back to work, be able to use the car, because that was a big issue. That was a big issue that we discussed. Mr. Chairman.

CHAIRMAN KURK: Yes, sir.

SEN. BOUTIN: That was a very significant issue and important issue that we discussed in this Legislature. House and Senate would not pass it and that was how do we deal with people who have made a mistake, but we want to make sure that our public is safe and we want to make sure

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individuals are safe. This -- and I have talked to the Department about this program a number of times, this program works. It saves lives. It's good for the State of New Hampshire and I think we should -- I would encourage supporting it. I would -- I know Senator Sanborn might be considering a motion. I will let him since he wants to do that, but I would offer a motion of support if I had the opportunity.

REP. EATON: It's already there.

CHAIRMAN KURK: The motion before us is to approve.

SEN. BOUTIN: We have an affirmative motion now?

CHAIRMAN KURK: Yes, that is correct. Senator Sanborn indicated that at the right time he would move to table. That would be the next motion. But I want to make sure we have our discussion before I take that motion. It's not clear to me that the Department is -- although the Department said that they would probably cutback the hours of the existing employee if this were not approved, but that's really up to the Department and the Commissioner. He has to balance his budget in terms of ways that he puts his money where he thinks it's most important. And so he might very well decide to continue funding this fully if he took your position on this or he might not depending upon what else he needs and the amount of lapse he's expecting. Okay.

SEN. SANBORN: Mr. Chair, may I?

CHAIRMAN KURK: Yes.

SEN. SANBORN: Thank you, sir.

CHAIRMAN KURK: This is discussion, not a motion.

SEN. SANBORN: Yes, discussion. While I appreciate my colleague's position and, frankly, support it, because I think it's a good program, I think we as a body also need

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to consider the decisions that we make and try to be consistent across the Board. And if it's been the pleasure of this Committee time and time again that we'll look toward the budget to increase FTEs and give the two finance chairs, the Speaker and Senate President the ability to manage that process with all of the Commissioners, I think consistency is a very important thing. So not a reflection on whether or not the position is needed or should be needed but more a reflection on the process and respecting how budgets are created, I think, is an important part of the discussion. There's always going to be a need for something or someone more and while I think I respect that, I think I also respect the process as well and that's where I'm anchored.

CHAIRMAN KURK: Thank you.

SEN. SANBORN: There he is.

CHAIRMAN KURK: Oh, good. Chair recognizes Representative -- Senator Sanborn for a motion.

\*\* SEN. SANBORN: I make a motion to table.

CHAIRMAN KURK: Is there a second to that motion?

SEN. FORRESTER: Second.

CHAIRMAN KURK: Seconded by Senator Forrester. The motion before us is to table.

REP. EATON: Roll call, please.

CHAIRMAN KURK: Representative Eaton has asked for a roll call. If you're in favor of tabling, you'll answer yes when the Clerk calls your name. If you're opposed to tabling, you'll answer no. The Clerk will now call the roll on tabling 16-186.

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

REP. UMBERGER: Yes.

REP. WEYLER: Representative Wallner.

REP. WALLNER: No.

REP. UMBERGER: Oh, wait, I'm sorry. I'm voting no to  
table, excuse me, not yes to table.

REP. WEYLER: Okay. Representative Wallner.

REP. WALLNER: No.

REP. WEYLER: Representative Eaton.

REP. EATON: No.

REP. WEYLER: Senator Forrester.

SEN. FORRESTER: Yes.

REP. WEYLER: Senator Boutin.

SEN. BOUTIN: No.

REP. WEYLER: President Morse.

SEN. PRESIDENT MORSE: Yes.

REP. WEYLER: Senator Sanborn.

SEN. SANBORN: Yes.

REP. WEYLER: Senator D'Allesandro.

SEN. D'ALLESANDRO: No.

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REP. WEYLER: Chairman Kurk.

CHAIRMAN KURK: Yes.

REP. WEYLER: Four yeses, six nos.

CHAIRMAN KURK: The motion fails.

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

SEN. BOUTIN: Take up the original motion now.

REP. WEYLER: Five to five.

REP. EATON: The motion fails.

CHAIRMAN KURK: May I just briefly have a show of hands? If you're in favor of tabling, please raise your hand. One, two, three, four. If you're opposed? One, two three, four, five, six. Thank you. The motion fails.

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

CHAIRMAN KURK: The vote being four in favor, six in opposition. The motion before us now is to approve the item.

SEN. BOUTIN: Roll call, Mr. Chairman.

CHAIRMAN KURK: Further discussion? There being none, we will now advance to the vote. This will be a roll call vote. If you're in favor of approving the item, you'll respond yes when the clerk calls your name. If you're opposed, you'll answer no. The clerk will now call the roll on approval of 16-186.

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

REP. UMBERGER: Yes.

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REP. WEYLER: Representative Wallner.

CHAIRWOMAN WALLNER: Yes.

REP. WEYLER: Representative Eaton.

REP. EATON: Yes.

REP. WEYLER: Senator Forrester.

SEN. FORRESTER: No.

REP. WEYLER: Senator Boutin.

SEN. BOUTIN: Yes.

REP. WEYLER: President Morse.

SEN. PRESIDENT MORSE: No.

REP. WEYLER: Senator Sanborn.

SEN. SANBORN: No.

REP. WEYLER: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yes.

REP. WEYLER: Chairman Kurk.

CHAIRMAN KURK: No. Six having voted in the affirmative, four in opposition, the motion passes and the item is approved.

\*\*\* {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

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**Authorized:**

CHAIRMAN KURK: We turn now to Tab six on the agenda. And I think there are enough questions from the House side at least on this so that we will go over these individually rather than as a consent item.

**FIS 16-178**

CHAIRMAN KURK: Turning first to Fiscal 16-178, a request from the Department of Health and Human Services for authorization to accept and expend \$183,333 in Federal funds through the end of the Fiscal Year, and contingent upon the approval of that request establish a temporary full-time public health nurse coordinator position through the same period. Is there a motion?

\*\* SEN. D'ALLESANDRO: Move the item.

CHAIRMAN KURK: Senator D'Allesandro moves the item.

(Representative Wallner raises her hand.)

REP. EATON: Mary Jane.

CHAIRMAN KURK: Representative Wallner seconds.  
Discussion or questions?

SEN. SANBORN: Mr. Chairman, if I may?

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Again, although, again, I support the policy consideration, it's always been the practice of the Fiscal Committee to not create policy or I think the Chair said earlier today, create new positions instead of going through the budget. At the appropriate time I will be making the motion to table.

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CHAIRMAN KURK: Is there discussion on this? Does anyone have questions about this program? I must say that I met with one of the administrators of the program earlier this morning and had my questions answered. But I understand there are maybe others. No? Senator Sanborn is recognized for a motion.

\*\* SEN. SANBORN: Motion to table.

CHAIRMAN KURK: Senator Sanborn moves to table. Is there a second?

SEN. FORRESTER: Second.

CHAIRMAN KURK: Seconded by Senator Forrester. The motion before us is to table this item. If you're in favor of tabling, please now indicate by saying aye? Opposed? The nos have it and the motion fails.

\*\*\* {MOTION FAILS}

CHAIRMAN KURK: The motion before us is to approve. Is there further discussion? There being none, are you ready for the question? All those in favor of approving Fiscal 16-178, please now indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

#### **FIS 16-179**

CHAIRMAN KURK: We turn now to Fiscal 16-179, a request from the Department of Safety for authorization to retroactively accept and expend \$210,497 in other funds for the period of October 1<sup>st</sup> through June 30<sup>th</sup>, 2017. And contingent upon that approval retroactively extend two temporary full-time hearing examiners positions for the period October 1<sup>st</sup> through the end of the Fiscal Year.

\*\* REP. EATON: Move approval.

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CHAIRMAN KURK: Representative Eaton moves approval.

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Senator Boutin is not here so I'll recognize Senator D'Allesandro who also approves.

SEN. D'ALLESANDRO: For a second.

CHAIRMAN KURK: Is there discussion?

SEN. SANBORN: Mr. Chair, for the record, these are not new positions?

CHAIRMAN KURK: Are you telling us that you are not going to move to table?

SEN. SANBORN: If they are not new positions, you know me, Mr. Chair, consistency is always an important thing in my life. If they are not -- these are not new positions.

MICHAEL KANE, Legislative Budget Assistant, Office of Legislative Budget Assistant: They are not.

CHAIRMAN KURK: Let me -- afterwards I'll talk to you about a certain aphorism associated with consistency.

SEN. SANBORN: I'm not sure I want to hear that.

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

\*\*\* {MOTION ADOPTED}

FIS 16-180

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CHAIRMAN KURK: We turn now to Fiscal 16-180, another request from the Department of Safety for authorization to retroactively accept and expend \$123,000 in other funds for the period of October 1<sup>st</sup>, 2016, through June 30<sup>th</sup>, 2017, and retroactively amend Fiscal 15-218 by extending the end date only from September 30, 2016, to June 30<sup>th</sup>, 2017, for one temporary full-time State Police Captain position. Is there a motion?

\*\* REP. EATON: Move approval.

SEN. SANBORN: My understanding these are not new positions?

SEN. D'ALLESANDRO: I'll second it.

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

\*\*\* {MOTION ADOPTED}

**FIS 16-181**

CHAIRMAN KURK: We turn now to Fiscal 16-181 request from Department of Safety for authorization to accept and expend 164,079 in other funds through June 30<sup>th</sup>, 2017, and establish class 046 consultant positions through June 30<sup>th</sup>, 2017.

\*\* REP. EATON: Move approval.

SEN. SANBORN: Discussion.

CHAIRMAN KURK: Representative Eaton moves approval.  
Senator D'Allesandro --

SEN. D'ALLESANDRO: Second.

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CHAIRMAN KURK: -- seconds. Senator Sanborn is recognized for discussion.

SEN. SANBORN: Thank you, Mr. Chair. So I guess we need to understand if this is something that would ordinarily go through the budget process. Although they are consultants, they would be new consultants and as such it would be my initial recommendation that we would recommend a tabling motion so this would go into the budget, unless the Chair would love to provide me his always excellent education as to why I should not be thinking that way.

CHAIRMAN KURK: The Chair would ask Mr. Kane as to whether or not this Committee has any past practice with respect to approving new consultant positions as distinguished from new temporary positions?

MR. KANE: Sure. What you probably remember is Department of Justice regularly comes forward to request new consultants for -- I think they had an elder abuse one. Sometimes they offer assistance to other agencies. This Committee has approved new consultants in the past, and I'd have to verify this Fiscal Year. We usually don't count those as position counts because they're not State employees. It's more or less giving the Committee -- giving the Department an authority to enter into a contract with an outside party.

CHAIRMAN KURK: Does that assuage the Senator's concerns?

SEN. SANBORN: We're good. The Senator's good, Mr. Chair. Or so I've been told by the Finance Chair.

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

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\*\*\* {MOTION ADOPTED}

**FIS 16-187**

CHAIRMAN KURK: We turn now to Fiscal 16-187, a request from the Department of Safety, for authorization to accept and expend \$260,250 in other funds through June 30<sup>th</sup>, 2017, and contingent upon approval of number one, establish one temporary part-time Informational Representative position through June 30<sup>th</sup>, 2017. Is there a motion?

\*\* REP. EATON: Move.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by?

SEN. D'ALLESANDRO: Second.

CHAIRMAN KURK: Senator D'Allesandro. There is a new position here. I wonder if Mr. Kane has an answer to the question that was raised earlier at pre-Fiscal meetings at least on the House side as to the DOE information attached to this item.

MR. KANE: Oh, right. Okay. Sure. So you thought it was hard to keep track of where the Highway Safety money was going. This is a little different because what happens here is you have the Department of Education accepted -- the State Department of Education accepted Federal funds through the United States Department of Education. The Department of U.S. -- the State Department of Education then transferred these funds over to the Division of Homeland Security within the Department of Safety. And then this is the acceptance from Highway Safety from Homeland Security, then that goes into Safety. So this is a -- these are multiple -- there's one inter-agency transfer so from DOE into Safety, and then you have two intra-agency transfers over to Homeland Security and to the Department of Safety. At their source you track it back

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it's Federal funds. So I hope that confused you. I apologize.

CHAIRMAN KURK: Thank you for that explanation.

MR. KANE: Sure.

CHAIRMAN KURK: Is there someone from the Department who's available to answer a question?

MS. LEONARD: Hi.

CHAIRMAN KURK: Good morning again.

MS. LEONARD: Again. Kyra Leonard, Administrator at the Department of Safety.

PERRY PLUMMER, Director, Homeland Security and Emergency Management Division Department of Safety: I'm Perry Plummer, Director of Homeland Security and Emergency Management.

CHAIRMAN KURK: Thank you for being here. The question is why wasn't this in the budget and I notice you say these funds were unanticipated. This grant was not known to you at that time? You had not made application?

MR. PLUMMER: So you want to handle the first part.

MS. LEONARD: I would say overall with Highway Safety since they came over to us a new approach has been taken to their funds. So there's actually a number of grants that we've been receiving lately that weren't anticipated during the budget because Highway Safety has been expanding what they can do. So you can do some of the expansion.

MR. PLUMMER: We didn't anticipate being involved in that expansion until they came to us and asked us if we could provide the service for them.

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CHAIRMAN KURK: And could you explain what you expect to accomplish through this program and how you're going to measure whether it's effective?

MR. PLUMMER: I can handle some of those questions. The measurement I might not be able to handle. Unfortunately, the people handling are on vacation. But so we have -- we have an outreach program now for "See Something, Say Something" for emergency preparedness. And so we decided that within the Department of Safety to be a force multiplier and put all these together so we can have economy of scale. One person overseeing these rather than multiple people overseeing these. So be right in the same manner we have running those campaigns. The messaging of Highway Safety be done in the same manner. As far as the measurements, I can't speak to those because I just don't know the measuring tools that they're going to be using.

CHAIRMAN KURK: Basically this is for advertising.

MR. PLUMMER: It's for public service messaging, both through radio, TV, printed materials and support of local jurisdictions to provide that messaging as well.

CHAIRMAN KURK: Thank you. Further questions of these folks? There being none, thank you both. Further discussion? Senator Sanborn is recognized for a motion.

\*\* SEN. SANBORN: Thank you, Mr. Chair. Again, out of consistency in the budget-making process, I would move to table and consider these FTE's in the budget.

SEN. FORRESTER: Second.

CHAIRMAN KURK: Moved and seconded. Moved by Senator Sanborn, seconded by Senator Forrester that the item be tabled. If you're in favor of that motion, you'll be voting yes. If you're opposed, you'll be voting no. So all those who are in favor of tabling this please now indicate by saying aye? Opposed? May I have a show of hands, please?

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All those in favor of tabling? All those opposed? The motion fails.

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

CHAIRMAN KURK: The motion before us now is to approve the item. Further discussion? There being none, are you ready for the question? All those in favor of approving the item, please now indicate by saying aye? Opposed? The item is adopted.

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

CHAIRMAN KURK: The motion passes and the item is approved.

**(7) RSA 106-H:9 Funding; Fund Established and RSA 124:15 Positions Authorized:**

**FIS 16-188**

CHAIRMAN KURK: We now turn to tab seven, Fiscal 16-188, a request from the Department of Safety for authorization to budget and expend \$153,985 in other funds from the Prior Year Carry Forward Balance of the enhanced E-911 System fund through June 30<sup>th</sup>, 2017, and establish one temporary full-time Agency Staff Auditor position through June 30<sup>th</sup>, 2017.

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

CHAIRMAN KURK: Representative Eaton moves. Senator D'Allesandro.

SEN. D'ALLESANDRO: D'Allesandro seconds.

CHAIRMAN KURK: Seconds. The motion to approve the item.

SEN. SANBORN: Question.

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CHAIRMAN KURK: Senator Sanborn has a question. Is there someone from the agency who might answer the question? You're getting your 10,000 steps.

MS. LEONARD: Yes, I am. I have a Fitbit and everything.

CHAIRMAN KURK: Good morning once again.

MS. LEONARD: I'm Kyra Leonard, Administrator for the Department of Safety.

CHAIRMAN KURK: Thank you. Senator Sanborn is recognized for a question.

SEN. SANBORN: Thank you, Mr. Chair. Kyra, thanks for coming in and I'm glad I'm helping you get your Fitbit steps in. I could be mistaken, but I could have sworn we had a long, arduous discussion about E-911 and needing to increase the fee because the fund had no money in it. But yet, I see here now that we are looking to take surplus out of the fund to hire someone. It just seems the economy of policy.

MS. LEONARD: Yes, we did increase the surcharge and we also started taking in prepaid surcharge so surcharge on prepaid phones which we weren't in the past. And as a result of the administrative rules associated with implementing the surcharge on prepaid phones, we have to audit the sellers that are submitting the surcharge to us. And that's what this item is for. So we have -- so the fund is in a better state now in order to have a surplus for us to be able to pull from because of the surcharge increase and because of taking in the surcharge on the prepaid.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

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SEN. SANBORN: Thank you for the answer. I appreciate it. But although my memory could be lax some days; but, again, I could have sworn that even with the surcharge that was proposed and approved over my objections when this came to Committee that they still said there would be a shortfall. So, again, I'm still trying to reconcile how if I go back and look at testimony at the time that would suggest there would still be a shortfall even if they did pass it that we have one today.

MS. LEONARD: Unfortunately I'm not aware of those Committee meetings. But recent projections that we have been doing and considering the Debt Service as well on NextGen, the E-911 NextGen, which could have also been part of their consideration of maybe why we weren't going to have enough funding, because the costs -- perhaps the cost uncertainty of that project may have been why they weren't sure they were -- they weren't going to have enough funds. But now having more of these variables certain, we are projecting to be in a better place with the surcharge in order to fulfill this aspect of the administrative rules to have an auditor.

CHAIRMAN KURK: But you could wait -- if I may? You could wait until the budget. You've already said you have it in the budget. Why are you trying to circumvent the budget process here?

MS. LEONARD: In order to have the person go out and start auditing and also get awareness that people should be paying the surcharge as well, because we just started beginning the process, and it's to a different group than we normally collect surcharge from. So all that would be part of what the auditor is doing.

CHAIRMAN KURK: Unless I'm mistaken, auditors don't have to focus only on the current Fiscal Year. If you had auditors in the budget when they went out to audit '17, they could also audit '16.

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MS. LEONARD: Yes.

CHAIRMAN KURK: So the State isn't going to lose any money if this position is delayed and goes through the budget process as some of us believe it should. Am I correct?

MS. LEONARD: That's correct.

CHAIRMAN KURK: Thank you.

MS. LEONARD: Just one note. There's other items on there that do need to be included so would you potentially need an amended item? I guess my whole thing is I don't want the whole thing to not be processed.

CHAIRMAN KURK: We'll get to that in a moment.  
Representative Weyler.

REP. WEYLER: Mr. Chairman. Ms. Leonard, what I don't see in here, obviously, you've gone from a number of phone companies paying into this automatically to a whole bunch of ones that do cell phones. So is there -- what is the increase in the number of people you're billing or the number of companies you're billing?

MS. LEONARD: I don't have the exact number of companies or I'd have to add it up.

REP. WEYLER: Double, triple?

MS. LEONARD: Uh -- well, it's like it's a completely different group of sellers. Normally, we are getting money from like Verizon and Comcast. Now we are getting it from 7-11's and Target. So it's a very different group. I don't have the total number of the sellers that are providing to us. And even then we are getting more in everyday, new sellers. So I can get that number to you if you are interested.

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REP. WEYLER: My feeling is you've gone from -- follow-up.

CHAIRMAN KURK: Follow-up.

REP. WEYLER: My feeling you've gone maybe from 12 to maybe 50?

MS. LEONARD: More than that. More than that, yes.

REP. WEYLER: Thank you.

CHAIRMAN KURK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. Just to follow-up on Representative Weyler. But in the past these people have not been paying the tax; is that correct?

MS. LEONARD: Correct.

SEN. D'ALLESANDRO: Have not been paying the surcharge. What we actually are doing is we are making sure that everybody in equal and proportionate everybody is paying.

MS. LEONARD: Yes.

SEN. D'ALLESANDRO: That's why we need the audit.

REP. WEYLER: Equality.

SEN. D'ALLESANDRO: Equality. That's the American way. I would refer to your comments in the past. It's the American way. Are we going to differ from that?

SEN. SANBORN: You should have voted earlier.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: I apologize, Mr. Chair, that just slipped out. If we establish a new higher taxation or a fee

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scheme in order to generate money and receive a surplus, shouldn't we be returning that to the user and cut the rate versus spend the money?

REP. WEYLER: Next budget.

CHAIRMAN KURK: Are you asking that of the witness?

SEN. SANBORN: Actually, Kyra, I guess what I'm really asking is how big do you anticipate the surplus is going to be based upon the new revenue scheme that you have in place?

MS. LEONARD: Well, so far this Fiscal Year we have taken in \$300,000 of surcharge money. So we are still trying to get a handle on how much we're taking in. Because, like I said, it's a new group that we haven't dealt with in the past. And that's as of -- that's as of yesterday. So we are bringing in -- yes, we are bringing in additional surcharge and that is something that I suppose the Commissioner could review, reviewing the surcharge again. But at this point we are just trying to fulfill the administrative rule that we have to audit.

CHAIRMAN KURK: Representative Eaton.

REP. EATON: It's a two-fer, I think. Kyra, first off, am I correct this is not a scheme. This is a national movement to have everyone using a cell phone on par with equity, paying equally paying the fees for E-911 that were not being captured previously; correct?

MS. LEONARD: I believe that was the intention -- perhaps my representative from 911 can speak better to the national aspect.

REP. EATON: As you can tell we're working on this, that is correct.

REP. WEYLER: You answered your own question.

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REP. EATON: But the funds you're asking for now while everybody wants the money in the budget, wouldn't this allow you to accurately project and decide what does go in the budget and what doesn't go in the budget because, otherwise, you're just throwing a rock in the water and see what happens.

ROBERT LUSSIER, Assistant Director, Emergency Services and Communications Division, Department of Safety: Well --

CHAIRMAN KURK: Would you identify yourself for the record?

MR. LUSSIER: My name is Robert Lussier. I'm Assistant Director with Division of Emergency Services and Communication.

CHAIRMAN KURK: Thank you for being here and your willingness to answer the question. Please go ahead.

MR. LUSSIER: So could you repeat the question, please? I apologize.

REP. EATON: Having these monies in the budget -- I'll go back to the first. Never mind, I already answered that.

MR. LUSSIER: So I remember the question.

REP. EATON: That's one of us.

MR. LUSSIER: To your point, Representative, in order to accurately project revenue we need to know, we need to have a history, we need to start a baseline process of what those revenues would be. As Kyra stated earlier initially, Senator, there were projections based on both the increase to the landline carriers and to the prepaid carriers. Those projections have since changed based upon revenue that's actually coming in.

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REP. EATON: Exactly.

MR. LUSSIER: I think that we all know that communication with our business partners is important. So we can't get folks and businesses to comply if they don't have the information that they need to comply with. So part of the responsibility of that audit position will be going out to ensure compliance so that we know that the local 7-11s and Irving gas stations are paying their appropriate share of the fee that supports that critical service in the State of New Hampshire for folks being able to pick up the telephone and calling 911 and get emergency help when they need it.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. I will be supporting this based upon the fact that if we know accurately what the revenues should be and will be, then when we come to the budget process months from now we can, hopefully, reduce the surcharge. That's my hope. Thank you.

CHAIRMAN KURK: Will you, if you get this position, have information by April 30<sup>th</sup>, 2017, which is when the budget will leave the House, I hope?

MR. LUSSIER: Specifically information on what the projected revenue will be?

CHAIRMAN KURK: I know you'll be able to give us a projected revenue number. That was not the question.

MR. LUSSIER: What is the question, Mr. Chairman?

CHAIRMAN KURK: The question is will this position in the time available, you have to get authorization today, there's a period of weeks, maybe months before the person is on board, perhaps the person has to be trained, the person has to go out, the person has to investigate, there's a lot of back and forth. Do you believe that as a

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practical matter, after all of these time delays have occurred, that you will be able to actually provide information to the House during the House phase of the budgeting process on estimated revenue that would be substantially different from what you would do if you didn't get the position?

MR. LUSSIER: Uh -- yes, I believe we will and that's based upon having someone to actually go out.

CHAIRMAN KURK: They'll be able to do it in the time -- in a relatively short time frame. You're going to hire them, get them out there, they're going to do a lot of work in that two or three month period.

MR. LUSSIER: Yes, sir.

CHAIRMAN KURK: Thank you. Further questions? There being none, thank you very much.

Mr. Kane, if the Committee were of a mind not to approve the positions, but to approve the non-position request, could -- is there some way we could do that today or does that require an amended proposal?

MR. KANE: You have amended at Committee before so there is a precedence to amend it here.

CHAIRMAN KURK: So we could do that?

MR. KANE: Yes.

CHAIRMAN KURK: Thank you. I think that responds to an issue that was raised by Ms. Leonard before. The motion before us is to approve this item. Okay. If this passes, obviously the matter is taken care of. If it isn't, we can have another motion, unless someone would wishes to make another motion now. Senator Sanborn.

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SEN. SANBORN: Mr. Chair, would it be appropriate to divide the question right now?

CHAIRMAN KURK: It certainly would be in order to do that.

SEN. SANBORN: We should divide the question, Mr. Chair.

CHAIRMAN KURK: In what way do you wish to divide it?

SEN. SANBORN: Oh, gees, I thought you had -- I thought you were on top of that, Mr. Chair.

CHAIRMAN KURK: You wish to approve -- to approve the item, except for those expenses dealing with the additional position; is that correct?

SEN. SANBORN: Yes.

CHAIRMAN KURK: Mr. Kane, were that to be the motion, would that give you a sufficient basis for dealing with this matter?

MR. KANE: Yes. So from what I understand you'd be approving the \$35,000 in overtime and the \$50,000 for telecommunication or for the Debt Service. You would not be approving the Class 59, 43,505. I don't know if the Department can specify if there's any benefit dollars associated with the overtime and the 25,480. Assuming there's not, you'd just be approving the \$85,000 for those two class lines.

CHAIRMAN KURK: Is that your intention?

SEN. SANBORN: I thought, and Mr. Kane correct me if I'm wrong as you always like to do, is the overtime not going to the new position?

MR. KANE: No, that would be existing positions.

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SEN. SANBORN: Okay. My apology. I thought it was. So I think Mr. Kane is correct.

CHAIRMAN KURK: So Senator Sanborn has moved to divide to eliminate the numbers on lines 059 and 060, but to approve the other lines 044, Debt Service, and 018, overtime. Is there a second to that motion?

SEN. FORRESTER: Second.

CHAIRMAN KURK: Seconded by Senator Forrester. So we have -- I don't think it's dividing the question. I think it's a motion to amend. So the proposal is to -- the motion is to amend the proposal in the way that was indicated previously that has been moved by Senator Sanborn and seconded by Senator Forrester. Is there discussion on the amendment? Representative Weyler.

REP. WEYLER: To be clear, if you vote on the amendment, you are voting against the auditor.

CHAIRMAN KURK: No. Yes, you're voting against the auditor. But if this amendment passes, then there will be another vote on the motion as amended. Effectively the same thing but technically required. Representative Umberger, did you have your hand up?

REP. UMBERGER: No.

CHAIRMAN KURK: Further discussion on the motion? Then on the amendment if you're in favor of Senator Sanborn's amendment, please now indicate by raising your hand. Three. If you're opposed, please raise your hand. The motion fails.

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

CHAIRMAN KURK: The motion before us now is to approve the item. If you're in favor -- is there further discussion

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on that? There being none, are you ready for the question? If you're in favor of approving this item, please now indicate by saying aye? Opposed?

SEN. SANBORN: Opposed.

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

\*\*\* {MOTION ADOPTED}

(8) Chapter 276:29, Laws of 2015, Department of Transportation; Transfer of Funds:

**FIS 16-182**

CHAIRMAN KURK: We now turn to Tab 8, Fiscal 16-182, a request from the Department of Transportation for authorization to establish a non-budgeted class in an accounting unit and to transfer \$805,100 between various accounts and classes through June 30<sup>th</sup>, 2017. Is there a motion?

\*\* SEN. D'ALLESANDRO: Move the item.

REP. UMBERGER: Second.

CHAIRMAN KURK: Senator -- excuse me. Senator D'Allesandro moves the item, seconded by Representative Umberger. Discussion? Questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

\*\*\* {MOTION ADOPTED}

(9) Chapter 276:143, Laws of 2015, Department of Health And Human Services; Transfer Among Accounts and RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000

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**From any Non-State Source:**

CHAIRMAN KURK: We turn now to Tab 9, Fiscal 16-190. I believe that has been withdrawn.

MR. KANE: That has been withdrawn, correct.

CHAIRMAN KURK: Is there a substitute item?

MR. KANE: There is not.

**(10) Miscellaneous:**

**(11) Information Materials:**

CHAIRMAN KURK: That completes the tabbed items except for Informational Materials.

MR. KANE: Mr. Chair.

CHAIRMAN KURK: Are there questions on any of the Informational Materials?

MR. KANE: Mr. Chair, I was wondering -- I have two requests from the LBA. I was wondering if I could approach the table?

CHAIRMAN KURK: Sure. Mr. Kane.

MR. KANE: Thank you very much. As Chris Shea and myself had mentioned in the meetings prior, we have one vacant performance auditor position that I would like to request the authority to fill from the Committee.

CHAIRMAN KURK: Is there a motion to approve that request?

REP. UMBERGER: So moved.

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CHAIRMAN KURK: Moved by Representative Weyler, seconded by Representative Umberger. Is there discussion or are there questions? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and that request is approved.

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

MR. KANE: Thank you very much. And then one other motion. As you know, there's currently the CAFR for the State as well as the Turnpike, Lottery, and the Liquor Commission Financial Statements are currently being worked on. In the event that those become available prior to December 30<sup>th</sup>, we'd ask for Committee to approve their release.

As I ask that, I do just want to let the Committee know that we are -- probably have about six weeks or so left in the process. There's still a chance that the Department of Administrative Services will request of the Fiscal Committee at some point for an extension, but it's too early to determine if that will happen. Is it a possibility? Absolutely. And just to give you history, the last few extensions, if you go back to 2009, have all occurred in December. We have had some in the beginning of December, but most of them have occurred from the 18<sup>th</sup> on. One as late as December 29<sup>th</sup>. There is, obviously, still work to be done. Department of Administrative Services and the other entities are currently working to get that done and once our auditors as well will need some time.

At this point, if we look back in history when we -- the old Fiscal Committee will dissolve. We have always come in November and asked for relief. It's not a guarantee it will be ready, just in the event it becomes available we have to post them and present to the public.

CHAIRMAN KURK: Are you suggesting we approve in advance a request for a delay?

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MR. KANE: A request to release.

CHAIRMAN KURK: I understand that. But are you also asking us in advance to approve a request to delay if Mr. Murphy so requests?

MR. KANE: No, not at this time. That would be up to the Commissioner of Administrative Services to make that determination which she's not ready to make.

CHAIRMAN KURK: Okay. The motion you would like us to adopt is to Representative Weyler usually reads it, to make that motion.

MR. KANE: Sure, to release the Fiscal Year 2016 State CAFR when it is available and to also release the Turnpike, Lottery and Liquor Commission reports and financial statements when they become available.

CHAIRMAN KURK: Is there a motion to that fact?

\*\* REP. WEYLER: So moved.

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

MR. KANE: Thank you.

CHAIRMAN KURK: Thank you, Mr. Kane. How many people will be able to be here for the presentation of the two audits we have? It's dicey. So let's now -- I would accept a motion at this time from Representative Weyler with respect to both the State Capital Assets Audit and the Sexual Offender Treatment Program Performance Audit.

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\*\* REP. WEYLER: I move we accept the report, place on file, and release in the usual manner. That applies to both audits.

CHAIRMAN KURK: Is there a second? Seconded by Senator Boutin. All those in favor, please indicate by saying aye? Opposed? The ayes have it and that motion is adopted.

\*\*\* {MOTION ADOPTED}

**FIS 16-194**

CHAIRMAN KURK: Are there questions? I thought, Senator Sanborn, you had many questions about some of these informational items?

SEN. SANBORN: I have a couple questions on a couple of them, if I might. 16-194. Is Gerard available by chance?

CHAIRMAN KURK: 16-194 is the quarterly status report from the Department of Administrative Services for the State's fund expenditures for Fiscal Year 2017 through September 30<sup>th</sup>. The Commissioner and the Comptroller, welcome. Good morning to both of you.

VICKI QUIRAM, Commissioner, Department of Administrative Services: Good morning, and we would be a happy to take your questions, and I would probably have Gerard handle those questions.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Gerard and Commissioner, thank you for coming in. I kind of read through your narrative and, respectfully, leaving me with some questions and some uncertainty as to how you're applying SB 32 in providing the reports.

GERARD MURPHY, Comptroller, Department of Administrative Services: Correct.

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SEN. SANBORN: I guess my first question is it would appear to me that with the information you have today all you're really able to do is to essentially proportion the existing budget and not actually give actual hard expenses. That's what the narrative seems to imply to me.

MR. MURPHY: You refer to the spending -- the spending side of things.

SEN. SANBORN: Correct.

MR. MURPHY: So, basically, we are proportioning the type of spending. We take actual spending and we take the fund mix that makes up each class line within each accounting unit. So if it's 50% Federal and 50% General, what we do is we take total spending in the first quarter and multiply that by 50% to come up with the General Fund spend for the first quarter. So in that sense that's -- we are in a sense calculating the spending, but it is based on the budgeted fund mix -- breakdown of funding sources within each class line, within each accounting unit.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: Thank you. So on every Federal funding source or every line item we have for spend of which the revenue for the spend is coming from more than one source; right?

MR. MURPHY: Correct.

SEN. SANBORN: All of these numbers would, therefore, be proportioned.

MR. MURPHY: Correct, correct. And so there currently exists two reports basically. There's the existing Governor's expenditures reports which have been around for, I want to say, five or six years. Those are also located on the transparency website. And they -- they detail total

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spending regardless of funding source by month. The Senate Bill 32 spending reports were an effort to isolate just the -- what we call the State share funding sources. Funds like the General Fund, Highway Fund, Fish and Game Fund, because that tends to get a lot more scrutiny because of unrestricted revenues in those funds.

So this has been a -- it's been a difficult process to isolate that spending because the way the State Budget is we put different funding sources in the same accounting unit. So in order to -- to calculate that, you do need to do a little bit of multiplication to -- think of it like this. If there's \$100 -- if there's \$100,000 of spending in an accounting unit and the -- like we'll go back to 50% General, 50% Federal. In order to determine how much of that hundred thousand dollars of spending is related to the General Fund, it's just a simple multiplication. 50% times 100,000 leaves you with 50,000 of General Fund spending and then on the other side 50,000 of Federal fund spending. So that's the way in which we are deriving this spending associated with the -- the funding sources identified in Senate Bill 32.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: Thank you, sir. So, admittedly, so I'm not an accountant and I did not stay at the Holiday Inn last night either, but is this process, would an accountant who's operating under a GAAP be comfortable with this on an unaudited financial statement?

MR. MURPHY: Well, this is really -- this is all cash basis reporting.

SEN. SANBORN: I get that.

MR. MURPHY: So, you know, the GAAP side of things really doesn't come into play until year end when we're booking our accruals.

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SEN. SANBORN: Which leads me to my second question, if I may?

CHAIRMAN KURK: You may.

SEN. SANBORN: So are you also including spend for non-lapsing funds in here as well or are you excluding that at this point?

MR. MURPHY: Well, if they are non-lapsing General Funds or Highway Funds, they would show up in the budget calculation. They'd be in the appropriation. But if they weren't spent, they wouldn't show up in the spending.

SEN. SANBORN: So how do you get the lapse?

MR. MURPHY: I think that this is -- this report has been described as -- you know, you can't really get to the lapse. Because the way -- I mean, there are different spending patterns throughout all the agencies and so there may -- it may look like that our projection for what the budget will be, which is based on how we spent last year, it may look like there is an excess budgeted amount. Spending may not be keeping up with where we think it should be according to our projection for the budget. However, there may be reasons for that. It may look like an agency is going to lapse a boatload of money, but spending -- there could be spending that happens in the second part of the year that didn't happen last year. And so your -- your estimate as to spending patterns may not take into account different spending patterns year over year. So I think, you know, in a simple world if everything were the same year after year, we could use this report as an estimate of lapse. Because, you know, spending versus projected budget you would see that there's going to be extra at the end of the year. However, this being as it is, and there being differences year over year, you may not -- it may not be able to be used to project a lapse. It's a good starting point, and that's why I think the numbers that are on the report need to be looked at in

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conjunction with the responses provided by the agencies. Because there they can -- they'll -- they'll have looked at these numbers. They don't understand, hey, is this money going to be available at the end of the year or is it going to be spent in the remaining three-quarters? So I think it's -- it's a -- you know, this was our first cut of this report. It's going to be an evolution. It's, unfortunately, it's a manual process at this point. But we are working to automate as much of it as we can. But I do think that looking at the numbers you also have to look at the -- the justifications, the explanations provided by the agencies to really understand is this truly a budget variance or is this just a timing issue.

CHAIRMAN KURK: If I may offer suggestion to make it more useful to folks like me. If you also projected out what the end of the year spend would be based on the first so many months, and then had a column that would indicate how much was going to lapse, that would allow us and maybe you even had a separate page that showed exceptions. So I could go down that column and say it looks as though the developmental disability lapse is going to be enormous. Let me look into that. And then I'll read the next page at the back. Or it looks as though they're going to overspend. Then I'll read the page in the back.

MR. MURPHY: So you're saying have another column for in the first quarter report it would be estimated spending for the remaining three-quarters of the Fiscal Year.

CHAIRMAN KURK: Right. And what the lapse would be or overspend would be. It's just a way to save us a lot of time.

The other thing that's very useful is whether or not we're on target. So, for example, this is three-quarters of the way through the year, right? Sorry. One-quarter through the year. I would expect us to have spent 25%. So if we're spending less or more than that, I understand the

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timing issues that you're talking about; but just to use it, something that flags that would be very helpful.

MR. MURPHY: Well, that's where the budget variance number comes in. The larger the budget variance number --

CHAIRMAN KURK: In dollars?

MR. MURPHY: In dollars.

CHAIRMAN KURK: Doesn't help me at the first quarter. What I need is a percentage.

MR. MURPHY: Okay. I see what you mean.

CHAIRMAN KURK: If we are spending at 23% and we are 25% through the year, I'm comfortable. If we are spending at 27% and we are 25% through the year, I'm going to look and find out what's happened. Timing issue, over expenditures, over estimated revenue, whatever it is.

MR. MURPHY: Sure.

CHAIRMAN KURK: Thank you.

MR. MURPHY: Those should be not too difficult to put in the report.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. Mr. Gerard -- Mr. Murphy. Mr. Gerard Murphy, in the instance you gave that your example 50% Federal, 50% General Fund, quite often the Federal funds come late in our Fiscal Year. That wouldn't affect your projection if most of your spending -- at the halfway point most of the spending was General Funds, it wouldn't -- it wouldn't be reflective in the report. You'd still expect at some point the Federal funds would be there.

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MR. MURPHY: Right. Well, if the -- the problem that I see is that this -- this estimate is based on the budget in that account at the time. And if that -- that fund mix does not hold by the end of the year, if the Federal funds don't come in, then the -- the validity of the report gets called into question. So I think it's a good question, because it is a limitation of the methodology we're using now. It assumes that the budget that's there as of when we were on the report will hold true for the remainder of the Fiscal Year.

REP. WEYLER: Thank you.

CHAIRMAN KURK: But when you do your projections you're assuming that the Federal revenue -- you're not making assumptions on the Federal revenue because you're using last year's proportion of Federal versus General.

MR. MURPHY: No, we are using current year fund mix.

REP. WEYLER: Approved budget.

CHAIRMAN KURK: Assuming that all the Federal funds will --

MR. MURPHY: Come in. Correct, correct.

CHAIRMAN KURK: Okay. Further questions? Good luck. Thank you both. Are there any other questions on any of the other information items, including the late information item?

SEN. SANBORN: Dashboard.

CHAIRMAN KURK: The Dashboard from Health and Human Services. You have some questions?

REP. EATON: The Commissioner just walked out the door.

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CHAIRMAN KURK: But he left his able associate. Miss Rockburn, would you be willing to answer some questions on the Dashboard? Good afternoon. Thank you for being here.

SHERI ROCKBURN, Chief Financial Officer, Department of Health and Human Services: Good afternoon. For the record, Sheri Rockburn. I'm the CFO for the Department. The Commissioner has just stepped out. He's on his way to the rescheduled G & C meeting but said if something comes up, he can try to come back over.

CHAIRMAN KURK: Senator Sanborn has a question.

SEN. SANBORN: Thank you, Mr. Chair. Thank you so much for coming in. I'll do my best not to hot seat you all afternoon.

MS. ROCKBURN: That's all right.

SEN. SANBORN: But I guess first and foremost is, you know, my continued concern with the DD Wait List. I see the number has jumped up to 203 down to 170. And as Chair of the Committee, I fully appreciate the new dynamic that we are seeing that we are seeing people come to the list who might not have been through the school system. But you know in the Senate, and I guess today I'm representing the Senate in a very thin room, this has been a huge issue, Sheri, and we are just not seeing it. We are not seeing a level of result, satisfaction, that we anticipate. So my question is probably to say as it has been every single month, when are we going to do what we promised we would do to make sure there's no Wait List?

MS. ROCKBURN: I can try my best on this. So I don't know if this was handed out or not and if it hasn't gone to all of you I can get it to you. The Commissioner had done a letter to the Health and Human Service Oversight Committee that was dated November 15<sup>th</sup>, and it updates some disability Wait List information as of November 10<sup>th</sup>.

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SEN. SANBORN: Yes, I have that.

MS. ROCKBURN: I don't know if that's come to you or not. You have that with you?

CHAIRMAN KURK: Did you get that?

SEN. SANBORN: I do have it.

MS. ROCKBURN: One of the things that we have struggled with throughout this biennium is that when the budget was prepared for '16 and '17 the known clients and those -- what I mean by that is those really aging out of the system, those coming from the 18-year old aging out of the system, those are a known commodity and the budget for '16 and '17 represented budgeting enough dollars to have all of those off the Wait List. There is some additional money for some anticipation of clients that come to us that would need additional services. And what we are learning we have been meeting weekly with Area Agencies for about the last year. And one of the things that has come to us is that those requiring additional services is far exceeding those that are aging out of the system. And the RSA 171 allows the Area Agencies to prioritize the need for those coming for services.

So it talks about three categories, one being those aging out, one being those requesting additional services, and those that are in some sort of crisis situation. And so what we are seeing is that right now as of November 10<sup>th</sup> we have 176 on the Wait List. So it came down a little bit from the 203 that's in the Dashboard. Just to give you some numbers of that 176, there are 98 that are waiting for just additional services. So that's not that they're getting no service, but they are waiting for additional services. And the Wait List reports have never distinguished those that are waiting for services for the first time versus those that are waiting for some additional service. So that's the first thing that we are trying to track right now is to get our hands around that.

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CHAIRMAN KURK: So there are 78 people --

MS. ROCKBURN: Ninety-eight.

CHAIRMAN KURK: -- who are on the Wait List and who are receiving no services.

MS. ROCKBURN: Oh, sorry. Yes, going the other direction. Yes, there are 78 that are getting no services, correct, and then 98 that are waiting for additional services.

CHAIRMAN KURK: So the true Wait List is 78.

MS. ROCKBURN: Correct. I think by statute the reason that we have always showed the grossed up number is that anyone waiting for any type of service is considered waiting for a service. And so one of the things that as we've done our research with the Area Agencies we are starting to see there are different categories. Either one of those you would say is still high, and why aren't we funding all of them? So I think our budget is trying to get through that. But I think that the true number waiting with no service at all is that 78, which is substantially lower than it's been, still not to the level that we would want, but it's coming down.

So I think that to answer your question, Senator Sanborn, where do we go from here? I think it's looking at how do we prioritize those that are coming in the door and whether or not the money should go to those that are getting none or those that are waiting for additional. And right now we are relying upon the Area Agencies to try to make the clinical decisions on that and we are working with them weekly to try to minimize and get that down as much as we can.

CHAIRMAN KURK: Follow-up or you finished?

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SEN. SANBORN: Like to move to a different topic on the same report.

CHAIRMAN KURK: Representative Umberger has a question on this topic.

REP. UMBERGER: According to this letter, and it says under administrative rules governing the DD Wait List, so that's not legislative. That's your rules. It's found in the last paragraph. And so one would think that could be changed through the administrative rules process so that we have an indication about who, in fact, is not receiving services.

MS. ROCKBURN: I think that would be something that we would definitely work with the Area Agencies and especially as we are coming through the next legislative session to figure out which changes should occur in our rules or in the statutes. And we'd be open to have those further discussions on that.

REP. UMBERGER: It just --

MS. ROCKBURN: I agree.

REP. UMBERGER: It distorts -- it distorts the problem. And that's what I --

MS. ROCKBURN: Our plan going forward each month when we have the Dashboard is to give a supplemental piece of information that does break out either in a separate letter or we can do it on the face of the Dashboard. It's those that are waiting for services as they're not getting any right now versus those that are waiting for additional services to at least try to track that. So that's what we are planning to do going forward.

CHAIRMAN KURK: Is it the Department's position that they will be able to provide services of some -- at some level to these 78 individuals who were not receiving

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services and as times go on all of the individuals who are not receiving any services? Is that your objective?

MS. ROCKBURN: I can definitely say that for the 18-19 budget that we submitted in our efficiency --

CHAIRMAN KURK: No, for this year.

MS. ROCKBURN: Oh, for this year. I probably have to go back to look at the numbers to see. My gut would be is that not all 78 and 98 that are sitting right now, my gut would be not all of them would be able to get served this Fiscal Year.

CHAIRMAN KURK: Right, but I asked about the 78 who are receiving none.

MS. ROCKBURN: That are receiving none? I think that the goal would be is that as long as those that are waiting for the additional don't have a higher need than those that are not receiving any, that's where the clinical decision comes into play. Because some would say even if they're not getting any but they have, for example, a family member that could continue to care for them, they may continue to be on the Wait List. And a client that maybe traditionally their parents have been caring for them but now the parents are aging, maybe the parent's in the nursing home, the child in this case could be 40, 50 years old. They may need services that take priority over someone that's not receiving any. So we are trying to balance that right now. So I can't guarantee that all 78 will get it before those that are waiting for extra services.

CHAIRMAN KURK: Thank you. Senator Sanborn on a different topic.

SEN. SANBORN: Sheri, on the second topic, the cash flow statement that has a whole bunch of beautiful little "to be announced" issues on them. Obviously, from our perspective, makes it very difficult to try to understand

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and manage the State's finances when there's nothing in the report.

MS. ROCKBURN: Yep.

SEN. SANBORN: I'm not trying to be overly critical of you. I understand it's a very complex process, but my concern continues to be we have been talking about for some time that caseloads have not fallen for last year, 2% expectation didn't fall. There was an expectation for '17 they'd fall an additional 2%. So now we're technically talking almost 4%. And the MAGI calculation has made a pretty big slice in the cake about what we're going to do. You and I could go through this list of a lot of expenses that are not where we would expect they would be. So my first concern is the number's not in the report, and I am frustrated by that.

MS. ROCKBURN: Hm-hum.

SEN. SANBORN: The second question is because I don't have any information are we going to make our lapse in HHS?

MS. ROCKBURN: So I'll answer both of those -- both of those questions. Right now we are definitely looking at what our shortfall may be. I will say that in the Commissioner's letter to the Dashboard, he references a few -- a few numbers.

SEN. SANBORN: He does?

MS. ROCKBURN: He does. On Page 2 he references that -- and I'll give some summary here -- that a lot of the issues we had in '16 will still be issues in '17. So the '16s have not gone away as you had mentioned, the caseload, rate increases with our Managed Care Organizations.

On Page 2 it talks about that the caseload trends for '17 could be at around 12 million. The rate increases could

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be another 24 million. So you're looking at a 36 million in those areas. We know that last year we also had issues with our Part A and B and Part D programs. Those last year were a few million each. I'd say in the 2 to 5 million range. And --

SEN. SANBORN: Each?

MS. ROCKBURN: Each, yeah. I'd say in total for all of them was a 2 to 5 million range. And so what those programs are is where the State pays the Medicare premium for those that are duly eligible in the Medicare and Medicaid Program. So Part A and B covers your inpatient-outpatient hospital, physician visits, Part D is the prescription drug. The Feds set those rates every October 1, give or take, and we are seeing increases. We just got our letter about a few weeks ago and the Part A and B premiums and the Part D premiums have gone up from last year.

SEN. SANBORN: Significantly?

MS. ROCKBURN: Five to 8%.

SEN. SANBORN: What's the base spend on 5%? Is that millions or hundreds of thousands?

MS. ROCKBURN: Millions. So that two to four million range at least is going to maintain for '17. We're trying to track if that's going to be a little higher. So I think if it starts going through the aggregate we are out about 36 million. Add another five or so we're easily in the 40 million range.

SEN. SANBORN: Add another five, now we're at 40 million.

MS. ROCKBURN: Correct.

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SEN. SANBORN: And reimbursement for Medicaid, that change at all at that level? I am hearing rumors it's going to.

MS. ROCKBURN: I haven't seen anything come through on that yet. We did have a provider rate for -- provider care rate increase that happened I want to say a year or two ago and that has sunset. I haven't seen anything come back on that yet.

The other thing I'll just point out is we have met with the Hospital Association so we are actively -- we just met with them about a week ago just to talk to them to see where they're going to be for uncompensated care this year. We're trying to work through that. As you know last year that was about a \$15.6 million shortfall. That happened at the end of last year. The biggest thing that we're seeing on that, in terms of trending for this year, is whether or not the court settlement -- the court issue will be settled. We have a preliminary injunction right now pending a Federal outcome of a court case.

As a reminder, what that is doing is that's trying to have a definition for what's considered Uncompensated Care. And what was questioned in that is there was some reimbursements that the hospitals were allowed to exclude or, in other words, they didn't have to count that revenue. So it brought the uncompensated care number higher. The courts haven't made a final decision on that yet. So we are closely managing and watching for that as well.

CHAIRMAN KURK: And this was the decision that resulted in our having to pay the 15 --

MS. ROCKBURN: Correct. So the shortfall numbers I've been giving you so far don't account for maybe that 15 also occurring again.

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SEN. SANBORN: That was my next question. If you've done any projections if the case runs one way or the other what our exposure is?

MS. ROCKBURN: I think where it's going to fall is that the hospital lawsuit settlement, which happened a few years ago, sets a ceiling and a floor for what the State is obligated. If the court case does not get settled, we will clearly be at the ceiling level which will be a little more than the 220 million range. If it falls in our favor, we are probably going to be closer to the floor, which might be 170, 180 million. The budget right now is 190. The budget is sort of in-between the ceiling and floor. So when the legislative budget was passed, it was passed in-between. So the delta, although there's a large swing, we've kind of cut our -- I'll say cut our losses in half right now. So, at most, maybe we might have another 15 plus million issue if it goes up to the ceiling. Or we could have a substantial savings that happens if the settlement gets done in our favor and before the end of the year.

CHAIRMAN KURK: And we also then get back the money that we paid them last year; right?

MS. ROCKBURN: Depending on how the lawsuit or, sorry, how the settlement or the court case is written, there is a possibility that the Feds would allow for retroactive payment back to us.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Let's be optimistic.

SEN. SANBORN: Really.

CHAIRMAN KURK: First question. Did you -- did the Department make any or provide any additional revenue through increased rates or anything to anybody that it wasn't legally obligated to do but decided to do for whatever reason?

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MS. ROCKBURN: No. The only --

CHAIRMAN KURK: That's a rumor that's circulating increased somebody's --

MS. ROCKBURN: The only rates I know of is we did an increase for the CFI Program, but that was done through House Bill 1 and 2 required us to do a 5% rate increase. So that's legislative. The MCO payments, those have a rate increase.

CHAIRMAN KURK: Mandatory or not?

MS. ROCKBURN: In order to be certified actuarially sound, those rate increases were required. I guess I would leave it up to you whether that's a legislatively approved rate or not, but it does go through the G&C process.

CHAIRMAN KURK: You won't negate the minimum increase.

MS. ROCKBURN: Correct.

CHAIRMAN KURK: But nothing would reflect the certain providers in certain areas.

MS. ROCKBURN: No, I don't know of anything else.

CHAIRMAN KURK: The second thing is I don't know what happened but this Dashboard doesn't have that very nice chart that you used to have in the first -- on the first page showing the expected lapses and where you were. Nice to have that reappear.

MS. ROCKBURN: Okay.

CHAIRMAN KURK: Including our history from '16 because we run a two-year budget. And while we close out the Fiscal Year, we are still interested in the bottom line at the end of the biennium.

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MS. ROCKBURN: Yep.

CHAIRMAN KURK: Thank you.

MS. ROCKBURN: Sure.

CHAIRMAN KURK: Further questions?

SEN. SANBORN: Yes.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Where are we on prescription drug rebates? We have been leaning on that account pretty hard.

MS. ROCKBURN: Yes.

SEN. SANBORN: We derived a pretty significant benefit from it. So if you're suggesting to me that we run the potential of a shortfall between 40 and 55 million, if everything stays even where does the money come from? Any money left, 'cause we pulled about 25 million?

MS. ROCKBURN: I'll put my optimistic hat on as Representative Kurk has said. I think two areas that might come from. One is if the lawsuit is settled in our favor, we would have a recoupment from last year and a windfall from this year. That would definitely help. But, once again, realistically whether or not that's going to happen in the next few months is hard to say.

In terms of the drug rebate revenue, we get that information on a quarterly basis. The revenue that came in during July through September was for the period April through June. So that was still from dates of services last year but some of the cash came in this year. So we are able to look at a little of that. That's only trending about 500,000 lower than that same period the previous year on

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about a 7 to \$8 million quarter. So 500,000 on about an 8 million normal trend so we're talking a little bit lower. If that continues the whole year, then maybe we only see a 2 million drop off of our revenue that we collected last year. That would be great news because we had 20 plus revenue above budget last year.

The big point for us this year to trend is looking at the July through September invoicing that takes place. And our Pharmacy Benefit Manager gets us that data usually mid-November. And I was talking with them just this week and they're hoping to have it, if not next week before Thanksgiving, right after. So that will be our first opportunity to really look at the rebates, the invoicing that's happening for this actual year. And I think that will be our first point where we can really start to analyze and say what's that going to look like for the rest of the year. So in terms of where we're at, that's where we'll wait and see. In the next week or so we should know that.

SEN. SANBORN: So we run the -- I'm sorry, the Chair had said the optimistic value. That if the State wins the lawsuit and is allowed retroactive recoupment of fines or money spent, and we have the same trend we have today in prescription drug rebates, we should be close to having the money to come up with a 50 to \$55 million shortfall.

MS. ROCKBURN: That would be our hope.

CHAIRMAN KURK: Does that \$55 million include lapses?

MS. ROCKBURN: No. So --

CHAIRMAN KURK: So we are short by another how much, 30 something?

MS. ROCKBURN: About 21 million is our designated lapse that was put in the legislative budget.

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SEN. SANBORN: Twenty-one million?

MS. ROCKBURN: Yes. It's on Line 8 of the Dashboard, Table A.

CHAIRMAN KURK: It's not 55, it's 76.

SEN. SANBORN: Well, say it's 60 to 76 if we are being optimistic, Mr. Chair. Correct?

MS. ROCKBURN: Hm-hum.

SEN. SANBORN: Okay. Good luck. Save money.

MS. ROCKBURN: Thank you.

CHAIRMAN KURK: Thank you.

SEN. SANBORN: Thank you. Appreciate your time.

CHAIRMAN KURK: There being no further questions about any of the informational items, we turn now to our audits. And the first audit on the agenda is the State Capital -- State's Capital Asset. Mr. Smith, good afternoon.

**AUDITS:**

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good afternoon, Mr. Chair. Members of the Committee. For the record, Stephen Smith, the Director of Audits for the LBA. With me from our office to present the audit will be Jean Mitchell, the Senior Manager on this Audit. And also from DAS Commissioner Quiram and Comptroller Murphy.

With your permission, I'll turn it over to Jean to present the report.

CHAIRMAN KURK: Thank you. Good afternoon.

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JEAN MITCHELL, CPA, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good afternoon. My name -- Mr. Chairman, and Members of Committee, my name is Jean Mitchell. As Steve said, we are here this morning to report on our review of the Internal Controls in Place Over Safeguarding Accounting For and Reporting the State's Capital Assets. A period of the review was the nine months ended March 31<sup>st</sup>, 2016.

I'd like to begin my presentation with an overview of the report's Table of Contents. The report includes an Executive Summary, background discussion, and a description of the audit objectives, scope and methodology, and recognition that this is our first audit specifically addressing this subject. This report also contains three Observations.

The first is on the control environment; the second is on real property, and the third is on equipment. The Department concurs with two of the Observations and concurs, in part, with one. As noted by the asterisks, none of the Observations suggest that legislative action is required.

The Executive Summary begins on Page 1. The objective of this audit was to evaluate whether the controls in place for safeguarding, accounting for, and reporting the State's capital assets were well-designed and operating as intended.

As described in the summary of results, we found the State's controls consistent with controls at the Department of Administrative Services, known as DAS, as the recipients and reporter of the agency reported information and controls at the State Agencies which have possession of the assets. In general, we found the controls at DAS were insufficiently designed to provide reasonable assurance that the specified internal control objectives would be achieved.

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There was little indication that DAS demonstrated an appropriate control consciousness over the reporting by the Agencies or demonstrated responsibility for establishing effective controls. We found the design of the controls at the Agencies to be varied. Certain Agencies, primarily those which capital assets, played a significant role and their routine operations had better designed controls. For other Agencies, controls were not formally documented or implemented. We found the operation of the Agency controls were also mixed, with the controls at some Agencies and parts of Agencies operating better than others.

We found mixed compliance with State statutes, laws, and policies and procedures related to the Audit objectives. For example, while certain Agencies performed annual equipment inventory observations, others did not. The cause of the general lack of control consistency and performance is not clear. The solution will require the cooperation of both DAS and the Agencies. The auditee responses did not include specifics and time lines for corrective actions.

The background on Page 2 notes the State's -- State of New Hampshire's June 30, 2015, financial statements reported that the State owned \$6.8 billion in assets; 4.5 billion of that was included in infrastructure. These assets reported in the financial statements meet the reporting thresholds of \$10,000 for equipment, \$100,000 for real property, and \$500,000 for computer software. The State does not have a system that accumulates and reports information related to assets that are below these financial reporting thresholds.

DAS' central system of control primarily included providing guidance to Agencies and receiving and accumulating Agency reporting information, and they are listed in detail in the bulletin items on Page 3.

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Agency controls include the maintenance of capital asset records to support ownership and cost, preparation of annual and periodic reporting to DAS, performance of an annual equipment inventory and account, and monitoring for property infringement.

Page 4 outlines our Audit objectives. The Audit period was July 1<sup>st</sup>, 2015, through March 31<sup>st</sup>, 2016. It also includes the audit methodology which included interviews with DAS personnel, observation of DAS operations and relevant documentation, review of State laws, policies, rules and procedures, and a review of the design and operation of the internal controls at DAS.

A survey of Agency personnel regarding Agency practices and observation of Agency operation and relevant documentation was also conducted. And a review of the design and operation of the controls at the Agencies was also completed.

As previously mentioned, there are no prior audits that addressed the subject specific to the safeguarding, accounting for and reporting of capital assets.

The Observations begin on Page 6 of the report.

The first Observation identifies a lack of demonstrable control environment over the recording and reporting of capital assets at the Department, evidenced by the lack of planning for, performance of, and reaction to what should be relevant controls at DAS. While DAS has issued manuals, and other policy directives that describe a number of capital asset control activities, DAS has not designed and established appropriate controls to reasonably ensure that the reported information is in compliance with directives, complete, accurate, available to user groups, and errors or omissions in reporting are corrected timely.

During the nine months ended March 31<sup>st</sup>, 2016, DAS collected capital asset information offered by the

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agencies, but did not have a structure in place with an assigned responsibility to review the information for completeness and notify Agencies when the information was incomplete or not provided.

We recommend DAS re-establish an appropriate control environment and controls that promote the accountability and control of long-term assets.

Observation No. 2 begins on Page 8 and outlines State policies and procedures for Agency reporting of real property, including land and land improvement, building and building improvement and infrastructure, and weaknesses and inefficiencies in this activity.

The Agencies are required to annually complete and submit certain exhibits and reconciliations to DAS Bureau of Financial Reporting for compilation of the State's CAFR information. Two of the three forms required by the Agencies are not utilized by the Bureau and have not been since 2011, as this information was intended to be recorded by the real property database system that was implemented pursuant to RSA 4:39-e. However, the development of the real property database system has progressed slowly and DAS reported that as of March 31<sup>st</sup>, 2016, certain information of the database was not complete or fully reliable.

We recommend DAS review its real property reporting policies and procedures, placing emphasis on the development of information of the real property database system that would be responsive to the current and planned needs.

Our final Observation is located on Page 10. This recommends that DAS review the State's equipment reporting policies and procedures. The current process requires monthly reporting of equipment changes and the results of the annual equipment inventory to be submitted to DAS. DAS collects and tracks submitted information and other related

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data, but does not regularly review the data for completeness and consistency, compile the Agency reports into a State data set, or otherwise utilize the data received.

We recommend DAS review the State's equipment reporting policies and procedures to implement a system that promotes compliance, is efficient and effective to current and planned needs for the information, including the perceived risks of the related Observation.

The Appendix to the report contains a summary of a phone survey of 20 State Agencies. The questions address requirements related to recording, reporting, and safeguarding of State equipment and real property set out in current statutes, rules, policies, and procedures. The survey demonstrates the operation of the State's capital asset controls at the Agency is mixed.

I'd like to thank the Department of Administrative Services' management and staff, particularly the Bureaus of Purchase and Property, Fixed and Mobile Assets, and Financial Reporting for their assistance during the Audit. And with your permission, I'd like to turn the presentation over to the Department.

MS. QUIRAM: Vickie Quiram, Commissioner of Department of Administrative Services. First of all, I'd just like to thank the LBA for working with us on this audit. There's a couple of things that I just would like to say. I could say a lot, but I think I will just say a few things.

One thing is, is we feel very confident that we certainly can do a good job and can do a good job on the reporting of assets that are above the financial threshold. So the difference between reporting on things that are above the financial threshold and reporting on every -- everything that sits on everybody's desk in the entire state is really a whole different level of effort.

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And I think that we have a lot of improvement to do in that area.

I will say that -- and I'm less confident, quite frankly, about our ability to do it and much of that is because we don't have the resources or the technology to do it with. We are confident that with the appropriate resources that we could, in fact, implement a piece of NHFirst that does have an inventory system in it. It's difficult, it takes time, but we could implement that across the state so it would give a standard way for people to actually report to us that we would then have the ability to report out and keep track of it. Right now, some people do it on paper, some people do it on a spreadsheet, and some people do it in a very sophisticated system, depending on the Agency and how much money they personally have.

This is another good example of a centralized service that we could provide if we had the resources to do so. We are asking for an additional person in 18-19 to work in -- to work on and drug-shop on this effort and so we really -- we do care about it. We'd love to get it together. It, frankly, is a resource and technology issue. We do think we can do it.

One of the things that you need to know, and I'm sure many of you already know, is we moved in DAS to a project management approach on all of our projects. You heard about shared services last time. We've gone through the project management approach in shared services due to our audit and actually have made significant progress and you're going to hear more about that in the budget, and the steps we've taken, and certainly the positions that it's actually saving the State because of, frankly, the audit and the way we move through the process.

So we'd like to move through the same process on this. The reason that you don't see time frames is we can't give you time frames. We are -- the project management approach

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that we're using particularly right now, we're starting in FDM which is all the FDM projects with NHFirst. They currently have a list of 205 projects that they are supposedly supposed to be working on. So what we've done is we've gone through and we've analyzed those projects and said, first of all, are we doing the right thing? And we need to do that in this case, too. Are we doing the right -- are we taking the right responsibilities on these inventories? Should we be doing it the way we're doing it? Is it the same to do the financial, the ones that are over the financial reporting threshold and those that are less? Should we be working with the Legislature to establish responsibilities on the control of these assets in different places or does it work best here? We need to go through that analysis. And then we need to make sure once we make a decision on what's the best operational process to really meet the goals and objectives that we're trying to achieve, then we need to look at what -- are we doing it right? Let's do it as efficiently as possible. Let's put a system in for everybody that could work and could make this easy and not take a whole new division of people to do this kind of effort.

And then I think the next step is is we have to prioritize it. We have taken those 205 projects in FDM right now and we turned it into 12 priority projects. We're now working on work plans. We are working on assigning resources. We are working on dates and really how are we going to get these 12 projects done with the resources that we have so that we can move on and do the next priority.

So what we will be doing with this Audit and with these findings is we will be doing exactly the same thing. Looking at it, prioritizing it, trying to prioritize our resources looking at the risk and benefits associated with it, and we really -- I think -- I think that's -- that's all I have to say. I think we really do care. We really will jump on this. And, again, you'll be probably hearing a

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little bit more of this as we enter the budget process and how we might move forward on this and make it occur.

CHAIRMAN KURK: Thank you. Let me ask you this. Assuming that there are no changes in statute --

MS. QUIRAM: Hm-hum.

CHAIRMAN KURK: -- you've agreed with two of the recommendations and presumably will implement that. And the third one you have a problem with because of the vast amount of time and effort for a very small return with respect to the low value State assets.

MS. QUIRAM: Exactly.

CHAIRMAN KURK: So if nothing changes, this is my understanding from what you said, you will make the changes that you've agreed to do in one and two, and you will do what you can within resources on three.

MS. QUIRAM: Yes. I do think that there are resources -- resource requirements in one and two, also. And that's why we certainly agree to do them. The question is time frame. I think when will they be done is the time frame. Until we can -- until we can prioritize it and see if we have the resources to change certain things that are in the report, we have not agreed to time frames in which to do it, which I don't like to do. Again, I like to have projects planned. I like to have accountability set. And I like to assign resources and have time frames, and we don't have them in this report which I think you heard from Jean, which is exactly correct.

CHAIRMAN KURK: What resources do you need to meet the time frames, to do this in a timely manner, without making any changes to your responsibilities, because that's the assumption of the Audit. Business as usual. Current State laws, current practices, here's what you need to do.

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MS. QUIRAM: The main resource we need is the ability to put a database into NHFirst. It's a modular already exists that will actually help us keep track of the inventory of what I'll say are 63 different Departments and Agencies throughout the state that are feeding us information in different formats. Then we have to teach them and teach them how to use this information. Then we have to get it into our system and we want to be exact that's how it is.

The recommendations aren't divided into those things that are above the financial reporting limit and below. So it's hard for me to say I just need resources for those things that are below, because the findings actually transcend both groups. They have not separated the groups. Their findings are all assets of the State.

So we're okay with those that meet the financial reporting system. I think now we are okay with those. We feel very comfortable about those that we report financially on.

CHAIRMAN KURK: Without going to this new system.

MS. QUIRAM: Yes.

MR. MURPHY: Right.

MS. QUIRAM: Yes.

CHAIRMAN KURK: So the only reason for going to the new system is to take care of assets below \$250 in value.

MS. QUIRAM: Yes. No; no, no, no. Between 250 and 10,000.

CHAIRMAN KURK: Yeah.

MS. QUIRAM: And the \$250 limit is not in statute. The statute says everything. You do everything. It says every

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pencil. So we have interpreted that as \$250. We are just interpreting, frankly, just to try to get it high enough to where we can even think about dealing with it.

CHAIRMAN KURK: So are you telling us that in your view dropping the 500,000 down to some level, dropping the 10,000 down to some level, et cetera, is going to cost us how much?

MS. QUIRAM: It's going to cost us time and at least I would say probably -- in money-wise we are probably talking about a 150 to \$200,000 in implementing the program, the system, and then teaching the Agencies how to input into that.

CHAIRMAN KURK: And that's one-time --

MS. QUIRAM: That's just people time.

CHAIRMAN KURK: That's a one-time expense.

MS. QUIRAM: Yeah. It may be over years because it would take, you know, we have -- that would have to continue every year.

MR. MURPHY: There may be ongoing support of that module.

CHAIRMAN KURK: You wouldn't need new people; am I correct?

MS. QUIRAM: We're talking about people. That's exactly what I'm talking about. Probably two people full-time.

CHAIRMAN KURK: I thought that was for getting the software you were talking about.

MS. QUIRAM: We own the software.

MR. MURPHY: Right.

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MS. QUIRAM: We own the software. NHFirst we own an inventory module. But implementing a new module in NHFirst takes FDM people. It takes the computer people.

CHAIRMAN KURK: So \$150,000 in labor.

MS. QUIRAM: That's what I'm estimating.

CHAIRMAN KURK: Ongoing.

MS. QUIRAM: Ongoing. And it might be two.

CHAIRMAN KURK: And how much money will we save if we spend this?

MS. QUIRAM: I guess I would ask you -- this is the question that we went through in the audit -- what's the objective and purpose of having a central agency keep track of what level of asset? You know, if we're trying to keep track of every asset of \$250 to a thousand dollars, it's one thing. You know, it's what's the level of effort that really makes sense. If we keep track of an asset, is the objective that we are -- that we are going to control that it doesn't disappear? Could we put -- could we provide people with that system and have them do it in their own agencies as far as control of assets that were below the financial reporting system level? This is -- I'd like to explore what's the objective. What are we trying to actually achieve, and then what really -- what's the best way that really makes sense efficiently and effectively to get that done.

CHAIRMAN KURK: This will be in the budget?

MS. QUIRAM: It will be a budget discussion because we have asked for resources.

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CHAIRMAN KURK: Okay. Do you have any information about theft? How much -- do you have any idea how much stuff is disappearing?

MS. QUIRAM: No.

CHAIRMAN KURK: Is there any way to determine that? These items that are not the big ticket items.

MS. QUIRAM: For the small ones I would say -- the Commissioners that I know, and certainly in my agency, the best I possibly can, have a pretty good idea if things are disappearing. And we do keep an asset inventory on those things. So each Commissioner probably has a pretty good idea if things are disappearing or not because they would move to do something about it. You certainly can't be buying new things and have budgets to be replacing items on that you have in your offices. We don't even buy pencils. We don't buy pens. And so we know when things are disappearing. So at a Commissioner level probably yes. They probably have a pretty good idea.

As far as the idea that we have with the information that we're able to get from the agencies, and all the different formats by which they give it to us, and put all that together and compare asset to asset? No.

CHAIRMAN KURK: The reason for the question is I think it's the same one that you have, if we don't have a problem and it's going to cost us \$150,000 to solve it, why are we doing this?

MS. QUIRAM: Yes.

MS. MITCHELL: Commissioner, could I step in for a minute?

CHAIRMAN KURK: Please.

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MS. MITCHELL: We did conduct an audit at the Agencies. We did 20 phone surveys and we did ten site visits to the Agencies. We found the controls to be very mix. This report is an all internal controls, needs to be a cost benefit analysis done. Our review was the internal controls in place at the time. We have gone through the Agencies and \$100 is in the Manual of Procedures. A long time ago that was -- that was one of the Commissioners, I believe, that's what it is, moved it up to 250. So we are talking the equipment inventories between 250 and \$10,000.

It's very mixed. I'm not sure this information goes up to the Commissioner level. We did many -- we found some Agencies do not conduct an equipment inventory. We found Agencies that had many missing items in their equipment inventory. It was a very mixed bag.

So I -- I -- I don't think that analysis has been done so that information has been accumulating to say how that information is. I think that needs to be done. It was a very mix bag. The controls were good at some places and non-existent at other places. Inventories were conducted. You're talking some of these Agencies are very decentralized. So our information could point in a different direction, I guess.

CHAIRMAN KURK: As a practical matter, Commissioner, what you're telling us is that if a lot of stuff is disappearing, this is going to be reflected in the Commissioner's budget and he or she will be very concerned about it.

MS. QUIRAM: Absolutely. And so I am concerned about level of effort and level of expense. And I am talking about my Agency expense when we are talking about the budget; but we also have all these other Agencies that also have expenses.

CHAIRMAN KURK: Representative Eaton.

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REP. EATON: Just for your own well-being or standardization, would it be wise either by legislation or somewhere in the budget set a threshold at 500 or a thousand dollars and everything else can be handled by commissioners internally? 'Cause you're doing an arbitrary figure that could bite you.

MS. QUIRAM: Exactly. I think that would be helpful and I think having the discussion, I love what you started it with standardization because the real -- one of the real issues as far as centralization of services is not necessarily that you pull it all together and you do it all at once, but if you have -- if you give people a standardized format that allows them to keep track of it, and when you need to get it you have the ability to pull it out and get a report on it. That's a whole different level of effort. Then you've got -- then you've got it nailed. So the standardization is very, very, very important. So we need to figure out, again, what are we working on and what really makes sense and, hopefully, work with you to clarify that.

CHAIRMAN KURK: This is a public meeting. We are sending out a message to folks that if something disappears that's worth less than \$500 no one will know about it?

REP. EATON: I think what you're sending out is -- I don't think we have a rash of 500 or a thousand dollar items walking out the door; but we do have an expense factor that doesn't equal the loss factor.

CHAIRMAN KURK: I share your concern. I don't know the numbers or the balance. But we have to remember that every time we make a decision here human behavior reflects that. Just as they do as it does when we raise or lower taxes. It's the same kind of thing.

REP. EATON: The higher value loss is centralized ordering which difficulties before Commissioner Quiram was here and I suspect are tightening up of ordering three

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pallets of tape or machines, and then deciding they don't want them, selling them to dropping them off at the White Farm to sell off to the public and after being there for six months deciding they really do need them and buying them back at a 10% premium.

CHAIRMAN KURK: Representative Umberger.

REP. EATON: It's nuts.

REP. UMBERGER: I spent 28 years in inventory management.

CHAIRMAN KURK: Oh, well. Why didn't you tell that to us first so we wouldn't have been --

REP. UMBERGER: Because you wouldn't recognize me.

CHAIRMAN KURK: I apologize.

REP. UMBERGER: And on both the equipment and the supply side. Okay. And \$250 is ridiculously low. It makes absolutely no sense for the State Government to be monitoring that across the Board. It would make sense to me that within the organizations, each organization, even -- even the ones that are disbursed, okay, they don't have to be with the Safety, you know, or with Transportation, because the people up in North Conway have a different thing than somebody else. But, to me, it is the responsibility of the supervisor of the unit to maintain control and follow what is within his or her organization. And that -- that is, you know, how we did it eventually.

We used to do the same thing when I was in the Air Force where we tracked everything that cost a dollar and a half but eventually wised up that said we were spending more time tracking this, you know, people, than we were in our losses. So we just changed our -- I don't know -- I don't remember what our thresholds were. But, you know, 10,000 is probably not a bad threshold at their level. And

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then somehow or other get the 10,000 and under at the individual -- individual --

CHAIRMAN KURK: Entity.

REP. UMBERGER: -- entity level, whether it's the whole division or, I mean, the whole agency or if it's a division or it's a work unit.

CHAIRMAN KURK: Somehow House Members seem to think -- never mind. There being no further questions, thank you very much. Mr. Smith or Mr. Murphy, did you wish to add anything?

MR. SMITH: Not at this time.

MS. QUIRAM: Thank you.

CHAIRMAN KURK: We have already taken the vote to release this.

REP. WEYLER: Thank you for bringing the issue to our attention.

MS. QUIRAM: Thank you. I look forward to working with you.

CHAIRMAN KURK: At this time we'll turn to the Audit of the Corrections Department Sexual Offender Treatment Program.

MR. SMITH: Thank you, Mr. Chairman. The next audit is a performance audit and --

CHAIRMAN KURK: Mr. Smith, for the record, could you make sure you introduce yourself again.

MR. SMITH: For the record, Steve Smith. I'm Director of Audits for the LBA. This is a Performance Audit Report

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on the Sexual Offender Treatment Program within the Department of Corrections.

With me from our Division is Vilay Sihabouth. She was the Audit Manager on the job. And joining us from Corrections is Commissioner Hanks.

HEIDI GUINEN, Division of Medical and Forensic Services, Department of Corrections: Heidi Guinen.

CHAIRMAN KURK: Welcome to all of you. We look forward to the audit. Apparently, others do, too.

VILAY SIHABOUTH, MPA, CIA, Audit Manager, Audit Division, Office of Legislative Budget Assistant:  
Terrific. Good afternoon, Mr. Chairman, and Members of the Committee. My name is Vilay Sihabouth and this afternoon I'll be presenting the performance audit of the Sexual Offender Treatment Program.

The purpose of our audit was to determine whether the Department of Corrections efficiently and effectively provided sex offender treatment services during Fiscal Years 2014 to 2016. And our Executive Summary can be found on Page 1.

Our data showed the Sex Offender Treatment or SOT Program did improve in assessing and enrolling sexual offenders during the audit period. Almost 70% of sexual offenders with minimum parole dates in Fiscal Years 2014 and later were assessed timely. This was a vast improvement compared to the three Fiscal Years immediately preceding the audit period where only 16% were assessed timely.

While our data showed some improvement in enrolling sex offenders into the program timely, this increase was not as significant. Enrollment delays and inmate-caused setbacks while in treatment affected an offender's likelihood of being released on their minimum.

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Our data showed only 14% were released on their minimum during our audit period. However, three-quarters missed their minimum due to their own actions, including refusing to be treated or removal from the program for disciplinary or -- disciplinary issues or non-participation.

While our report did not opine on whether it was in the public interest to release sexual offenders on or prior to their minimum, we found the program's timing did not allow sexual offenders to utilize all statutory opportunities available for reducing their minimum sentence. These opportunities were available to all other inmates in the New Hampshire State Prison.

Our recommendation summary is on Page 3. You'll see our report contains six Observations with Recommendations. The Department concurred with all six Observations, none of which require legislative action. Our background starts on Page 5.

The SOT Program is provided to male sexual offenders by the Division of Medical and Forensic Services at the New Hampshire Prison -- New Hampshire State Prison for Men in Concord. Sexual offenders are prioritized for treatment based on the date of their minimum. The DOC generally tries to conduct an assessment at least 24 months prior to an inmate's minimum and enroll them 18 months prior. Due to the timing of services, offender sentenced to long terms of incarceration may remain in prison for several years while those with shorter sentences may be assessed sooner.

Figure 1 on Page 6 shows the process for treating male sexual offenders.

Offenders entering the prison are processed through the Reception and Diagnostic Unit at the New Hampshire State Prison for Men and flagged for assessment. As a sexual offender approaches 24 months of his minimum, he's assessed using a combination of tools to determine

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recidivism risk, medical or psychiatric need, substance abuse or dependency issues, and other risk factors. These results are used to place offenders in an appropriate treatment model.

Offenders presenting a low risk of reoffending were placed in a community treatment where they were required to participate in group therapy sessions a few times per month. Once paroled, these offenders must obtain treatment through a DOC-approved therapist outside the Prison. Offenders presenting moderate to high risk of reoffending were enrolled in the Intensive Sexual Offender Treatment or ISOT Program where they lived in a therapeutic community environment and participated in several group therapy sessions per week.

To be discharged from ISOT, sexual offenders must appear before the Administrative Review Committee to determine whether treatment goals were met. Upon completion of ISOT, offenders were required to participate in weekly or bi-weekly group therapy sessions until their release. And once paroled, they were also required to obtain therapeutic services through DOC -- through DOC-approved therapists outside the Prison. Offenders whose needs were more difficult to determine were placed in a transition group pending further assessment.

As of May 31<sup>st</sup>, 2016, there were over 750 male sexual offenders in the prison system. Table 1 on Page 10 shows the status of the 303 male sex offenders who were within 24 months of or exceeding their minimum. The majority were in various phases of ISOT while 13% were assigned to community treatment and 7% had not yet been assessed.

The male Sexual Offender Treatment Program had five full-time positions. However, during the Audit period it was fully staffed for less than half of the time.

Table 2 on Page 11 shows the program experienced its lowest staffing level in Fiscal Year 2015.

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Our first section on timely assessment enrollment and release starts on Page 13. We found the Sexual Offender Treatment Program improved the timeliness of assessments during the Audit period. As shown in Figure 2 on Page 14, the percent of inmates assessed at least 24 months before their minimum increased during the Audit period compared to the years immediately before. In the last year of the Audit period, 88% were assessed timely. However, lower staffing levels in Fiscal Year 2016 may affect whether this trend can be sustained.

As shown in Figure 3 on Page 15, during the Audit period we saw an improvement in the percent of sexual offenders who were enrolled in ISOT at least 18 months before the minimum compared to the years immediately preceding. Still, fewer than half of sexual offenders needing ISOT were enrolled timely. Delays within the control of the SOT Program shown as red bars on Page 15 continue to be the main reasons why offenders were not enrolled timely. However, factors beyond the control of SOT staff also contributed. As shown in the blue bars at least 20% of sexual offenders each Fiscal Year were not enrolled timely due to their own actions, such as refusing treatment or having disciplinary issues.

Delays in the assessment or enrollment phases and setbacks experienced while in the program could affect an offender's chance of being released on their minimum. As the green bars in Figure 4 on Page 16 show, very few sexual offenders were released on their minimum during the Audit period. Of those who were not released on their minimum, we show the vast majority missed the minimum because of their own action.

Table 3 on Page 17 shows delays attributed to failing the polygraph exam, program removal for disciplinary issues and late enrollment due to initially refusing to be treated were the most common contributors to offenders not being released on their minimum.

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Observation 1 starts on Page 18.

We found the timing of program enrollment may not be sufficient to allow some offenders to complete the program, finish their parole plan, and have a parole hearing before their minimum. Offenders who experienced problems while in treatment or were enrolled late may not have sufficient time to complete the program and parole process within the 18-month window. We also found offenders serving minimum sentences shorter than 24 months may also not have sufficient time to complete the requirements before their minimum.

On average, this group was in prison for 13 months before enrolled -- being enrolled into ISOT, leaving them very little time to complete the requirements.

We recommend the DOC re-evaluate the timing of enrollment to ensure offenders have sufficient time to finish the program and parole process before their minimum.

We also recommend the DOC establish policies defining assessment and enrollment time lines for offenders starting these short minimum sentences.

Observation No. 2 starts on Page 20. The program did not consistently take into account opportunities offenders could have used to reduce their minimum sentence when assessing and enrolling them into ISOT. Some offenders' sentencing documents allowed them to suspend a portion of their minimum sentence for successfully completing ISOT. For example, the sentencing court may allow an inmate's sentence to a minimum seven years to suspend two years of his minimum for successfully completing the program. This would have allowed him to serve a minimum of five years if he completed ISOT. However, during most of the Audit period, these inmates were prioritized for assessment based on their actual minimum. In this case, the seven year

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minimum instead of the potentially reduced minimum of five years.

Statutes also allowed all inmates additional opportunities to reduce their minimum sentence. However, we found the timing of ISOT made it extremely difficult for sexual offenders to take advantage of these opportunities which were available to all other inmates.

We recommend the DOC codify new prioritization policies and procedures to assess how each sentence reduction type can be considered while assessing enrolling sexual offenders into ISOT.

Our third Observation starts on Page 22. After completing ISOT, sexual offenders needed to develop a parole plan and get a hearing before the Parole Board, a process which typically takes two months. Sexual offenders may have more difficulty than other inmates finding suitable housing so it may be beneficial to start the planning process earlier. However, case managers were generally unaware when a sexual offender may be finished with ISOT.

We recommend management work with case managers to relay information about when sexual offenders may be close to finishing the program so parole planning can start earlier.

Our next section addressing program operation starts on Page 23. We found New Hampshire's programs aligned with practices recommended by industry sources. As shown in Table 4 on Page 24, New Hampshire's program fully incorporated five of the nine components recommended by the majority of industry sources. The other four were partially incorporated. Programs in other New England states vary too much for appropriate comparison. However, we did provide assessment enrollment and program duration information on Page 25.

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Observation 4 on Page 26 addresses the need to codify the Administrative Review Committee or ARC. The ARC has the power to grant sexual offenders a discharge from ISOT, remove an offender from treatment or recommend further treatment. Additionally, its recommendations were usually incorporated into an offender's parole conditions. However, its role, responsibilities, and scope of authority in the sexual offender treatment process was not defined.

We recommend formally codifying the ARC's role in this process.

Observation 5 starts on Page 27. The DOC did not have a policy to mitigate potential conflicts of interest which may arise when staff also provide therapeutic services to sexual offenders outside the prison. We found instances where SOT clinicians were providing services to sexual offenders, both inside the prison and when they were on parole. National associations discourage this type of relationship.

We recommend the DOC develop and implement policies regarding outside employment and establish a process to help staff determine whether a conflict of interest may exist.

Our last Observation starts on Page 30 and it addresses performance measures. We found the SOT Program did not have a system to evaluate whether its activities were contributing to its overall goal of reducing sexual recidivism or whether it was meeting its assessment enrollment goals.

We recommend the program develop, track, and share performance measurement data. We also provide an example of performance measures in Appendix B.

On Page 33, we present one other issue and concern addressing the need to better coordinate information given to the Parole Board about sexual offenders. The remainder

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of the report contains our objective, scope and methodology, the previously mentioned example performance measurement system, and the current status of one prior Audit Observation which the SOT Program has substantially resolved.

Mr. Chairman, this concludes my presentation. I'll now turn it over to Helen Hanks, the DOC Assistant Commissioner.

HELEN HANKS, Assistant Commissioner, Department of Corrections: Good afternoon. My name is Helen Hanks. I'm the Assistant Commissioner for the Department of Corrections, and thank you for letting us be here. Thank you to the LBA for the professionalism and the information that we were able to glean from their time reviewing our data. It was enlightening and affirming. And I say that because we have a significant population of sexual offenders in our state -- in our State of New Hampshire who are incarcerated in comparison to other states.

In my over a decade of working for the Department, I've seen a high of 800 male offenders to a low today of 654. And as you can imagine, as the report indicates, it's a task to manage the minimum sentence structure, the time that the judges and those prosecuting afford them for participating in treatment, and enrolling them in a timely manner. And the part that was affirming for us is we have been testifying that we have been improving and the data did show that. The data also affirmed for us what we have been testifying to and sharing, which is that oftentimes the own individual's behavior in our institutions that interferes with enrolling them in a timely manner or even assessing them in a timely manner. So we appreciate that information, and we hope to be able to learn from this Audit and continue to track that on behalf of those in our custody, those advocating for them and our own performance.

We are going to continue to work to continually improve, to continue to assess timely, to look at our time

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lines to see if we need to adjust them to make it more effective, to enroll people based on the feedback of the Audit and those of our staff and those we provide treatment to. We have already begun enhancing our collaboration with case managers so that they understand there's no barrier to start that parole process while somebody is in intensive treatment, because there are many things they can do and so that part has started.

We have some draft policies and procedures to codify what we are doing so that people understand why we are doing it and the processes for seeking feedback on that, as well as the Department does have a full updated draft of our administrative rules which we are vetting internally before we proceed to JLCAR.

The clinicians' outside employment really only involved one or two individuals in which the Department had sought some legal guidance from the AG's Office and the Ethics Committee. But in the interim, we did also send out a letter to our staff to notify them that if they are working at any facet as a clinician in the community, regardless of whether it was just a sexual offender treatment service, that they needed to notify us because there could be a potential ethical conflict. But we respect that we should codify that in policy, and we will do that going forward. And it's critical to establish performance measures, especially it ties to ensuring public safety, ensuring that no other individuals are victimized by the behavior of those who are incarcerated for these sexual crimes, and to demonstrate whether we are effective in reducing recidivism and, again, reducing those behaviors.

We are trying to make strides. We appreciated the Audit. We were open to it when it was brought forth as a piece of legislation and we are open to the feedback now. And, with that, I again thank the LBA. It was a good journey together and we appreciate any questions the Committee may have.

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CHAIRMAN KURK: Thank you. Let me start off on Page B-3. You look at the final outcome, a greater percentage of sexual offenders eligible for parole on their minimum, I'm trying to reconcile that with some of your statements, Miss Hanks, about reducing recidivism. Because it seems to me that the purpose of this exercise is to reduce recidivism, so I'm confused as to why we are having as an example of a final outcome, and what I would consider an intermediate step. Do you have any evidence that as a result of spending whatever money we are on this program that we are reducing recidivism compared to what the recidivism would be if we didn't have this program? Do you have anything set up to make that -- to gather the information to make that judgment? You're spending some money on staffing and that money could be used or those staff could be used for other purposes if we eliminated this program because it didn't work. And, to me, work or didn't work is a function of whether the recidivism rate is reduced for the next five years after leaving the Prison.

MS. HANKS: Thank you for the question. I think that the target on Page B-3 of trying to get someone to their minimum is not necessarily in line with all the performance measures the Department would implement as posed by your question, but as it pertains to are we making good investment to reduce the recidivism with regard to having a treatment intervention for people who are sexual offenders.

I can tell you that in our past recidivism studies when we drilled down just to the offense type sexual offenders had recidivated at a lower rate than other crimes. But we, as a Department, have had a sexual offender service for more than a decade. So can I clearly say to you that having the service has resulted in that reduction? I can't. But I can tell you we went "go live" with an electronic medical record and that will help give us some clarity on if I can get to that leap.

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So if I did not have the service, I can tell you that national research says giving treatment is a better outcome than not, especially with a group of individuals whose behavior are sexually deviant in nature. Can I tell you it's our service? I'd like to say yes. But based on actual data sets, I can't affirm to that today.

CHAIRMAN KURK: And do you have anything in process or planning --

MS. HANKS: Hm-hum.

CHAIRMAN KURK: -- that is designed to confirm that in New Hampshire our results, in fact, mirror the results in other states or other studies?

MS. HANKS: Yes. That is our plan going forward. I now have the Business Information Unit working for me. And that's what we're aligning both post-audit. We were aligning it pre-audit because the goal is we have individuals who max out their sentence and they do come back and re-incarcerate. So we do have some information. And then even it's the level of treatment we recommend. So we have individuals we recommend community treatment for. Do they stay out longer? Is our assessment correct, things of that nature? So those are the areas we are looking at.

CHAIRMAN KURK: When will we have that information? The program's been ongoing for a decade, you say.

MS. HANKS: Agreed. Again, we had a paper medical record prior to last week. And to do the work the LBA did really on behalf of the State with us took a separate agency going through and combing our records. We didn't have the staff resources to do that.

The automation of having information digitally to link up to our offender information which is, again, digital information will help us get to those Dashboards and these

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questions that the Legislature and yourself ask us frequently.

CHAIRMAN KURK: When will you be able to answer that question?

MS. HANKS: I would say that we have just rolled it out this week. Given the next six months I'll have the IT reporting infrastructure established and within 12 months I should be able to give you some data on a 12-month review of an individual.

CHAIRMAN KURK: But not going back before that?

MS. HANKS: No. Then I'd have to hire staff to take our paper records and input them into our digital records, and I'm not going to expend those financial resources.

CHAIRMAN KURK: Basically, what you're going to be able to tell us is that in the last 12 months so many people under this program left prison and reoffended.

MS. HANKS: Or violated their parole. So it's length of time in the community, there's multiple variables.

CHAIRMAN KURK: I'm not talking about violating parole. I'm talking about committing a sexual offense. If they got drunk and violated their parole, that's not really relevant. The issue is whether they committed another sexual offense. And, presumably, if they have gone through this program that should be lower than a controlled group that didn't go through this program was released into the community and recidivated, if that's the word these days, at a higher rate.

MS. HANKS: I'd like to say the question is that clear, but your example of someone goes out and drinks alcohol, that action could have been related to their sexual offending behavior. So as much as it is a parole violation to engage in illicit use of drugs or alcohol, for this

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population a large proportion of them it is that act of substance abuse that leads to their sexual offender behavior. So we have to balance all those variables.

CHAIRMAN KURK: Right. But if, in fact, it leads to it under my scenario you'll get it. If, in fact, it doesn't lead to it, then we're okay.

MS. HANKS: Right.

CHAIRMAN KURK: That's very important information because I don't know how many people that are dedicated to doing this. But those are people who could be doing other things or taxpayer dollars that don't have to be spent, unless we can demonstrate that this actually reduces the number of incarcerated individuals who go through the program, get released, and as a result of that presumably do not commit as many crimes of a sexual nature. That's what we're really focusing. I think that's what the legislative policy is really focusing on. Thank you. Further question? Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. Commissioner, as I look at Table 2 on Page 11 and read the report, and the report says that over the years that you have been evaluated your meeting of the benchmarks has improved, yet your staffing has decreased, which makes us wonder did we need all five staff or did we just get rid of some people who weren't doing the job and found people that did. Your comment.

MS. HANKS: I think it's an interesting question. We pulled from other resources during those times and had deficits in other areas to help augment. And those vacancies, again, are over periods of time.

We had an individual -- we had an individual literally pass away so that was part of our vacancy. And we had another individual who we pulled in to help support this treatment service. We see our treatment service for

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individuals who commit sexual crimes as a high priority, high priority for public safety, a high priority for those victimized by the crime. So we may not have the five allocated people filled and working, but we might and do draw from our other behavioral health staff who would be providing other services to people with substance use disorders and major mental illness to augment during a time of vacancy.

Today, we are back to fully staffed. What I'd like to see, Representative, is what we can do with five full staff to tackle the caseload of 654 people. Because what the report does say is with the staff I have, no matter what I do I'm not keeping up with those minimums because of the large quantity of people we have.

REP. WEYLER: Thank you.

MS. SIHABOUTH: Can I also address that question a little bit?

CHAIRMAN KURK: Please.

MS. SIHABOUTH: When you look at the staffing levels and then you look at the performance, let's take assessment, for instance. So somebody with a minimum of 2016 would have had to be assessed in Fiscal Year 2014. And if you look at that same table you'll show that they were mostly fully staffed at that point. So there is a little bit of a lag as far as the staffing pattern and then two years later the people who have minimums that year. That does explain a little bit of it.

REP. WEYLER: Good point. Thank you.

MS. SIHABOUTH: You're welcome.

CHAIRMAN KURK: What will the LBA Performance Audit folks be doing with respect to Ms. Hanks' effectiveness data? Are you finished now and will not be going back?

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MS. SIHABOUTH: As far as I am aware, we do not have any other assignments in DOC. That's up to the Legislative Performance Audit Oversight Committee who will give us our charge for performance audits.

CHAIRMAN KURK: Is it possible, and I guess this is to Mr. Smith, to have the LBA help design some sort of a valuation of the effectiveness in terms of reducing recidivism so that as we go forward we will have data that is not only gathered by the Department, but organized and focused in such a way as outside auditors who would return would be reasonable and accurate?

MR. SMITH: I would be hesitant to say that we could help with the design of it. However, at some future time once the data is tabulated and collected to be able to go in and assess that as compared to --

CHAIRMAN KURK: But the problem is unless you have the right data that assessment won't be very helpful. So somebody needs to design this, to gather the data in a way that we are going to find the results of that data answering the questions that we think are important.

MR. SMITH: Hm-hum.

CHAIRMAN KURK: This would be a waste of your time if you went back and said, gees, great stuff but it's not relevant. Would you think about that?

MR. SMITH: Yes, I can.

CHAIRMAN KURK: Talk to Mr. Kane and see if there's something we can do. Representative Umberger.

REP. UMBERGER: Yes. I guess it doesn't do any good to target one particular audit, okay, because this is a problem, I believe, across the State Government. And so if you are -- sincerely want to develop performance measures

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for everything, every program, then we are going to have to set up something different and a group that was basically that's their entire job.

Now, they might work for LBA which, you know, which wouldn't necessarily be a bad thing. And I know that there are some agencies out there that have -- that have done some very positive things. And there are other agencies that have done not a lot. But to me it's got to be focused, otherwise we are just, you know --

CHAIRMAN KURK: I agree with you and I have been working with Mr. Kane so that we revise what it is that we do in a performance audit to incorporate effectiveness. Whether it achieves a policy objective of the Legislature as opposed to the kinds of audits which we have seen today, which are focused on some things but don't give the Legislature information on does this program achieve the result that we want it to. Because all we are getting here is did they meet a timeline and the purpose of the timeline is not the reason for the audit. I mean, it may be for some people; but from a legislative point of view that's not the end goal. So I'm just using this as an example of something that I think is systemic in the way we do performance audits and, hopefully, Mr. Kane who's undertaking this process now, will at some point not too distant in the future have some suggestions for the Legislature. Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. One of your suggestions was compare a group that had gone through the program with a group that did not where all had been convicted of sexual offenses. The problem with that is that I see from the Audit that many of these were self-selected as refusing to go through the program, their attitude that their behavior is not abnormal, even though the laws and the customs say yes, it is. But these same people are going to go forward and think whatever they do is not abnormal. We all know people that nothing is ever their fault. It's

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always someone else's fault. So you get a self-selected group that's difficult to compare with the other ones.

CHAIRMAN KURK: I agree with you there. Sometimes the control group is comprised of people who wanted to get into the program but couldn't for whatever reason. I don't know in this case whether or not there are enough people in that category or whether everybody at some point is getting into this, and it may be hard to get a control group. But there are taxpayer dollars here that need to be justified. I'm not sure how to do it, which is why I raised the question with Mr. Smith. But in some way we need -- we need to understand this program actually makes a difference in reducing recidivism or let's not do it.

MS. SIHABOUTH: Can I address Representative Weyler's comment for a minute? There is another group of people who are assessed for community treatment, not just the ones who are refusing treatment. So that -- there's also that potential to compare those people to, the ones who were assigned to community treatment who weren't involved in the intensive program versus those who went through the intensive program.

REP. WEYLER: Then we probably have different levels of offense.

MS. SIHABOUTH: Yes.

MS. HANKS: Yeah.

REP. WEYLER: It's going to be very difficult. Thank you.

CHAIRMAN KURK: Further questions? There being none, thank you all very much. Is there any other business to come before us?

MR. KANE: There is not.

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CHAIRMAN KURK: Okay. Then we stand adjourned till the call of the Chair.

REP. WEYLER: Whoever that may be.

CHAIRMAN KURK: No, this Chair disappears on midnight December 6<sup>th</sup>. But if we need to reconvene this Committee again, for some reason I want to have the opportunity to do so. I can't do it after the 7<sup>th</sup>, but I can do it on the 6<sup>th</sup> or before. So if something came up, let's just keep our options open. I have nothing in mind. I have no reason to think it will happen. We stand adjourned till the call of the Chair.

(The meeting adjourned at 1:25 p.m.)

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CERTIFICATION

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

Cecelia A. Trask  
Cecelia A. Trask, LSR, RMR, CRR  
State of New Hampshire  
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